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Countering Political Extremism in Democratic States: A Comparative Study of the Italian and Spanish Responses to the Brigate Rosse and ETA

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Introduction

In December 2024, the global specialist risk consultancy Control Risks launched its "Risk Map 2025," stating that political violence was likely to increase in 2025. The constant political polarisation, according to the forecasts, would "continue to justify and normalise violence against political and social 'enemies'." [1] The document reminds everyone that the subversive threat must always be taken into consideration, obviously adapting the forecast to the national context. The international context of 2025, characterised precisely by polarisation, increasing political tensions, and weak control over social media, confirmed these forecasts.

In March 2025, the Center for Strategic & International Studies published a report stating that "domestic terrorism represents a greater threat to the United States than do international terrorist organisations." [2]

As can be seen from these two reports, every State, regardless of its system of government, is forced to take measures to guarantee its own security and that of its citizens. These concerns and forecasts represent a reversal of the trend compared to the data of recent years on terrorist acts in Europe, both in general and specifically regarding political violence. In 2010, there were 249 terrorist attacks in European countries, perpetrated by actors of all categories – political extremists, Islamist fundamentalists, or separatists – while in 2021 the total number was 15. [3] In Western countries, political violence is rising. In September 2025, Kyle Cheney on Politico enunciated that it has been "the second summer in a row that has been defined by political violence," after President "Trump was twice targeted by serious assassination attempts" the previous year. [4] In the United States, "every public officeholder feels the new reality," and defines "it as a new and increasingly dark normal." [5] Whereas in Europe, "Political violence is on the rise, driven by extremism and disillusionment." [6]

These events demand a reflection on how the State – democratic in this case – responds to the threat of domestic terrorism. This study does not, therefore, focus on terrorism in general, but rather on the institutional response of democratic States to domestic terrorism, that is, to those endogenous threats that challenge political stability, public security, and constitutional legitimacy. In the following pages, an attempt will be made to understand how two countries, with a historical background in certain respects similar yet markedly different at the institutional level, confronted an ideologically distinct menace, through divergent methodologies but belonging in both cases to the sphere of internal terrorism. The two nations that will serve as case studies are Italy and Spain. Both have had various experiences with political violence and subversion, but this inquiry will focus specifically on the *Brigate Rosse* in Italy and *Euskadi Ta Askatasuna* (ETA) in Spain.

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[1] "Rising Political Violence," Top Risks, Control Risks, December 2024, accessed September 2, 2025, https://www.controlrisks.com/riskmap/top-risks/rising-political-violence.
[2] Alexander Palmer et al., "Global Terrorism Threat Assessment 2025," *Center for Strategic and International Studies,* March 28, 2025, https://www.csis.org/analysis/global-terrorism-threat-assessment-2025.
[3] "Terrorism in the EU: facts and figures," Explainers, European Council, 2022, accessed September 2, 2025, https://www.consilium.europa.eu/en/infographics/terrorism-eu-facts-figures/#0.
[4] Kyle Cheney, "A new dark normal of political violence still shocks the nation," *Politico*, September 10, 2025, https://www.politico.com/news/2025/09/10/charlie-kirk-shooting-political-violence-america-00556694.
[5] Cheney, "A new dark normal."
[6] Euronews, "Political violence is on the rise in EU, driven by extremism and disillusionment," *Euronews*, May 17, 2024, https://www.euronews.com/2024/05/17/political-violence-is-on-the-rise-in-eu-driven-by-extremism-and-disillusionment.

In the 1970s, in Italy, the Brigate Rosse emerged as a clandestine terrorist movement aiming to complete the unfinished partisan liberation struggle and free the Italian people from the servitude of the United States and its multinationals, in other words, to trigger a proletarian revolution through armed subversion, with a veritable attack on the heart of the State. The founders conceived the Brigate Rosse as a revolutionary armed party, inspired by Marxist-Leninist principles and theories of urban guerrilla warfare, as those of Latin America and the RAF in Germany. [7] Professor Orsini observes that "hatred and contempt for all reformists were a typical and obsessive feature of the BR's mentality." [8] The Brigate Rosse positioned themselves not as a fringe movement but as a combatant communist organisation engaged in a long-term revolutionary strategy. Therefore, the Brigate Rosse represented an ideological movement.

Founded in 1959 initially as a cultural group, ETA quickly transformed into an armed organisation inspired by Marxism-Leninism, oriented towards the political and cultural independence of the Basque Country. The group was born out of the separation of some members from the Basque Nationalist Party (*Partido Nacionalista Vasco,* PNV), as it seemed that its leaders "had been assured by members of the ousted Spanish government that the autonomous status of the Basque region would automatically be restored if and when a democratic regime was reinstated. In exchange, the PNV promised not to seek further separation from Spain." [9] For the members who decided to leave, this hypothesis was unacceptable, "anything short of complete independence – a separate nation – would be a betrayal of Basque interests." [10] Hence, the ETA represented a territorial movement.

Two further clarifications must be made, one of a formal nature and one of a temporal one. From a formal perspective, Italy has been a democratic State since 1946; as for Spain, the institutional turning point symbolising the transition to a democratic regime after the dictatorship was the Law for Political Reform, approved in February 1977, the preparation of which began in January 1976, two months after Franco's death. [11]

Therefore, the temporal framework under consideration will slightly differ in terms of its starting and concluding dates, yet both chapters will cover the late 1970s and the early 1980s. The first chapter, devoted to Italy, will examine the methods of action and repression beginning in the early 1970s, retracing the decisive moments up to the victory of the State in the 1980s. The second chapter, devoted to the Spanish case, will discuss the measures adopted by the democratic institutions starting from the biennium 1976-1977 through 1990. The struggle against ETA continued for another twenty years in Spain. However, the analysis has been deliberately limited to better compare the State's initial response to a domestic terrorist threat.

The comparative choice of Italy and Spain responds to a twofold logic: on the one hand, both experienced a period of domestic political violence during the same years; on the other, they display different institutional contexts – a consolidated parliamentary republic and a parliamentary monarchy

[7] Davide Ortali, "Il terrorismo in Italia negli 'Anni di piombo'" [Terrorism in Italy in the 'Years of Lead'] (Thesis, LUISS University, 2015), 25.
[8] Alessandro Orsini, *Anatomia delle Brigate Rosse; Le Radici ideologiche del Terrorismo Rivoluzionario*, [Anatomy of the Brigate Rosse; the ideological roots of revolutionary terrorism] 2nd ed. (Rubbettino, 2010), 70. My Translation.
[9] Wayne Anderson, *The ETA. Spain's Basque Terrorists,* 1st ed. (The Rosen Publishing Group, Inc., 2003), 17.
[10] Anderson, *The ETA*, 18.
[11] Maria Elena Cavallaro, *La Spagna oltre l'ostacolo. La transizione alla democrazia: storia di un successo*, [Overcoming the Hurdle: Spain's Democratic Transition as a Case of Successful Democratization] Rubettino, 2012, 127.

in transition – which allow for an assessment of the extent to which such differences shaped their institutional responses. The comparative analysis of the two cases is not only of historical value but also of significance for the contemporary scholarly debate. The challenges that Italy and Spain confronted during the 1970s and 1980s – the need to reconcile security with fundamental rights in democracies that were still fragile – share important features with today's tensions surrounding domestic terrorism, political radicalisation, and ideological extremism. The study of these experiences provides an understanding of the mechanism through which democratic States can safeguard themself and react to defend those fundamental and democratic principles which are the objective of the terrorist. This study provides interpretative tools that are becoming increasingly relevant for contemporary Western institutions in dealing with new forms of political violence.

The reference literature used to investigate domestic terrorism in Italy and Spain, and on the institutional responses developed between the 1970s and 1980s, combines primary sources – legislation, parliamentary acts, case law, administrative documentation – historiographical and legal analyses, as well as contemporary testimonies and chronicles.

For Italy, the state of the literature converges on the idea of an institutional response conducted within the framework of constitutional legality, yet marked by exceptional instruments and a progressive strengthening of operational capacity. Primary sources – including Law no. 152/1975 ("legge Reale"), Decree-Law 59/1978, the reform of public security administration (Law 121/1981), and the organization of the intelligence services (Law 801/1977) – make it possible to trace in detail the normative trajectory, while the proceedings and reports of parliamentary inquiries document the decision-making framework and parliamentary oversight. Legal and criminal-procedural scholarship has focused on the configuration of a regulated exception, the balance between public order and guarantees, and the role of investigating judges. Baravelli reconstructs the "Italian way" of criminal counterterrorism, characterised by a "rethinking of national security policy, conceived as a variable combination between the strengthening of state apparatuses and the development of an adequate response within the sphere of criminal policy." [12] Riberi, Pulitanò, Maggio and Praduroux discuss the scope and limits of special measures considering Articles of the Constitution, demonstrating how "dissenting voices regarding this new direction in criminal policy soon emerged." [13] In a historical-political perspective, Galfré, Satta and Colarizi delineate the dynamics among parties, government, and apparatuses, while the operational profiles of the law enforcement forces are examined by Tosato and Taufer and by institutional reconstructions of the State Police.

For Spain, the literature highlights three main axes: jurisdictional reconfiguration, legislative evolution and constitutional correction. The centralisation of jurisdiction over terrorism, together with constitutional jurisprudence that curtailed certain police prerogatives, constitutes the institutional cornerstones. Special laws define the exception within the framework of the 1978 Constitution, as shown by studies such as Gallego López which focuses "on the criticism that Audiencia Nacional faced for those who considered it a successor of Tribunal de Orden Público" and González Salmón

[12] Andrea Baravelli, "Il fascino discreto della necessità. La via italiana all'antiterrorismo penale (1975-1982)," [The Discreet Charm of Necessity. The Italian Path to Criminal Counterterrorism (1975–1982)] *Memoria e Ricerca, Rivista di storia contemporanea* 2 (2019): 226, doi: 10.14647/93537. My Translation.
[13] Mario Riberi, "Sicurezza vs. libertà costituzionali: la «legge Reale» n. 152 del 22 maggio 1975," [Security vs. constitutional freedoms: the 'Reale Law' No. 152 of 22 May 1975] *Italian Review of Legal History*, n. 4 (2018) 3, https://doi.org/10.13130/2464-8914/12926. My Translation.

which "investigates the changes on the Spanish National Police." [14] On the intelligence front, the transformation of the Intelligence services is reconstructed through the reorganization acts, the regulation of secrecy (Law 48/1978) and of reserved funds (Law 11/1995), alongside specialist analyses assessing democratization and deficits of oversight. Matei provides an oversight on the "strenuous" process, while Díaz Fernández highlights "shortcomings in its administrative, judicial, governmental and parliamentary controls." [15] Third-party institutional documents provide a useful comparative counterpoint: the CIA reports of 1984 frame, in contemporaneous analytical language, the capacities and policy lines of Italy and Spain.

This work aims to fill a gap in the comparative literature: while numerous studies have examined separately the Italian State's struggle against the Brigate Rosse and Spain's fight against ETA, there is still a lack of a systematic comparison that relates the two models. Such a perspective makes it possible to draw lessons that are valuable not only from a historical standpoint but also for contemporary Western democracies facing new forms of radicalisation. Satta observes that the literature has focused primarily on terrorist groups and much less on the institutions tasked with containing them, and that when such institutions have been studied, "too often it has been done solely in search of confirmation of conspiratorial theories according to which the institutions were complicit with those who sought to overthrow them." [16] This work departs from such a perspective, privileging instead a documentary and comparative analysis that places at its core the concrete action of democratic institutions. In this regard, the originality of the research lies in shifting the focus from the terrorist organisation to the State, conceived not as a passive victim but as an actor capable of formulating normative, judicial, and operational responses.

This research will answer the following research question: How did Italy and Spain confront domestic terrorism while reconciling the imperative of security with respect for constitutional limits?

The hypothesis is that, although they followed different institutional and normative trajectories, both democracies pursued a strategy of balancing security and rights, with divergent outcomes in terms of institutional legitimacy and democratic consolidation.

The two chapters of the dissertation adopt a historical-comparative approach centred on the Italian and Spanish cases. Following the principles of comparative-historical analysis (CHA), the research combines two methodological levels. On the one hand, within-case analysis enables a detailed reconstruction of decision-making processes, institutional dynamics, and normative transformations. On the other hand, cross-case comparison allows for the identification of similarities and divergences

[14] Manuel Gallego López, "La Creación de la Audiencia Nacional desde el Tribunal de Orden Público," [The Creation of Audiencia Nacional from Tribunal de Orden Público] *Revista de Derecho UNED* n. 17 (2015), 753-774, https://doi.org/10.5944/rduned.17.2015.16273.
Elvira María González Salmón, "Police powers in Spain during the Francoist regime and democracy: A comparative study from an institutional framework perspective" (Master's thesis, Utrecht University, 2021) https://studenttheses.uu.nl/handle/20.500.12932/40250.

[15] Florina Cristiana Matei et al., "On Balance: Intelligence Democratization in Post-Franco Spain," *International Journal of Intelligence and Counterintelligence* 31, n.4 (2018), 791, doi: 10.1080/08850607.2018.1466588.
Antonio M. Díaz Fernández, "Halfway down the Road to Supervision of the Spanish Intelligence Services," *Intelligence and National Security* 21, n.3 (2006): Abstract, doi: 10.1080/02684520600750687.

[16] Vladimiro Satta, *I Nemici della Repubblica, Storia degli Anni di Piombo* [The enemies of the Republic, History of the Years of Lead] (Rizzoli, 2016) 8. My Translation.

in the trajectories followed by two European democracies confronted with the challenge of domestic terrorism.

The choice of this methodology responds to three specific aims. First, it is possible to situate the evolution of institutional responses within the political and social context of the 1970s and 1980s, thus avoiding merely descriptive accounts. Second, the comparative approach makes it possible to distinguish between contingent elements and structural features of counterterrorism strategies, identifying causal mechanisms that would hardly emerge from a single-country study. Finally, the use of primary sources – laws, parliamentary records, administrative documentation, jurisprudence – integrated with contemporary testimonies as well as historiographical and legal analyses, ensures empirical robustness and a plurality of perspectives, thereby strengthening the validity of the conclusions.

The structure of the thesis reflects the historical-comparative approach adopted in the research. Rather than following a purely chronological account of events, each chapter is organised around the main institutions involved in the fight against domestic terrorism: the judiciary, law enforcement agencies, intelligence services, Parliament, and the government. This methodological choice allows for a dual comparison. On the one hand, it enables an "internal" analysis of each national case, highlighting how the different branches of the State reacted in specific ways – through distinct instruments and timelines – to the same terrorist phenomenon. On the other hand, it provides the basis for a "cross-case" comparison between the two countries, identifying convergences and divergences in institutional responses to threats of a different nature – ideological in the Italian case, territorial in the Spanish one. In this way, the thesis does not simply reconstruct a historical sequence of events. The first chapter, on Italy, and the second chapter, on Spain, analyse the adaptation and coordination within the framework of democracy for each of the case studies. The conclusion integrates the key findings of the two chapters to investigate the common grounds and the differences between the two systems. It reflects on the balance between security imperatives and the protection of fundamental rights, intending to draw insights that may also inform contemporary debates on internal threats to democracies.

First Chapter: The Italian State and the threat to Democracy in the 1970s and the beginning of 1980s

The Italian State's practical and operational response to the threat posed by the Brigate Rosse was the result of a collective, articulated and multidimensional action. The various apparatus, whose structure has been presented above, worked to contain a subversive phenomenon unprecedented in the history of the Republic. The clandestine nature of the Brigate Rosse posed an unprecedented challenge. Law enforcement and institutions did not face occasional violent protests but rather an attempt to overturn the democratic order.

In this scenario, the response was neither uniform nor centralised. However, it took the form of a heterogeneous set of initiatives, tools and strategies adopted by different entities, each acting within the limits of its constitutional mandate. Maintaining these boundaries in an emergency context was one of the most complex challenges. While it was necessary to adapt the state apparatus, with the creation of specialised units, new operating procedures and a strengthening of the regulatory framework, it was also essential to respect the fundamental principles of republican legality and the separation of powers, which the State sought to defend even in the most critical moments. The cooperation, sometimes spontaneous, sometimes hard-won, between the judiciary and law enforcement agencies, between investigative bodies and secret services, and between the government and constitutional parties, formed the basis of an integrated strategy which proved capable not only of militarily countering terrorism but also of defeating it politically, isolating it socially and delegitimising any remaining support for it.

In this part of the chapter, to ensure a better understanding for the reader and to allow for a better comparison both within the Italian system and with the Spanish system, the assessment will not be chronological, as this would risk becoming purely descriptive. For the purposes of analysis, therefore, the various operations carried out by the different bodies will be presented to determine the effectiveness and constitutionality of their response.

Judiciary and Criminal Justice

In the 1970s, the Italian judiciary operated based on the 1941 judicial system (R.D. 12/1941) – a legacy of the hierarchical system of the Fascist era still in force – but at the same time enjoyed the guarantees of independence enshrined in the Republican Constitution, including autonomy from the executive, permanent employment and career unity (Articles 101, 104, 107 of the Constitution). [17] In criminal matters, the Rocco Code of 1930 was in force, which was of an inquisitorial nature, in which the investigating judge played a central role, conducting the formal investigation with the assistance of the judicial police and the public prosecutor. [18] In the context of the fight against terrorism, no special prosecutors or 'extraordinary courts' were created, so that the response to terrorism was

[17] Elena Paciotti, "Breve storia della magistratura italiana, ad uso di chi non sa o non ricorda," [A brief history of the Italian judiciary, for those who don't know or don't remember] March 7, 2018, Sezione di Milano dell'Anm, transcript of intervention, https://www.questionegiustizia.it/articolo/breve-storia-della-magistratura-italiana-ad-uso-di-chi-non-sa-o-non-ricorda_07-03-2018.php#:~:text=Restava%20per%C3%B2%20pienamente%20in%20vigore,Sulla%20base%20di.
[18] Paciotti, "Breve Storia."

entrusted to the ordinary courts. [19] The prosecutors most involved in this area began to coordinate themselves in investigative 'pools' and to develop innovative practices, moving beyond the traditional individual work on single cases. In the absence of national coordination structures, informal forms of inter-district cooperation were established, and collaboration with specialised police forces was strengthened. Despite initial regulatory limitations (lack of specific offences and *ad hoc* instruments) and operational difficulties that contributed to serious initial failures, the judiciary was able to adapt through emergency laws and increasing specialisation.

The judiciary played a fundamental role in combating red terrorism in the 1970s. To expand on the matters discussed above about the structure of the judiciary, it is necessary to focus on certain provisions of the Republican Constitution, which established certain limits that public prosecutors and judges never exceeded. Article 25 stipulates that an Italian citizen can only be punished if they have broken an existing law, thus preventing *ad hoc* laws from being applied with retroactive effect. Furthermore, it establishes that an existing judge must fill the role of the judicial authority and that, therefore, a special court cannot be set up for certain crimes. [20] Article 102, part of Title IV, which outlines the powers of the judiciary, reiterates the provisions of Article 25 but specifies that special departments may be created within existing structures to fulfil certain duties. [21]

Gian Carlo Caselli, prosecutor in Turin, remembers that in 1973 and 1974, before the kidnapping of judge Mario Sossi, several kidnappings and incidents involving the Brigate Rosse were placed on his desk and defined as 'widespread violence'. [22] This peculiar classification indicates the unawareness of the scope of the problem. The evolutionary process of the Italian judiciary was based on two points: specialisation and centralisation. The first was necessary to "focus on one thing to understand it better," while the second was so that "data would not be fragmented and scattered in a thousand different directions, jeopardising the initiation or development of investigations." [23] A notable inadequacy in the judiciary of the 1970s was the slowness to adapt and, above all, to understand the extreme urgency of coordinated action to stem the terrorist threat. The various Italian public prosecutors' offices acted alone, mainly because "there was no culture of mutual exchange of information between judicial offices and no capacity to coordinate the police offices." [24] Judge Gian Carlo Caselli helps discuss the figure of the investigating judge that no longer exists in the Italian legal system. In the Rocco Code, in force at the time, this figure was defined as follows:

> "He is the judge-natural person (belonging to the judiciary) who is responsible for directing the so-called preliminary phase of the proceedings, i.e. the phase preceding the resolution of the dispute. The investigating judge is responsible for dealing with relevant issues of fact and law and for acquiring the evidence necessary to support the decision.

[19] Camilla Pergoli Campanelli, ed. *Storia della Magistratura* [History of the Judiciary] (Scuola Superiore della Magistratura, 2022) 139, https://www.scuolamagistratura.it/documents/20126/1750902/ssm_q6_v1.pdf.
[20] Italian Const. art. 25.
[21] Italian Const. art. 102.
[22] Gian Carlo Caselli, *Giorni memorabili che hanno cambiato l'Italia (e la mia vita)* [Memorable days that changed Italy (and my life)] (Gius. Laterza & Figli, 2023) 9. Ebook.
[23] Caselli, *Giorni Memorabili*, 10.
[24] Armando Spataro, "Le esperienze ed il metodo di contrasto al terrorismo di sinistra," [The experiences and method of countering left-wing terrorism] *Sistema Penale,* September 26, 2023, 3, https://www.sistemapenale.it/pdf_contenuti/1695711711_spataro-terrorismo-sinistra.pdf. My Translation.

> The investigating judge exercises powers of direction and control over the case without particular formalities." [25]

The abovementioned means that the response to terrorism was effectively in the hands of the investigating judges, who had an enormous responsibility both in the technical direction of the investigations and in ensuring compliance with constitutional legality. They could delegate investigative acts to the police, but they remained in charge of the preliminary investigation.

Even the Superior Council of Magistrates, the self-governing body of the judiciary, did not develop a centralised strategy for combating terrorism during those years, leaving the initiative to the most exposed prosecutors. This lack of institutional leadership contributed to prolonging the phase of fragmentation and forced prosecutors in the field to develop forms of cooperation independently.

A significant illustration of these institutional limits and of the climate of intimidation surrounding the judiciary was the trial of Curcio and Franceschini, two of the founders of the historic core of the Brigate Rosse, described by Satta in *I nemici della Repubblica*. This proceeding soon became emblematic, not only for the charges against the defendants but also for the extraordinary procedural obstacles and acts of violence that accompanied it.

> The trial started on May 17, 1976, but was immediately disrupted when the defendants, refusing to acknowledge the court's legitimacy, threatened their lawyer with death should they continue to represent them. Attempts to appoint substitute counsel proved unsuccessful, as several lawyers cited medical conditions – including stress and depression triggered by the threat of violence – as reasons to decline. Eventually, Fulvio Croce, President of the Turin Bar Association, volunteered to assume the defence role. On April 28, 1977, the Brigate Rosse assassinated him. The situation escalated further when all prospective lay jurors refused to serve, thereby preventing the formation of the jury panel required by law. To prevent the release of the accused due to procedural delays, the government was compelled to extend the period of pre-trial detention. It was not until March 1978 that a jury was finally assembled, under extraordinary security conditions, in a fortified underground courtroom located within a military barracks and protected by thousands of police officers and Carabinieri. Despite continued attacks by the Brigate Rosse – including the murders of a Carabiniere and a police officer – proceedings were concluded in June 1978, resulting in thirty convictions and sixteen acquittals. [26]

The most dramatic failure for the judiciary were the days that followed the kidnapping of Aldo Moro, characterised by confusing news reports and wrong names in the list of suspects. Zavoli reports that numerous indicted individuals had been included without first checking their actual situation.

> "The list contains some glaring errors. Giuseppe Aloisi and Antonio Favale are in prison for common crimes, Marco Pisetta is a security service informant who has long since taken refuge

[25] "Giudice Istruttore," [Investigating Judge] Dizionario Giuridico, Broccardi, accessed July 10, 2025, https://www.brocardi.it/dizionario/3799.html. My Translation.
[26] Vladimiro Satta, *I Nemici della Repubblica, Storia degli Anni di Piombo* [The enemies of the Republic, History of the Years of Lead] (Rizzoli, 2016) 395-397. My Translation.

> abroad, Bruno Beltrame is in Bolzano with friends, unconnected with the armed struggle, and Antonio Bellavita has been living in Paris for eight years." [27]

The tragic outcome of the Moro affair, however, contributed to a change of pace. At first, many judges and prosecutors began to coordinate independently and "gave rise to spontaneous coordination between the judicial offices affected by the phenomenon, leading to the creation of groups specialising in terrorism within them." [28]

Judicial officers paid a high price for fighting the Brigate Rosse: five members of the judicial branch of the State were assassinated. The first to perish because of his hardline and uncompromising stance during the Sossi kidnapping was the Genoa prosecutor Francesco Coco, on June 8, 1976. Along with Coco, the terrorists also killed two public security officers who were protecting him. As will be seen later, in the section dedicated to Parliament and the Government, the prospect of harsh prison conditions became a tool to combat and attempt to discourage terrorism. Prisons were renovated and adapted to the new requirements for the isolation of the most dangerous prisoners. Between 1977 and 1978, "the super-secure prison facilities in Palmi, Trani and Asinara became operational." [29] The terrorists in Rome acted against the man considered "responsible for approving the funds for the renovation of the Turin barracks chosen as the venue for the trial of their imprisoned comrades," Judge Riccardo Palma, on February 14, 1978. [30] Another colleague, Girolamo Tartaglione, was assassinated on October 10 of the same year. Unlike others, he was "not a prominent judge, politically controversial for years and targeted by the far left for years." [31] Despite this, it was later leaked that "he collaborated in the preparation of the new prison system and contributed to the drafting of the first bill to reform the criminal justice system." [32] Another murder within the Ministry of Justice was that of Girolamo Minervini, who was travelling on a bus without an escort on March 18, 1980. [33] Just two days earlier, on March 16, Nicola Giacumbi was killed in Salerno. [34]

> "People generally die because they are alone or because they have got involved in a game that is too big for them. They often die because they do not have the necessary alliances, or because they lack support. In Sicily, the Mafia strikes at the servants of the State whom the State has failed to protect." [35]

This sentence, pronounced by Giovanni Falcone, although inserted in the context of a different fight against a distinct enemy, is significant because it can be applied to each of the names listed above.

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[27] Sergio Zavoli, La Notte della Repubblica (L'Unità, 1994) 193. Apple Books. My Translation.
[28] Spataro, "Le esperienze," 3. My Translation.
[29] Zavoli, *La Notte,* 142. My Translation.
[30] Satta, *I nemici*, 413. My Translation.
[31] Sergio Luzzato, *Dolore e Furore; Una Storia delle Brigate Rosse*, [Pain and Fury; A history of the Brigate Rosse] (Einaudi, 2023) 345. My Translation.
[32] "Commemorazione del Magistrato Girolamo Tartaglione," [Commemoration of Magistrate Girolamo Tartaglione] Giustizia News Online, October 10, 2010, https://web.archive.org/web/20160924110929/https:/www.giustizia.it/giustizia/it/mg_6_9.wp?contentId=NOL457195. My Translation.
[33] Luzzato, *Dolore Furore*, 346. My Translation.
[34] Mario José Cereghino et al., *Il Libro Nero della Repubblica Italiana* [The Black Book of the Italian Republic] (Chiarelettere, 2021) 31.
[35] "Si muore generalmente perché si è soli o perché si è entrati in un gioco troppo grande," Storie di Legalità e Resistenza, Reti di Giustizia, May 21, 2023, https://www.retidigiustizia.it/leggi-e-diritto/si-muore-generalmente-perche-si-e-soli-o-perche-si-e-entrati-in-un-gioco-troppo-grande-1-1-3. My Translation.

