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## **Governing decentralised States during the Covid-19 pandemic: challenges of intergovernmental coordination and cooperation in Chile, Italy, and the Netherlands**

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## Chapter 5: Decentralisation and intergovernmental relations in the Netherlands during the Covid-19 pandemic<sup>126</sup>

### Summary of the Chapter

Within the increasing interest on intergovernmental relations (IGR) in different types of political systems, including non-federal or decentralized States, there is growing awareness of the advantages of emphasizing the “in-flux” nature of IGR as well as concerns regarding the adequate balance between effectiveness and democracy in multilevel arrangements. This chapter addresses the challenges intergovernmental relations poses to constitutional democracy, by analysing the Netherlands approach at governing the Covid-19 pandemic response. It focuses on the operation of the Security Regions (SR), particularly the strengthening of the municipal and regional executives, at the expenses of representative and deliberative institutions, particularly the local councils. In addition, it stresses the lack of accountability mechanisms and the prominent role of the so-called “Safety Council”, which could have a significant impact on regionalization and IGR in the Netherlands, as well as on intergovernmental relations beyond the scope of the Covid-19 pandemic.

In terms of addressing the challenges for public law that this governance structure creates, some reports have called for a stronger and more formalized position of the Safety Council. However, without an adequate and clear legal framework, this institution predominantly designed for organizational coordination and horizontal cooperation can lead to many challenges from the point of view of democratic multilevel constitutionalism, not least of all the fact that the central government adopted a dominant position within the actual functioning of this organization during the Covid-19 pandemic. Yet, on the other hand, the formalization of existing governance practices, much proved to be effective for the relatively and comparatively successful management of the epidemiological crisis, might impact the need for rapid responses in crisis management.

Overall, two contributions can be learned from the Dutch experience. First, the change in balance within subnational institutions, with the executives at local and at the regional level now adopting a larger and stronger role, and the city councils less involved in determining policies as should be according to the constitutional distribution of powers, and with limited real accountability practices. Second, the transfer of powers from local municipalities to safety regions, hence affecting the position of the provinces on the territorial architecture of the State, and from regions to the Security Council, through the extensive and prolonged application of

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<sup>126</sup> Paper citation: “Intergovernmental relations and crisis governance in non-federal countries. Reflections on the Dutch case”, accepted by peer review process at a Scopus journal, pending author’s corrections. The abstract, summary, and keyword of that paper have been omitted from this chapter.

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the SR, thus altering the normal allocation of powers and competences, and the traditional channels for intergovernmental relations. If this trend were to continue in the future, with central government aim at a sort of permanent rhetoric of crisis, it could mark a departure on the way intergovernmental relations have been conducted in the Netherlands and might open, once again, discussions about the territorial political and administrative structure, and the adequate balance between central coordination and territorial autonomy.

## **Introduction**

Over the course of history, democracies have survived many crises while also having an inherent tendency to handle in the heat of the moment, from one crisis to another, and only to display their strengths over time. This gives democracy stability and confidence but, at the same time, introduces a possible trap, since people can forget the critical moments and start believing in a certain “end of history”. This could lead to new crises that can prove too big to escape (Runciman, 2015, p. 318-26).

It appears that the history of democracy, as the Covid-19 pandemic shows, is full of setbacks and small advances followed by profound, poly, and even perma crises, and it is seldom easy to know how to steer democratic societies to adequately weather these storms. Hence, it is critical to learn the right lessons from each crisis to continue the never-ending process of renewing and strengthening the democratic system. This paper moves forward in that objective, by studying the relationship between the different levels of government in the Netherlands during the management of the Covid-19 pandemic, focusing on the decentralisation and centralisation challenges, accountability deficits, and the issues concerning the so-called Safety Council (SC) created by the Dutch public administration, and what general lessons can be learned about intergovernmental relations in non-federal countries.

A first departing point is recalling the traditional literature on crisis management, which disregarded or downplayed the role of the government in these scenarios (Quarantelli, 1978). Yet, more contemporary studies have made much clearer the crucial role—for better or worse—that the governmental dimension plays, and particularly intergovernmental relations (IGR) and intergovernmental management (Rosenthal, 't Hart & Kouzmin, 1991). On the other hand, from the perspective of public administration studies, decentralisation is said to speed decision-making and therefore increase efficiency. At the same time, pluriform governance structures are said to be better than uniform ones because contingencies and contexts vary, while also encouraging local innovation (Pollitt, 2007, 377-8), an argument logically connected to dealing with crises and emergencies.

This paper will begin by providing a framework related (IGR). Afterward, it will explain and analyse the Dutch territorial governance system during the Covid-19 pandemic, with an emphasis on IGR. Finally, it will present comparative and concluding observations.