As also emerged in the Moro case, the system had not fully understood the threat posed by terrorists and the fact that they could attack men of the institutions. In Coco's case, his escort consisted of only two agents, clearly insufficient to protect a man targeted by the Brigate Rosse. Minervini, on the other hand, was killed in cold blood on the bus because he refused an escort to prevent other innocent people from being killed. The price paid by judges to fight the Brigate Rosse was very high, and perhaps, together with all the other victims among the police and servants of the State in general, it is the symbol of a limited victory.

One of the several prosecutors killed by red terrorists was Emilio Alessandrini on January 29, 1979. This terrorist attack helps to understand how the other judges and prosecutors reacted to this umpteenth murder. Zampieri recalls that:

> "The Milan prosecutors met after their colleague's funeral to denounce the government's deafness to requests to set up a national data processing centre, increase staffing levels in judicial offices and establish judicial police units specialising in the fight against terrorism."[36]

The journalist Indro Montanelli, shot in the leg on June 2, 1977, congratulated the judiciary two and a half years later for conducting a joint investigation across various cities. At the end of 1979, the journalist expressed renewed confidence in this new course of action by the judiciary, which was no longer hindering each other, inviting them to continue along this path. [37] Furthermore, State's witness Patrizio Peci stated that one of the most effective initiatives taken by the State was "the exchange of information between judicial officers." [38] Prosecutors, at the cost of enormous personal sacrifice, succeeded in dismantling the Brigate Rosse in the early 1980s, thereby strengthening the role and democratic legitimacy of the judiciary.

The turning point in terms of the organisation and activities of the judiciary came in Turin, one of the cities most affected by terrorism. A structure was created that would be called a 'pool,' where there were "investigating judges and public prosecutors, all working together, ready to exchange information, ideas and insights, to collaborate with other judicial offices in the country: an experience that would later be replicated in Palermo and Naples in the battle against the Cosa Nostra and the Camorra." [39] The idea of cooperation between different members of the judiciary also had a further, much darker meaning, outlined by Judge Mario Carrassi del Villar in Turin in a conversation with Judge Gian Carlo Caselli.

> "'Caselli, you will conduct this trial because you should know about the Brigate Rosse. But you will not do it alone.'
>
> 'But why, Councillor?'

[36] Chiara Zampieri, "Alla prova del terrorismo: la legislazione dell'emergenza e il dibattito politico italiano (1978-1982)," [Testing terrorism: emergency legislation and the Italian political debate (1978-1982)] (PhD in Political Science, Università degli Studi Roma Tre, 2017) 513.
[37] Idro Montanelli, "Il Resto è Silenzio," *Il Giornale*, December 27, 1979. In Armando Spataro, "Le esperienze," 4.
[38] Zavoli, *La Notte,* 324. My Translation.
[39] Ettore Boffano, "Storia del giudice coraggioso che smantellò Prima Linea," [History of the brave judge who dismantled Prima Linea] *Libera Piemonte*, September 24, 2009, https://liberapiemonte.it/2009/09/24/storia-del-giudice-coraggioso-che-smantello-prima-linea/. My Translation.

> ‘Because the Brigate Rosse have started killing, and we have a fundamental, primary, perhaps unique task: we must see the trials entrusted to us through to the end. If you are alone and they kill you, the trial is over. If there are three of you, and I want there to be three of you, if they kill one, the other two can continue.’” [40]

During the years of maximum expansion of the Brigate Rosse, the judicial officers conducting the investigations did not have modern technology at their disposal, so the investigations were based on limited evidence. Spataro recalls that:

> “Even the evolution of the armed groups’ strategies, their strategic resolutions and their claim flyers were analysed by the magistrates investigating the phenomenon, some of whom were tasked with comparing and summarising the documents of interest, also to identify the possible traceability of the various acronyms used for the claims to a single organisation. This was a very useful system, the results of which were often confirmed by trial collaborators from 1980 onwards: in the absence of computers and databases, those magistrates became the historical memory of the ideological output of terrorist groups.” [41]

The work of the newly formed Turin ‘pool’ changed radically on February 20, 1980, when General Dalla Chiesa arrested Patrizio Peci, head of the Brigate Rosse in Turin. [42] In several interviews, the terrorist stated that, after his arrest, he realised that the only logical thing to do at that moment was to avoid further violence on the streets of Italy and, therefore, to cooperate. In a message announcing his withdrawal from the armed struggle, Peci stated that he would cooperate with the judges, affirming that from that moment on, he would commit himself to closing the case and dissuading anyone who wanted to take up arms. [43] Peci’s confessions were a shock both for the terrorists, who saw the charges against them multiply and for the State, which realised that it did not have the full picture, admitting that “before his revelations, we were at year zero in our knowledge of clandestine organisations.” [44]

The methodology employed by Italian prosecutors, particularly investigating judge Caselli, underwent a radical change. Until then, investigations had followed several leads and relied on certain pieces of evidence, while in other cases, attempts were made to reconstruct the role of members of the terrorist group based on hypotheses. From the following days, when Peci decided to repent and collaborate, the Turin pool had a clear view of the Turin Column and a lot of information about external supporters and people active in the city of Milan. As Caselli described in his bibliography, the judges detained numerous people who were considered above suspicion and who professed their innocence. However, when asked if they knew anyone with the same name as their *nom de guerre*, everyone understood that the Italian prosecutors now had certain and irrefutable evidence. In most

[40] Laura Matelda Puppini, “Gian Carlo Caselli. La mia vita per la giustizia, fra mafia e Brigate Rosse,” [Gian Carlo Caselli. My life for the Justice, between Mafia and Brigate Rosse] March 4, 2017, Festival Costituzione, transcript of intervention, https://www.nonsolocarnia.info/gian-carlo-caselli-la-mia-vita-per-la-giustizia-fra-mafia-e-brigate-rosse/. My Translation.
[41] Spataro, “Le esperienze,” 4. My Translation.
[42] Zavoli, *La Notte,* 272.
[43] Zavoli, *La Notte,* 323.
[44] Zavoli, *La Notte,* 273. My Translation.

cases, even these people admitted what they had done and, after their arrest, decided to cooperate by providing further information and opening new avenues for investigation. [45]

A few days before this arrest, a set of measures had been passed into law "that made a quantum leap in the effectiveness of policies to combat politically motivated crime." [46] The point of the law that most helped the prosecutors was Article 4, which guaranteed "significant reductions in sentences for those who had broken away from subversive organisations or had cooperated significantly with the authorities in identifying and capturing their associates." [47]

In his book about life after his capture, Peci dedicates some very significant words to Judge Caselli. The judge is described as "a true professional and a man of great humanity, highly knowledgeable from an ideological and political point of view." [48] Peci's words make us understand that the role of the prosecutor and investigating judge is fundamental in pushing a criminal to repent. During the questioning, Peci revealed to the judge that there were advanced plans to kill him, linking this to what was said earlier about the dangerous life of judges. Years later, Caselli admitted that he had been "a decidedly burdensome husband and father because I realise that I caused annoyance and suffering during my ten years in counterterrorism." [49] Judge Caselli understood something fundamental to the system of justice collaborators: the questioning had to be conducted quickly; otherwise, the collaboration would become obvious, and all the terrorists still at large would escape. In Peci's case, the confession took place in just two days, after he decided to cooperate. [50]

Peci's collaboration dealt a deadly blow to the Brigate Rosse. In his words:

> "My statements led to the arrest of another seventy people, a blow from which the organisation will never recover. More than the seventy arrests and the hideouts discovered, I believe my example was important. Before me, there had been very few repentant terrorists, and they were of little importance; after me, there have been dozens, hundreds; now there are six hundred." [51]

The second part of Peci's thinking is entirely understandable because, as we shall see later, the State, the executive and legislative powers understood the importance of encouraging collaborators. Judge Caselli and General Dalla Chiesa pushed for the creation of special facilities for collaborators in prisons to make them feel safe and encourage their cooperation. [52] In 1983, sections were created within prisons where 'repentant' and 'disassociated' prisoners could request to be transferred, thus placing themselves in safety from their former hardline comrades who were also in prison and who represented a serious threat to those who had abandoned the struggle. [53]

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[45] Caselli, *Giorni Memorabili*, 13.
[46] Satta, *I nemici*, 521. My Translation.
[47] Satta, *I nemici*, 521. My Translation.
[48] Patrizio Peci, *Io L'infame* [I, The Infamous] (Sperling & Kupfer, 2008) 205.
[49] "Gian Carlo Caselli: 'Vi racconto la mia vita sotto scorta'," posted November 27, 2015, by InConTraSrl, 1 min., 53 sec., https://www.youtube.com/watch?v=rFeVnVSq9uw. My Translation.
[50] Peci, *Io L'infame*, 210.
[51] Peci, *Io L'infame*, 206. My Translation.
[52] Peci, *Io L'infame*, 217.
[53] Satta, *I nemici*, 525. My Translation.

A second very important confession was that of Roberto Garigliano in Genoa in September 1980. His statements led to a series of arrests and confessions by those arrested. The Genoa column was also dismantled, and the police and Carabinieri discovered many hideouts. [54] The phenomenon of so-called *'pentitismo'* (repentance) thus took on structural importance. Although decisive in dismantling the Brigade Rosse and other armed organisations, it sparked intense ethical and legal debate. On the one hand, the revelations of collaborators made it possible to uncover the clandestine network and prevent further attacks; on the other hand, there was a risk of abuse, contradictions in testimony and excessive dependence of investigations on the word of dissociated individuals, with significant consequences for Italian legal culture in the following years.

As will be seen in the following section, close cooperation between the judiciary and law enforcement agencies was necessary to curb and defeat the phenomenon of red terrorism, as reported by Prosecutor Spataro. [55] To maximise the chances of success, before the legislation was updated, prosecutors always interpreted procedures, such as signing reports, in the most useful way possible. Rarely did any of Dalla Chiesa's men have to do bureaucratic work, but when they did, the Prosecutor Ferdinando Pomarici reports that:

> "It was an accepted, common and constant fact that judicial reports and all documents, such as seizure reports, search reports and arrest reports, never bore the signatures of anti-crime section personnel. This was for a very simple reason: the anti-crime section staff were, first of all, few in number, highly qualified, exposed to safety risks and had to remain absolutely secret because they had to continue to operate in the shadows. Since the personnel who draft and sign the reports are then called to testify in court to confirm those reports, once a report, seizure report or arrest report was signed, that judicial police officer would have been permanently compromised." [56]

In conclusion, the Italian judiciary tackled red terrorism without extraordinary measures, operating within the ordinary judicial system. The initial difficulties, due to fragmentation and slow coordination, were overcome with progressive specialisation and the creation of the first investigative 'pools'. This organisational innovation represented a turning point: it made it possible to concentrate information, reduce data dispersion and ensure continuity even in conditions of serious personal risk for prosecutors. The decision of many terrorists to cooperate with judges and prosecutors, starting with Peci, demonstrated the effectiveness of the judiciary. One of the founders of the Brigate Rosse, Alfredo Bonavita, admitted that their role "was decisive. Especially on the part of the judges who followed it from the beginning, such as Caselli, but then also on the part of the entire pool of prosecutors who were formed on that experience." [57] Despite the victims and operational vulnerability, the judges were able to adapt, becoming central players in the counter-terrorism strategy. On a technical level, the shift from an individual to a collegial approach enabled more complex and integrated investigations. At the same time, the targeted use of reward legislation

[54] Luzzato, *Dolore Furore*, 424-428.
[55] Spataro, "Le esperienze," 3. My Translation.
[56] Commissione Parlamentare d'Inchiesta sul Terrorismo in Italia e sulle Cause della Mancata Identificazione dei Responsabili delle Stragi, [Parliamentary Commission of Inquiry into Terrorism in Italy and the Reasons for the Failure to Identify Those Responsible for the Massacres] Stenographic report of the session of March 1, 2000, Roma: Senato della Repubblica, 2920, https://www.senato.it/documenti/repository/leggi_e_documenti/raccoltenormative/30%20-%20stragi/Leg.%20XIII/resoconti/64.pdf.
[57] Zavoli, *La Notte,* 70. My Translation.

multiplied the sources of information. Thus, despite operating with limited resources, the judiciary gradually became an operational pillar of the state's response to terrorism.

Law Enforcement and Public Security

When it comes to the police forces, the State Police and the Carabinieri, it must be admitted that in the early stages, they were completely unprepared to deal with the threat posed by the Brigate Rosse and their guerrilla tactics. During the kidnapping of Judge Sossi, the Minister of the Interior, Paolo Emilio Taviani, realised that he could not allow "a handful of inexperienced and poorly equipped guerrillas to hold the institutions of the Republic in check for thirty-five days." [58] For this reason, work began on creating a specialised group to combat the phenomenon, the Special Anti-Terrorism Unit. The task was entrusted to Brigadier General Dalla Chiesa on May 22, 1974.

Luzzato, tracking the days before and after the establishment of the Special Unit, highlights two very important elements. Firstly, many senior Carabinieri officers did not like Dalla Chiesa and his methods, considering him not sufficiently military and partially opposing his appointment. It can be deduced that Dalla Chiesa would encounter resistance in his career. Secondly, the general had fought the *Mafia* in Sicily for years, and during the Sossi case, he realised that he was facing a completely different, much more ideological enemy. According to Dalla Chiesa, this strong ideology would play to the advantage of the State, as he believed that the members of the Brigate Rosse were first intellectuals and then fighters. He assumed that their ideology would lead them to speak openly in public, making them easier to identify. [59]

The appointment of a Brigadier General to the head of a newly created special unit needed to be followed by a modernisation of the regulatory framework. The Minister of Justice, Oronzo Reale, addressing the Chamber of Deputies to present the new Law 152/1975, declared it "was necessary to address the issue of the adequacy of our substantive and procedural criminal justice system in dealing with new, extremely serious and alarming forms of crime." [60]

The new Law, which will take the name of '*Legge Reale*' from the name of the Minister, marked a fundamental change in the conduct and operational system of Italian law enforcement. The new law touched upon different fields, and the various articles brought heterogeneous improvements. Mario Riberi reports the most significant achievement for law enforcement:

> The law "drastically limited the possibility of granting provisional release (Art. 1); provided for new cases of summary proceedings (Arts. 12, 17, 26); it broadened the grounds for judicial detention (Art. 3); it expanded search powers (Art. 4); it extended the legitimate use of weapons by the police (Art. 14), establishing a special favourable procedure for offences relating to the use of weapons committed by members of the police force (Arts. 27-32); prohibited the use of helmets and other items that could potentially render citizens

[58] Luzzato, *Dolore e Furore,* 209. My Translation.
[59] Luzzato, *Dolore Furore*, 216-218.
[60] Atti parlamentari, Camera dei deputati, n. 3659, 1, https://documenti.camera.it/_dati/leg06/lavori/stampati/pdf/36590001.pdf.

participating in public demonstrations, taking place in public or in places open to the public, wholly or partially unrecognisable (Article 5)." [61]

On July 11, 1975, just one year after its creation, the Special Unit was disbanded by the Commander General of the Carabinieri, Enrico Mino, who sent all the officers and non-commissioned officers "directly under the command of the divisions in Milan, Rome and Naples, which established special judicial police sections within them with the task of coordinating the special anti-crime sub-sections located in the cities of Genoa, Turin, Padua, Bologna, Bari, Florence, Catania and Catanzaro." [62]

About the State Police, under the Ministry of the Interior, since 1946 there had been an information gathering structure called the *Ufficio Affari Riservati* (UAR, Office of Confidential Affairs), which, however, remained in the shadows for many years due to a problem of perception, since many of the officials chosen by the Americans after the liberation had worked in the OVRA, the fascist secret police. [63] After the 1977 reform of the Secret Services and the evident shortcomings in the face of the terrorist threat, "at the beginning of 1978, the regional units and political offices were replaced by the Digos (General Investigations and Special Operations Directorates) – set up in the police headquarters of the regional capitals as well as in Padua and Catania – which were given responsibility for terrorism investigations." [64]

Finally, both the Carabinieri and the State Police set up rapid response units to support the previously mentioned investigative teams. On February 6, 1978, Interior Minister Francesco Cossiga requested the creation of units "with the aim of strengthening national capabilities to combat terrorism (both domestic and international) and developing a special police unit specifically trained for the liberation of hostages." [65] On these specific instructions of Minister Cossiga, the State Police had established the NOCS, the Central Security Operations Unit. Operational since October 24, 1977, they had "the task of intervening in support of the DIGOS operations, thus making counter-terrorism action more effective and more appropriate to the scenarios of that particular historical moment." [66] Thus, within the Carabinieri, the GIS (Special Intervention Group) was born in February 1978.

In his book *Storia del NOCS* (History of the NOCS), Edoardo Perna, commander of the unit from 1982 to 1987, emphasises how every single aspect of the training of NOCS personnel was designed to ensure the perfect execution of operational interventions. In the section dedicated to training, Perna highlights that to respond to the diverse threats of those years, "a constant and meticulous training programme was developed, covering physical preparation, knowledge of sophisticated weaponry and

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[61] Mario Riberi, "Sicurezza vs. libertà costituzionali: la «legge Reale» n. 152 del 22 maggio 1975," [Security vs. constitutional freedoms: the 'Reale Law' No. 152 of 22 May 1975] *Italian Review of Legal History*, n. 4 (2018) 2-3, https://doi.org/10.13130/2464-8914/12926.

[62] Fabiola Peterniti, *Tutti gli Uomini del Generale; la storia inedita della lotta al terrorismo* [All the General's Men; the unpublished story of the fight against terrorism] (Melatempo, 2016) 43. My Translation.

[63] Claudio Molinari, "I servizi segreti in Italia verso la strategia della tensione (1948 – 1969)" (Thesis, Trieste University, 2021), 12-14.

[64] Spataro, "Le esperienze," 3. My Translation.

[65] Francesco Tosato and Michele Taufer, "Il dispositivo antiterrorismo dell'Arma dei Carabinieri alla luce delle nuove minacce internazionali," [The Carabinieri's anti-terrorism measures in light of new international threats] *Centro Strudi Internazionali,* July 17, 2016, https://www.carabinieri.it/docs/default-source/default-document-library/dispositivo-antiterrorismo-dell%27arma-dei-carabinieri.pdf. My Translation.

[66] "La Storia del NOCS," [The History of NOCS] PoliziaDiStato, accessed July 6, 2025, https://www.poliziadistato.it/articolo/la-storia-del-nocs.

equipment, and the learning of operational techniques." [67] The NOCS specialised in protecting prominent figures from Italian and foreign institutions visiting Italy, raids in urban and extra-urban contexts, arrests in crowds and pursuits of armed individuals in the fight against the Brigate Rosse. [68]

After the resounding failure of the institutions during the kidnapping of Aldo Moro, Prime Minister Andreotti and Interior Minister Virginio Rognoni entrusted General Dalla Chiesa with the role of "Coordinator of Police Forces and Intelligence Agents for the fight against terrorism" on August 9, 1978. The general was placed directly under the executive branch with the clear intention of sending a reminder that the State was ready to respond where it had failed and to ensure greater security among the citizens. [69] Furthermore, the General needed to strengthen the cooperation between the police and prosecutors, which had been slow and difficult until that moment. This close relationship between the public prosecutor, or investigating judges, and the police allowed article 109 [70] of the Constitution to be respected, but above all it favoured, "through the comparison between their respective experiences and work approaches, mutually a coherent growth of professionalism and the coordination capacity of all the institutions involved in judicial investigations on the matter." [71]

The then Minister of the Interior, Francesco Cossiga, who resigned two days after Moro's body was found, emphasised that thanks to this event, "it was possible to understand the problem of terrorism in all its complexity fully, and the police forces were able to understand the phenomenon in all its complexity and novelty, as well as the adequacy and inadequacy of the structures, methods and techniques used to combat it." [72]

Satta illustrates how this trust placed in the General was supported by the purchase of the best technology available, such as fax machines, which allowed documents to be transmitted instantly, and mobile phones, which allowed constant contact without the risk of being intercepted. [73] 1978 and 1979 were terrible years as the Brigate Rosse pushed their terrorist activities to the maximum, spreading panic, killing a trade unionist and promoting a revolt in the Asinara prison. [74] The General decided to focus on unconventional methods, which he considered effective in countering the Brigate Rosse. His men's cars had false and interchangeable number plates to go unnoticed, telephones were registered to non-existent people, and apartments rented under false names and with false documents were the order of the day. [75] Finally, a technique widely used by the General and in line with his idea of always having to see the bigger picture in every situation was to wait before making arrests. In the case of Curcio and Franceschini, it will be demonstrated that the Carabinieri had to rush their

[67] Edoardo Perna, *Storia del NOCS*, [History of NOCS] (Archivio Storia, 2017) 33. Ebook. My Translation.
[68] Perna, *Storia del NOCS*, 33-35.
[69] Peterniti, *Tutti gli Uomini*, 47.
[70] Article 109 of the Italian Constitution states: "The judicial authority has at its disposal the judicial police."
[71] Spataro, "Le esperienze," 4. My Translation.
[72] Commissione Parlamentare d'Inchiesta sulla strage di Via Fani sul Sequestro e l'assassinio di Aldo Moro e sul Terrorismo in Italia, [Parliamentary Commission of Inquiry into the Via Fani massacre, the kidnapping and murder of Aldo Moro, and terrorism in Italy] Appendix to the final report, 1984, Roma: Senato della Repubblica, 191, https://www.parlamento.it/service/PDF/PDFServer/BGT/908012.pdf. My Translation.
[73] Satta, *I nemici*, 503.
[74] Paterniti, *Tutti gli Uomini*, 48.
[75] Satta, *I nemici*, 503.

intervention because of a leak. In general, after discovering a terrorist, the Unit would follow him to be led to his comrades and dismantle larger groups at the same time.

With Law No. 121/1981, the State Police was demilitarised and reorganised within the Department of Public Security. The reform formalised a division of competences; at the national level the Public Security was responsibility of the Ministry of Interior, at regional level Prefects and *Questori* were responsible, and at the local level the local representative of the police was in charge. [76] The reform had as its objective unity, created under the Minister of the Interior, efficiency, favoured by reorganization and reorganization, and finally democracy, promoted by the inclusion of workers' rights. [77] The result was faster decision cycles, fewer overlaps and more uniform procedures along the whole chain from prevention to criminal investigation.

The *Guardia di Finanza* contributed targeted capabilities: financial tracing of support networks, checks on suspicious rentals and fronts, customs surveillance on weapons and explosives, and controls on cross-border movements. Its reports, integrated into prosecutors' delegations, often supplied the external corroboration needed to validate intelligence-driven leads.

One limitation of the system was undoubtedly the fact that the Brigate Rosse phenomenon was considered a problem affecting the industrial cities of the north. Dalla Chiesa was responsible for coordinating operations in Lombardy, Piedmont and Liguria. When Aldo Moro was kidnapped, the Ministry of the Interior had to implement a public order plan dating back to the 1950s. The plan was designed for street riots but not for terrorism, which shows how lessons had not been learned at the national level, where the kidnapping of a politician was considered unlikely. [78]

General Sechi remembers the methods imposed by Dalla Chiesa from the early days: "no leaks, teamwork and total availability." [79] These general guidelines are reductive for the innovative working method that was developed. None of the members of the Special Unit could know what a colleague was working on; the General was the only one who had the global picture and allowed the exchange of information only in the event of an overlap between two investigations. Furthermore, the main directive was to understand what the Brigate Rosse were, demonstrating a huge change in perspective. Until then, the focus had been limited to following clues and concentrating on individual events. [80]

Reading General Sechi's version in the book *Tutti gli uomini del Generale* (All the General's Men), one notes the admiration of the entire working group for General Dalla Chiesa and his charisma. In short, with a speech, the general motivated all his men, and this brought out in each of them an impressive determination to carry out their tasks. As mentioned above, the objective was to obtain an overview of the organisation, and the best way to do this was through infiltration. General Sechi was

[76] Nuovo ordinamento dell'Amministrazione della pubblica sicurezza. [New order of the Public Security Administration.] Law n. 121, April 1, 1981, Articles 1, 13, 14, 15, https://www.normattiva.it/atto/caricaDettaglioAtto?atto.dataPubblicazioneGazzetta=1981-04-10&atto.codiceRedazionale=081U0121&tipoDettaglio=originario&qId=.
[77] Claudio Ianniello, "Uno Sguardo alla Riforma del 1981," [An overview on the 1981 reform] *Polizia e Democrazia*, January – February 2012, https://www.poliziaedemocrazia.it/archivio/live/index-8584.html?domain=archivio&action=articolo&idArticolo=2724.
[78] Zavoli, *La Notte,* 193.
[79] Paterniti, *Tutti gli Uomini*, 28. My Translation.
[80] Paterniti, *Tutti gli Uomini*, 28.

responsible for recruiting non-commissioned officers in Florence who had no families, given the dangerous nature of the work. The Ministry had allocated a substantial budget to the Unit, so land was purchased for training outside Turin. General Sechi recalls that nine *Carabinieri* were infiltrated into the city, having learned to dress, speak and greet like members of the Brigate Rosse. One of them showed up at a meeting with other communists one day and simply said that he had lied and that the Carabinieri would soon raid the place to arrest them all. [81] The most successful story involving a Carabinieri infiltrator is undoubtedly that of Silvano Girotto, known as "Frate Mitra." The priest was a left-wing guerrilla fighter who was returning from South America but opposed the extremist violence of the Brigate Rosse.

On September 8, 1974, a few months after its creation, the Special Unit achieved its first major victory thanks to Girotto, with the arrest of Renato Curcio and Alberto Franceschini. The problem that greatly concerned Dalla Chiesa was that the operation was brought forward due to a leak. Sechi tells the days leading up to the operation as follows:

> "The general had sent me to Rome to speak to the head of the Interior Minister's office to inform him that, in a few days, we would have a major success in the Pinerolo area. However, that information leaked from the Ministry and went straight to Girotto in his capacity as a terrorist. The news, therefore, leaked from the Ministry, and we were forced to speed up the operation." [82]

Renato Curcio was freed on February 18, 1975, by a commando of the Brigate Rosse and then re-arrested in January 1976.

General Dalla Chiesa was a divisive figure and was not unanimously respected. His methods, especially the use of infiltrators, were the subject of constant criticism. In October 1974, the Special Unit had made "34 arrests, 43 reports, 193 house searches, 160 bank checks, and 93 inspections." [83] These results and the arrest of Curcio and Franceschini led to a lowering of the guard by the institutions, which, in the summer of 1975, following activities uncovered in Lazio, decided to reform General Dalla Chiesa's project. On July 11, 1975, "the original single Unit based in Turin was replaced by three special anti-crime sections based in Milan, Rome and Naples. Other special sections of the same type were then created in various provincial capitals (Genoa, Padua, Bologna, Florence, Taranto, Catania and Turin itself), which reported to the three centres in Milan, Rome and Naples. General Dalla Chiesa did not play any role in the special anti-crime sections established at this stage." [84] The official justification was that, given the spread of terrorism towards the south, it was necessary to have a national network to combat terrorism, but, as stated above, "it is highly plausible that the decision of the general command to hand over to Milan, Rome and Naples was instrumental and that in reality it was the result of ill-feeling towards Dalla Chiesa and his collaborators." [85] General Dalla Chiesa was appointed Coordinator of the Security Service of the Institutes of Prevention and

[81] Paterniti, *Tutti gli Uomini*, 34-35.
[82] Paterniti, *Tutti gli Uomini*, 37. My Translation.
[83] Satta, *I nemici*, 363. My Translation.
[84] Satta, *I nemici*, 363. My Translation.
[85] Satta, *I nemici*, 364. My Translation.

Punishment, as escapes were becoming increasingly frequent and prisons were becoming increasingly subversive places and recruitment grounds for the Brigate Rosse.