## 1. IGR in non-federal countries

The increasing demands placed to all types of political and administrative structures, particularly because of joint programs, shared financial schemes between organizations, and financial transfers, explains the raising interest for research about IGR. (Hueglin & Fenna, 2015). In this context, countries not defined as unitary in their Constitutions but embodying different forms and degrees of regionalism, such as Italy (Ceccherini, 2021) and the United Kingdom (Anderson, 2022), as well as formally unitary decentralized states, such as the Netherlands (Szmulewicz, 2022), have been attracting researchers' attention.

By focusing on IGR, these countries analysis moves beyond the traditional depiction of the formal distribution of powers, by highlighting the dynamics of the relationships between government levels, as well as concerns regarding its influence on the effectiveness of government, as shown by recent empirical and comparative research on IGR during the Covid-19 pandemic (Bergström, Kuhlmann, Laffin & Wayenberg, 2022).

However, IGR can pose critical challenges to democratic legitimacy and accountability. For instance, studies have highlighted the emergence of informal coordination mechanisms during the Covid-19 pandemic, which led to misalignment between subnational units as well as challenges of lack of democratic legitimacy and accountability, which allegedly formal mechanisms would provide (Nader, Fuchs & Méndez, 2021). At the same time, local cooperation, and horizontal collaboration across subnational governments and municipal associations, has contributed to reducing transaction costs by sharing resources and knowledge, while highlighting the need to address unequal distribution of capacities and financial resources (Mavrot and Malandrino, 2022; Ramírez, Grin, Sanabria-Pulido, Cravacuore & Orellana, 2020).

Additionally, and building on Smiley's (1979) criticism of Canadian IGR, authors have questioned the technical nature and managerial emphasis of IGR. This line of argumentation is based primarily on three reasons: accountability lines of governments towards their respective legislatures and public opinion are weakened; the introduction of relevant intergovernmental relations distances the accountable politician away from the constituents; and even if IGR are transparent, voters are still faced with issues of blame allocation (Greer, 2006).

Critical to understanding IGR is the distinction between cooperation and coordination across and between levels of government. Relationships characterised by a dominant role of the central state are understood as coordination, whereas equal footing of all the levels of government involved is considered a key element of cooperation (Ceccherini, 2021, p. 69). In turn, cooperation can be vertical -for instance, in the case of voluntary agreements between central and subnational governments, or between provinces and municipalities such as the case of the Metropolitan Region Rotterdam-The Hague or the Amsterdam Metropolitan Area (OECD, 2014, 229), or horizontal, as the case of different types of inter municipal cooperation, or the work carried out by associations of municipalities (VNG) and provinces (IPO). In fact, Wayenberg et al. (2022) report that Dutch municipalities participate on average in 33 formal and informal inter-municipal collaborations.

Furthermore, vertical cooperation can rely on certain instruments or arrangements, such as governance agreements (*bestuurakkoord*) between the central government, the VNG, the IPO, and the association of regional water boards (UvW). In the Dutch case, the provinces have the role of coordinators, to provide coherence and align national and local objectives. Nevertheless, there are difficulties in enforcing this role because they are subordinated to the national frameworks and lack the power to compel Municipalities to take provinces' policies seriously (OECD, 2014; De Vries, 2004). In institutional terms, the relationship between municipalities and the central government is one of coordination and negotiation, given the interdependence between different government levels, particularly because of the significant role municipalities play in the execution of public services, and in the decision-making processes (Wayenberg et al., 2022).

Finally, Toonen (2010, 34-46) proposes to distinguish between the intergovernmental constitution concerned with the formal distribution of powers, the intergovernmental relations defined as the organizational relationships and linkages between government units, and the intergovernmental management, which focuses on problem-solving activities and procedures.

## **2. Methodological considerations**

In terms of the methods, this paper analyses the actual workings of the intergovernmental constitution, that is focuses on the challenges posed to the vertical intergovernmental relations during the Covid-19 crisis in the Netherlands, a country traditionally defined as a “decentralised unitary State” (Toonen & Steen, 2007). Specifically, it focuses on the role of municipalities and their relationships with Safety Regions in the context of managing the pandemic, while also looking at the relations between the latter and the central government. It also addresses the democratic legitimacy and accountability questions emerging from IGR. This has been done by revising at a series of reports, documents, and news articles, as well as conducting the individual, semi-structured interviews to a selection of policymakers and researchers conducted online via different platform between April and August 2021<sup>127</sup>.

## **3. Security Regions in the Netherlands**

The challenges posed by the Security Regions (SR) to democratic accountability and legitimacy, in the case of the Netherlands, can be analysed using the framework of IGR theory<sup>128</sup>. The governance system during the Covid-19 pandemic was based on the Safety Regions Act (*Wet veiligheidsregio's* or SRA, in English). This functional administrative contemplates dividing the country into 25 security regions which can issue legally binding emergency ordinances (Meuwese, 2020). At the same time, these ordinances followed “binding instructions” issued by Emergency Cabinet, headed by the Prime Minister, and integrated also by the ministries of Public Health, and Justice and Security Ministries, as well as the experts

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<sup>127</sup> To facilitate more open conversations, the interviewees chose to remain anonymous.

<sup>128</sup> The official English version of the Security Regions Acts speaks indistinctively about “safety” and “security” regions. Therefore, we will use both expressions indistinctively.

from the Outbreak Management Team (OMT) and the National Institute for Public Health and Environment (RIVM). While the mechanisms for implementing these instructions and the multilevel governance system was structured under the SRA, the content of the Emergency Cabinet instructions was based on the prescriptions of the Public Health Law. This crisis management structure required a great deal of operational and administrative coordination, both between the SRs, and with the central government. On March 12, 2020, the government raised the status of the emergency to GRIP-4 level, after the crisis had extended to more than one municipality (Instituut Fysieke Veiligheid, 2020; Wayenberg et al., 2022, 281)<sup>129</sup>. Other than in a couple of cases, the 25 SRs match most of the 25 regional health services (*gemeentelijke geneeskundig dienst* or GGDs)<sup>130</sup>.

#### 4. The distribution of national and local powers in the Netherlands

According to the Dutch Constitution, municipalities, and provinces have a certain degree of autonomy to regulate and administer their own affairs, while also being required to cooperate with regulations and orders from a higher government body in certain cases, or co-administration (Art. 124). A municipality is headed by the municipal council, directly elected by the people, and a municipal government headed by a mayor appointed by the government. In turn, the country's administrative division also recognizes provinces as second tier government level, led by a Provincial Council representing the people at this level, and an appointed King's Commissioner (Voermans, 2016a). Despite this political-administrative organisation, provinces normally lack competences regarding public health, safety, and security, two of the main policy areas discussed during the first two waves of the Covid-19 emergency (2020 and first half of 2021). In normal times, those attributions are distributed between the national government – embodied in the Ministry of Public Health and the Ministry of Justice and Security- and the Municipalities themselves.

In these circumstances, the recourse to the functional organisation of the SR can be interpreted as a deliberate choice in order to “scale up” competences that normally belong to municipalities as well as to create a “middle space” to foster further dialogue between the subnational authorities and the national government. Therefore, the government avoids the need to consult over 300 local public entities, which could potentially provide over 300 different responses or public policies to handle the pandemic. At the same time, the impact of that institutional choice put the provinces' existence into question. The accumulated effect of resorting to functional

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<sup>129</sup> In the Netherlands, the Coordinated Regional Incident-Management Procedure or *Gecoördineerde Regionale Incidentbestrijdings Procedure* (GRIP) scales up to five levels of emergency, from GRIP-0 being the lowest one, to GRIP-5 covering multiple regions, and managed in a more centralised manner.

<sup>130</sup> Given that public health is a shared responsibility between the national government and the Municipalities, each Municipality has its own GGD. These local public health services cooperate with each other to organize 25 regional public health services, covering all municipalities. Regional structures generally provide advice to municipal public health services but, as will be seen with the Security Regions, the relations between this “regional arrangement” and the municipal structure are complicated, and they receive little insights from the national government (Maarse et al., 2018, 83-5). Municipalities individually and in cooperation have great freedom to give the GGD a role to their liking. In practice, there are large differences between GGDs, in terms of the scope of the range of tasks and the set-up of the organization, and also problems of democratic accountability.

organisations rather than to the provinces for crisis management, as well as the historically low turnout for provincial elections, has resulted in an ongoing debate about the role and even the justification of having provinces in the first place, with some scholars even claiming that “the future of the province is at stake” (Boogaard, as cited in Dennis l’Ami, 2023). This is a critical trend that was detected and has continued its spiral over the last 20 years (de Vries, 2004).

In practice, the emergency response system corresponds to the following stages. First, Mayors of normally the largest municipality of the functional region, titled Chairperson of the Security Region, assumed the powers vested in each individual mayors, including the competence to approve emergency ordinances (Art. 39 of the SRA). However, often times these ordinances were based on the model enacted by the Safety Council (SC), which is the body reunion and cooperative body for the chairpersons for the 25 SRs<sup>131</sup>, with some autonomy from national standards as long as the subject is not regulated. In fact, the differences between the SRs have been minimal<sup>132</sup>, despite that some of them adopted their own measures, for topics such as the regulation of local markets and tourism or bans on honorary hedges and certain public areas (Esser & Boogaard, 2020)<sup>133</sup>. Although the content of the model regulations was almost entirely decided by the health and security ministries, these offices consulted the mayors who integrated the so-called Safety Council before adopting them, to check whether they would have public support and could be enforced in practice (Mayor and Chairperson of a SR, interview, 29 April 2021). In turn, at the subnational level, the chairpersons of SRs also consulted civil society organisations in their respective regions, in particular when more stringent measures were imposed or needed. In general, this approach helped in preventing possible protests and negative reactions against the measures<sup>134</sup>.