The murder of Aldo Moro forced the hand of the institutions, which, after underestimating the threat, reassigned Dalla Chiesa to the department in August 1978. The decision was mainly political, as the government had to send reassuring signals to the public. For this reason, those in charge of the secret services "showed little enthusiasm, and the same was true within the Carabinieri Command, which had not been informed in advance and was taken by surprise." [86] This time, Dalla Chiesa was able to draw on about 230 personnel, 180 of whom were from the Carabinieri and 50 from the public security forces, including a contingent of women. The territorial commands of the Carabinieri, the provincial public security authorities and the Guardia di Finanza were required to provide all necessary cooperation. The general would report directly to the Minister of the Interior. Concerning the number of personnel, it was General Dalla Chiesa himself who, before the Parliamentary Commission, reiterated that he had requested this number of men.

> "I was very explicit in stating, perhaps with a degree of presumption, that two or three hundred men would be sufficient for me in a year's time, but it was I myself who set this limit." [87]

Despite very incisive methods, General Dalla Chiesa constantly urged his men to be guided by their sense of duty to the state, and General Pechi reiterated that men who did not follow these directives were removed from the unit.

General Mario Mori, one of the closest aids of Dalla Chiesa, revealed the method called "OCP (which stands for Observation, Control and Surveillance) involved selective and repeated surveillance of individuals suspected of being members of a terrorist organisation, until their activities, relationships, habits and actual involvement in the illegal organisation were known." [88]

In the years that followed, the term 'Dalla Chiesa method' was coined to define all these innovative techniques that the general developed after tackling the mafia and terrorism. The key principle, to recall what has been said so far, was 'systemic thinking,' which found its maximum application in the 'Green Branches theory,' the waiting to arrest a terrorist to be guided to others. Although innovative, these methods were often criticised, and during his second assignment from 1978, the general reported all the successes of the operations in semi-annual documents. [89]

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[86] Satta, *I nemici*, 501. My Translation.

[87] Commissione Parlamentare d'Inchiesta sulla strage di Via Fani sul Sequestro e l'assassinio di Aldo Moro e sul Terrorismo in Italia, [Parliamentary Commission of Inquiry into the Via Fani massacre, the kidnapping and murder of Aldo Moro, and terrorism in Italy] Stenographic report of the session of July 8, 21, 1980, Roma: Senato della Repubblica, 244, https://patrimonio.archivio.senato.it/inventario/scheda/moro-viii-leg/IT-SEN-072-000159/prima-audizione-del-generale-carlo-alberto-dalla-chiesa-p-243#lg=1&slide=0.

[88] Intervista al Generale Mario Mori, [Interview with General Mario Mori] *CISINT*, June 25, 2014, https://www.cisint.org/cms/wp-content/uploads/2021/02/CISINT_Intervista_Generale_Mario_Mori_2014.pdf.

[89] Peppe Fiore e Monica Zapelli, "Il metodo Dalla Chiesa e la capacità di restare umani," [The Dalla Chiesa method and the ability to remain human] *Corriere Del Mezzogiorno*, January 18, 2023, https://napoli.corriere.it/notizie/cronaca/23_gennaio_18/metodo-chiesa-capacita-restare-umani-fda8e3d6-9727-11ed-8f34-ce187dde0e91.shtml?refresh_ce.

Already on October 1, 1978, after a brilliant operation conducted after the finding of a wallet on a bus, the Special Unit arrested several terrorists and conducted searches in three hideouts. In "Via Monte Nevoso [Milan], copies of some of the letters and memoirs written by Moro during his kidnapping were also found." [90] This operation increased the popularity of the Special Unit and restored a sense of security among the public but, at the same time, "created tension between its departments on the one hand and, on the other, the supporting structure of the Carabinieri, whose role had remained in the shadows." [91]

The Milan operation allows us to connect two elements related to Dalla Chiesa's Carabinieri operational methods. As highlighted by Satta, relations with the rest of the Carabinieri were quite difficult due to the General's notoriety. Furthermore, Dalla Chiesa's men relied on the local Carabinieri for all bureaucratic and reporting matters. As explained before the parliamentary commission by General Nicolò Bozzo, a close collaborator of General Dalla Chiesa:

> "We did not write reports or carry out bureaucratic judicial police activities, because otherwise they would have identified us. We would have had to testify before the prosecutor, and if they saw us in the courtroom, it would have been over. The reports and judicial police documents were drafted by the investigative department we worked with." [92]

Therefore, this testimony is valuable for understanding the working and protective mechanisms of the Special Unit, as well as for observing a unique instance in which the relationship with the judiciary was not as transparent.

In the first half of the year, nine hideouts were discovered, entire arsenals of weapons were seized, and dozens of Brigate Rosse members were arrested, all through the acquisition of 8,220 pieces of confidential information, which led to the discovery of 17,000 pieces of information and the subsequent creation of 19,000 personal files and 16,000 information files. The penetration of armed gangs was also carried out through 9,200 photographic services, 507 observation services and 1,337 tailings. This was during the first half of the year, i.e. up to March 1979. The report for the second half of the year shows an increase in these figures. Confidential reports reached 18,080, leading to the development of 21,500 reports, the creation of 25,000 information files and the storage of 31,000 personal files. There were 1,044 observation services and 1,427 surveillance operations. [93]

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[90] Vladimiro Satta, "Il contributo delle forze di Polizia alla repressione del terrorismo in Italia: con particolare riferimento ai nuclei dei Carabinieri del generale Dalla Chiesa," [The contribution of the police forces to the suppression of terrorism in Italy: with particular reference to the Carabinieri units of General Dalla Chiesa] *Annali dell'Istituto storico italo-germanico in Trento* n.34 (2008), 357. My Translation.

[91] Satta, "Il contributo delle forze," 357. My Translation.

[92] Commissione Parlamentare d'Inchiesta sul Terrorismo in Italia e sulle Cause della Mancata Identificazione dei Responsabili delle Stragi, [Parliamentary Commission of Inquiry into Terrorism in Italy and the Reasons for the Failure to Identify Those Responsible for the Massacres] Stenographic report of the session of January 21, 1998, Roma: Senato della Repubblica, 1240, https://www.senato.it/documenti/repository/leggi_e_documenti/raccoltenormative/30%20-%20stragi/Leg.%20XIII/resoconti/64.pdf. My Translation.

[93] Commissione Parlamentare d'Inchiesta sulla strage di Via Fani sul Sequestro e l'assassinio di Aldo Moro e sul Terrorismo in Italia, [Parliamentary Commission of Inquiry into the Via Fani massacre, the kidnapping and murder of Aldo Moro, and terrorism in Italy] Appendix to the final report, 1995, Roma: Senato della Repubblica, 273-87, https://www.senato.it/service/PDF/PDFServer/BGT/908891.pdf.

About the choice of targets, General Bozzo remembers General Dalla Chiesa's instructions and wishes. The General "called all the heads of counter-terrorism – there were three of us, one in Milan, one in Rome and one in Naples – to his office as coordinator of the security services for prevention and punishment. He asked me what I was doing in Milan, and I told him that we were conducting an operation that could perhaps lead to something 'solid'. He listened to me and told me to bear in mind that we should not go looking for the hideout or the lair, but since we were few in number, we had to look for the leaders. If we wanted to solve the problem and cut the phenomenon off at the root, we had to capture the leaders when they met: that was his goal, to surprise a strategic leadership meeting, raid it and capture them all." [94]

The most successful operations were the arrest of Peci and Moretti and the dismantling of the 'column' in Genoa in 1980-1981. As for Peci, an infiltrator, still unknown today, led the Carabinieri to arrest him, reporting to Dalla Chiesa an intensification of activity in Turin, which is why the Carabinieri decided to focus on this city. [95] Peci formed a relationship with Dalla Chiesa after he decided to collaborate, confessing everything he knew and, in exchange, receiving excellent protection, which, however, prompted the Brigate Rosse to kidnap and execute his brother in revenge. The arrest of Moretti, the main person responsible for the kidnapping and murder of Moro, on April 4, 1980, caused the Brigate Rosse to split. [96] Mario Moretti was arrested, too, thanks to an informant, Renato Longo. Longo was a common criminal who, after prison, expressed his desire to join the Brigate Rosse, and Moretti met him several times in person due to the organisation's workforce been reduced to a minimum after the arrests based on Peci's revelations. The third meeting was fatal "because Longo, who had meanwhile been arrested in Pavia for minor offences, had traded his release for information that he had begun to frequent Moretti." [97] The specific weight of the two arrests was different because Moretti did not cooperate. However, it certainly remains an emblematic moment in the downward trajectory of red terrorism, which split into many groups after this arrest. Moretti worked hard to stem the disintegration. In Genoa, two members of the Brigate Rosse were arrested during a routine search of their vehicle on September 18, 1980. One of them, Roberto Garigliano, started to cooperate, and by October 4, the city's 'column' had been dismantled. [98] Six months before, thanks to Peci's information, the Carabinieri were able to strike a decisive hit in Genoa with an operation that had strong repercussion, as will be seen later, on the public perception. On March 28, 1980, the Carabinieri entered in the hideout of *Fracchia* street and after a firefight four terrorists were killed and one officer heavily injured, strongly hitting the terrorists in one of those cities where it seemed unbreakable. [99]

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[94] Commissione Parlamentare d'Inchiesta sul Terrorismo in Italia e sulle Cause della Mancata Identificazione dei Responsabili delle Stragi, [Parliamentary Commission of Inquiry into Terrorism in Italy and the Reasons for the Failure to Identify Those Responsible for the Massacres] Stenographic report of the session of January 21, 1998, Roma: Senato della Repubblica, 1242, https://www.senato.it/documenti/repository/leggi_e_documenti/raccoltenormative/30%20-%20stragi/Leg.%20XIII/resoconti/64.pdf. My Translation.

[95] Satta, *I nemici*, 548.

[96] Paterniti, *Tutti gli Uomini*, 58.

[97] Satta, *I nemici*, 549. My Translation.

[98] Ludovico Crepaldi, "Le Brigate Rosse e il caso di Guido Rossa" [The Brigate Rosse and the case of Guido Rossa] (Thesis, University of Padova, 2024), 45.

[99] Monica Galfré, *La guerra è finita. L'Italia e l'uscita dal terrorismo: 1980-1987*, [The war is over. Italy and the exit from terrorism: 1980-1987] (Bari-Roma, Laterza, 2014) Ebook.

Momentarily returning to Peci's role, the Parliamentary Commission of Inquiry into the Kidnapping and Death of Aldo Moro, during the 17th legislature, attributed a decisive role in understanding his willingness to cooperate to Marshal Angelo Incandela of the Penitentiary Police. During his hearing, as later reported in the final report, the marshal stated that Dalla Chiesa had entrusted him with the task of "gathering information and documents, preventing escape plans and intercepting the possible willingness of some prisoners to cooperate." [100] An anecdote illustrating the General's methodology, reported by Incandela, concerns a tape recorder that was provided to the marshal to secretly record conversations with prisoners. However, this tape recorder was delivered without headphones so that the content could not be listened to again, thus ensuring a level of caution typical of the General. [101]

These operations were the first one happening after General Dalla Chiesa went to command a different division within the Carabinieri, the *Pastrengo* Division, and the Special Unit was once again dismantled. This time, Dalla Chiesa supported the decision and "he guaranteed that the fight against subversion would not be affected." [102] In fact, the Pastrengo Division was much larger and was responsible for the whole of northern Italy, proving itself "capable of pursuing the Brigade Rosse as before and even more than before, with Dalla Chiesa's veterans often on the front line." [103]

The most obvious sign of the evolution and success of the State Police response came between 1981 and 1982. On December 17, 1981, the American General James Lee Dozier was kidnapped in Verona. Within a few days, the Digos, which had slowly regained the ground lost to the Special Unit, identified one of the perpetrators, who confessed to the location of the prison. On January 28, 1982, the NOCS, special units of the State Police, stormed the prison and freed the general. [104] The international resonance of this operation allows us to focus for a few lines on the operational details of how seven NOCS led by Edoardo Perna stormed the apartment, demonstrating the level of specialisation that Italian special forces had achieved in just four years. The seven men entered, armed with M12 submachine guns, the same used by the Brigate Rosse in the Moro kidnapping, and in less than a minute neutralised five terrorists without firing a shot. [105]

As for the Carabinieri special forces, the GIS, their first operation was the riot in the Trani prison. After an hour of fresh air, the Brigate Rosse member Seghetti grabbed the head of the guards, starting the riot in the special section of the prison. On December 29, 1980, they entered the prison by helicopter and, using magnesium bombs and a considerable amount of firepower, quickly resolved the riot without any bloodshed among the hostages, the rioters themselves or the Carabinieri. [106]

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[100] Commissione Parlamentare di Inchiesta sul Rapimento e sulla Morte di Aldo Moro, [Parliamentary Commission of Inquiry into the Kidnapping and Death of Aldo Moro] Report of Activities, December 7, 2017, 199, https://www.gerograssi.it/cms2/file/Relazione%20Finale%20Commissione%20Moro.pdf.

[101] Commissione Parlamentare di Inchiesta sul Rapimento e sulla Morte di Aldo Moro, [Parliamentary Commission of Inquiry into the Kidnapping and Death of Aldo Moro] Report of Activities, December 7, 2017, 200, https://www.gerograssi.it/cms2/file/Relazione%20Finale%20Commissione%20Moro.pdf.

[102] Satta, "Il contributo delle forze," 358. My Translation.

[103] Satta, "Il contributo delle forze," 358. My Translation.

[104] Zavoli, *La Notte,* 315-316.

[105] Perna, *Storia del NOCS*, 47-49.

[106] Ettore Minniti, "La rivolta nel Supercarcere di Trani," *Quotidiano Contribuenti*, published December 29, 2000, https://www.quotidianocontribuenti.com/come-oggi-28-29-dicembre-1980-la-rivolta-nel-supercarcere-di-trani/.

The expedition was led by General Enrico Galvaligi, who was killed by the Brigate Rosse two days later. The example of General Galvaligi serves to remind us of the very high price paid by the police in the fight against red terrorism, 61 in total. [107]

The police response evolved from improvisation to method. Early gaps were clear; the Sossi and Moro cases exposed them. Reform followed practice. The Legge Reale widened search, detention and use-of-force tools; DIGOS, NOCS and GIS professionalised execution. Under Dalla Chiesa, coordination, infiltration and the OCP cycle (observation–control–surveillance) replaced case-by-case policing. Compartmentalisation, false identities and delayed arrests-built network intelligence and enabled multi-target strikes. Chain-of-custody rules and prosecutor oversight preserved evidentiary value despite covert methods. Law 121/1981 streamlined command and reduced overlaps; data flows and inter-agency links improved. Limits remained: leaks, rivalry with ordinary commands, and a bias toward northern theatres. However, outcomes were concrete: columns dismantled, leadership hits (Peci's capture and cooperation; Moretti's arrest), Via Monte Nevoso finds, Trani crisis management, and the Dozier rescue without shots fired. Overall, the system moved from reactive public order to integrated counterterrorism, balancing operational aggressiveness with legal control.

Intelligence and State Security Services

On November 18, 1965, a decree issued by the President of the Republic reformed the Italian intelligence services, following numerous scandals and cases of dossier-building, which will not be discussed here as they are not relevant to the research conducted. Paragraph 'g' of Article 2 assigned the Chief of Defence Staff the duty of "overseeing the unified intelligence service of the armed forces, which, through its departments, offices and units, offices and units, the information tasks of protecting military secrets and any other activity of national interest for the security and defence of the country, also implementing measures to prevent actions harmful to the country's defensive potential." [108] The new service took the name of Defence Information Service (SID) and replaced the Armed Forces Information Service (SIFAR). [109] Until its reform in 1977, the new intelligence service was equally marked by scandals and abuses, with "the heads of the SID committing crimes and even more serious illegal acts" than the leaders of the SIFAR. [110] Despite these events, only the operations against red terrorism and the operating methods in that sector will be reported.

Two main accusations were made against the old service, the SID, but the judiciary never confirmed these. Firstly, it would appear that some SID officers had fabricated evidence against Vittorio Togliatti, son of the Secretary of the Communist Party, and sent it to Judge Sossi in Genoa, who arrested him, causing a great political controversy. [111] In June 1976, the daily newspaper La

[107] "L'Italia ricorda le vittime del terrorismo," Archivio Notizie, PoliziaDiStato, accessed July 11, 2025, https://www.poliziadistato.it/articolo/litalia-ricorda-le-vittime-del-terrorismo.
[108] Ordinamento dello Stato Maggiore della difesa e degli Stati Maggiori dell'Esercito, della Marina e dell'Aeronautica, in tempo di pace, [Organisation of the Defence Staff and the Army, Navy and Air Force Staffs in peacetime] Decree n.1477, November 18, 1965. My Translation.
[109] "Secondo Dopoguerra (1948-2007)," Storia dell'Intelligence Italiana, SicurezzaNazionale, accessed July 10, 2025, https://www.sicurezzanazionale.gov.it/chi-siamo/storia/secondo-dopoguerra-1948-2007.
[110] Giuseppe De Lutiis, *I Servizi Segreti in Italia; Dal Fascismo all'Intelligence del XXI secolo* (Sperling & Kupfer, 2010) 94. My Translation.
[111] De Lutiis, *I Servizi*, 274-277.

Repubblica published an interview with an anonymous SID officer in which he mentioned collaboration with foreign secret services and the Services' favouring of the Brigate Rosse for reasons that the public could not understand. The interview was subsequently denied. [112] These two cases demonstrate why reform was necessary in 1977.

Following reports of these scandals and accusations that many SID leaders had taken part in an attempted coup, it was decided to reform the Italian secret services once again, bringing about "a genuine revolution in the sector from a legal point of view." [113] With Law No. 801 of October 24, 1977, 'Establishment and organisation of the intelligence and security services and regulation of state secrecy,' the 19 articles instituted "a single body responsible to Parliament and the country for the proper functioning of the security services," the Executive Committee for Intelligence and Security Services (CESIS). [114] Its function was twofold: on the one hand, to coordinate the activities of SISMI and SISDE, avoiding operational overlaps and conflicts of competence, and on the other, to act as an interface with the political authorities. In this way, Parliament sought to bring intelligence back into a framework of democratic accountability after the deviations of the SIFAR/SID period. [115] Law No. 801/1977 also established a parliamentary control committee, composed of four deputies and four senators, with the responsibility of monitoring compliance with the law and the use of financial resources. [116] This was a significant step because, for the first time, intelligence activities were formally subject to continuous political and institutional control, albeit within the limits imposed by secrecy. CESIS, positioned as a link between the executive, the services and Parliament, thus became the instrument through which an attempt was made to balance the need for operational efficiency with that of democratic transparency.

Two services were established, one military, SISMI, under the Ministry of Defence, and one civilian, SISDE, under the Ministry of the Interior. De Lutiis points out that, following internal turmoil, almost the entire SID merged into SISMI, while SISDE had to start from scratch.

> "On the one hand, there was the military secret service, with 2,500 well-trained men with years of experience behind them, equipped with state-of-the-art equipment and a budget of around 30 billion lire: it was supposed to guard against unlikely threats to our independence and territorial integrity on a military level. On the other hand, there were fewer than 130 people, coming from a wide variety of locations and jobs, who therefore needed a reasonable period of training, starting from scratch both in setting up archives and purchasing the necessary equipment: they were supposed to defend us from a form of terrorism that had proven to be extremely efficient, cold, decisive, with a level of training equal to that of a

[112] De Lutiis, *I Servizi*, 280-284.
[113] De Lutiis, *I Servizi*, 292. My Translation.
[114] De Lutiis, *I Servizi*, 292.
[115] Istituzione e ordinamento dei servizi per le informazioni e la sicurezza e disciplina del segreto di Stato [Establishment and organisation of information and security services and regulation of state secrecy] Law 24 October 1977, n. 801, Article 3.
[116] Istituzione e ordinamento dei servizi per le informazioni e la sicurezza e disciplina del segreto di Stato [Establishment and organisation of information and security services and regulation of state secrecy] Law 24 October 1977, n. 801, Article 11.

> special forces unit, with political and psychological guidance worthy of the secret service of a great power." [117]

This disparity led to institutional friction, particularly over the management of archives and the delimitation of competences: SISMI often continued to deal with aspects of internal security, even though these were formally assigned to SISDE. This overlap weakened coordination and led to operational duplication at a time when the Brigate Rosse's threat was at its peak. CESIS, created to ensure balance and coordination, remained largely ineffective, leaving room for rivalries that slowed down the acquisition of a unified picture of the subversive phenomenon.

For this study, Article 9 is particularly relevant because it clearly separated intelligence and judicial police: SISMI and SISDE did not have the power to arrest, search or intercept independently, but were "required by Article 9 of the Law to "provide the competent judicial police authorities with information and evidence relating to acts that may constitute crimes." [118] Therefore, SISDE was mainly concerned with gathering information, but the start of the work was slow and difficult, SISDE was unable to provide complete and adequate support in the days following Moro's kidnapping. [119] Years later, a DIGOS official, Umberto Improta, stated that the police did not have a complete picture of who the members of the Brigate Rosse in Rome were, and, as stated in the previous pages, the list of names of people residing abroad or already in prison is concrete proof of this. [120]

The 1977 reform, codified in Law No. 801 of 24 October 1977, represents a fundamental turning point in the history of the Italian secret services. The new Law introduced the notion of State Secret in the Italian system. As underlined by Pisano, reporting the provisions of article 12, the law:

> "imposes State secrecy on acts, documents, information, activities, and matters where disclosure can damage the State, including its democratic institutions, constitutional functions, independence and sovereignty, military preparedness and defence, and international agreements. Events directed at subverting the constitutional order are excluded from State secrecy. The Intelligence Law further imposes on all public officials the duty to abstain from testifying on matters covered by State secrecy." [121]

The 1977 reform clearly stated that the security services did not have judicial police functions and that the information gathered had to be transmitted without delay to the competent authority. In practice, however, there were frequent delays and reluctance, which weighed heavily on the investigations against the Brigate Rosse. The judiciary, especially after the Moro kidnapping, complained that the services did not always provide a timely and complete flow of information. At the same time, SISMI and SISDE claimed the need to protect sources and operating methods.

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[117] De Lutiis, *I Servizi*, 305. My Translation.
[118] Istituzione e ordinamento dei servizi per le informazioni e la sicurezza e disciplina del segreto di Stato [Establishment and organisation of information and security services and regulation of state secrecy] Law 24 October 1977, n. 801, Article 9.
[119] Satta, *I nemici*, 433.
[120] Satta, *I nemici*, 433-444.
[121] Vittorfranco S. Pisano, "The Italian Intelligence Establishment: A Time for Reform," *Penn State International Law Review* 21 (2003): 279, https://insight.dickinsonlaw.psu.edu/cgi/viewcontent.cgi?article=1788&context=psilr&utm.

During the Moro affair, the intelligence services in Italy were experiencing a very peculiar situation, because in April the six months necessaries for the transformation from SID to SISMI and SISDE were still underway. Admiral Fulvio Martini, director of SISMI since 1984, recalls this fact. At that time, he was head of operations for the old SID, where he dealt with foreign affairs. The admiral stated that he only became involved in the Moro case when "President Tito wrote to President Pertini saying that he had three members of the Bader Meinhof gang in his custody who had had contact with Brigade Rosse, specifying that someone should be sent if the matter was considered interesting." [122] The SID then sent Martini as head of a small delegation to Yugoslavia.

A specific role that the SID played during the Moro affair, as recalled in Admiral Martini's testimony, was to secure any classified information that could have fallen into the hands of Brigade Rosse. For this reason, the government, in the persons of Ministers Cossiga (Interior) and Ruffini (Defence), asked Martini to confirm with the Secretary General of the Ministry of Foreign Affairs and the Chief of Defence Staff that Moro was not in possession of sensitive information. [123]

When the special unit was re-established in 1978 under the leadership of General Dalla Chiesa, the unpreparedness of SISDE in those years was further demonstrated, as it was effectively bypassed by politics, favouring "those who had already proven themselves in the recent past." [124]

The Parliamentary Commission of Inquiry into the Via Fani massacre, the kidnapping and murder of Aldo Moro, and terrorism in Italy during the eighth legislature raised many questions about the behaviour of the Italian secret services during those weeks. The final report states that "the interpretation offered in the report regarding their absolute inefficiency and objective lack of cooperation before and during the fifty-five days of Moro's kidnapping was not at all convincing." [125] Furthermore, "the information and security apparatus appeared to be virtually dormant throughout the years in which subversive organisations developed and expanded."[126]

For SISDE, the turning point came in 1979 when Giovanni Coronas was appointed director and pushed for technological and methodological modernisation. The first test and greatest success in collaboration with the State Police was the kidnapping of American General Dozier. The Minister of

[122] Commissione Parlamentare d'Inchiesta sul Terrorismo in Italia e sulle Cause della Mancata Identificazione dei Responsabili delle Stragi, [Parliamentary Commission of Inquiry into Terrorism in Italy and the Reasons for the Failure to Identify Those Responsible for the Massacres] Stenographic report of sessions, April 26, 2001, Roma: Senato della Repubblica, 342, https://documenti.camera.it/_dati/leg13/lavori/doc/xxiii/064v02t04_RS/INTERO_COM.pdf. My Translation.
[123] Commissione Parlamentare d'Inchiesta sul Terrorismo in Italia e sulle Cause della Mancata Identificazione dei Responsabili delle Stragi, [Parliamentary Commission of Inquiry into Terrorism in Italy and the Reasons for the Failure to Identify Those Responsible for the Massacres] Stenographic report of sessions, April 26, 2001, Roma: Senato della Repubblica, 341, https://documenti.camera.it/_dati/leg13/lavori/doc/xxiii/064v02t04_RS/INTERO_COM.pdf.
[124] Satta, *I nemici*, 501.
[125] Commissione Parlamentare d'Inchiesta sulla strage di Via Fani sul Sequestro e l'assassinio di Aldo Moro e sul Terrorismo in Italia, [Parliamentary Commission of Inquiry into the Via Fani massacre, the kidnapping and murder of Aldo Moro, and terrorism in Italy] Final Relation, June 29, 1983, Roma: Senato della Repubblica, 182, https://www.gerograssi.it/cms2/file/casomoro/dvd170116/A0016-VOLUME%201.pdf. My Translation.
[126] Commissione Parlamentare d'Inchiesta sulla strage di Via Fani sul Sequestro e l'assassinio di Aldo Moro e sul Terrorismo in Italia, [Parliamentary Commission of Inquiry into the Via Fani massacre, the kidnapping and murder of Aldo Moro, and terrorism in Italy] Final Relation, June 29, 1983, Roma: Senato della Repubblica, 56, https://www.gerograssi.it/cms2/file/casomoro/dvd170116/A0016-VOLUME%201.pdf. My Translation.

the Interior, Rognoni, pushed for the Digos, the NOCS and the SISDE to collaborate to "raise the police force's standing in the eyes of the people and place it on the same level as the Carabinieri." [127]

A 1984 CIA report claimed that Italian intelligence services "are sufficiently experienced and have the intelligence capabilities to inflict once again significant losses on reactivated terrorist groups." [128] In this case, the term 'reactivated' is used to describe groups that were inspired by Brigade Rosse and attempted to continue the battle against the state. Despite these attempts, after the murder of American diplomat Leamon Ray Hunt on February 15, 1984, with the support of SISDE, "police rounded up nearly 40 suspects, gained leads on others, and searched more than 80 locations – including possible safe houses – where they reportedly seized incriminating material." [129]

Following General Dozier's release, the Secret Services managed to gather a large amount of information on all those who had participated in the kidnapping. The Prefect of Verona, Peppino Gnisci, declared that "the 23 arrests just before and after the rescue had nearly eliminated the group," demonstrating further success and progress for the Italian Secret Services in the early 1980s. [130]

The trajectory of the Italian intelligence services in the 1970s and early 1980s shows the shift from discredited apparatuses to more structured operational tools. The SID, heir to the SIFAR, was marked by scandals and deviations that limited its effectiveness against terrorism. The 1977 reform with Law 801 introduced SISMI and SISDE, together with CESIS and an embryonic form of parliamentary oversight. On the technical level, the clear separation between intelligence functions and police powers initially produced delays and conflicts with the judiciary, especially during the Moro case. The asymmetry between a SISMI that inherited personnel and experience and a SISDE that lacked resources accentuated coordination difficulties. Only with the appointment of Coronas and cooperation with DIGOS and NOCS, beginning with the Dozier case, did SISDE show adequate operational capacity. Intelligence methods were strengthened through technological surveillance and document analysis. The experience demonstrated that the effectiveness of the services depended on cooperation with other state forces and on a delicate balance between secrecy and the transmission of information to judicial authorities. In this sense, the services became a necessary but not self-sufficient actor, whose success was tied more to integration within the broader security system than to internal capacities alone.