Enforcement of these ordinances relied on each mayor, who in the absence of a particular SR regulation for a specific issue, could implement their own safety measures<sup>135</sup>. The fact that each safety region adopted almost the same rules during the entire Covid-19 emergency, which was not the case in crises before the Covid-19, can be traced to the consensual policymaking culture (Lijphart, 2012; Hendriks & Schaap, 2011), strong institutional and interpersonal trust in the

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<sup>131</sup> The Security Regions Act defines the Security Council as the chairmen of the Security Regions Acting jointly (article 1). Even though this definition might be contested, given the fact that the institutionalization and formal powers of this body are more limited than what the name “council” seems to assume, this paper will maintain that denomination because it is also consistent with our hypothesis that this body has transformed into something that really could be titled as a council.

<sup>132</sup> Empirical research covering a total of 559 emergency regulations enacted by the Safety Regions and comparing them to the 17 model emergency regulations by the Safety Council, concluded that emergency regulations deviated very little from the model ordinances in the period up to December 1<sup>st</sup>, 2020 (Becker, Honée, Boogaard & Geertjes, 2020).

<sup>133</sup> In general, the different regulations by certain Security Regions related to imposing hardest measures than the ones directed or recommended by either Security Council ordinances or the recommendations of the central government. For instance, during Easter 2020, certain Security Regions order the closed down of shared facilities in camping lodges and the rental of cabins and other small accommodations at parks, in order to prevent the flow of tourists in the context of the blossoming season in western areas of the country (interview with Mayor and Chairperson of a Safety Region).

<sup>134</sup> The clear exception to this being the nationally imposed curfew in the winter of 2021, which resulted in violent and repeated riots and protest in many large cities in the country.

<sup>135</sup> There are a few examples of rebellious mayors who, for example, decided to stop or minimise the enforcement of rules which they did not agree with (Van Der Steen, 2021)



Netherlands<sup>136</sup>, as well as significant long term informal cooperation (Toonen & Steen, 2007, public administration scholar, interview, 4 February 2021; political science scholar, interview, 5 February 2021). Others have also indicated the small size of the country and the need for national coverage of the measures as possible reasons. In Boogaard's opinion, this happened because of the consequences produced in one part of the country could easily spill over to other locations, disrupting the health care system in regions apart from the ones where the outbreak began (Boonstra, 2020).

On the other hand, the same reasons that explain informal cooperation, can also lead to criticism because of the opacity of specific decisions, the difficulties to assign responsibilities and the lack of sufficient accountability for the decisions adopted (Congress of Local and Regional Authorities, 2021; Loof et al., 2021). Additionally, attributing it to the size of the country might justify the nationally coordinated general policies, but the enforcement of these measures and their individual adaptations is an issue where the representative democratic institutions subnationally—at a local or provincial level—could and should have had more influence (elder woman in central Netherlands, interview, 27 August 2021).

Regardless of the reasons that may explain adopting this model, it has been characterised as a formal and permanent emergency network, with a clear focus on improving its effectiveness and resilience (Resodihardjo, Van Genugten & Ruiter, 2017). Even though the latter dimension will not be addressed in this research, its focus on effectiveness can be relevant for the potential trade-off away from the values of democratic intergovernmental relations such as legitimacy and accountability.

In general, the emergency system allowed for little territorial autonomy and democratic accountability.

“At the local level, mayors also took decisions and liked to be crisis managers, while city councils had a hard time to keep up with them (...) perhaps this is only natural in a crisis, that the crisis managers try to be as effective as possible and are less concerned with democratic rules than the bodies that should control them” (public administration expert, interview, 19 August 2021).

This structure of governance strengthened the municipal—or regional—executive powers, which are not adequately balanced out with representative institutions, particularly city councillors. This trend was already detected before the new Municipal Law of 2002<sup>137</sup>, when the dualistic model was established for decentralized authorities, but was exacerbated during the management of the Covid-19 crisis (Wayenberg et al., 2022, 275; Hendriks & Schaap, 2011). This contradicts other recommendations, such as the 2006 Council of State on intergovernmental relations, which raised concerns as to what extent the enhanced role of executive leadership, such as mayors in municipalities and the Chairpersons of the SR is

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<sup>136</sup> Confidence in the government, actually increasing during and a little after the height of the Covid-19 crisis.

<sup>137</sup> See de Groot et al. (2010) and also the arguments by Mazza (2016).



balanced out by representative and deliberative institutions<sup>138</sup>, particularly city councils (municipal councillors, interviews, 30 June 2021 to 27 August 2021).

Moreover, accountability for the decisions of the SR is very limited and the potential mechanisms for that were rarely used during the Covid-19 crisis (Szmulewicz, 2022). Despite the fact that city councillors could raise questions to mayors, but only in local governments where the mayor served as the chairperson of the respective SR at the same time. In practice, few local councillors made use of this mechanism (subnational governance researcher, interview, 22 April 2021; councillor from southern Netherlands, interview, 30 June 2021). Additionally, even though the chairpersons of the SR must submit a detailed report explaining their decisions and the motivations behind the policies they adopt, this was only presented after the end of an emergency. In the case of the Covid crisis, this meant that any account of their policies was given several months after the first decisions were made (Evaluatiecommissie Wet veiligheidsregio's, 2020; public administration scholar, interview 4 February 2021).

Regardless of this, the crisis provided several positive examples. In the Municipality of Oss, in the Noord-Brabant Safety Region, the mayor and vice-chairperson of the SR explained the measures to the councillors of another city at a meeting (van de Lustgraaf, 2020; mayor from central Netherlands, interview, 16 August 2021). Additionally, some mayors reported the measures under discussion of the SR to their respective city councils, during weekly meetings in the first phase of the pandemic. However, councillors still claim that they held no meetings with the mayor who acted as the chairperson of their respective SR (councillor from central Netherlands, interview, 27 August 2021). In numerous instances, interviewees noted the good example of the Mayor of Amsterdam, Femke Halsema, acting as Chairwoman of the Amsterdam-Amstelland region, praising her positive attitude and dialogue with the city council (councillor from southern Netherlands, interview 30 June 2021).

Another example is the chairperson of the Leiden Security Region., who regularly sent letters to the municipal councils explaining the measures taken and held frequent online meetings that were attended by around 60 to 70 councillors, debating and discussing the final report on their local crisis management structure in December 2020 (mayor and chairperson of a SR, interview, 29 April 2021). Nonetheless, not all the SR included non-regional mayors or local councillors in their decision-making processes. Even though the mayors of all territories integrate the board of their respective SR (SRA, Art. 11), they were more involved at an informal level, engaging on different communication platforms and pulling together certain resources (Wayenberg et al., 2022, 283).

On the contrary, from the perspective of the citizens, the SR created a more distant bureaucracy than municipalities, whose access is more difficult and can be dominated by special interest groups, and whose inter-municipal coordination makes it difficult to assign specific responsibilities (OECD 2014, 300-2). Therefore, it is difficult to provide accountability and to identify who has the final say in each decision, which provides flexibility and smoothness to the decision-making process at the same time (Congress of Local and Regional Authorities,

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<sup>138</sup> This power shift towards the executives, and away from local and provincial councils, had been already noted by scholars. See, among others, Voermans, 2016b; Vollard et al., 2018.

2021). Given that it is hard to say who the competent authority is, citizens have difficulties for learning and understanding the structure of their public institutions.

On the other hand, this only strengthened in practice one half of the municipal executive: the mayor. The other half, the aldermen or alderwomen were generally left out of the decision-making process during the Covid-19 crisis (alderwoman from municipality in central Netherlands, interview, 27 August 2021). Therefore, the power shift from individual local mayors to the chairpersons of the SR (sometimes nicknamed Super Mayor or Regional Mayors) also meant that aldermen, alderwomen and non-regional mayors played no direct role in managing the crisis (Wayenberg et al., 2022, 282).

For instance, in Maastricht, the mayor referred to its “national role” as chairperson of the SR, acting as representatives of the national government in their territories, as the reason for not being held accountable to his or her own city council (council member from southern Netherlands, interview, 30 June 2021; subnational governance researcher, interview, 22 April 2021; Esser and Boogaard, 2020, p. 1651). In rare cases, a certain accountability was possible by using informal networks -for instance, by connecting aldermen and alderwomen from one small municipality with their partners from larger municipalities- or collecting information from organisations related to safety regions (alderwoman from central Netherlands, interview, 27 August 2021). In this context, interviewers frequently referred to the word “understanding”, meaning that most of the time city councils assumed that the urgency of the crisis required a more passive and coinciding role than usual (alderwoman from central Netherlands, interview, 27 August 2021). Others stated that considering that there is no democratically elected organization at the level of the SR, accountability of any kind is barely impossible<sup>139</sup>.