Parliament and Governmental Action

The four years from 1968 to 1972 marked a critical moment in Italian domestic politics, as "for the first time in the history of the Republic, Parliament closed its doors before the end of the five-year term prescribed by the Constitution." [131] The book *Storia politica della Repubblica* (Political History of the Republic) illustrates the position of the parties of the First Republic at the end of the fifth and

[127] Satta, *I nemici*, 517. My Translation.
[128] Central Intelligence Agency, Italian Counterterrorism: Policies and Capabilities (Washington D.C.: Central Intelligence Agency, May, 1984), 11, https://www.cia.gov/readingroom/docs/CIA-RDP85S00316R000100120006-2.pdf.
[129] Central Intelligence Agency, Italian Counterterrorism, 11.
[130] Henry Kamm, "Italian Tells How Dozier was Freed," *The New York Times*, February 1, 1982, paragraph 8, accessed August 27, 2025, www.nytimes.com/1982/02/01/world/italian-tells-how-dozier-wasfreed.html.
[131] Simona Colarizi, *Storia politica della Repubblica. 1943-2006; Partiti, movimenti e istituzioni*, [Political History of the republic. 1943- 2006: Parties, movements and institution] (Gius. Laterza & Figli, 2007) 112. Apple Books. My Translation.

beginning of the sixth legislature. Considering the more radical parties of the left, their collapse in the 1972 elections was closely linked to the emergence of red terrorism. After the tensions of 1968 and 1969, "a diaspora began within the movement between those who intended to use the strong subversive charge to create a revolutionary party, placed at the extreme legal limit of the political framework, and those who rejected institutionalisation." [132] The Italian Socialist Party of Proletarian Unity (PSIUP) achieved a meagre 1.94% for the Chamber of Deputies and 0.63% for the Senate, insufficient to pass the threshold and enter Parliament. [133] This result is relevant because it shows the public's rejection of the parties from which the founders of the Brigate Rosse had emerged, demonstrating "that the call to subvert the system does not arouse consensus among the masses; but instead of making people reflect on the reality of a country now won over to democracy, it radicalises the mood of the most extremist, who are more convinced than ever that only revolutionary action can awaken workers deluded by the reformist propaganda of the social democratic parties – including the PCI." [134]

During the sixth legislature, which was also cut prematurely, there were five governments, and this time it was the Italian Socialist Party that withdrew its endorsement following its growth in the 1975 municipal elections, the scandals of alleged American funding to the Christian Democrats, and the "Lockheed scandal." [135] In the June 1976 elections, the PCI obtained 34.37% of the votes, an increase from 27.15% in 1972, "explained precisely by the influx into the communist lists of votes from the bourgeoisie, which no longer seemed frightened by Berlinguer's Communist Party, which had become westernised and social democratised." [136] Berlinguer took care to "let Washington know that the PCI was no longer opposed to NATO; on the contrary, he believed that 'under the umbrella' of the Atlantic alliance it would be easier to pursue the path towards building a socialist society compatible with democratic systems." [137] With the Christian Democrats stable at 38.7% and the decline of the small right-wing parties, the main problem of the seventh legislature was to find a way to form a stable majority. In August 1976, a single-party Christian Democrat government was formed, led by Giulio Andreotti and supported in Parliament by an unprecedented abstention by the Italian Communist Party, which Enrico Berlinguer justified by stating that he had put the national interest before political expediency. This executive, known as the 'government of non-confidence' or 'of abstentions,' won the vote of confidence with more abstentions than votes in favour, thanks to almost all parties except the MSI not participating in the vote. For about a year and a half, until 1978, the Andreotti government worked in close mediation with the PCI, which helped maintain social stability

[132] Colarizi, *Storia Politica*, 113. My Translation.
[133] "Camera 07/05/1972 - Area ITALIA," L'Archivio, Eligendo, accessed July 5, 2025, https://elezionistorico.interno.gov.it/index.php?tpel=C&dtel=07/05/1972&es0=S&tpa=I&lev0=0&levsut0=0&ms=S&tpe=A.
"Senato 07/05/1972 - Area ITALIA," L'Archivio, Eligendo, accessed July 5, 2025, https://elezionistorico.interno.gov.it/index.php?tpel=S&dtel=07/05/1972&es0=S&tpa=I&lev0=0&levsut0=0&ms=S&tpe=A.
[134] Colarizi, *Storia Politica*, 113. My Translation.
[135] Il Post, "Il governo della 'non sfiducia,' nel 1976," [The government of "no no-confidence," in 1976] *Il Post*, April 10, 2013, https://www.ilpost.it/2013/04/10/il-governo-della-non-sfiducia-nel-1976/.
[136] Colarizi, *Storia Politica*, 131. My Translation.
"Camera 20/06/1976 - Area ITALIA," L'Archivio, Eligendo, accessed July 5, 2025, https://elezionistorico.interno.gov.it/index.php?tpel=C&dtel=20/06/1976&es0=S&tpa=I&lev0=0&levsut0=0&ms=S&tpe=A.
[137] Colarizi, *Storia Politica*, 132. My Translation.

by curbing trade union protests and popular tensions, thus allowing the approval of unpopular economic measures deemed necessary for the recovery of public finances. [138]

At the end of 1977, the Andreotti government reached a critical point in its relations with the PCI, which was raising the political price for continuing to support the executive from the outside. After months of negotiations, the situation was only resolved with the kidnapping of Aldo Moro by the Brigate Rosse in March 1978, which created such a shock that it overcame mutual resistance. The strategy of the historic compromise, already contested by the communist base closest to the new left, had entered a crisis. The social climate had radicalised, culminating in the protests of 1977, especially in universities, where a generation marked by economic crisis rejected both party and trade union mediation. The movement, defined as 'autonomous,' distanced itself from any organised structure, harshly contesting even the PCI. Berlinguer's austerity policy was seen as imposed and ineffective, while the line between subversion and terrorism became increasingly blurred. Armed groups such as the Brigate Rosse found support and consensus in this climate. The PCI, concerned about the violent drift and the risk of the spread among the working class, reacted firmly, isolating terrorist sympathisers and reaffirming internal discipline. The murder of Guido Rossa in 1979 marked a turning point: striking a communist militant alienated the Brigate Rosse from the last remnants of sympathy in the working world. In the Moro affair, the PCI was the unflinching opponent of negotiations, clearly distinguishing itself from other forces, such as the PSI, and thus strengthening its image as the guarantor of democracy. However, with the elimination of Moro, the fragile DC-PCI alliance crumbled. The DC, "having sacrificed its leader on the altar of democracy," regained political strength. At the same time, widespread dissatisfaction with the entire party system grew in the country.[139] Despite the continuing violence, Moro's murder and the subsequent executions demonstrated the growing isolation of the terrorists and paved the way for a more effective State response. [140]

From a legislative point of view, Parliament, often on the initiative of the government, approved a series of special measures to equip the State with adequate tools to deal with domestic terrorism. The first significant act was the Legge Reale (Law No. 152/1975), approved in the context of escalating political violence. It expanded the powers of law enforcement agencies, providing for greater use of weapons under Article 14, the possibility of preventive detention, searches without a warrant and detention of individuals for up to 96 hours under Article 3. [141]

The Reale Law was the subject of much criticism from the moment it was debated in the chamber. The governing parties wanted to avoid a debate in the plenary session and pushed for a debate within parliamentary committees. The Socialist Party decided to support this request but strongly opposed Article 4, which concerned searches, and Article 26, which dealt with violence against public officials. [142] The left-wing parties were divided, and there was "a serious confrontation between those more concerned with repressive measures and those more concerned with maintaining liberal

[138] Il Post, "Il Governo Non Sfiducia."
[139] Colarizi, *Storia Politica*, 136. My Translation.
[140] Colarizi, *Storia Politica*, 134-136.
[141] Disposizioni a tutela dell'ordine pubblico [Measures to protect public order] Law 22 May 1975, n. 152.
[142] Riberi, "Sicurezza vs. libertà costituzionali," 5. My Translation.

guarantees." [143] In fact, the Communists opposed a debate in committee, pushing for a debate in the plenary session and opposing "certain groups of provisions, ensuring that they did not become confused with the campaign that was spreading throughout the country, around Parri's appeal, against the law as a whole." [144]

As regards the debate in the Chamber of Deputies, the confrontation between the main parties was more rhetorical than substantive. Almirante (MSI) criticised the terrorists and took the opportunity to call for the dissolution of all extra-parliamentary left-wing movements. Nevertheless, the MSI voted in favour of the measure "out of a sense of duty", criticising the DC for its inability to deal with the emergency. [145] The Communist Party, as mentioned above, voted in favour of the law but in numerous interventions by its representatives criticised the risk of authoritarian drift, asking for guarantees on the temporary nature of the law. [146] The Socialist Party heavily criticised the DC but at the time of the vote declared itself willing to support the law, stressing, however, that a "police order would not be enough, but that a justice order would be needed." [147]

At the Senate the debate followed a similar trajectory. The Christian Democrats argued that "these are measures that fall within the limits and margins of constitutionality, but which walk on the edge." [148] Despite this, it was necessary to remember that "a subversive operation is underway that affects the whole world... we are defending ourselves: this is a fundamental point."[149] A more extremist wing of the Communist Party increased the level of criticism that had been levelled in the Chamber of Deputies: "It has been said that these are exceptional measures... God save us from this adjective! Exceptional laws for the defence of the State were those that strangled democracy in 1926." [150] Finally, the liberals supported the law, arguing that "If it is true that there is a war against the State... it is necessary for the State to defend itself." [151]

The measure was criticised by some sectors of legal doctrine but was deemed consistent with Article 13 of the Constitution, as it was approved by law and subject to judicial review. Three years later, the Constitutional Court authorised an abrogation referendum, but 76.5% voted to retain the law.

In March 1978, following the Moro kidnapping, the Andreotti government adopted Decree-Law No. 59/1978, which was quickly converted into law. This law introduced the specific aggravating circumstance of terrorism and subversion of the democratic order, correcting a serious gap in the

[143] Domenico Pulitanò, "Strategie Di Contrasto a Terrorismo e Mafia. Fra Giustizia Penale e Storia," *Meridiana* n.97 (2020): 62, https://www.jstor.org/stable/26918334. My Translation.
[144] Riberi, "Sicurezza vs. libertà costituzionali," 5-6. My Translation.
[145] Camera dei deputati, Stenographic report of the session of Monday May 5, 1975, 21778 https://documenti.camera.it/_dati/leg06/lavori/stenografici/sed0371/sed0371.pdf. My Translation.
[146] Camera dei deputati, Stenographic report of the session of Monday May 5, 1975, 21785-21786, https://documenti.camera.it/_dati/leg06/lavori/stenografici/sed0371/sed0371.pdf.
[147] Camera dei deputati, Stenographic report of the session of Monday May 5, 1975, 21793, https://documenti.camera.it/_dati/leg06/lavori/stenografici/sed0371/sed0371.pdf. My Translation.
[148] Senato della Repubblica, Stenographic report of the session of Wednesday May 14, 1975, 21176, https://www.senato.it/service/PDF/PDFServer/BGT/331668.pdf.
[149] Senato della Repubblica, Stenographic report of the session of Wednesday May 14, 1975, 21186, https://www.senato.it/service/PDF/PDFServer/BGT/331668.pdf. My Translation.
[150] Senato della Repubblica, Stenographic report of the session of Wednesday May 14, 1975, 21188, https://www.senato.it/service/PDF/PDFServer/BGT/331668.pdf. My Translation.
[151] Senato della Repubblica, Stenographic report of the session of Wednesday May 14, 1975, 21200, https://www.senato.it/service/PDF/PDFServer/BGT/331668.pdf. My Translation.

Rocco Penal Code, which did not contemplate the crime of terrorism in the strict sense. The reform made it possible to prosecute violent political crimes more consistently. [152]

The major leap came with the so-called 'Cossiga Law' (Law No. 15/1980), which represented a turning point in the penal system. It "provided for a reduction in sentencing for cases where the defendant found guilty of offences committed for terrorism or subversion of democracy dissociates himself or herself from the other offenders to prevent additional consequences of the criminal activity or concretely assists the judicial and police authorities to gather decisive evidence in order to find or arrest accomplices." [153] This development marked the birth of the so-called "reward legislation", aimed at encouraging arrested terrorists to cooperate in exchange for reduced sentences. As Baravelli points out, the decree of March 1978 introduced the concept of reduced sentences for collaborators for the first time, while the Cossiga law refined this approach by allowing judges to 'play with sentence reductions' *ex-post*, depending on the contribution made by the repentant offender. [154] Finally, to complete this regulatory strategy, Law No. 304 of May 29, 1982, consolidated and expanded the rewards and protection measures for collaborators of justice in the final phase of the armed struggle. The Cossiga Law was imperfect because certain nuances were missing. It was defined as a law that "without granting anything to the dissociated person, seems almost to ensure impunity for the collaborator of justice." [155]

The approval of the 'Reale Law', Decree 59/1978 and Law 15/1980 offer interesting insights into adoption procedures and the close collaboration between government and parliament. In these three cases, the debates were heated, but in the end, the outcomes were always broad majorities, justified by national unity in the face of crisis.

In the fight against red terrorism, those who decided to collaborate represented a decisive step in dismantling the Brigate Rosse and other subversive groups. The collaboration of Patrizio Peci marked a turning point. As Maggio observes, "Peci provided the password to unlock the secrets of the Brigate Rosse, the picklock to dismantle them." [156] Thanks to his revelations, prosecutors and police forces were able to better understand the structure, hideouts, and operational dynamics of armed groups, which until then had been impervious to investigation. The terrorists' repentance, however, did not stem from utilitarian calculation, but from the recognition of the political and ideological failure of armed struggle: many collaborators chose to speak out because, as in Peci's case, "I am collaborating because I no longer believe in it." [157]

Alongside this disruptive function, which made the repentant essential tools for penetrating the Brigate Rosse organisation, a critical debate developed about their credibility and the role assigned to them in the trials. Public opinion and part of the legal doctrine highlighted the ambiguity of

[152] Norme penali e processuali per la prevenzione e la repressione di gravi reati [Criminal and procedural rules for the prevention and suppression of serious crimes] Decree-Law 21 March 1978, n. 59.
[153] Sabrina Praduroux, "Italy," in *Comparative Counter Terrorism Law*, ed. Kent Roach (Cambridge University Press, 2015), 279.
[154] Andrea Baravelli, "Il fascino discreto della necessità. La via italiana all'antiterrorismo penale (1975-1982)," [The Discreet Charm of Necessity. The Italian Path to Criminal Counterterrorism (1975–1982)] *Memoria e Ricerca, Rivista di storia contemporanea* 2 (2019): 225-238, doi: 10.14647/93537.
[155] Monica Galfré, *La guerra è finita. L'Italia e l'uscita dal terrorismo: 1980-1987*, [The war is over. Italy and the exit from terrorism: 1980-1987] (Bari-Roma, Laterza, 2014) 60.
[156] Paola Maggio, "Le Costanti Processualpenalistiche nel contrasto al Terrorismo e alla Mafia," *disCrimen*, 2019, 22, https://discrimen.it/wp-content/uploads/Maggio-Le-costanti-processualpenalistiche.pdf. My Translation.
[157] Maggio, "Le Costanti," 24. My Translation.

entrusting the judicial reconstruction to individuals who had committed murders or participated in bloody actions. The image of the turncoat was therefore two-sided: on the one hand, they were the "picklock" that made it possible to dismantle Brigade Rosse; on the other, they were defendants who, through their collaboration, could obtain significant rewards. As highlighted by Maggio, this ambivalence produced constant tension between the need for effective repression and the safeguarding of the legitimacy of the criminal justice system, which was not always perceived as balanced by public opinion and legal practitioners themselves. [158]

Some commentators criticised these rules as "emergency measures," arguing that they introduced exceptions to the system of guarantees. However, historical analysis shows that these special laws were applied with balance and made it possible to defeat terrorism without permanently undermining the rule of law. [159]

The other pillar of the State's response was political control, which remained strictly parliamentary. At no time was a state of emergency declared, nor were fundamental constitutional guarantees suspended. The decree-laws adopted by the government were quickly turned into law by Parliament, often with large majorities, confirming institutional cohesion.

The reforms, although conditioned by urgency, were technical and proportionate, not ideological or illiberal. An example of this is the 1977 reform of the secret services (Law No. 801), which abolished the SID and established the SISDE and SISMI, placing them under parliamentary oversight. [160] At the same time, the creation of the DIGOS at the beginning of 1978, as part of the State Police, demonstrated the desire to specialise and rationalise the instruments of prevention rather than indiscriminately increasing their repressive power.

On the political front, the governments of the 1970s operated without ever violating the separation of powers. Despite public pressure after the Moro case, they did not yield to the suggestion of militarizing the response, as proposed, for example, by Giorgio Almirante in 1978. [161] Plans to introduce the Military Penal Code in peacetime were firmly rejected by the constitutional parties, which reaffirmed that the state's response must be through the instruments of democracy. [162]

Practice confirms that the government did not exercise extraordinary powers outside the system of sources provided for in Article 77 of the Constitution. [163] All reforms and exceptional powers granted to the authorities were temporary, with review clauses and automatic expiry.

A key political and legal figure was the President of the Republic, Sandro Pertini, who was in office from 1978 to 1985. His action was not regulatory but symbolic and moral. Pertini became the reference point for republican unity, offering constant support to the judiciary and law enforcement agencies. During the hardest years of the armed struggle, his words helped to strengthen the

[158] Maggio, "Le Costanti," 22-36.
[159] Spataro, "Politiche della sicurezza," 175.
[160] Istituzione e ordinamento dei servizi per le informazioni e la sicurezza e disciplina del segreto di Stato [Establishment and organisation of information and security services and regulation of state secrecy] Law 24 October 1977, n. 801.
[161] Zavoli, *La Notte,* 192.
[162] Zavoli, *La Notte,* 192-193.
[163] Italian Const. art. 77.

democratic legitimacy of the state's response at a time when there was a risk that sections of public opinion would bow to the call of authoritarianism.

Former prosecutor Spataro recalls: "We defeated terrorism in Italy while also respecting the rights of criminals. We defeated it in the courtrooms and not in the stadiums, as President Pertini said, because effective responses must always be sought within the framework of the law." [164] The President's statement became emblematic of the line of firmness with legality. It alluded to the refusal to imitate the repressive methods of Latin American dictatorships or the USSR. The Constitution was the real tool in the fight against terrorism. The popular stance of Pertini is in open contrast with the situation of his predecessor, Giovanni Leone.

Leone was "elected President of the Republic on December 24, 1971, at the twenty-third scrutiny," "with a decisive support of the MSI." [165] During his presidency he had to face multiple crisis, terrorists attack, the murder of Moro and an unprecedent campaign of disinformation on his person. The Radical Party advanced numerous criticisms of his affiliations and against his family, because he was "accused of being a right-wing president, with authoritarian tendencies and questionable friendships."[166] The most serious insinuations centred on his possible involvement in international scandals and the purchase of military aircraft from the United States. The pressure surrounding the office of the presidency made Leone's work particularly difficult at a time when the country was facing the worst terrorist attacks and the Moro kidnapping. During the kidnapping, the head of State "said he was ready to sign a pardon for humanitarian cases of sick terrorists who could be used as bargaining chips for Moro's release," distancing himself from the firm line taken by the Christian Democrats and other parties. [167] The President recalls that when he found out about the kidnapping, he told his advisers that he had "his soul ready and his pen at the ready," referring precisely to the possibility of signing any pardon that might be proposed to him. [168]

The role of Parliament and Government in confronting red terrorism was characterised by continuity of democratic procedures and by incremental legislative innovation. The adoption of the Reale Law in 1975, Decree-Law 59/1978, and the Cossiga Law of 1980 illustrates a gradual effort to expand investigative and prosecutorial capacity while remaining within constitutional boundaries. These measures widened preventive detention, strengthened police powers, and introduced reward mechanisms for collaborators, creating a flexible legal framework that prosecutors and investigators could operationalise. The debates surrounding each reform, though heated, ended in broad parliamentary majorities, showing a political consensus on the need for exceptional but temporary tools. Importantly, no state of emergency was declared, and the executive acted only within Article 77 procedures, thereby avoiding authoritarian shortcuts. The government also strengthened the preventive dimension by reforming the intelligence services in 1977 and creating DIGOS in 1978,

[164] Patrizia Maciocchi, "Dalle sentenze al cinema il dramma della tortura," *IlSole24Ore*, May 2, 2019, https://www.ilsole24ore.com/art/il-reato-tortura-film-e-sentenze-ABmUwZtB.
[165] Agostino Raso, "Le dimissioni del Presidente Giovanni Leone, 15 giugno 1978," [The resignation of President Giovanni Leone, June 15, 1978] *Fatti Per La Storia*, June 14, 2022, https://www.fattiperlastoria.it/giovanni-leone-elezione-dimissioni/.
[166] Raso, "Le dimissioni del Presidente."
[167] Walter Veltroni, "Il presidente Leone e le carte inedite, dai tentativi per Moro all'ora delle dimissioni: «Ero davvero solo»," *Corriere della Sera*, March 28, 2024, https://www.corriere.it/cronache/24_marzo_28/leone-presidente-repubblica-moro-carte-inedite-6c27467a-ec79-11ee-add4-970da8b7bf13.shtml.
[168] Zavoli, *La Notte*, 216. My Translation.

signalling a shift toward specialised structures. The political leadership, embodied in figures like Sandro Pertini, reinforced the principle that legality itself was the State's strongest weapon, providing legitimacy to the institutional response. In operational terms, Parliament and Government offered the framework, resources and oversight that enabled the judiciary and police to adapt and ultimately dismantle terrorist networks. The institutional balance between urgency and legality, though fragile, proved decisive in making the anti-terrorism strategy effective without undermining the rule of law.

Case Assessment

The core question of this first chapter attempts to understand how the Italian State dealt with the threat of terrorism posed by the Brigate Rosse. The previous pages analysed four key institutions that confronted red terrorism in Italy. Besides a technical description of the structure of the judiciary, law enforcement agencies, secret services, and the government and parliament, the focus has been on operational methods, using testimonies from people who were on the front line and with the support of other texts detailing the daily functioning of these institutions.

Based on what has been written, it is possible to outline various stages of this response, starting with an initial lack of preparation in the face of a new phenomenon and ending with the victory of the State in the mid-1980s. Among the major failures were the kidnapping of Judge Sossi, the murder of Prosecutor Coco and, of course, the kidnapping and murder of the Honourable Moro. On the other hand, however, General Dalla Chiesa's Special Unit, the increasing coordination between investigating judges and prosecutors, the legislation adopted in a relatively short time, and the firmness of the major parties allowed the State to carry out successful operations that dismantled the organisation.

The State's response, although not uniform, was coordinated, with the main institutions working towards a common goal during a difficult period in the history of the Republic. As highlighted, there were tensions between the judiciary and the secret services, between politicians and the police, and, as the Dalla Chiesa case shows, within the same institution.

The two fundamental pillars on which the response was based were operational innovations and legislative reforms. The first pillar refers to the work of the judiciary and law enforcement agencies. In the first case, investigating judges and prosecutors, mainly in Turin and northern Italy, understood the need to change their working methods after the initial disorganisation. The decision to organise themselves into 'pools' was internal and was not established by a specific directive from the Ministry of Justice or the Superior Council of Magistrates. The structures that were created were appreciated by the public and by those who paid constant attention to the fight against subversion. At the same time, the appointment of General Dalla Chiesa, an expert in combating banditry in southern Italy, to head a Special Unit to combat terrorism led to significant changes in the Carabinieri's operating methods. What became known as the 'Dalla Chiesa method' was, as often happens, criticised by many, especially for its use of infiltrators.

The second pillar, on the other hand, encompasses the measures that were adopted through legislative proceedings. Before reviewing the fundamental points of the legislation, it is also necessary to highlight certain elements internal to the police and secret services. As regards the police, beyond

their everyday working techniques, the NOCS and GIS special intervention groups were created by decree. These units were a key element of the structure devised by the State to combat terrorism, although their contribution only became significant in the 1980s. Furthermore, following numerous scandals and operational inefficiencies, in 1977 it was decided to modify the structure of the secret services, dividing the SID into SISMI and SISDE. The actions of the government and Parliament produced several new laws in an attempt to adapt the institutions and the system to a new and constantly evolving enemy. In fact, the arrest of the first leaders, Curcio and Franceschini, who were more ideologues, opened the door to Moretti, who preferred military operations against the State, as in the case of Moro.

The measures adopted by Parliament were of two types: repressive and reward oriented. The former included, above all, the "Reale Law" of 1975, which was harshly criticised and submitted to a referendum in 1978. The approval of the law by a large majority represented a reversal of the trend towards more liberal and protective regulations approved in the 1968-1972 legislature. Numerous jurists emphasised the "exceptional" nature of the law and found some borderline cases of constitutional incompatibility. The strongest criticism, confirming what was said earlier about internal friction within the State, came from a section of the judiciary, which saw excessive discretionary powers being given to the police and prosecutors being stripped of their role of impartial guarantors. In general, the criticism accused the government of authoritarian drift and a departure from the rule of law. The government defended the adoption of the law, calling it necessary. Riberi summarises the two positions by acknowledging a "democratic dilemma, in which the question to be asked is whether a State facing terrorism can maintain its characteristics as a democratic nation without compromising respect for human rights and constitutional freedoms." [169] The debate from a legal point of view continued, but the response of civil society and public opinion was clear in 1978, when 76.5% of voters voted to maintain the law.

As discussed at length above, the decision by the Italian State and all its institutions to make extensive use of repentant and collaborators was greatly debated. In this case, criticism and doubts focused mainly on the reliability of terrorists who could provide limited information in exchange for a substantial reduction in their sentences. Despite this criticism, however, the decision to request a sentence for an informant was put forward by the investigating judge and the prosecutor, who had the time and means to assess whether the collaboration was honest and had produced satisfactory results or whether it was aimed solely at obtaining a reduced sentence.

Thus, the State's response was based on internal innovations introduced by those who dealt with terrorism daily, followed by laws that institutionalised the changes. Both of these mechanisms of evolution, as we have seen, were subject to numerous criticisms, which can be summarised in a single debate on the constitutionality of Italy's response to terrorism. The Constitutional Court never overturned these measures, but constantly monitored their application, confirming that the stability of the State also depended on the calibrated use of exceptions.

To the question of whether Italy respected the Constitution in its fight against terrorism, the answer cannot be an absolute yes or no. The institutions acted without suspending fundamental rights or

[169] Riberi, "Sicurezza vs. libertà costituzionali," 15. My Translation.

introducing states of emergency. However, the line between defending democracy and limiting guarantees is often thin and controversial. The victory against the Brigate Rosse was not only the result of repressive force, but also of a fragile compromise between security and freedom. To this extent, the Italian case shows that a democracy can withstand even an armed threat, but it does so through an unstable balance, continuously negotiated between constitutional principles and operational needs. It is precisely in this tension that the peculiarity of the Italian case must be understood.