As explained above, this top-down coordination is different from cooperation, because there was a dominant role of the state (Ceccherini, 2021, p. 69). Even though the report on the SRA did not consider the Covid-19 emergency management, the actual workings of the institution during the pandemic confirms its conclusion: “safety regions function well individually for risk and crises within their own regional borders but fall short when dealing with cross-border incidents” (Evaluatiecommissie Wet veiligheidsregio’s, 2020). Overall, the report holds a positive overview regarding the existence of the SRs and the structuring of the regions themselves, both issues that have been under public debate, while raising critical points.

## **5. The Safety Council: towards institutionalized executive IGR?**

In addition to the territorial governance system discussed, there is an ongoing discussion about the impact of the Security Council, the meeting body of the chairpersons from the 25 SRs, could have on regionalisation and IGR in the Netherlands, performing some kind of regional coordination and advisory role to assist government measures (Boonstra, 2021), in the absence of a strengthened middle level government with the competences to coordinate during crisis

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<sup>139</sup> The legitimacy and accountability problem has been noted in previous studies of “regional structures and institutions” in the Netherlands, pointing to a prevailing issue of legal design where there is a trend to transfer powers and competences to meso-level institutions without the necessary legitimacy and accountability mechanisms (see Hulst, 2005 and Andeweg et al. 2020).

management (OECD, 2014). In other words, reports have qualified the Dutch territorial governance system as having an “hourglass” character, because the regional level appears squeezed between two strong levels of government, the central and local (OECD 2014, 208).

In fact, by mid-February 2021, this organisation was giving advice to the Cabinet on the roadmap to reopen Dutch society once the hardest part of the emergency was over, moving beyond its original mandate. This confirms the perception that, in practice, this body had somewhat altered its conception during the crisis: from an original consultative nature to a somehow more coordinating role, and then back to a cooperative mode once the peak of the crisis was over and more regional differentiation was possible (Boonstra, 2021). After the Covid-19 crisis, the Dutch government attempted to use the structure of the SRs to handle the asylum-seeking crisis coming<sup>140</sup> Ukraine. Even though some initial decisions were made between the central government and the SRs, negotiations failed to continue at that level. Still, the fact that SRs sat together with the government in August 2022, and that the VNG and the IPO and drew up quasi arrangements concerning the reception of asylum seekers and the possible housing and integration of asylum permit holders is proof that the SRs continue to be recognized as a partner at IGR in the Netherlands<sup>141</sup>.

In this sense, one can connect the SRs to the trend of creating new regional arrangements in several policy domains in the country (35 labour market regions, 42 youth care regions, over 50 social support-regions). This makes a *de facto* shift towards functional regionalisation and has been questioned by the OECD for its lack of an appropriate, updated, and clear legal framework (2014). Other existing regional organisations include 21 regional water authorities (*waterschappen*), police regions with similar boundaries than the SRs, but financed and supervised by the central government, 25 functional regions that coordinate preventive healthcare delivered by municipalities, and a myriad of other functional territorial arrangements.

Moreover, there are several structural coordination problems between the SR management, and the other institutions involved in dealing with a crisis, at a municipal level, the public health organization (GGD)<sup>142</sup>, the provincial structures, and so on (OECD, 2014).

“We have a lot of regions in the Netherlands. Actually, we don’t exactly know how they function, how do they relate and what the collective impact of these regions is, besides [the fact] that they are not democratically elected” (public administration expert, interview, 19 August 2021).

On the other hand, the influence of the SC on national policymaking throughout the various stages of the pandemic has led some researchers to consider it as a type of lobby group representing the interests of mayors at a national level (public administration expert, interview

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<sup>140</sup> I owe this observation to Geerten Boogaard.

<sup>141</sup> See <https://www.government.nl/latest/news/2022/08/26/the-government-the-vng-the-ipo-and-the-security-regions-council-draw-up-agreements-to-bring-the-crisis-around-the-reception-of-asylum-seekers-under-control>

<sup>142</sup> The GGD organization is also regionalized, headed at the regional level by aldermen representing the municipalities conforming their region, but they do not exactly correspond to the same distribution as the Safety Region, nor do they correspond to the provinces, further complicating the decision-making and decision-controlling processes.

19 August 2021), which can also be problematic for the relationship between the VNGs and the national government<sup>143</sup>. In fact, even after the Safety Regions Act was reformed in December 2020 to allow for a more centralised steering of the pandemic response, the Chairperson of the SC was still allowed to attend the weekly cabinet meetings discussing the Covid-19 measures (Mayor and Chairperson of a Safety Region interview 29 April 2021). However, the mayors' participation at the small team of ministers' meetings in an advisory role meant they were losing the influence they had on national decision-making during the first wave of the pandemic (Wayenberg et al., 2022, 282). Therefore, and in the context of the activation of national crisis, the SC acted as a coordination body, mediating between the government's decisions affecting the territories, rather than a cooperative institution<sup>144</sup>.

Some scholars interviewed stated that the actors involved needed to find “new ways of interaction,” as “new relations became important,” and concluded that it was crucial for them to think “how to relate to the other parties” (public administration expert, interview, 19 August 2021). As one expert puts it:

“In the first instance, it was the central government that tried to come up with all kinds of regulations...but along the way, it became clear that others were also involved, for instance the mayor who had to enforce the rules that were made at the central level, by the crisis team at the centre. And also, mayors tried to communicate with the centre to have an influence in what the rules were about (...)” (public administration expert, interview, 19 August 2021).

In fact, the report evaluating of SRs recommends a stronger and more formalized position of the SC, to increase the territorially cooperative nature of the crisis management system, without completely changing the coordination and policy-defining role assigned to the central government (Evaluatiecommissie Wet veiligheidsregio's, 2020). However, without an adequate and clear legal framework, this *de facto* coordination role can lead to ambiguities, uncertainties, opacity and lack of democratic legitimacy. The search for these types of executive intergovernmental relations institutions, like the SC, appears to match current trends in public opinion, such as a wave of criticism of the Dutch Senate (*Eerste Kamer*) and the need to rethink bicameralism in the Netherlands. The public perception of the SRs was at its strongest at this point, while the *Kamer's* was at its weakest (Voermans, 2023). Not coincidentally, while discussing the Corona Act of December 2020, the Senate chose to stay out of the procedure for

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<sup>143</sup> The National Association of Municipalities (VNG) plays a role more in the national policy arena than as representatives of the territories involved, as a lobby association institutionalized in The Hague, with their own office there. The same might be said about the Association of Provinces of the Netherlands (IPO). For instance, it was active during the discussion of the Temporary Corona Law (TCA), but not so much during the first phase of the pandemic and the decisions adopted at that time. Especially smaller municipalities have difficulties making their voice heard in the VNG, and also city councils play a minor role in an association mostly controlled by the municipal executives (interview with subnational governance researcher). The TCA was extended every three months pending a permanent law. Four extensions were approved, and the fifth one was rejected by the *Eerste Kamer* in May 2022. The VNG was also the partner for the central government regarding the measures to address the socioeconomic impact of the pandemic (see OECD 2020, 55-6).

<sup>144</sup> It should be clarified that the Safety Council only coordinates the regions for the purposes of the Safety Regions Act, and no other policy areas or domains. Naturally, during the Covid-19 crisis they seemed to cover everything, and their powers appeared extended. However, this should not be the case in normal circumstances.

the ordinances to be enacted, and they retaliated in May 2022 by refusing to renew the application of the TCA.

The declining role of second chambers in effectively representing subnational entities, the growing influence of the executives in opposition to parliaments in decision-making processes at all levels, and the need for permanent coordination, especially in highly technical and complex matters, have led to the creation of institutions that bring together subnational and national executives in most parts of the world. Hence, these intergovernmental council that include governmental representatives of all levels of government play an essential role in facilitating cooperative participation (Szmulewicz, 2023).

## **6. Comparative observations**

The case of the Netherlands during the Covid-19 pandemic can lead to a series of comments and reflections. A first comment, related to the above-mentioned issue of formalisation, is that this type of institutionalization of existing practices of governance will have an impact on the need for urgent and rapid responses in terms of crisis management. One might even say that, when compared to other countries, the lesser necessity for detailed rules in the Netherlands speaks plenty about the trust and confidence in government as a general feature of their political culture. This greater flexibility is also visible in the large level of creativity displayed by mayors during the crisis in terms of informal collaboration and pooling resources together (Wayenberg et al., 2022, 286). On the other hand, empirical research on inter-municipal cooperation in the Netherlands -a relatively similar structure- has shown that introducing institutional provisions to organise certain public entities can contribute to the democratic quality of organisations that lack a more direct democratic mandate (Klok et al., 2018, 165-6). This conundrum is somehow similar to the paradoxical relationship between the traditional notions of law and public administration and calls for a revised relationship between the two disciplines. As the conclusions from a Law and Public Management conference given over 20 years ago put it:

“Where is the complementarity between public law and public management? Provided that lawyers transcend their classical role of establishing an authoritative hierarchical framework, they have a fundamental role in designing the accountability framework within the network, while public managers have a fundamental role in the development of the network” (George et al. 2001, 36)

A second contribution is that, amongst the key similarities observed between the Netherlands and other countries during the Covid-19 pandemic, one must not understate the crucial role of national leadership. Like in the Dutch case, researchers have highlighted the centralisation of decision-making in the hands of national executives in Italy (constitutional law scholar from Italy, interview 29 July 2021). In the same line, even the mayor of a prominent municipality, acting as head of a SR, mentions that:

“In the beginning, everyone was thinking 'well this is a crisis, we don't behave as we normally do. Let them [central government, particularly the health ministry] do their job'. Nobody was questioning the measures of the central government...this was the case of the second chamber

(*Tweede Kamer*) and the city councils...there was no debate” (Mayor and Chairperson of a Safety Region, interview, 29 April 2021).