Second Chapter: The Spanish State and the threat to Democracy in the late 1970s and the 1980s

The Spanish democratic State's practical and operational response to the threat posed by the ETA terrorist group was the result of a collective, articulated and multidimensional action. The various apparatus worked to end a subversive phenomenon threatening the very foundation and stability of the newly reformed State. As reported by the Central Intelligence Agency (CIA) in November 1984:

> "Since the late 1970s, Spanish governments have responded to terrorism with a dual strategy of concessions intended to isolate ETA politically, and intensified police efforts aimed at reducing the group's operational capabilities." [170]

The fight against ETA even after the transition to democracy, notably in the first 1980s, kept elements of hardness from the dictatorship period.

In this part of the chapter, to ensure a better understanding for the reader and to allow for a better comparison both within the Spanish system and with the Italian system, the assessment will not be chronological, as this would risk becoming purely descriptive. For the purposes of analysis, therefore, the various operations carried out by the different bodies will be presented to determine the effectiveness and constitutionality of their response.

Judiciary and Criminal Justice

Jurisdiction over terrorism in Spain changed several times during the years of the democratic transition. The 1963 decisions of the regime had repercussions on the Spanish judicial system until 1977.

In December 1963, Law 154/1963 was adopted, establishing the *Tribunal y el Juzgado de Orden Público* (Court and Judge of Public Order, TOP). It is important to underline that the main purpose of this decision was to modify the external appearance of the regime in response to strong international and European pressure. The creation of the TOP led to "the reduction of the use of military courts and councils of war" for acts of terrorism committed by civilians. [171] However, "the creation of the TOP did not reduce the regime's repressive actions," and it became "a mechanism of political repression by the State." [172] The TOP was "tasked with judging crimes against the external security of the State, against the Head of State, the Cortes, the Council of Ministers and the form of government; […] rebellion and sedition; public disorder; and illegal propaganda." [173]

[170] Central Intelligence Agency, Spain: Basque Terrorism and Government Response (Washington D.C.: Central Intelligence Agency, November 1, 1984), 1 , https://www.cia.gov/readingroom/document/cia-rdp85s00316r000300110004-3.
[171] Gallego López, "La Creación," 757. My Translation.
[172] Gallego López, "La Creación," 758. My Translation.
[173] Gallego López, "La Creación," 759. My Translation.

The turning point came at the beginning of 1977, when it was deemed necessary "to abolish those powers over terrorism that remained under military jurisdiction." [174] On January 5, 1977, "the royal decrees establishing the *Audiencia Nacional* and abolishing the Tribunal de Orden Público were published in the Official State Bulletin (BOE); on the same day, the Law for Political Reform was also published." [175]

Royal Decree 3/1977, concerning terrorism, established in Article 1 that "the investigation, prosecution, and judgment of cases involving terrorism crimes shall correspond exclusively to the Central Court of Instruction and the Audiencia Nacional." [176] All parliamentary parties recognised the decision to suppress the TOP and to limit military jurisdiction as a significant and meaningful step toward the establishment of a democratic judicial system. [177] The Spanish Parliament reorganised the structure of the Audiencia Nacional in 1985 with the Organic Law 6/1985 on the Judicial Power. [178] Article 63 established that this Court "shall be composed of its President, the Presidents of Chamber, and the judges determined by law for each of its Chambers and Divisions." [179] Concerning the structure, Organic Law 6/1985 stated that the Court "shall comprise the following Chambers: Appeal, Criminal, Administrative Litigation, and Social." [180] Finally, Article 65 dictated that the Criminal Chamber shall be the one responsible for the crimes against the State. [181]

Turning now to the concrete functioning of the trials in case of terrorism in Spain after the 1977 reform it is essential to identify the different moments of the proceeding. The Central Investigating Courts were responsible for investigating cases, gathering evidence and information. [182] The Central Court, on the other hand, was responsible for ordering precautionary measures or other restrictive activities as established by Organic Law 4/1988. [183] Article 579 provides that the investigating judge may order the seizure of correspondence and the monitoring of telephones and all forms of communication. [184] Furthermore, if a person accused of terrorism is charged and therefore subject to preventive measures, they will be suspended from public office if they hold such a position. [185] The Central Court is therefore responsible for assessing whether there is sufficient evidence to bring a person accused of terrorism to trial. The trial then takes place in the Criminal Chamber of the Audiencia Nacional, where an appeal may also be lodged.

In the 1980s, given the increase in ETA activities, the Spanish government enacted an Organic Law regulating the application of Article 55 of the Constitution, which established the possibility, through

[174] Sobre competencia jurisdiccional en materia de terrorismo. [On jurisdictional competence in matters of terrorism] Royal-Decree 3/1977, January 4, 1977, Preamble, https://www.boe.es/buscar/doc.php?id=BOE-A-1977-168&orden=conte#refpost.
[175] Gallego López, "La Creación," 767. My Translation.
[176] Sobre competencia jurisdiccional en materia de terrorismo. January 4, 1977, Article 1.
[177] Gallego López, "La Creación," 769-770.
[178] Del Poder Judicial [Of Judicial Power] Organic Law 6/1985 of July 1, 1985, https://www.boe.es/buscar/act.php?id=BOE-A-1985-12666.
[179] Del Poder Judicial, Article 63.
[180] Del Poder Judicial, Article 64.
[181] Del Poder Judicial, Article 65.
[182] "Juzgados centrales de lo penal," [Central criminal courts] *Enciclopedia jurídica*, accessed August 24, 2025, http://www.enciclopedia-juridica.com/d/juzgados-centrales-de-lo-penal/juzgados-centrales-de-lo-penal.htm.
[183] De Reforma de la Ley de Enjuiciamiento Criminal. [Reform of the Criminal Procedure Law] Organic Law 4/1988 of May 25, 1988, https://www.boe.es/buscar/doc.php?id=BOE-A-1988-12909.
[184] De Reforma de la Ley de Enjuiciamiento Criminal, Article 579.
[185] De Reforma de la Ley de Enjuiciamiento Criminal, Article 384 bis.

organic law, of depriving persons belonging to armed gangs or terrorist groups of certain rights enshrined in the Constitution itself. Firstly, Organic Law 9/1984 reiterates that decisions regarding these exceptional restrictions on freedom must be taken by the Central Court of Instruction and the Audiencia Nacional. [186] Regarding detention following arrest, the 72-hour limit may be "extended for the time necessary for the investigation up to a maximum of seven additional days, provided that this proposal is communicated to the judge before the expiry of the 72 hours of detention." [187] Demonstrating considerable strictness, Article 14 dictated that "the authority that has ordered detention or preventive custody may order incommunicado detention for as long as it deems necessary until the investigation or preliminary investigation is completed, without prejudice to the right of defence of the detainee or prisoner." [188] Finally, Article 17 allows the police to search without a warrant the places where a suspected terrorist has been arrested. [189]

To analyse the practical functioning of the trials against ETA, we will now examine the trial concerning the bloodiest attack carried out by the terrorist organisation. "On 19 June 1987, at eight minutes past four in the afternoon, a car bomb went off on the first floor of the Hipercor department store car park in Sant Andreu [Barcelona]. 21 people were killed and 46 injured." [190] It is necessary to mention, for the sake of reconstructing the events, that in the hours that followed, a debate arose because the police claimed that they had requested the evacuation of the site 40 minutes before the explosion, but the manager claimed the opposite. [191]

The first turning point from a judicial point of view came on July 11, 1987, when one of those arrested, Josefina Mercedes Ernaga, a member of the Barcelona Commando, "testified for three hours before the chief investigating judge of the National Court," and "acknowledged before the judge her membership of ETA and the Barcelona Commando and her participation in various terrorist attacks, including the one on Hipercor in Barcelona, although she specified that she did not take part in planting the device that caused the death of twenty-one people." [192] On September 30, 1987, the Guardia Civil issued a statement announcing the arrest in France of Santiago Arróspide Sarasola, *alias* Santi Potros, military leader of ETA. The cross-border activities of the Spanish police will be analysed later, but it is important to note that in addition to the cooperation between the Spanish and French police, there was also judicial cooperation coordinated by the Central Investigating Court.[193]

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[186] Contra la actuación de bandas armadas y elementos terroristas y de desarrollo del artículo 55.2 de la Constitución [Against the actions of armed gangs and terrorist elements and the development of article 55.2 of the Constitution] Organic Law 9/1984 of December 26,1984, Article 11, https://www.boe.es/buscar/doc.php?id=BOE-A-1985-63.
[187] Contra la actuación de bandas armadas y elementos terroristas y de desarrollo del artículo 55.2 de la Constitución, Article 13. My Translation.
[188] Contra la actuación de bandas armadas y elementos terroristas y de desarrollo del artículo 55.2 de la Constitución, Article 14. My Translation.
[189] Contra la actuación de bandas armadas y elementos terroristas y de desarrollo del artículo 55.2 de la Constitución, Article 17.
[190] "The Hurt of Hipercor. Barcelona 1987," Museo D'Historia de Barcelona, accessed August 24, 2025, https://www.barcelona.cat/museuhistoria/en/formats/llibrets-de-sala/hurt-hipercor-barcelona-1987.
[191] Alex Rodríguez, "Hipercor niega que la policía solicita al director la evacuación del supermercado," [Hipercor denies that the police asked the director to evacuate the supermarkett] *El Pais*, June 23, 1987, accessed August 24, 2025, https://elpais.com/diario/1987/06/23/espana/551397612_850215.html.
[192] El País, "Mercedes Ernaga reconoció antes el juez su participación en varios atentados," [Mercedes Ernaga acknowledged before the judge participation in several attacks] *El País*, September 12, 1987, accessed August 24, 2025, https://elpais.com/diario/1987/09/12/espana/558396015_850215.html
[193] "30 de septiembre de 1987. Detención del histórico militante de ETA Santi Potros," [September 30, 1987. Arrest of the historic ETA militant Santi Potros] Efemérides, Guardia Civil, accessed August 24,

The Spanish judiciary faced the problem of terrorists seeking protection in France and in other countries, trying to avoid prosecution. For this reason, the Central Investigating Court was responsible for "passive extradition proceedings." [194]

On December 5, 1987, relatively quickly, "Carlos Bueren, head of the Central Court of Investigation No. 1 of the National Court, issued an indictment against Santiago Arróspide Sarasola, and the five members of ETA's Barcelona commando." [195] The official documents can only be consulted in paper format in the historical archives in Madrid, but the ruling on the appeal for protection filed by one of the terrorists, Domingo Troitiño Arranz, disclosed its contents. The summary 28/1987 drawn up by Carlos Bueren, which was followed by the ruling of December 14, 1989, contained charges for twenty-one murders, thirty-three crimes of bodily harm and one massacre. [196]

Since many militants took refuge in French territory, making structured judicial cooperation deemed necessary. In this context, the magistrates of the Audiencia Nacional assumed a central role. Already in the early 1980s, Spanish judges insisted on the non-political character of ETA's actions. As Morán Blanco notes, "the Spanish judges maintained that ETA's violence had to be classified as terrorism and not as a political offence." [197] Such a legal classification was fundamental in overcoming French resistance, which on several occasions had granted asylum to members of the organisation.

The Audiencia Nacional was the body in charge of extradition procedures. The investigating judges, like Carlos Bueren, played a decisive role in gathering evidence and ensuring that the extradition requests met international standards. Morán Blanco emphasises that "judicial cooperation advanced significantly when the Spanish prosecutors presented complete files, with all procedural safeguards."[198] This effort made it possible to strengthen the credibility of the Spanish judicial authorities in the eyes of their French counterparts.

Another significant element was the management of precautionary measures and proceedings in absentia. In fact, "the Audiencia Nacional continued the investigations even in the absence of the accused, thereby reinforcing the legal basis for future extraditions." [199] Spanish prosecutors had to play a diplomatic role, taking part in bilateral meetings and creating a climate of trust with their colleagues across the Pyrenees. Indeed, "direct contacts between Spanish and French magistrates facilitated swifter cooperation than the political agreements themselves." This informal dimension of judicial cooperation often preceded the signing of official agreements.

Continuing judicial cooperation between Spain and France, during the Hipercor trial, "the prosecutor of the Audiencia Nacional addressed the French judicial authorities to request that they hand over the

2025,https://web.guardiacivil.es/va/destacados/efemerides/30-de-septiembre-de-1987.-Detencion-del-historico-militante-de-ETA-Santi-Potros/.

[194] Del Poder Judicial, Article 95. My Translation.

[195] José Yoldi, "La Audiencia Nacional Procesa a 'Santi Potros' y al 'comando Barcelona'," [The National Court prosecutes 'Santi Potros' and the 'Barcelona commando'] *El País*, December 5, 1987, accessed August 24, 2025, https://elpais.com/diario/1987/12/05/espana/565657209_850215.html.

[196] Tribunal Supremo de España, Penal Chamber, Judgment 48/2012, March 29, 2012, Background, https://www.boe.es/diario_boe/txt.php?id=BOE-A-2012-5645.

[197] Sagrario Morán Blanco, "La cooperación hispano-francesa en la lucha contra ETA" (Doctoral thesis, Universidad Complutense de Madrid, 1996) 151. My Translation.

[198] Morán Blanco, "La cooperación hispano-francesa," 545. My Translation.

[199] Morán Blanco, "La cooperación hispano-francesa," 529. My Translation.

more than 900 million pesetas seized from ETA in order to compensate the victims of terrorism." [200] The investigating judge on whose work this request was based was Carlos Bueren. Like the case of Caselli in Italy, Bueren distinguished himself in the fight against ETA and is a figure who demonstrates the possibilities of good performance by the judiciary against terrorism. The judge is "remembered as the judge of the Audiencia Nacional who stood out the most for his blows against the terrorist organisation ETA, and the only one who delved into the band's 'surroundings'." [201] About the 'surroundings', through his investigations, Bueren managed to build a case indicting 56 people for extortion against industrialists "who paid ETA the so-called revolutionary tax." [202]

To conclude on the work of the judicial institution, in December 1987, the Constitutional Court delivered Judgment 199/1987 concerning Organic Law 9/1984. The Constitutional Court is responsible for the "declaration of unconstitutionality of a legal norm of legislative rank." [203] In this judgment, certain elements were modified following, as will be seen later, considerable accusations of violations of fundamental rights by the law enforcement authorities. The ruling dictated that detention may exceed 72 hours only with the immediate approval of a judge; the judge must authorise solitary confinement, and the police can no longer impose it; moreover, media outlets can no longer be shut down merely because they are connected to a person convicted of terrorism. [204] From this judgment, a repositioning of the judge at the centre of anti-terrorism measures can be determined.

The judicial response to ETA after 1975 followed the path of the democratic transition. The 1977 reform marked the turning point: the abolition of the TOP and the concentration of jurisdiction in the Audiencia Nacional and the Juzgados Centrales eliminated overlaps and removed jurisdiction from the military courts. From that moment on, judicial action was based on investigation, the selection of evidence, and reliable convictions.

Specialisation consolidated this mechanism. Centralised work made it possible to develop a more structured investigative practice: comprehensive information was gathered, measures limiting personal freedoms were applied without abuse and proportionately to the risk of each case. The constitutional framework played a corrective and safeguarding role. The legal order accepted a 'window of exception' for terrorism but reaffirmed the judge as the necessary fulcrum. Within this logic, judicial intervention in the extension of detention restored the balance between security and rights. It was not a matter of curbing repressive action but of legitimising it within a democratic state.

The judicial response in the most serious cases combined speed and oversight, thereby strengthening collective trust. At the same time, after the most violent and bloody attacks against civilians, the judiciary engaged in reparations through confiscations and requests to allocate the seized funds. The most evident grey area, as later demonstrated, concerned investigative practices and individual

[200] Yosé Yoldi, "Concluido el sumario del 'caso Sokoa', en el que figuran 56 'etarras' procesados," [The summary proceedings in the 'Sokoa case' have been brought to a close, with 56 ETA members standing trial] *El País*, January 3, 1996, accessed September 1, 2025, https://elpais.com/diario/1990/01/03/espana/631321206_850215.html. My Translation.
[201] Julio M. Lázaro, "El juez anti-ETA," [The anti-ETA judge] *El País*, January 17, 1996, accessed September 1, 2025, https://elpais.com/diario/1996/01/17/espana/821833222_850215.html. My Translation.
[202] The 'surroundings' refer to the financing system of ETA. Yoldi, "Concluido el sumario del 'caso Sokoa,' *El País.*
[203] Spanish Const. Article 161 (a).
[204] Constitutional Court of Spain, Judgment 199/1987, of December 17, 1987, https://hj.tribunalconstitucional.es/es/Resolucion/Show/931.

constitutional safeguards. The judicial system succeeded, at the legal and written level, in keeping anti-terrorism provisions within constitutional limits.

In conclusion, judicial work was grounded in centralisation, control of constitutional legality, and international cooperation.

Law Enforcement and Public Security

As previously highlighted, one of the objectives of the first three democratic governments – Suárez, Calvo-Sotelo, and González – was to demilitarise Spanish institutions as much as possible, to maximise democratic credibility. In his study on the democratisation of police forces in the Iberian Peninsula, Cerezales notes that the first measures were largely symbolic and aimed at sending a message to the Spanish population.

> "As in Portugal, the ministry responsible for policing was renamed, here from *gobernación* to *interior*, a title with no tradition in Spanish administration. The reciprocal amnesty laws also meant the incorporation into service of some republican police officers who had been dismissed 40 years earlier and who were on the verge of retirement age." [205]

Regarding the structure of the national police, in 1975, the Police Regime Act under Franco established two separate units: the *Cuerpo General de Policía* and the *Policía Armada*. The former was "a small body responsible for the investigation of crime," while the latter was "responsible for public order." [206] During the transition, in 1978, it was decided that the police would be divided into the *Cuerpo Superior de Policía* and the *Cuerpo de la Policía Nacional*, the latter being "a body with military structure and organisation, not integrated into the Armed Forces, and reporting to the Ministry of the Interior." [207] Finally, in 1986, the two bodies were unified into the *Cuerpo de Policía Nacional* (National Police).

In a detailed 2021 study, González Salmón analyses how the National Police evolved from Francoism to the democratic era. To provide a general assessment of the extent of democratisation, it is useful to recall the conclusion:

> "The institution of the Spanish police did change, and the change of formal rules mainly produced this. Informal rules acted as lock-in elements that slowed the process down, mainly because there was no change concerning the personnel. However, over time, informal rules started to change as well and to adapt to the new requirements of democracy and the population. Nowadays they are still partaking in that process." [208]

With the approval of the Constitution, there was also recognition of "the right to autonomy of the nationalities and regions which form it and the solidarity among them." [209] For this reason, on

[205]Diego Palacios Cerezales, "Repressive Legacies and the Democratisation of Iberian Police Systems," *South European Society and Politics* 15, n.3 (2010): 434. doi: 10.1080/13608746.2010.513603.
[206] González Salmón, "Police Powers," 11.
[207] De la Policía. [Of the Police] Law 55/1978, December 4, 1978, Article 12. https://www.boe.es/buscar/doc.php?id=BOE-A-1978-29844.
[208] González Salmón, "Police Powers," 39.
[209] Teresa Whitfield, *Endgame for ETA, Elusive Peace in the Basque Country*, (Oxford University Press, 2014), 49.

December 18, 1979, the Statute of Autonomy for the Basque Country was approved. Article 17 established that the autonomous government could create "an Autonomous Police for the protection of persons and property and the maintenance of public order within the autonomous territory." [210] For the coordination with the national police, a "Security Board [was established], formed by an equal number of representatives of the State and of the Autonomous Community." [211] Despite the sovereignty of the autonomous government, the National Police and the Guardia Civil could intervene in the territory "on their own initiative, when they deemed that the general interest of the State was seriously compromised." [212] The Security Board was defined as "the body competent to resolve any incidents that might arise in the collaboration between the members of the State Security Forces and Corps and the Police Corps of the Autonomous Community." [213]

The autonomous police, which took the name *Ertzaintza*, was regarded as an internal enemy by ETA, which, between 1985 and 2001, killed 15 of its officers. [214] Moreover, "the general threat that ETA explicitly declared against the *Ertzaintza* collective, in certain cases, reached a level of harassment and coercion against specific officers and their families that was clearly incompatible with coexistence in a democratic society, as it violated the most basic fundamental rights and public freedoms." [215]

Moving beyond the legislative framework – which, as point out, was undergoing evolution in the late 1970s and early 1980s – it is necessary to highlight some relevant continuities with the past. One such issue is the matter of internal oversight of police conduct. Even during the democratic period, mechanisms for controlling police behaviour remained relatively weak, relying heavily on internal supervision within the security apparatus. Nonetheless, "policemen tended to protect each other against everything and everyone." [216] Internal oversight did not change significantly during the democratic transition for a simple reason: the personnel did not change, and therefore the practices and unwritten rules remained the same.

To conclude this section on the National Police, it is worth referencing provisions regarding the treatment of citizens. In 1975, the Police Regime Act classified disciplinary offences into three categories: minor, serious, and very serious. Article 207 listed 28 serious violations, of which only three concerned the treatment of citizens. [217] In 1986, thanks to the Organic Law 2/1986 on Security Forces and Corps, the failure to assist citizens who requested help became classified as a very serious

[210] De Estatuto de Autonomía para el País Vasco [The Autonomous Statue for the Basque Countries] Organic Law 3/1979, article 17.1., https://www.boe.es/buscar/act.php?id=BOE-A-1979-30177#top. My Translation.
[211] De Estatuto de Autonomía para el País Vasco, Article 17.6. (b). My Translation.
[212] De Estatuto de Autonomía para el País Vasco, Article 17.4. My Translation.
[213] De Fuerzas y Cuerpos de Seguridad. [on Security Forces and Bodies] Organic Law 2/1986, March 13, 1986, Article 5, https://www.boe.es/buscar/act.php?id=BOE-A-1986-6859.
[214] Eduardo Mateo Santamaría, "La contribución del movimiento asociativo y fundacional a la visibilidad de las víctimas del terrorismo en España," [The contribution of the associative and foundational movement to the visibility of the victims of terrorism in Spain] Revista *de Criminología* 7 (2018): 29, doi: 10.12827/RVJV.7.01. My Translation.
[215] José Ramón Intxaurbe Vitorica et al, "Informe sobre la injusticia padecida por el colectivo de ertzainas y sus familias a consecuencia de la amenaza de ETA (1990-2011)," [Report on the injustice suffered by the group of ertzaina and their families as a result of the threat of ETA (1990-2011)] *Instituto de Derechos Humanos Pedro Arrupe*, May 25, 2016, 36, https://www.irekia.euskadi.eus/uploads/attachments/8145/Informe_amenazados_Ertzaintza.pdf.
[216] González Salmón, "Police Powers," 24.
[217] De la Policía. [Of the Police] Law 55/1978, December 4, 1978, Article 207. https://www.boe.es/buscar/doc.php?id=BOE-A-1978-29844.

offence. [218] Additionally, Article 5 of the law enumerates the *Principios básicos de actuación* (Basic principles of implementation), promoting non-discriminatory and fair conduct. [219]

Despite these legal improvements, when it came to ETA – which was classified as a terrorist group – the police did not maintain a neutral stance but rather contributed to generate a tense atmosphere, which led to an escalation of violence on the part of the State itself, culminating in the establishment of the *Grupos Antiterroristas de Liberación* (Antiterrorist Liberation Groups, GAL), an illegal clandestine armed organisation directed by police officials that mirrored and fought ETA. [220] Thus, it can be argued that while the National Police made significant legislative progress, its practices evolved far less especially due to personnel continuity and particularly concerning terrorist groups.

The second police institution deeply involved in the fight against ETA, which, contrary to the National Police, remained a military one, was the *Guardia Civil* (Civil Guard). The Civil Guard had existed since 1844, and in the wake of the dictatorship, it faced a complex situation. Many of its servicemen had been republican fighters during the civil war, and for this reason, "General Francisco Franco considered the possibility of dissolving the Civil Guard." [221] Despite this initial divergence, in 1940 the Guard increased its reliability in the eyes of the regime, and in 1942 it officially became a military corps part of the Spanish Army. [222] Throughout the dictatorship, "the Civil Guard became a symbol of repression and political control," but "also played an important role in the fight against the terrorist organisation ETA." [223]

During the democratic transition, the Civil Guard managed to partially maintain its military role, becoming an instrument of support for the armed forces. On the other hand, it was placed under the Ministry of the Interior, and its mission became "to protect the free exercise of rights and freedoms and to guarantee public security." [224] Efforts against domestic terrorism perpetrated by ETA were significant, and the Civil Guard distinguished itself by "dismantling commando units, repeatedly breaking up its leadership, and achieving notable successes, although also suffering the highest number of casualties." [225]

The evolution of the Civil Guard is complex to address because there has not been any significant change at the structural or legislative level, contrary to the National Police. The Civil Guard "has

[218] De Fuerzas y Cuerpos de Seguridad. [on Security Forces and Bodies] Organic Law 2/1986, March 13, 1986, Article 5, https://www.boe.es/buscar/act.php?id=BOE-A-1986-6859.
[219] De Fuerzas y Cuerpos de Seguridad. [on Security Forces and Bodies] Organic Law 2/1986, March 13, 1986, Article 5, https://www.boe.es/buscar/act.php?id=BOE-A-1986-6859.
[220] González Salmón, "Police Powers," 26.
[221] Mario Romero Ramada, "La Guardia Civil y el Primer Franquismo (1939-1959)" [The Civil Guard and the First Francoism (1939-1959)] (Thesis, Universitas Miguel Hernández, 2023) 22. My Translation.
[222] Ramada, "La Guardia Civil," 23.
[223] "Historia de la Guardia Civil," [History of the Civil Guard] *SHOKE Defensa y Seguridad*, May 26, 2023, https://www.tiendashoke.es/blog/historia-de-la-guardia-civil/#La-era-de-Franco.
[224] Spanish Const. Art. 104.1.
[225] "La Transición y La Democracia," Historia, Guardia Civil, accessed August 4, 2025, https://web.guardiacivil.es/es/institucional/conocenos/historiaguacivil/La_Transicion_y_La_Democracia/.

truly preserved its identity and has evolved without experiencing important transformations," because "of its discipline and faithful compliance with the orders of whoever was in power." [226]

Furthermore, it is important to highlight that, as happened in Italy, the Ministry of Interior acknowledged the need to establish rapid-intervention forces to deploy in case of terrorism. The decision followed the intervention of German special forces, GSG 9, to free 86 hostages on a plane hijacked by Palestinian terrorists on October 13, 1977. [227] Within the National Police, the Minister of Interior, Rodolfo Martín Villa, "promoted the creation of the *Grupo de Operaciones Especiales*" (Special Operations Group, GEO) in 1977. [228] The following year, the Civil Guard established the *Unidad Especial de Intervención* (Special Unit of Intervention, UEI) and the "*Unidad Antiterrorista Rural* (Antiterrorist Rural Unit, UAR) that changed its name and increased its numbers to be called *Grupo Antiterrorista Rural* (Antiterrorist Rural Group, GAR) [in 1982], locating itself in Vascongadas and Navarra," close to the Basque countries. [229]

Discussing coordination, for cooperation between the security forces of the central State and those of all the autonomous communities, "the Security Policy Council was created, which shall be presided over by the Minister of the Interior and composed of the Interior or Governance Councillors of the Autonomous Communities and by an equal number of State representatives appointed by the Government of the Nation." [230] To provide technical support to this Council, a Committee of Experts was established, responsible for the practical preparation of security and operational plans. [231]

In terms of the operational and technical methodologies of the Civil Guard, it is necessary to recognise certain structural limitations. First, after the amnesty of the 1970s, it was an "institution that suffered practically daily attacks." [232] Furthermore, an agent operating in the province of Navarra, one of the busiest areas given its proximity to the Basque Country, recalls that "the anti-terrorist team consisted of a sergeant, two corporals and five civil guards," equipped with only three vehicles. [233] What emerges from various statements collected by Lorenzo Silva is that after the end of the dictatorship and in the early years of democracy, there was a lack of adequate equipment and resources, such as armoured cars, to deal with the daily risks and operational needs of the Civil Guard officers. [234] Within the Civil Guard, there was an information gathering unit, the *Servicio de Información* (Information's Service), which included almost all of the officers in areas where there was a massive ETA presence.

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[226] Daniel Olmos Hidalgo, "Historia de las Fuerzas y Cuerpos de Seguridad del Estado En España," [History of Forces and Cops of Security in Spain] (Thesis, University of Valladolid, 2016) 75. My Translation.
[227] Eric Sof, "Hijacking of Lufthansa Flight 181 and brilliant GSG 9 rescue operation," *Combat Operators*, updated March 25, 2025, https://combatoperators.com/notable/missions/hijacking-of-lufthansa-flight-181/.
[228] Hidago, "Historia de las Fuerzas," 58-59. My Translation.
[229] Hidago, "Historia de las Fuerzas," 60. My Translation.
[230] De Fuerzas y Cuerpos de Seguridad. [on Security Forces and Bodies] Organic Law 2/1986, March 13, 1986, Article 48.1, https://www.boe.es/buscar/act.php?id=BOE-A-1986-6859. My Translation.
[231] De Fuerzas y Cuerpos de Seguridad. [on Security Forces and Bodies] Organic Law 2/1986, March 13, 1986, Article 49, https://www.boe.es/buscar/act.php?id=BOE-A-1986-6859. My Translation.
[232] Lorenzo Silva et al., *Sangre, sudor y paz: La Guardia Civil contra ETA* [Blood, sweat and peace: The Civil Guard against ETA] (Booket, 2019) 60. Ebook. My Translation.
[233] Silva, *Sangre, sudor y paz*, 60. My Translation.
[234] Silva, *Sangre, sudor y paz*, 60-61.

The investigation methodology was rather traditional, with "permanent surveillance in morning, afternoon and night shifts of targets suspected of belonging to the terrorist group." [235]

At the end of the 1970s, the idea of armed struggle was widespread in Spain, but also in Europe and the rest of the world, following numerous international crises and escalations in the context of the Cold War. ETA took advantage of a certain degree of tolerance of a section of the population to carry out a massive recruitment campaign at the end of 1979, setting up actual classrooms where aspiring members never saw each other's faces and learned how to use explosives and firearms. [236]

The increasing number of terrorist and attacks made the Basque Countries, and the provinces close to them. difficult to manage and therefore there were almost zero agent of the Civil Guard who wanted to voluntarily go there. For this reason, the assignment was imposed but the commanding officers realised that was necessary to train the agents to adapt to the environment. Silva identified two steps in this procedure. First, the agents needed to spend several months in the *Centro de Adiestramientos Especiales* (Special Training Centre, CAE) and second, one month in another Guardia Civil's structure in Guipúzcoa, close to the Basque Countries. During the period of training the newly assigned agents "received a training on weapons, roadblocks, barracks protection, security and self-defence measures, knowledge of ETA and analysis of its attacks and social environment. This allowed them to face their new assignment with less tension and more normality, as far as possible." [237]

After the deadly attacks that followed the adoption of the Constitution, the commanding officers of the Guardia Civil realised it had become too risky for regular agents to patrol the streets in the Basque Country. For this reason, the UAR, "an elite group specially dedicated to combating terrorism," was tasked with the primary order of patrolling the streets in the Basque provinces. [238] Later, the main objectives of the UAR became three, "to hinder the movements of the terrorists, to carry out preventive services that prevent attacks, and to support the work of the intelligence services." [239]

In the first half of the 80s, "the Guardia Civil became the main force in the fight against terrorism, to the detriment of Cuerpo Superior de Policía." [240] The two major operations carried out by the Guardia Civil in that period, which received considerable media coverage, were the liberation of Saturnino Orbegozo and the raid in the El Pilar neighbourhood of Madrid. Saturnino Orbegozo was an industrialist who was kidnapped for 46 days by ETA, who demanded a ransom, but his family decided not to pay. On December 30, 1982, the Guardia Civil in Donamaria (Navarra) received an anonymous tip-off that led them to the Arce neighbourhood, where seven officers led by Sergeant Commander Pedro Guerrero Arias stormed the building, freeing the hostage and arresting two terrorists. [241] The

[235] Silva, *Sangre, sudor y paz*, 61. My Translation.
[236] Florencio Domínguez, "El enfrentamiento de ETA con la democracia," [ETA's confrontation with democracy] in *La Historia de ETA*, [History of ETA] ed. Antonio Elorza (epublibre, 2000) 173-175. Ebook.
[237] Silva, *Sangre, sudor y paz*, 61-62. My Translation.
[238] Silva, *Sangre, sudor y paz*, 68. My Translation.
[239] Silva, *Sangre, sudor y paz*, 69. My Translation.
[240] Teresa Mata López, "Terrorismo y comportamiento político: España y el caso ETA," [Terrorism and Political Behaviour: Spain and the ETA case] (Thesis, Universidad Autónoma de Madrid, 2018) 149. My Translation. https://repositorio.uam.es/bitstream/handle/10486/684144/mata_lopez_teresa.pdf. My Translation.
[241] "30 de diciembre de 1982. La Guardia Civil libera a un industrial secuestrado por ETA," [December 30, 1982. The Civil Guard frees an industrial kidnapped by ETA] Efemérides, Guardia Civil, accessed August 24, https://web.guardiacivil.es/es/destacados/efemerides/30-de-diciembre-de-1982.-La-Guardia-Civil-libera-a-un-industrial-secuestrado-por-ETA/.

operation in Madrid, on the other hand, was much more complicated. The police were following several leads in their search for Diego Prado's kidnappers, one of which led to the El Pilar neighbourhood. In twelve hours, on April 6, 1983, 16,000 homes were controlled and searched without seeking permission from the judicial authorities, invoking anti-terrorism legislation and the cooperation of citizens. [242] The debate surrounding the operation immediately intensified, especially when it became known that the searches did not produce any arrests or useful information. Some newspapers claimed that the operation was "the result of a covert state of emergency or the irregular application of anti-terrorism legislation." [243] In contrast, the government and the Guardia Civil spokesperson stated that the searches "were always carried out with the consent of the owners," and that if anyone had objected, "it would have meant that they had something to hide, in which case anti-terrorism legislation would have been applied, allowing for the suspension of the right to the inviolability of the home." [244]

An operation by the Civil Guard whose repercussions divided opinion was the arrest, on 6 April 1976, of three members of the Barcelona commando responsible for the attack discussed in the judicial section. Mata Lopez reports two contrasting assessments: ABC journalists claimed that the group in Catalonia had been completely dismantled, while El País maintained a more cautious stance.[245] Finally, on 24 November 1976, following an investigation that began with the discovery of an ammunition depot, Operation *Akaitz* was launched, in which 1,600 agents succeeded in dismantling an entire terrorist network in the Guipúzcoa region for the first time. [246]

The Guardia Civil attempted to adapt to the methods used by ETA in its attacks and, following a triple bomb attack in Madrid on July 29, 1979, specialised groups were set up to deactivate explosives. This attempt to respond to a very common ETA method had already begun in 1974 but with poor results due to insufficient training. In 1980, the first course for *Técnicos Especialistas en Desactivación de Artefactos Explosivos* (TEDAX) de la Guardia Civil was established. [247]

One of the major problems faced by the Spanish police forces was the fact that the most important members of the organisation were based abroad, mainly in France. Police cooperation was not always easy, with the French State repeatedly insisting that "the right to asylum is part of our country's republican and democratic tradition." [248] For this reason, in the second half of the 1970s, some Guardia Civil officers stated that "with regard to the cooperation offered by France at that time, it should be noted that it was limited to strictly personal relations, where, thanks to mutual police

[242] El País, "Ninguna detención en el espectacular registro en el barrio madrileño de El Pilar," [No arrests in the spectacular search in the Madrid neighbourhood of El Pilar] *El País*, April 7, 1983, accessed August 27, https://elpais.com/diario/1983/04/07/portada/418514402_850215.html.
[243] Carlos Yárnoz, "Polémica sobre la legalidad de la masiva operación policial," [Controversy over the legality of the massive police operation] *El País*, April 7, 1983, accessed August 27, https://elpais.com/diario/1983/04/07/espana/418514413_850215.html. My Translation.
[244] Carlos Yárnoz, "Polémica sobre la legalidad." My Translation.
[245] Mata Lopez, "Terrorismo y comportamiento," 152. My Translation.
[246] Mata Lopez, "Terrorismo y comportamiento," 152.
[247] Silva, *Sangre, sudor y paz*, 77
[248] Susana Panisello Sabaté, "Primera colaboración francesa en la política antiterrorista española la deportación a terceros países," [First French collaboration in Spanish anti-terrorist policy, deportation to third countries] *No es país para jóvenes* (2012), 5, https://dialnet.unirioja.es/servlet/articulo?codigo=4721564. My Translation.

training and the French understanding of our work, they occasionally provided us with police information of interest."[249]

To introduce the first joint actions against ETA it is necessary to examine a police action which led to a change of attitude on the French side of the Pyrenees. On July 6, 1983, the CESID redacted a document titled '*Acciones en Francia*' (Actions in France) which outlined a new course of action against ETA in the Basque Countries and in France. The document represents the founding act of the GAL. The Antiterrorist Group "used former member of the French Secret Army Organisation and other mercenaries who received, for their participation, a salary paid with Interior Ministry's reserved funds." [250]

The 'formal birth' of the GAL dates to October 16, 1983, when "the anti-terrorist organisation kidnapped and murdered two young Basque independence activists, José Antonio Lasa and José Ignacio Zabala." [251] Both were subjected to brutal violence and torture before being killed, and "after killing them and making them dig their own graves, they were buried with 50 kilos of quicklime in Alicante [...] no greater atrocity was possible," wrote prosecutor Ignacio Gordillo. [252] This modus operandi – kidnapping, torture and physical elimination – became the GAL's trademark. Their targets were not only active ETA militants, but also minor figures and people suspected of sympathising with the organisation. According to the statement they sent to Radio Popular de San Sebastián: "We have decided to put an end to this situation. Every ETA murder will be avenged." [253]

The GAL's actions were not limited to a few isolated incidents. Between 1983 and 1987, the group developed a systematic campaign of *guerra sucia* (dirty war). During those years, ETA itself responded by intensifying its violence, resorting to the systematic use of car bombs.

The human toll of the campaign was heavy: 27 deaths, including not only ETA members, but also innocent citizens and people with no direct links to terrorism. Indiscriminate violence undermined the legitimacy of the State. As Tardivo observes, "the methods used have taken on sinister relevance in recent decades [...] among Latin American dictatorships." [254] In other words, the techniques of repression were more reminiscent of South American death squads than the practices of a European constitutional State.

The period of maximum activity was between 1984 and 1986, and despite attempts to conceal it, public opinion and part of the judiciary began to denounce the illegal nature of the phenomenon. In the end, the "dirty war" was officially recognised by the courts. In 1998, Supreme Court Ruling No. 2/1998 concluded that the actions of the GAL constituted state crimes, convicting Civil Guard officers and civil servants. One of the most renowned cases, which led to a trial before the Supreme Court,

[249] Silva, *Sangre, sudor y paz*, 60. My Translation.
[250] Giuliano Tardivo and Eduardo Díaz Cano, "Felipe González y el caso de los GAL: una relectura de la política antiterrorista de los gobiernos del PSOE en España entre 1982 y 1996," [Felipe González and the GAL Case: A Reinterpretation of the Anti-Terrorist Policy of the PSOE Governments in Spain between 1982 and 1996] *Espacio Abierto* vol.29 (2020): 121, https://dialnet.unirioja.es/servlet/articulo?codigo=7650699.
[251] Tardivo, "Felipe González y el caso de los GAL," 120. My Translation.
[252] Gordillo, "La acción de la justicia ante los GAL," 839 in Tardivo, "Felipe González y el caso de los GAL," 120. My Translation.
[253] Morán, ETA entre España y Francia, 180 in Tardivo, "Felipe González y el caso de los GAL," 120. My Translation.
[254] Tardivo, "Felipe González y el caso de los GAL," 118. My Translation.

was the kidnapping of Segundo Marey on December 4, 1983. The GAL kidnapped him in French territory, mistaking him for a terrorist and attempting to "pressure the French authorities to release Inspector Argüelles and three GEOs, detained in Pau (France) when they tried to kidnap the alleged ETA member José María Larretxea Goñi." [255] The man, unconnected to the armed struggle, was held for ten days in "deplorable conditions." [256] The Spanish police officers who kept him imprisoned confessed when interrogated by the investigating judge Baltasar Garzón, successor to judge Carlos Bueren at the Audiencia Nacional. The proceedings shocked the country because the then Minister of the Interior, José Barrionuevo, and the Undersecretary for Security, Rafael Vera, were convicted. In the judgment, "for the crime of misappropriation of public funds, Barrionuevo and Vera were each sentenced to five years' imprisonment and absolute disqualification for eight years." [257] The two men who kidnapped Marey were "mercenaries engaged using confidential funds of the Ministry of the Interior." [258]

The police strategy to counter ETA terrorism, as in the case of judicial institutions, partially followed the path of the democratic transition. The government, through a sequence of reforms, sought legitimacy and opened a path towards civilian control of the police by reforming its structures. In the case of the National Police, the structural and legislative changes were more apparent, with repeated changes of name and of internal mechanisms, with the clear intention of distancing itself as much as possible from the dictatorial legacy. The Ministry of the Interior introduced principles of conduct and a discipline reflecting the characteristics of a democratic state. From a legislative perspective, the structural changes to the Guardia Civil were fewer, maintaining the military nature of the corps.

With the new Constitution, the police infrastructure became multi-level, with the Basque Statute giving rise to the autonomous police, the Ertzaintza, and imposing coordination with the government in Madrid. The Security Board had the duty to coordinate the different levels and various operations, in an attempt to eliminate rivalries, which, however, only partly disappeared, especially due to the merits of the Guardia Civil and the weaknesses of the National Police.

Operational capacity grew in step with specialisation: special units were created, and the discipline of bomb removal units was institutionalised in order to deal with the method most frequently used against civilians by Basque terrorists. The Guardia Civil bore the brunt of the effort in the most exposed provinces thanks to a satisfactory capacity for adaptation. However, it struggled to modernise its equipment and to provide greater protection for its own officers.

Despite this attempt – superficial and legislative – to democratise the police forces, explicit grey areas remained, caused above all by the continuity of personnel from the Francoist period. This phenomenon, highly difficult to stem for numerical and practical reasons, slowed down change and allowed the continuation of the same 'informal' practices at the limits, and at times beyond, of legality. Senior officials of the Ministry of the Interior, including the Minister himself, founded the

[255] El País, "Muere a los 69 años Segundo Marey, secuestrado por los GAL en 1983," [Segundo Marey, kidnapped by the GAL in 1983, dies at 69] *El País*, August 14, 2001, accessed August 27, https://elpais.com/diario/2001/08/14/espana/997740009_850215.html. My Translation.
[256] Tribunal Supremo de España, Penal Chamber, Judgment 2/1998 – Special Case 2530/1995, May 25, 1998, https://www.berria.eus/GAL/dokumentuak/marey-epaia.pdf. My Translation.
[257] Tribunal Supremo de España, Judgment 2/1998. My Translation.
[258] El País, "Muere a los 69 años Segundo Marey." My Translation.

GAL, which proved to be completely outside the legal framework and undermined the legitimacy of the State's response and that of the other police forces.

Overall, security policies from 1975 to 1990 were based on the attempt at democratic re-legitimisation, structural reorganisation of the police forces, greater coordination, and collaboration with autonomous forces in the Basque Country. This architecture enabled an effective organisational response and reduced improvisation, but the absence of personnel changes, the numerous borderline operations with consequent criticisms of fundamental rights violations, and a growing delegitimization in the eyes of the population prevented results from being achieved in the short term and indeed risked fuelling the escalation.

Intelligence and State Security Services

As is frequently the case in totalitarian rules, intelligence services under the Francoist regime took the form of political police rather than agencies tasked with gathering sensitive information for national security. At the time of Franco's death and the democratic transition, the *Servicio Central de Documentación* (Central Service of Documentation, SECED), founded in 1972, operated under the High Military Command, lacking any form of civilian or democratic control. [259] The SECED and its earlier versions served the regime rather than the country, and for this reason, an effort was made to reform the services so that they would be "working in the service of democracy." [260] A second reason for the foundation of the *Centro Superior de Información de la Defensa* (Higher Defence Intelligence Centre, CESID) in 1977 was the attempt "to develop intelligence agencies able to tackle the nation's complex and dynamic security context, involving such issues as illegal migration, organised crime, and, most importantly, terrorism." [261] Díaz Fernández conveys that the early years of the service were characterised by "a lack of clarity regarding the mission it should follow, scarce resources, and the ineptitude of its directors." [262] Adolfo Suárez made every effort to spotlight the need to break with the past and had to order commanders "to close down their wiretapping devices." [263] Therefore, the nature of the intelligence services, their leadership, and their internal components remained unchanged, leading to the involvement of some CESID members in the 1981 attempted coup d'état. [264]

Following the failed coup d'état, the new Prime Minister Calvo-Sotelo decided to implement drastic changes and carry out reforms in an attempt to democratise Spain's intelligence services more rapidly. The first step – only partially successful – was the removal of the military from politics and, to some extent, from intelligence. Nonetheless, in May 1981, a new national security law assigned "a role in fighting terrorist Basque nationalism" to the armed forces. [265] The second decision taken by the government, yet more symbolic, was to have the military perpetrators of the attempted coup tried

[259] Matei, "On Balance," 771-772.
[260] Matei, "On Balance," 777.
[261] Matei, "On Balance," 777.
[262] Díaz Fernández, "Halfway down," 441.
[263] Matei, "On Balance," 778.
[264] Díaz Fernández, "Halfway down," 441.
[265] José A. Olmeda, "The Process from Authoritarianism to Democracy in Spain: The Impact of the 1981 Failed Coup," *CPA Estudios – Working Papers* n.7 (2003), 17, https://www.uned.es/universidad/facultades/en/dam/jcr:1133215a-097f-40f3-a5f1-23e8e7d00a19/CPAESTUDIOS7_2003.PDF.

both in military and civilian courts, to demonstrate "that Spain's path to democracy, and civilian supremacy over the military, were irrevocable." [266]

The main reform initiative aimed at transforming the CESID was the appointment of a new director, General Alonso Manglano. An additional reform, partially successful, was the restructuring of the services into "a co-located agency: functionally, housed within the Ministry of Presidency, and, organizationally, under the umbrella of the Ministry of Defence." [267] In his study on the attempt to modernise Spain's intelligence services, Ruíz refers to the new functions assigned to CESID through the Order issued at the end of 1982, to integrate the agency more closely under the Prime Minister's authority. [268] Article 3 of the Order expanded CESID's mandate to combat domestic terrorism, referring to "internal processes that, through unconstitutional procedures, threaten the unity of the country," which is particularly relevant for this study. [269] Furthermore, "for the first time, foreign intelligence missions were assigned to the agency," and "counterintelligence tasks were formally attributed to it." [270] After the 1982 elections, the government of González decided to trust General Manglano for his good relationship with the new Minister of Defence, Narcís Serra, "leaving the upper and lower Chambers and the judiciary out of the picture" of the intelligence supervision. [271]

Between 1984 and 1985 two laws regulated in even more specific detail the competences and organisation of the CESID. Royal Decree 135/1984 required the CESID to disseminate "regularly to the general staffs of defence and of the armed forces the information that is convenient for the better fulfilment of the missions entrusted to them." [272] Furthermore, Royal Decree 2632/1985 created four internal divisions, including the Division of Internal Intelligence. [273] Finally, the CESID "cooperate[d] and act[ed] in coordination with the Ministry of the Interior with regard to the defence of the constitutional order and internal security." [274]

The lack of oversight by institutional branches outside the executive also extended to the management of reserved funds. Moreover, since 1968 in Spain, the legislation on state secrecy left wide room for manoeuvre, and "counterintelligence, the sources, and the methodologies used for its implementation

[266] Matei, "On Balance," 780.
[267] Matei, "On Balance," 780.
[268] Miguel Carlos Ruíz, "El CESID: Historia De Un Intento De modernización De Los Servicios De Inteligencia," [The CESID: History of an Intent on Modernization of Intelligence Services] *Arbor 180*, n. 709 (2005):121-150. https://doi.org/10.3989/arbor.2005.i709.500.
[269] Orden de 30 de septiembre de 1982 por la que se regula la estructura y relaciones que ha de mantener el Centro Superior de Información de la Defensa, [Order of 30 September 1982 for the regulation of the structure and relations that must be maintained by the Superior Defence Information Centre] Order Ministry of Defence, September 30, 1982, https://global.economistjurist.es/BDI/legislacion/legislaciongeneral/emergentelegislacion.php?id=1261276.
[270] Ruíz, "El CESID," 126. My Translation.
[271] Díaz Fernández, "Halfway down," 441
[272] Por el que se reestructura el Ministerio de Defensa [By which the Ministry of Defence is restructured] Royal- Decree 135/1984 of January 25, 1984, Article 17.4, https://www.boe.es/buscar/doc.php?id=BOE-A-1984-2566. My Translation.
[273] Por el que se regula la estructura interna y las relaciones del Centro Superior de Información de la Defensa [Which regulates the internal structure and relations of the Higher Defence Information Centre] Royal Decree 2632/1985 of December 27, 1985, Article 2.1, https://www.boe.es/buscar/doc.php?id=BOE-A-1986-1479. My Translation.
[274] Por el que se regula la estructura interna y las relaciones del Centro Superior de Información de la Defensa [Which regulates the internal structure and relations of the Higher Defence Information Centre] Royal Decree 2632/1985 of December 27, 1985, Article 13, https://www.boe.es/buscar/doc.php?id=BOE-A-1986-1479. My Translation.

were classified as Secret material." [275] Law 48/1978 intervened on the previous Law 9/1968 drafted during Francoism, establishing that "the matters, acts, documents, information, data, and objects whose knowledge by unauthorised persons could damage or put at risk the security and defence of the State may be declared 'classified matters.'" [276] Furthermore, the only bodies with a non-delegable competence to classify information are the "Council of Ministers and the Board of Chiefs of Staff."[277] As regards Parliament, they "shall always have access to whatever information they request […] in secret sessions," thus preventing its disclosure. [278] After the GAL scandal, only in 1995 would this be reached, with Law 11/1995, which established that "the appropriations intended for reserved expenses shall be subject to the control of the Congress of Deputies, through a parliamentary commission." [279]

For this study is essential to highlight that the "CESID had no role in law enforcement, representing a clear step toward a post-Francoist and democratically minded intelligence order." [280] Nevertheless, the new responsibilities of the CESID inevitably created overlap with other intelligence bodies, and triggered opposition from the "nation's main law enforcement agencies – the Civil Guard and the National Police – which did not want the CESID to play a bigger role within the new intelligence system." [281]

The most significant operation conducted with the coordination of CESID was the Sokoa operation, previously mentioned. In 1986, sources from the Spanish Intelligence Services reported "that the terrorist organisation intended to acquire two missiles on the international black market" and, in cooperation with the CIA, it was decided "to carry out controlled surveillance of the sale of the missiles, once rendered inactive." [282] The arms dealer Fernando Paes, an informant for the Spanish Intelligence Services, "managed to supply ETA with two missiles that contained an American tracking device, thereby enabling the Spanish police to discover that they ended up in the Sokoa

[275] Ana Aba Catoria, "El secreto de Estado y los servicios de inteligencia," [State secrets and intelligence services] *Cuadernos constitucionales de la Cátedra Fadrique Furió Ceriol* n. 38 (2002),152, https://dialnet.unirioja.es/servlet/articulo?codigo=830972. My Translation.
[276] Por la que se modifica la Ley de 5 de abril de 1968, sobre Secretos Oficiales [By which the Law of April 5, 1968, on Official Secrets is modified] Law 48/1978 of October 7, 1978, https://www.boe.es/buscar/doc.php?id=BOE-A-1978-25567. My Translation.
[277] Por la que se modifica la Ley de 5 de abril de 1968, sobre Secretos Oficiales [By which the Law of April 5, 1968, on Official Secrets is modified] Law 48/1978 of October 7, 1978, https://www.boe.es/buscar/doc.php?id=BOE-A-1978-25567. My Translation.
[278] Por la que se modifica la Ley de 5 de abril de 1968, sobre Secretos Oficiales [By which the Law of April 5, 1968, on Official Secrets is modified] Law 48/1978 of October 7, 1978, https://www.boe.es/buscar/doc.php?id=BOE-A-1978-25567. My Translation.
[279] Reguladora de la utilización y control de los créditos destinados a gastos reservados [Regulatory of the use and control of credits intended for reserved expenses] Ley 11/1995 of May 11, 1995, Article 7, https://www.boe.es/buscar/act.php?id=BOE-A-1995-11339. My Translation.
[280] Matei, "On Balance," 778.
[281] Ruíz, "El CESID," 122.
Matei, "On Balance," 778.
[282] "5 de noviembre de 1986. Desarticulación de la organización logística de ETA. Operación SOKOA," [November 5, 1986. Dismantling of ETA's logistics organization. Operation SOKOA] Efemérides, Guardia Civil, accessed August 29, https://web.guardiacivil.es/eu/destacados/efemerides/5-de-noviembre-de-1986.-Desarticulacion-de-la-organizacion-logistica-de-ETA.-Operacion-SOKOA/. My Translation.

furniture factory, located in the French town of Hendaye." [283] The raid on the hideout on November 5, 1986, brought to light the financial documents on which Judge Bueren's investigation was based.

The Secret Services joined actively the fight against ETA by coordinating or at least monitoring the GAL operations and by infiltrating its agents to acquire information.

As previously highlighted, the CESID redacted the document Actions in France of July 19, 1983. The report, unclassified by the Supreme Court in 1996, attributes the responsibility to "the one leading the fight against terrorism" of deciding which type of action must be conducted against ETA.[284] The author of the report identifies three different possibilities outlining the ins and outs of reprisal, elimination, insecurity in the area and internal conflicts. The reprisal would be "more easily attainable, since they may be directed at less sensitive targets," but could "lead to a dangerous intensification of terrorist actions" and would "in general, it appears as a crude and unimaginative hypothesis with highly doubtful results." [285] The elimination of the leadership hiding in France would severely damage the organisation but no one would believe that something so complex could be carried out by 'uncontrolled elements,' and therefore it is to be expected: accusations against the Government (parliamentary debate), French diplomatic reaction, certainty that it is an action carried out by secret services or an official body." [286] Insecurity in the area meant the maintain of pressure on the organisation but once again would "make the involvement of secret services" and risked "increase the consensus of the organisation in the population." [287] Finally, the first two actions could be conducted under the cover of internal disputes within the organisation, making them seem "score-settling" and reinforce this narrative with a "disinformation operation highlighting internal differences and resentments." [288] In the conclusive part of the document, it is stated that "the most advisable form of action is disappearance through abduction." [289]

The book *Yo confieso* by Mikel Lejarza (*alias* El Lobo) offers a direct and raw account of the life of a CESID agent who infiltrated ETA during the 1970s. The infiltration techniques are clear from the outset. Lejarza was manipulated by two police inspectors who prepared him for his role as a mole. He did not construct a completely fictitious cover: "During the infiltration [...] I was who I was; I did not hide anything. It helped me a little to say that I had been unjustly imprisoned [...] I gained everyone's absolute trust." [290] The choice to remain faithful to his real identity, enriched with functional details, reduced the risk of errors and made his position more credible.

From an operational point of view, the infiltration was supported by rudimentary means. "The technical aspects of the infiltration were quite shoddy [...] they gave me some tape recorders the size

[283] Pablo Ojer, "Los motivos por los que un misil de ETA terminó en el almacén de un pueblecito de 600 habitantes," [The reasons why an ETA missile ended up in the warehouse of a small town of 600 inhabitants] *El Debate*, May 19, 2023, https://www.eldebate.com/espana/20230519/motivos-llevaron-misil-eta-terminar-almacen-pueblecito-600-habitantes_115695.html. My Translation.
[284] El País, "Asunto: acciones en Francia," [Subject: actions in France] *El País*, September 8, 1995, accessed 29 August, 2025, https://elpais.com/diario/1995/09/08/espana/810511205_850215.html. My Translation.
[285] El País, "Asunto," punto 2.1. My Translation.
[286] El País, "Asunto," punto 2.2. My Translation.
[287] El País, "Asunto," punto 2.3. My Translation.
[288] El País, "Asunto," punto 2.4. My Translation.
[289] El País, "Asunto," punto 3. My Translation.
[290] Mikel Lejarza and Fernando Rueda, *Yo Confieso. 45 anos de espía* [I Confess. 45 years as a spy] (Insurgentes, 2019) Chapter 1. My Translation.

of a matchbox and some invisible ink pens." [291] The information gathered was transmitted ingeniously, even written on a sweet wrapper and dropped on the ground, hoping that the support team would retrieve it. The daily life of the infiltrator consisted of security routines and constant improvisation. As Lejarza himself observes: "Infiltration is a different kind of operation, in which the best person is the most normal person possible, the one who goes unnoticed [...] but who controls the situation, the one who sets the pace, the one who sees what is going on." [292]

The understanding of the activities of the Spanish Intelligence Services in countering ETA terrorism presents several complications and contradictions. Firstly, as with the judiciary and the police forces, from a normative perspective, Spanish intelligence followed the path of the democratic transition. After multiple scandals and the reputation during the Franco regime, the decision was taken to suppress the political police of the SECED and to establish a new service, CESID. Through various legislative acts, a structure and working methodology were formalised, aimed at providing support to democratic institutions rather than acting as judicial police.

Secondly, the normative evolution was not sufficiently rapid in relation to parliamentary oversight and the regulation of state secrecy. Legally questionable episodes emerged, along with others that came to be defined as instances of State terrorism, due to the lack of strict control over the activities of the service and, above all, over the funds made available to it.

Nevertheless, several branches of CESID honestly specialised in counterterrorism, introducing more effective techniques. The Division of Internal Intelligence improved technically and operationally by implementing infiltrations into ETA. Over the years, by taking advantage of a more favourable political environment, CESID drew closer to the CIA and gained access to more modern technologies that made it possible to conduct more complex operations.

The Sokoa operation proved to be the outcome of a sophisticated working methodology based on informants, international cooperation, and interference with ETA's communication networks. This operation also represented one of the first close collaborations between the Intelligence Services, the police forces, and the judiciary. However, the GAL scandal, partially orchestrated by senior intelligence officials thanks to their ability to manage reserved funds, seriously undermined the credibility of the State and overshadowed successful operations such as the infiltrations carried out by the agent known as Lobo.

Parliament and Governmental Action

Two days after Franco's death, on November 22, 1975, King Juan Carlos became Head of State, and numerous possibilities emerged regarding whether Francoism would continue or not. In the preceding years, the King had not expressed himself overtly, and few knew his true political intentions. On the few occasions when he had been questioned, he had declared "his loyalty to the regime and […] some vague sympathy towards the spirit of the new generations." [293] An apparent sign of continuity was

[291] Mikel Lejarza and Fernando Rueda, *Yo Confieso. 45 anos de espía* (Insurgentes, 2019) Chapter 1. My Translation.
[292] Mikel Lejarza and Fernando Rueda, *Yo Confieso. 45 anos de espía* (Insurgentes, 2019) Chapter 1. My Translation.
[293] Raymond Carr and Juan Pablo Fusi Aizpurua, *Spain: Dictatorship to Democracy*, 2nd ed. (London and New York, 1981) 208.

the decision by Juan Carlos to confirm Carlos Arias Navarro as head of government. [294] It must be emphasised, however, that Navarro's appointment had been, to some extent, imposed on Juan Carlos, since by law the Head of State could only choose the head of government from among three names proposed by the Council of the Realm, a consultative institution dominated by unyielding Francoists.

Nevertheless, the King came out into the open and showed a greater affinity with the new generations and their demands, compared to his previously declared loyalty to the regime. [295] During his investiture speech, the King pronounced words such as: "a free and modern society requires the participation of all in the decision-making process," and "our future will be based on a true consensus of national concord." [296] The most important passage of the speech for this study is:

> "A just order, equal for all, permits the recognition, within the unity of the kingdom and of the state, of the regional characteristics, as the expression of the diversity of the peoples that constitute the sacred reality of Spain." [297]

Despite the King's declarations, the democratic transition was not immediate, as "there was no substantial progress towards democratisation" until Navarro's resignation in July 1976. [298]

The most important moment of the democratisation process was the completion of the drafting of the Spanish Constitution by the Constitutional Affairs Committee of Parliament, which was approved by referendum in December 1978. [299] Concerning the form of the State, it was decided to establish a parliamentary monarchy, in which the Crown has "representative and symbolic functions." [300] Nevertheless, "the symbolic role played by King Juan Carlos has on occasion been exceptionally important," such as when he intervened to condemn the attempted coup. [301] The balance of power between the executive and legislative branches remained skewed in favour of the government. The powers of the Prime Minister were broad and presented in part IV of the Constitution. According to article 98, the Prime Minister "shall direct the Governments' action and coordinate the functions of the other members." [302] Furthermore, Article 100, conceded a notable degree of freedom to the Prime Minister because member of the government "shall be appointed and dismissed by the King at the President's proposal." [303]

The balance moved in favour of the government with article 113 outlying the possibility of being removed "only through a constructive vote of no confidence, which must include an alternative candidate and political programme, requiring an absolute majority." [304] Furthermore, the "motion of censure must be proposed by at least one tenth of the Members of Congress," and if "not adopted by

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[294] Carme Molinero and Pere Ysàs, *La Transición. Historia y Relatos*, [The Transition. History and Stories] (Siglo XXI de España Editores, 2018) 38. Ebook.
[295] Carr, *Spain*, 208.
[296] "Excerpts From Adress by King Juan Carlos at his Investiture," *The New York Times*, November 23, 1975, p. 2, https://www.nytimes.com/1975/11/23/archives/excerpts-from-address-by-king-juan-carlos-at-his-investiture.html.
[297] "Excerpts From Adress," *The New York Times.*
[298] Richard Gunther and José Ramón Montero, *The Politics of Spain* (Cambridge University Press, 2009) 34.
[299] Gunther, The Politics, 43.
[300] Cavallaro, *La Spagna*, 160. My Translation.
[301] Gunther, The Politics, 43.
[302] Spanish Const. Article 98. My Translation.
[303] Spanish Const. Article 100. My Translation.
[304] Cavallaro, *La Spagna*, 160-161. My Translation.

the Congress, its signatories may not submit another during the same period of sessions." [305] Moreover, article 115 states that the "President of the Government, after deliberation by the Council of Ministers, and under his or her sole responsibility, may propose the dissolution of the Congress, the Senate or the Cortes Generales, which shall be proclaimed by the King." [306] The dissolution can be requested also "while a motion of censure is pending." [307] This article, even if formally acknowledging the role of the King in organising new elections, allows the executive to control the political calendar and anticipate political crisis.

Analysing the constitutional power granted to the executive in the management of public order and fight against terrorism, the Prime Minister could invoke a "state of alarm by means of a decree agreed in Council of Ministers, for a maximum period of fifteen days" while a "state of emergency by decree agreed in Council of Ministers, after prior authorization by the Congress." [308] Finally, a state of siege "shall be proclaimed by overall majority of Congress solely on the Government's proposal." [309]

One of the members of Parliament who took part in the drafting of the Spanish Constitution, Gabriel Cisneros, acknowledged that in those weeks of work, it was necessary to proceed by consensus. In fact, the first parts of the Constitution lean more to the left, dealing with dogmas and rights. Parts two to six, however, which cover the organisation of the State, "are clearly indebted to the French and German experiences, […] there, the positions of the centre-right predominated, tending above all to guarantee or secure a rather strong Executive power, and to ensure, above all, the stability of the Parliamentary Regime." [310]

On the other hand, the legislator had broad instruments for steering security policy, since Parliament, known as the Cortes Generales, was responsible for legislative matters. The two chambers, the Senate (upper house) and the Congress of Deputies (lower house), "exercise the legislative power of the State." [311] From 1978 onwards, Parliament therefore had to find the right balance between the necessary security measures and the guarantees and rights enshrined in the Constitution. In this regard, the Spanish fundamental charter itself guaranteed a certain flexibility in the restriction of certain rights through Article 55, paragraph 2. As mentioned previously, this article establishes the possibility, through organic law, of depriving persons belonging to armed gangs or terrorist groups of certain rights enshrined in the Constitution itself.

Organic Law 9/1984 represented a particularly audacious decision by the Spanish Parliament and Government in light of both domestic and international criticism. In the international arena, the law was criticised for rendering certain articles of the Criminal Code too vague and broad. Years later, in 2009, Amnesty International stated that "Article 576 of the Spanish Criminal Code is excessively wide-ranging and could be interpreted in a manner resulting in the prosecution of individuals for the legitimate, non-violent exercise of rights enshrined in international law, or that criminal conduct that

[305] Spanish Const. Articles 113.2 and 113.4. My Translation.
[306] Spanish Const. Article 115.1. My Translation.
[307] Spanish Const. Article 115.2. My Translation.
[308] Spanish Const. Articles 116.2 and 116.3. My Translation.
[309] Spanish Const. Article 116.4. My Translation.
[310] Embajada De España en Ecuador, *La transición española a la democracia. 25 años después - un debate desde Ecuador* [The Spanish transition to democracy. 25 years later - a debate from Ecuador] (FLACSO, Sede Ecuador, 2005) 43, https://biblio.flacsoandes.edu.ec/libros/digital/48385.pdf. My Translation.
[311] Spanish Const. Article 66.2. My Translation.

does not constitute 'terrorism' may be criminalised as such." [312] In May 2008, "the UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism stated that in his view Article 576 (amongst others) was insufficiently precise and therefore did not respect the requirement of legality." [313]

On the domestic front, Fernando Ledesma Bartret, Minister of Justice, affirmed that terrorism, including that perpetrated by ETA, represented a "conduct that strikes at the heart of the social and democratic rule of law State," and that "what matters is that the defence of that State be that proper to a State governed by the rule of law, and this is what this bill rigorously carries out." [314] Regional parties opposed it: Vizcaya Retana, for the Basque Nationalist Party, declared that "the measures foreseen may lead to abuses against innocent citizens, especially in the Basque Country, where the indiscriminate application of incommunicado detention will generate greater alienation from the State." [315] Likewise, Catalan representatives stressed that "the fight against terrorism cannot justify such a broad restriction of fundamental rights. Democracy is not strengthened with fewer guarantees, but with more." [316]

Following the elections of 1977, the *Unión de Centro Democrático* (Union of the Democratic Centre, UCD) of Suárez played a central role, followed by the *Partido Socialista Obrero Español* (Spanish Socialist Workers' Party, PSOE) and the Popular Party (PP). The Spanish party system thus took shape as an imperfect two-party system, but with a significant presence of regional parties, especially in Catalonia and the Basque Country, capable of influencing the national agenda. The case of the UCD coalition is relevant to understanding Spain's political evolution. It has been argued that Suárez's first election in 1977 and his re-election in 1979, after the approval of the Constitution, were not a result of his political charisma but rather of his public image as the architect of democratisation. Suárez's political predominance lasted until 1980, due in part to his proposal to transform the coalition – composed of three distinct subgroups: liberals, Christian democrats, and social democrats – into a single party, and to his inability, demonstrated on various occasions, to 'institutionalise' his role from leader of the transition to President of the Spanish Government. Ultimately, all these factors forced the coalition's leadership to focus on internal cohesion and balances, rather than on the political agenda. The UCD thus remained the party of the transition, which by then had lost its reason for being. [317] The definitive end for Suárez – and the partial one for the UCD – came on January 26, 1981, when "Suárez convened the UCD leadership and announced his resignation from the party and from government." [318]

Concerning the UCD's stance toward the terrorism perpetrated by ETA, reference will be made to a study conducted by Jacobo Herrero Izquierdo on the representation of the Basque terrorist group in

[312] Amnesty International, *Spain: Macroproceso 18/98 trial highlights flaws in Spanish counter-terrorism legislation* (Amnesty International, June 3, 2009) https://www.amnesty.org/en/documents/eur41/009/2009/en/.
[313] Amnesty International, *Spain: Macroproceso.*
[314] Congreso de Los Diputados, Stenographic report of the session of September 25, 1984, 6644, https://www.congreso.es/public_oficiales/L2/CONG/DS/PL/PL_147.PDF. My Translation.
[315] Congreso de Los Diputados, Stenographic report of the session of September 25, 1984, 6655, https://www.congreso.es/public_oficiales/L2/CONG/DS/PL/PL_147.PDF. My Translation.
[316] Congreso de Los Diputados, Stenographic report of the session of September 25, 1984, 6657, https://www.congreso.es/public_oficiales/L2/CONG/DS/PL/PL_147.PDF. My Translation.
[317] Cavallaro, *La Spagna*, 165-171.
[318] Cavallaro, *La Spagna*, 172. My Translation.

the mass media during the years 1979 and 1980. [319] The study highlights how Suárez was faced with two possible courses of action: "to inform or not to inform about terrorism, or to 'speak or not speak' on television." [320] Ultimately, President Suárez decided "not to dramatise political life." However, the people did not forgive this decision, which was interpreted as an attempt to avoid addressing one of Spain's most serious social problems. [321] Suárez therefore chose to make few public appearances and delegated this responsibility to other members of his cabinet, which increased accusations of suffering from the so-called Moncloa syndrome, further damaging his popularity. The Moncloa syndrome occurs when "the Spanish president cannot hear the noise of the street from the windows of his residence," the Moncloa Palace. [322]

The Suárez government adopted only two measures to counter ETA: Royal Decree 3/1979 and the 1980 Organic Law on Article 55. These two provisions did not represent a concrete turning point but marked a first step in the anti-terrorism legislation of democratic Spain. Royal Decree 3/1979 introduced the offences of apology of terrorism and collaboration with a terrorist organisation, seeking to curb the external support that the organisation was receiving in the late 1970s. [323] Moreover, an attempt was made to deter these minor offences by enabling judges to order "unconditional pre-trial detention, even if the offence carries a penalty lower than that of major imprisonment or confinement." [324]

The Organic Law of 1980, on the other hand, was the first timid attempt to put into practice Article 55, paragraph 2 of the Constitution, by identifying who fell within the definition of 'terrorist' and which unlawful activities constituted a terrorist-type association. [325] Based on this law, the police forces "may proceed, without the need for prior judicial authorisation or order, to the immediate arrest of the alleged perpetrators of the actions referred to in Article One, regardless of the place or domicile where they may be hiding or residing." [326]

Parliament introduces a counterbalance in Article 7, stipulating that "the Government shall report to it at least every three months, or earlier if so, requested by two Parliamentary Groups, on the use made of and the results obtained from the application of the measures provided for in this Law." [327]

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[319] Jacobo Herrero Izquierdo, "Televisión Española and ETA terrorismo: the "years of lead" on the small screen (1979-1980)," *Doxa Comunicación* 33 (2021): 137-155, https://doi.org/10.31921/doxacom.n33a1468.
[320] Herrero Izquierdo, "Televisión Española," 142.
[321] Herrero Izquierdo, "Televisión Española," 151.
[322] Pilar Cernuda, "Qué les pasa en La Moncloa," [What happens to them in La Moncloa] *ABC España*, January 23, 2011, accessed on July 24, 2025, https://www.abc.es/espana/abci-sindrome-moncloa-201101230000_noticia.html.
[323] Sobre protección de la seguridad ciudadana [On protection of citizen security] Royal Decree 3/1979 of January 26, 1979, Articles 1 and 2, https://www.boe.es/buscar/doc.php?id=BOE-A-1979-3062.
[324] Sobre protección de la seguridad ciudadana [On protection of citizen security] Royal Decree 3/1979 of January 26, 1979, Article 5, https://www.boe.es/buscar/doc.php?id=BOE-A-1979-3062. My Translation.
[325] Sobre los supuestos previstos en el artículo 55, 2, de la Constitución [on the assumptions provided for in article 55, 2, of the Constitution] Organic Law 11/1980 of December 1, 1980, Articles 1 and 2, https://www.boe.es/buscar/doc.php?id=BOE-A-1980-25996.
[326] Sobre los supuestos previstos en el artículo 55, 2, de la Constitución [on the assumptions provided for in article 55, 2, of the Constitution] Organic Law 11/1980 of December 1, 1980, Article 4.1, https://www.boe.es/buscar/doc.php?id=BOE-A-1980-25996.
[327] Sobre los supuestos previstos en el artículo 55, 2, de la Constitución [on the assumptions provided for in article 55, 2, of the Constitution] Organic Law 11/1980 of December 1, 1980, Article 7, https://www.boe.es/buscar/doc.php?id=BOE-A-1980-25996. My Translation.

Once again, it must be stressed that the internal fragility of the UCD prevented Suárez from focusing too much on government action, limiting his scope for action against ETA.

The various social, political, economic, and international tensions led to an attempted military coup on February 23, 1981. Jesús de Andrés meticulously describes the factors that led Lieutenant Colonel Antonio Tejero Molina and other officers to attempt to seize power by holding the government and Parliament hostage for a day. [328] The new Spanish institutions were able to address the economic crisis – still ongoing because of the prolonged effects of the 1973 crisis – only at the end of the 1970s, encountering considerable difficulties. The internal landscape was further complicated by the slow adaptation of institutions, the difficulty of finding the right balance between the central State and guarantees for the autonomous communities, and the continued actions of ETA, increasingly active throughout the national territory. Lastly, the context of the Cold War, worsened by the Iranian revolution, the Soviet invasion of Afghanistan, and the intransigence of the Reagan presidency, further heightened social tensions. All these elements created "a scenario of disorder, uncertainty, and crisis." [329]

In the early years of Spanish democratic politics, the personality of the party leader was fundamental, and a phenomenon of political personification emerged. In this context, a figure opposite to Suárez began to emerge on the left of the parliamentary spectrum, Felipe González Márquez of the PSOE. González, who rose through the ranks of the party, presented himself as "someone who, through activism and a proven commitment to the ideals and vision of society promoted by his party, was ready to challenge the establishment." [330] After briefly supporting Suárez's successor, Leopoldo Calvo-Sotelo Bustelo, following the coup attempt, the PSOE returned to promoting political change in Spain, as reflected in the '*por el cambio*' (for the change) campaign. In 1982, the PSOE won an absolute majority of the vote, gaining ten percentage points compared to 1979. [331]

As for González, his governments were more contradictory. On the one hand, in his public speeches, González too did not address the ETA issue extensively; in his inaugural address, "he reserved only a limited space for the topic of terrorism." [332] On the other hand, during his governments, the GAL conducted their operations.

It is of crucial importance to understand why the GAL emerged from a political perspective, in order to grasp Prime Minister González's political vision of counterterrorism. It should be noted, however, that to this day it has not been proven that the Prime Minister was aware of the State funding issue. According to some studies, the decision to pursue a symmetrical response to terrorism can be justified directly from the electoral majority obtained in 1982, as if the party leaders felt authorised to undertake any action because their voters would allow it. [333] Moreover, this type of response was not the only one; there was also a plan that fell within the bounds of legality. In 1983, the Ministry of the

[328] Jesús de Andrés Sanz, "El golpe de estado de la transición: las causas, actores, desarrollo y consecuencias del 23-F," [The Coup d'état of the Spanish Transition: Causes, Actors, Development, and Consequences of 23-F] *Actas del III Simposio de Historia Actual* Vol. 2 (2002): 463-482. ISBN 84-95747-23-5.
[329] De Andrés Sanz, "El golpe," 470. My Translation.
[330] Cavallaro, *La Spagna*, 174. My Translation.
[331] Cavallaro, *La Spagna*, 177.
[332] Tardivo, "Felipe González y el caso de los GAL," 128. My Translation.
[333] José Amedo Fouce, *Cal viva. Un relato estremecedor: la verdad definitiva desde las entrañas de los GAL* [Quicklime. A shocking story: the definitive truth from the depths of the GAL] (La Esgera de Los Libros, 2013) 80.

Interior issued the Plan *Zona Especial Norte* (North Special Zone, ZEN) with the declared aim of strengthening "the fight against terrorism in all fields: political, social, legal, and police related." [334] The plan aimed to organise better cooperation among the various security bodies and to demonstrate "that the dismantling of the terrorist apparatus leads to greater public safety and better protection of Basque traditions." [335]

To this day, two explanations can be given as to why members of Spanish institutions and leaders of the Socialist Party embarked on the path of state violence. The first, as mentioned, can be drafted around a more immediate political calculation and the belief that the electoral victory provided a carte blanche. [336] The second was still a political calculation, but a far more complex one, directed towards cross-border relations with a country with which Spain had had complicated relations in previous years. To understand this explanation, one must therefore examine relations between Spain and France in the fight against terrorism.

It is worth making a preliminary remark: from the very beginning of ETA's activities in 1959, the organisation established bases in France, "which allowed it to plan and execute the logistics for all the attacks that would target the territory of the Spanish Basque Country and Spain in general." [337] Thanks to this permanent presence, France began to be referred to as ETA's sanctuary: it was here that the group held its first meetings, it was here that weapons were hidden, and in fact, in thirty years, there were only two fatal incidents in which the victims were Spanish – and one of the two was never claimed. [338]

In the attempt to eradicate the organisation, consecutive Spanish governments, including Franco's, sought to obtain the support of Paris in the fight against subversion. However, the Élysée resisted, "maintaining an official position in which it considered that everything relating to the terrorist group ETA specifically concerned an issue of Spanish domestic security and did not require French intervention for its solution." [339] In 1982, relations between Paris and Madrid were at one of their lowest points since Franco's death. At the same time, however, in the early 1980s, a distinct political conjuncture arose which partially unlocked the situation. In December 1982, the PSOE won the elections, and in May 1981, Mitterrand, with "the Socialist Party, obtained an absolute majority: 51.75% of the votes." [340] Diplomatic tensions also extended to issues beyond terrorism, and the personalities of the leaders had already shown some friction.

The objective of the Spanish government was to induce France to collaborate by using the GAL to highlight more intensely the terrorist threat on French territory. In the CIA report, the Agency

[334] Ministry of Interior, *Plan Z.E.N. (Zona Especial Norte)*, Direction for the Security of the State, February 1983, Preamble, https://borrokagaraia.wordpress.com/wp-content/uploads/2013/08/plan_zen.pdf.
[335] Ministry of Interior, *Plan Z.E.N.,* Preamble.
[336] Eduardo González Calleja, *Asalto al poder: La violencia política organizada y las ciencias sociales* [Assault on power: Organized political violence and the social sciences] (Siglo XXI, 2017) 32.
[337] Juan Diego Herrera Echeverri, "Cooperación Franco- Española frente al terrorismo de ETA Durante los Gobiernos de José Luis Rodríguez Zapatero, Jaques Chirac y Nicolas Sarkozy" [Franco-Spanish Cooperation against ETA terrorism during the governments of Jose Luis Rodriguez Zapatero, Jaques Chirac and Nicolas Sarkozy] (Universidad Colegio Mayor de Nuestra Señora del Rosario, 2019) 11-12. My Translation.
[338] Herrera Echeverri, "Cooperación Franco- Española," 12-13.
[339] Herrera Echeverri, "Cooperación Franco- Española," 21. My Translation.
[340] Morán Blanco, "La cooperación hispano-francesa," 232. My Translation.

described the emergence of the GAL "and its impact on French attitudes toward ETA […] the most important developments regarding Basque terrorism since the Socialist government came to power."[341] The short-term aim of the GAL was "an effect similar to, although opposite from, that pursued by ETA," namely, the attempt to create chaos within the opposing force. [342]

When the GAL operations began in 1983, the foreign ministries of the two countries initiated a diplomatic rapprochement: "meetings were institutionalised, known as 'Interministerial Seminars', and it was decided that in these biannual meetings of ministerial representatives from each government, disputes and frictions that might arise would be analysed and resolved." [343] During the same period, the Spanish government developed a three-stage plan for the social reintegration of ETA members who renounced armed struggle. In the first stage, Basque exiles without convictions would be readmitted; in the second stage, with the authorisation of the Audiencia Nacional, the return of those under investigation for non-blood crimes would be facilitated; and finally, the relocation to third countries of those responsible for murders and blood crimes would be permitted. [344]

The first French raid, although small in scale and targeting minor figures within the organisation, took place at the end of February 1983. Nevertheless, in a meeting between the French Minister of the Interior, Gaston Defferre, and the Spanish Minister of the Interior, Barrionuevo, in April 1983, the French minister downplayed Barrionuevo's requests for greater cooperation, dismissing a list of ETA members hiding in France as mere old propaganda. On 4 November 1983, after yet another denial of the presence of terrorists in France, "King Juan Carlos paid an official visit to Paris to meet François Mitterrand. At the Élysée dinner, […] the Spanish Head of State emphasised his country's discontent with France's insufficient cooperation against terrorism." [345]

Precisely in those days – on 3 November to be exact – it appears that during a dinner, Prime Minister González allegedly declared "in anger that terrorists had to be crushed with their own hands: those of terrorism itself." [346] However, there is no evidence that he ever issued official instructions to Barrionuevo or to CESID.

The operations that led to 27 deaths on French territory succeeded in demonstrating to the Paris authorities that Basque terrorism concerned them as well. The key factor that pushed the French government to change course was public perception, since "the Spanish Basque refugees who […] had lived in good harmony with the French population were now perceived as a source of disturbance." [347]

Already in 1984, a shift in direction could be observed, with the French Ministry of the Interior asking whether Spain preferred house arrest in France or relocation to a third country. From that moment

[341] Central Intelligence Agency, Spain: Basque Terrorism and Government Response (Washington D.C.: Central Intelligence Agency, November 1, 1984), 10 , https://www.cia.gov/readingroom/document/cia-rdp85s00316r000300110004-3.
[342] Tardivo, "Felipe González y el caso de los GAL," 125. My Translation.
[343] Tardivo, "Felipe González y el caso de los GAL," 249. My Translation.
[344] Tardivo, "Felipe González y el caso de los GAL," 243-244.
[345] Tardivo, "Felipe González y el caso de los GAL," 256. My Translation.
[346] Pilar Cernuda, *El presidente* [The President] (Temas de Hoy, 1994) 29. My Translation.
[347] Paul Masson, "Report n.322," *French Senate*, May17, 1984, 67-68, https://www.senat.fr/rap/r83-322/r83-3221.pdf. My Translation.

onwards, cooperation was based on intelligence sharing, with Spain negotiating with Central American countries to exile the arrested terrorists there. [348] Throughout 1984, such operations continued, and on 14 June 1984, with the signing of the *Acuerdos de la Castellana* (Castellana Agreements) between Defferre and Barrionuevo, a turning point in cooperation was reached. The agreement provided for increased collaboration and, as early as September, extraditions began. [349] The year 1985 was an enduring one, in which proceedings continued as in 1984 with extraditions, exile to third countries, or internal relocation within French territory. In 1986, with a cohabitation government in France, Paris decided that the most effective and efficient solution was the expulsion of ETA members. Criticism, in addition to that voiced by those directly affected by these measures, came from the PNV, which considered them an additional complication in the reconciliation process.

The latest innovation decided by the Spanish government in collaboration with the Parliament in 1987, was 'the dispersion of prisoners,' meaning the displacement of the terrorist leaders in different prisons to avoid communications and reorganisation.

The analysis of the executive and legislative branches demonstrates how the new democratic form of the State was intended to be founded on a model of Government with a strong executive, while Parliament remained a guarantor in the legislative process and for the political legitimacy of the Government. The Constitution grants the Prime Minister wide-ranging powers in the appointment and dismissal of ministers, the dissolution of the chambers, and, above all, protects him by introducing the requirement of constructive no-confidence. At the same time, Article 55 of the Constitution provides for the possibility of partial suspension of certain rights for those who join armed gangs and terrorist organisations, opening the door for Parliament to enact exceptional or emergency legislation.

The UCD government, led by Adolfo Suárez, embodied the initial phase of this strategy. Despite the first legislative measures, the response remained limited, both due to political choices and to the internal fractures within the coalition, which had been created to lead the country to democracy but without a clear political vision. Suárez's priority was to preserve the stability of the transition, thereby sacrificing the possibility of developing a more incisive counter-terrorism policy.

With the arrival of Felipe González's PSOE in 1982, the management of the phenomenon changed profoundly. With an absolute majority in Parliament and across the country, the new executive introduced Organic Law 9/1984 and other reforms of the Criminal Code, expanding criminal offences and police powers. In addition, Organic Law 4/1988 on Citizen Security made public order controls more stringent. The Socialist Government sought to act on several levels, introducing the ZEN Plan in 1983, which intervened regionally on culture and public perception of political violence. However, alongside this legal strategy, there emerged a response that dangerously stepped outside the boundaries of legality. The Grupos Antiterroristas de Liberación (GAL), responsible for serious human rights violations and for what has been described as "state terrorism," undermined the credibility of the institutions. Officials of the Ministry of the Interior and Socialist leaders covered up

[348] Tardivo, "Felipe González y el caso de los GAL," 273.
[349] Andrés Lara, "1984: Francia empieza a colaborar con España en la lucha contra ETA," [1984: France starts to cooperate with Spain in the struggle against ETA] *Economist & Jurist*, December 5, 2021, accessed September 1, 2025, https://www.economistjurist.es/articulos-juridicos-destacados/1984-francia-empieza-a-colaborar-con-espana-en-la-lucha-contra-eta/.

their actions for political purposes and to obtain French cooperation in the long run. However, in the short term, they weakened the State by strengthening the organisation. ETA was almost perceived as a victim by the more tolerant sections of the population.

Parliament played a crucial role not only as a legislative body but also as a forum for debate and oversight. While the majorities (UCD and later PSOE) defended the laws as indispensable instruments for democratic defence, the Basque and Catalan nationalist parties denounced their disproportionality and risk of abuse, in particular the extension of *detención incomunicada*.

Finally, the international dimension contributed to redefining the counter-terrorism response. France long considered ETA's "sanctuary," shifted from a position of neutrality to one of growing cooperation, formalised with the Acuerdos de la Castellana and consolidated through extraditions and exiles in the following years. This evolution, also a result of the pressure exerted by the illegal activities of the GAL, demonstrates how the combined action of the executive and Parliament was intertwined with foreign policy and bilateral relations. The executive dominated the scene with wide-ranging powers and often controversial initiatives, but Parliament retained an indispensable role in legitimising, contesting, and monitoring such measures.

Case Assessment

The core question of this first chapter attempts to understand how the Spanish State dealt with the threat of terrorism posed by the ETA group. The previous pages analysed four key institutions that confronted terrorism in Spain. Besides a technical description of the structure of the judiciary, law enforcement agencies, secret services, and the government and parliament, the focus has been on operational methods. What emerges is a collective and multidimensional response, rooted in the specificities of the 1978 constitutional architecture, yet marked at the same time by shortcomings, whose weight on the collective action must be evaluated.

The Spanish trajectory can be read in stages, each corresponding to a different phase. The initial phase was of institutional adaptation. After Franco's death, the Tribunal de Orden Público was abolished and jurisdiction over terrorism was centralised in the Audiencia Nacional and the Juzgados Centrales. The objective of this institutional reform was to provide investigative and judicial unity to a phenomenon previously fragmented between ordinary and military jurisdictions.

The second phase was the institutionalisation of exception. Through a constantly evolving body of legislation and the use of constitutional provisions, a balance was conceived between effectiveness and safeguards, which, though exceptional in nature, remained regulated and within the constitutional framework. Moreover, in 1987, the Constitutional Court intervened to amend certain Organic Laws that risked creating excessive imbalances partially.

The third phase was that of operational professionalisation. Special intervention forces such as GEO, UEI/GAR, and TEDAX were developed, and, in accordance with the Constitution, the Basque autonomous police force, the Ertzaintza, was created. In addition, investigative techniques were centralised and improved, and a political rapprochement with France was pursued to combat the threat more effectively. Throughout these three phases, the intelligence services also evolved, beginning

their process of adaptation to the new democratic framework. They moved from a role as political police under the regime to that of a comprehensive information service, albeit without being subject to robust parliamentary oversight.

Nevertheless, Spain's response to ETA terrorism cannot be understood as the mere sum of legislative reforms, police operations, or diplomatic initiatives. Rather, it reflects the tensions that traversed the young democracy, which was compelled to forge its institutions while confronting a threat that directly questioned its legitimacy. The struggle against ETA, far from being a limited issue of public order, constituted a true laboratory for redefining the relationship between security and rights, as well as between the centrality of the State and the recognition of autonomies.

The Spanish response relied on two pillars: the research of internal legitimacy and the research of political and international legitimacy. In the first case, the State attempted to reorganise after the dictatorship to regain the trust of the population. In this attempt, the jurisdiction over terrorism was centralised, the legislation attempted to maintain the balance between exceptions and guarantees with the guidance of the Constitutional Court and the police forces were slowly democratised and reformed.

The centralisation in the Audiencia Nacional ensured investigative consistency, procedural speed, and international credibility, despite concerns regarding the concentration of such power in a single institution. On the one hand, the break with the past demonstrated the will to entrust justice to impartial and civilian courts; on the other, numerous critics argued that a special tribunal on terrorism amounted to nothing more than the institutionalisation of an emergency mechanism. Spanish legislation attempted to create normative frameworks that, while respecting constitutional guarantees, provided effective tools to the bodies engaged in counterterrorism. In this respect, the interaction with the Constitutional Court was fundamental, since the Organic Law 9/1984 granted very broad powers to the police, undermining the separation of powers and the role of the judge as an impartial guarantor. Judgment 199/1987 represented a critical decision, reaffirming the role of the judge and limiting the risk of abuses by law enforcement.

On the operational level, the Spanish State did its utmost to improve the resources available to the security forces. However, the lack of effective prevention of attacks and difficulties in coordination with the population – as exemplified by the Hipercor case – demonstrated that, during the 1970s and 1980s, the path ahead was still long and complex, since ETA was only dismantled in the 2000s. Moreover, unlike the judiciary or the Parliament, there was no renewal of personnel, resulting in continuity with the past and allowing the repetition of errors and practices at the limits of legality.

Thus, the State managed to partially legitimise itself domestically, above all thanks to judges who applied the law with rigour and investigated those components of the State that crossed the boundaries of legality – particularly in the 1990s, during inquiries into the actions of the GAL. Nevertheless, criticisms persisted regarding exceptional legislation considered excessively vague, with the risk of encompassing not only actual terrorists but also political dissidents. Furthermore, police operations carried out without judicial authorisation and certain cases of mistreatment of detainees undermined the State's internal image.

With regard to the second pillar, the operations of the GAL, which delegitimised the State in the eyes of Spanish and international civil society, nevertheless proved to be a strategic success for the objectives pursued by the González government. The French government and the population living along the border could no longer ignore the presence of Basque terrorists who were using France as a logistical base for their operations. Moreover, the political stability of the Spanish government demonstrated to the entire European landscape that Spain had moved beyond dictatorship, and in 1986 Madrid entered the European Economic Community. The operations of the GAL were only successful in the short term, between 1983 and 1987. Once investigations revealed the political dimension of these operations, Spain came under harsh criticism from multiple fronts, including the United Nations. The case of the GAL inevitably raises the debate between the rule of law and *raison d'État*, a debate that a young democracy such as Spain in the 1980s was unable to manage successfully, partly due to lingering attachments to the previous regime. Even in 1993, González himself made strong statements, suggesting after the killing of seven soldiers that an operation should be organised to bring together ETA leaders and blow them up. [350]

Despite these illegal operations, Spain secured French support in a struggle that structurally required Paris's involvement, given the existence of the French sanctuary. Indeed, this sanctuary rendered bilateral cooperation with France an essential component of Spain's counterterrorism strategy. The gradual transformation of the French position – culminating in the Acuerdos de la Castellana of 1984 and the first extraditions – was not the result of a mere diplomatic shift but rather the outcome of multiple pressures: ETA's actions, the violence of the GAL, the activism of the Spanish judiciary in presenting more solid dossiers, and the direct involvement of the King and the government.

To the question of whether Spain respected the Constitution in its fight against terrorism, the answer cannot be an absolute yes or no because certain element were clear violation of the Constitution and the rule of law. These elements, considered legitimate by some members of the institution, are one of the reasons why the struggle against ETA lasted over 50 years, officially until 2018. The indiscriminate killing of members of ETA and innocent civilians made the member of the organisation martyrs in the eyes of some portion of the population, making the State's struggle even more complex and difficult. The Constitution gave a political response to the problem of the Basque independence but in the following years the Spanish State could not cultivate its relationship with the more moderate section of Basque people, missing an opportunity to isolate ETA. The organisation was successful because of an extensive network of external supports which provided support to the armed struggle. Despite the critics, the sentences and the high price paid in terms of legitimacy, the Spanish democracy remained stable and survived the challenge of ETA.

[350] Jesús Duva, "Bono: 'Felipe González tuvo la tentación de matar a la cúpula de ETA en 1993'," ["Bono: 'Felipe González was tempted to kill the ETA leadership in 1993'] *El Pais*, September 22, 2012, accessed September 1, 2025, https://elpais.com/politica/2012/09/22/actualidad/1348303876_795557.html.

Conclusion

The starting point for this work was an attempt to answer a central yet complex question; how do democracies react to domestic terrorism, and to what extent are they able to balance the imperative of security with the safeguarding of constitutional principles. The reflection starts from the assumption that political violence represents a threat not only to public order and the lives of citizens, but also to the very legitimacy of democratic institutions. For this very reason, the analysis of the State's response to domestic terrorism cannot be reduced to a simple list of repressive measures or a catalogue of legislative acts. Instead, it must question the political and legal significance of these choices, assessing whether they have strengthened or undermined the foundations of the rule of law.

The main objective of the thesis was therefore to investigate, through a comparative perspective, the response models implemented by two European democracies in the 1970s and 1980s, Italy and Spain, which were confronted with two different forms of domestic terrorism: on the one hand, the Brigate Rosse, an expression of a revolutionary Marxist-Leninist ideological project; on the other, Euskadi Ta Askatasuna, a movement that combined aspirations for independence with a strategy of armed struggle. The choice of these two cases is not accidental, as they have a dual comparative value: on the one hand, the simultaneity of the threat, which allows for a parallel analysis; on the other, the diversity of their respective institutional contexts, with Italy already established as a parliamentary Republic and Spain engaged in a delicate transition from dictatorship to democracy.

The development of the thesis was guided by the need to develop chapters that could provide fundamental elements for comparative analysis. For this reason, it was necessary to present the main methods of countering terrorism implemented by the two states under analysis. Secondly, the author presented in a structured manner the legislative, judicial and institutional instruments adopted, examining their effects on the protection of citizens' fundamental freedoms. Following these illustrations, the key elements of the two cases were identified, and this concluding section will highlight common elements and significant differences in response strategies. Finally, as briefly mentioned in the introduction to this work, it will attempt to identify constants that can offer useful lessons for contemporary democracies, which are once again confronted with phenomena of political polarisation and violent radicalisation.

These points have been the guiding thread of the research, guiding the selection of sources and the construction of the analysis. They therefore constitute the key to interpreting the results that have emerged, which are now recalled and discussed.

All historical and political research requires a clear methodological framework. In this thesis, the choice was a comparative-historical analysis, supplemented by a legal-political analysis. The core idea is that, to understand the reaction of democracies to domestic terrorism, it is not enough to reconstruct the facts; it is also necessary to analyse the institutional mechanisms that guided decisions, laws and administrative practices. The historical perspective allows events to be placed in their context, avoiding isolated or outdated interpretations. In the Italian and Spanish cases, the period of analysis coincides with a phase of democratic consolidation. Studying these events through a historical lens allows to grasp the tensions and continuities that accompanied the evolution of institutions.

The comparative method, on the other hand, has made it possible to observe similarities and differences between two cases which, despite having similar characteristics, have followed different trajectories. Italy, with an already established but fragile democracy, chose instruments that strengthened coordination between the judiciary and law enforcement agencies. Spain, immersed in a delicate transition, opted for more centralised management and special laws.

Only by comparing the two countries is it possible to distinguish between what is the result of the national context and what represents a structural choice specific to Western democracies. From the point of view of sources, the research combined materials of different sorts. Laws, parliamentary acts and case law provided the legal basis on which to assess the measures adopted. Administrative documents supplemented these documents, and parliamentary committee reports, and direct testimonies reflect the political and social context of the time. Finally, historiographical and legal literature provided critical and interpretative insights, allowing the primary data to be placed within a broader analytical framework.

An important element of the methodology was the use of comparison even within individual cases. In the chapters, the analysis was divided by institution to assess the specific contribution of each actor and the interactions between them. This choice made it possible to reconstruct the internal dynamics more clearly and paved the way for the final comparative synthesis.

In the Italian case, the trajectory that emerges is not that of a state of emergency, but of a regulated exception. The key choice was to maintain ordinary jurisdiction: no special courts, no general suspension of rights. Justice changed from within. Investigating prosecutors in Turin and the north of Italy organised themselves into pools, without any orders from above. This point is legally relevant: self-organisation, within the constitutional powers of the judiciary, has produced specialisation and coordination without derogating from the principles of due process. No extraordinary court was created; a method was created. These are administrative choices, therefore fully compatible with the Constitution itself; the issue is the use of the tools. The use of infiltrators has raised ethical and legal objections, but in the Italian context, it has operated within a circuit of judicial control: when infiltration became a means of evidence or guides operations, the final decision rested with the prosecutor. It follows that the tool was not in itself contrary to the Constitution: it became illegitimate if used without scrutiny or in place of guarantees. The point here is that balance has been sought on a case-by-case basis, not entrusted to automatisms. However, these internal innovations within the judicial and investigative system were not sufficient to tackle a phenomenon that was rapidly growing in intensity and radicalism. Public pressure and the need to provide law enforcement agencies with more effective tools prompted Parliament and the government to take legislative action. It was in this context that the so-called “Reale Law” of 1975 was developed, representing an attempt to translate the need for efficiency and speed, already tested in the field, into general legislation. Many jurists considered it to be on the verge of constitutional compatibility; part of the judiciary denounced the risk of an imbalance in favour of the executive. However, two facts weigh heavily in the constitutional assessment: first, the Constitutional Court did not reverse it, choosing instead to monitor individual profiles and supervise its application; secondly, the 1978 referendum, with 76.5 per cent of votes in favour of maintaining the law, provided direct democratic legitimacy to a discipline perceived as harsh. The popular approval is not a free pass for all abuses; it makes it clear that the legal system has

chosen to manage the emergency while remaining within the formal law, reinforced by a popular pronouncement.

The 1978 decree and the rules on rewards for repentant and collaborators opened another front. Criticism focused on the reliability of those who offered information in exchange for a reduced sentence. The constitutional issue is different: the principle of equality and the rehabilitative function of punishment allow for differentiated treatment if justified and controlled. In Italy, the reduction was not automatic: it was proposed by the investigating judge and the public prosecutor, after verifying the usefulness and sincerity of the collaboration. Here, too, therefore, it was not an exception free from constraints, but an exception mediated by the judge. This is what made it possible to dismantle clandestine networks without creating a precedent of negotiated justice outside the trial.

The 1977 reform of the intelligence services – the split of the SID into SISMI and SISDE – and the reorganisation of the public security administration in 1981 had an impact on democratic accountability: the focus shifted from the ambiguity of the "political police" to a more coordinated intelligence-police system that was more accountable to transparent chains of command. Here, the Constitution is not put under strain: on the contrary, the aim is to bring sensitive apparatus into line with the principle of legality. However, the general line did not deviate: no state of emergency, no suspension of the Constitution. The victory against the Brigate Rosse came through accumulation: operational professionalisation, calibrated use of reward incentives, investigative skills, and an implicit political pact between major forces not to trade legality for shortcuts of force.

The combination of these elements led to three consequences. First, the decision not to create special jurisdictions preserved the legitimacy of the convictions. Second, the use of tough but regulated measures, with judicial oversight and referendum legitimacy, reduced the perceived democratic cost. Thirdly, cooperation between the judiciary and the police has transformed the exception from an event into a procedure, i.e. a repeatable method within rules. The line is fine but recognisable: defending democracy without excessively restricting guarantees is an unstable and constantly contested balance. However, on a constitutional level, the Italian response remained on track: exception yes, but regulated, reviewable and reversible.

In Spain, the dynamics were different. Democracy was born while the threat was already present. The first choice was to abolish the Tribunal de Orden Público and concentrate jurisdiction over terrorism in the Audiencia Nacional and the Juzgados Centrales. It was a break with the authoritarian past, but also a gamble: to create a strong judicial centre, with rapid proceedings and uniform interpretation. The question of constitutionality arises regarding the prohibition of special courts. Formally, the Audiencia is part of the ordinary judicial system, so it is not an exception in the technical sense prohibited by the Constitution. Nevertheless, the criticism that described it as a special court highlighted a real risk: concentrating terrorism cases in a single forum centralises power and can normalise emergency practices. In strict terms, the choice was compatible with the Constitution; in substantive terms, however, it shifted the centre of gravity of jurisdiction.

The second pillar was legislative. The organic laws passed in the 1980s created a regulatory framework that expanded investigative powers and timeframes for action. Here, the constitutional corrective was decisive: the 1987 ruling redrew the boundaries, limiting the police's discretion and

re-establishing the role of the judge as guarantor. The Constitutional Court's decision was a strong signal: the system recognised that it had crossed sensitive thresholds and brought the exception back under constitutional control. Unlike Italy, where legitimacy has also been passed by popular vote, in Spain, re-legitimisation was primarily achieved through constitutional courts. The difference is important: it changes the origin of perceived legality.

The third pillar was operational. Special units were formed (GEO, UEI/GAR, TEDAX), the Ertzaintza was established in accordance with the Constitution, and procedures and chains of command were strengthened. The design was constitutionally legitimate; the crux of the matter concerns the effectiveness and culture of the forces. The continuity of personnel with respect to the past, the initial absence of robust parliamentary control over the services, and practices bordering on illegality have eroded confidence in segments of public opinion. The Hipercor case was eloquent: organisational modernisation did not eliminate the deficits in prevention and the distance from Basque society. Here, the Constitution was not violated in the abstract; it was practice that deviated from it, generating mistrust. The judicial outcomes of the 1990s made this clear. In the short term, these actions had a strategic effect: they removed the aura of impunity from the French border, helping to push Paris towards cooperation, agreements and extraditions. However, the cost was high: democracy contradicted its own principles, giving ETA a propaganda argument and, in part, new reasons for recruitment. It is a classic lesson: reasons of State may pay off in the short term, but in the medium term, they undermine legitimacy and prolong the conflict. For this reason, the Spanish response can be defined as an institutionalised exception: special rules, a centralised court, a strong role for the police and intelligence services, corrected over time by constitutional jurisprudence, but with incursions outside the law (GAL) and a struggle to transform force into consensus. Democracy, despite everything, holds up: judges prosecute excesses, Parliament legislates, international cooperation grows, and in the long run, ETA fades away. However, the duration of the conflict and the price in terms of internal and external image are higher.

The comparison between the Italian and Spanish cases shows that the difference in threat level matters. The Brigate Rosse wanted to overthrow the State and did not have the same territorial roots as ETA. Italian terrorism was ideological, urban and directed against symbolic figures; Spanish terrorism was territorial, with a denser social base, capable of drawing strength from local identities and networks. This contextual factor led to different institutional choices: Italy relied on reinforced ordinary measures, while Spain sought a judicial and regulatory centre to oversee exceptions and speed up action. Two Italian decisions have had significant constitutional and political effects: not to create special courts and to entrust the backbone of the fight to judicial-police cooperation; to establish tough rules, but subject to judicial control and referendums. In essence, the exception has been governed from within the ordinary institutions. The result is a more solid legitimacy of convictions and a more rapid erosion of the operational capacity of the Brigate Rosse.

In Spain, the centralisation of the Audiencia gave unity and international credibility to the proceedings but fuelled the idea of special justice. The Constitutional Court acted as a brake, restoring balance when organic laws expanded police powers too far. Control was there, but it came as a downstream correction. The initial absence of strong parliamentary control over the services and the continuity of personnel left room for practices that were far from the rule of law. Extra-legal operations damaged legitimacy more than they helped operationally in the long run. In both cases, there was no suspension

of the Constitution, but the distance from the core of rights varied: in Italy, judicial control and the decision not to create special courts have limited the erosion of guarantees; in Spain, the combination of centralisation, special rules and extra-legal practices has generated greater tensions, which have only been partially reabsorbed.

The democratic effects follow. In Italy, the response has, over time, consolidated confidence in the idea that the State could win without betraying itself. Even controversial measures – the Reale law, repentant – have been absorbed into circuits of legitimisation (the Court, referendums, judicial decisions). In Spain, institutional stability was preserved, but at the cost of a more bitter debate on the legality of the means and a much longer conflict. Where action exceeded the limits, it created a trail of delegitimization that took years to be reabsorbed by the legal system.

Finally, there is a general lesson that applies beyond these two cases. Democracies can deal with internal terrorism with exceptional measures. However, the difference lies in *how*: if the exception remains regulated, reviewable and part of the ordinary, it tends to strengthen legitimacy and erode social support for armed groups; if the exception becomes the norm, or worse, slips into extra legality, it produces immediate results but opens wounds of trust and provides narrative fuel to opponents. Italy demonstrates that the judicial route, accompanied by organisational reforms and strict but controlled legislation, can end a cycle of terrorism without tearing apart the Constitution. Spain shows that a young democracy can hold up even when it stumbles, but it will pay in legitimacy and time. In Italy, the State has pursued it with a regulated exception, centred on the ordinary and legitimised by controls and consensus; in Spain, the State has pursued it by institutionalising the exception, then relying on the Constitutional Court to bring it back within the margins and, in some cases, exceeding them with practices that the same jurisdiction subsequently sanctioned. The repercussions are consistent with these choices: the speed of the Italian closure and the relatively low democratic cost on the one hand; the longer duration of the Spanish conflict and a heavier toll in terms of legitimacy on the other.

These conclusions, defended by the author, are not intended to absolve or accuse, but to measure. They indicate that the sustainability of the fight against internal terrorism, for a democracy, depends less on the nominal harshness of the instruments and more on the architecture of controls, the consistency between means and ends, and the ability to maintain the constitutional line even when it is most difficult.

A comparative analysis of the Italian and Spanish experiences highlights some broader implications that exceed the two national contexts and concern the ability of democracies to address internal threats without renouncing their constitutional identity. The difference between the Italian “regulated exception” and the Spanish “institutionalised exception” is not merely a legal distinction: it has concrete effects on the duration of the conflict, institutional cohesion and the degree of trust accorded to public authorities. In Italy, the decision to keep the ordinary courts at the centre, albeit with controversial instruments that sometimes bordered on constitutional compatibility, made it possible to anchor extraordinary measures within a framework of legality that could be challenged and controlled. In Spain, on the contrary, the creation of special courts and the adoption of expansive organic laws, although subsequently corrected by the Constitutional Court, gave rise to a system that appeared at times exceptional by definition, exposing the young democracy to greater costs of

legitimacy. This structural difference is reflected in the long-term consequences: while Italy was able to bring the era of red terrorism to an end in the 1980s, Spain had to deal with a long tail that lasted until 2018.

Three lessons emerge from this comparison. First, the management of exceptions must be built to stand the test of time: special instruments are inevitable, but their inclusion in controlled procedures reduces the risk of abuse and allows for a quicker return to normality. Secondly, the legitimacy of measures is not a neutral asset, but depends on multiple sources: in Italy, it was based not only on judicial control, but also on a popular pronouncement through the 1978 referendum; in Spain, on the other hand, the burden fell almost exclusively on the Court, while extra-legal episodes such as the GAL undermined the credibility of the state. Finally, the nature of the threat matters: ideological terrorism lends itself to judicial management strategies, while territorial terrorism requires a parallel commitment on the political and social level; otherwise, consensus will take root, and it will be difficult to isolate armed groups.

This perspective also allows to evaluate the scientific contributions offered by this work. The focus has shifted from the terrorist organisation to the State, viewed not as a monolithic entity but as a set of institutions with constraints, interests and operational routines. This change in the unit of analysis allows us to identify the causal mechanisms within the public sector and to understand how they have affected both the effectiveness and legitimacy of the response. A further contribution is the typology developed between "regulated exception" and "institutionalised exception," which not only classifies the Italian and Spanish cases but also proposes analytical categories useful for ordering other European phenomena, such as the British experience with the IRA or the German experience with the RAF. Furthermore, the thesis integrates different levels – constitutional, institutional and operational – and reconstructs them through a combined use of legislative, jurisprudential and parliamentary sources and testimonies, thus providing an interpretation that captures both formal and substantive legitimacy. Finally, the comparison reveals generalisable hypotheses, such as the link between the degree of embedding of exceptional measures and reputational cost, or the correlation between the territorial basis of the threat and the need for integration policies parallel to repression.

However, like any comparative research, this thesis also has limitations that the author acknowledges. The choice to focus on the period between the late 1970s and early 1980s, while consistent with the objective of the thesis, leaves out the long continuation of the Spanish conflict and subsequent Italian developments in security and intelligence. Furthermore, although the sources used are rich in legal and institutional terms, they do not always allow for the systematic measurement of variables such as public perception of legitimacy or the concrete effectiveness of individual measures. The absence of a structured quantitative basis reduces the possibility of corroborating qualitative inferences with numerical data, even if this choice was deliberate to prioritise the analysis of mechanisms. Furthermore, it remains difficult to isolate the specific effect of institutions from that of exogenous factors: international pressures, economic dynamics or social changes. These limitations do not weaken the results achieved, but they do limit their scope and indicate avenues for future research.

In conclusion, this comparative analysis shows that democratic resilience is not a static attribute, but the result of a continuous process of negotiation between constitutional principles and operational needs. Italy demonstrates that it is possible to deal with an armed threat without suspending

fundamental rights, provided that the exception is regulated and incorporated into ordinary law. Spain reminds us that when the exception becomes the norm or slips into extra legality, the price to pay in terms of time and legitimacy is high. However, both cases converge on one point: a democracy can only survive terrorism if it manages not to lose its legal form, maintaining an unstable but vital balance between security and freedom.

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