Third, the centralised approaches in countries like the Netherlands and Italy in managing the Covid-19 pandemic somehow contradicted their decentralised competences and traditions: the relevant position of local democracy in the Netherlands (Hendriks, 2009) and the recent federalising trend in Italy (Arban et al., 2021). In the Dutch case, accommodation and compromise in the Netherlands, also concerning central-local relations, was somewhat diminished when government structures tended to centralise decision-making. But at the same time, when compared with the more tense IGR like in Italy, the idea of power-sharing between the centre and the periphery, connected to a more effective management of emergencies, was still preserved to a certain level (Moorkamp et al., 2020); political science scholar, interview, 5 February 2021). On other words, this attempt at centralisation, clear during the initial responses throughout the first wave and throughout the winter of 2020-21- contested by some academics and even subnational authorities, particularly city councillors- proved effective because of the Dutch recourse to informal coordination and, in general, a much more consensual approach than other political systems. However, this centralisation of the pandemic became a contradiction of their historical political traditions of “considerable central-local interdependence rooted in strong coordination mechanisms, such as the central government appointment of mayors, to encourage central-local policy alignment”, which led to a significant confusion over regional and local roles in crisis management, as well as to a conflicted process of decision-making, with much limited subnational consultation (Bergström et al., 2022, 184-5).

Fourth, as Unikowski (2008) has highlighted, key bureaucratic officials took the role of critical intergovernmental actors, yet it is not clear how can different institutional designs (federal v. non-federal, competitive v. cooperative, and so on), affect the way these actors conduct their operations as part of the intergovernmental relations ecosystem. The well-oiled bureaucracy in the Netherlands, with a significant level of continuity, agency, and multilevel technical cooperation (key public servant, Municipality in North Brabant interview, 27 May 2021), was crucial for the good management of the pandemic. This essential machinery included the role of experts in decision-making, and especially those bureaucrats advising political leaders, as well as implementing policies or assisting in the design of public policies. Even smaller municipalities normally have a relatively good structure of support for local council, from several public servants collaborating with councillors in their roles, particularly in information-gathering, and with mayors, aldermen and alderwomen at the local executive level. In the Netherlands, the figure of a secretary (*griffier*) who has multiple functions within local government, is particularly relevant (key public servant at a Municipality in North Brabant, interview 27 May 2021).

Fifth, from a different angle, the Dutch case also confirms the advantages of institutions that promote coordination and convergence in policymaking, beyond the diffusion of powers, competences, and resources. As Gerring and Thacker’s (2008) centripetal theory shows, good government can derive from reconciling broad-based inclusive institutions that also are authoritative, therefore providing effective mechanisms for reaching and implementing



agreements. According to this theory, centripetal institutions are those that push the diverse interests involved toward the centre, offering incentives to participate and disincentives to defect, which culminates in an authoritative decision-making process. These causal mechanisms will make centripetal institutions more successful in achieving party governance, conflict mediation and policy coordination (Gerring & Tacker, 2008, pp. 9-23). One way to accomplish coordination in decentralised structures is adopting common standards, which is supposed to be a voluntary process of setting shared outputs across different government levels and among its subunits. As it has been explored, the Dutch Security Regions can be seen through this prism in a certain way.

This pragmatic approach could also assist in analysing the interactions between two or three levels of government that are normally involved in the various stages of the policy process, regardless of the formal definition of the form of the state. For instance, the rigid Napoleonic model can be contrasted with the autonomy-orientated system prevalent in Scandinavian countries and the Netherlands<sup>145</sup>. As it is pointed out in recent studies, multilevel, decentralised countries can be more effective in coordinating crisis responses than centralised policy processes, provided that their IGR is structured in such a way as to provide pathways for tensions to be resolved and where subnational governments have the capacity and mandate to negotiate with the centre (Bergström et al., 2022, 187). Despite its flaws, this seems to be the case of the SRs and the SC, which was facilitated by a culture of consensus – on a multilevel basis and with civil society- as well as a robust support structure within the bureaucracy<sup>146</sup>, even though they still face accountability and legitimacy challenges.

Moreover, the case highlights the level of cooperation beyond the formal distribution of powers, embodied by the instruments and institutions used to promote cooperation across all levels of government, as well the cooperative dynamic inside the party system. In fact, it has been noted that the Dutch government closely cooperated and consulted the SR's chairpersons before and during the adoption of measures either in the SC or by inviting its chair to the council of ministers, even though the chairpersons of SR were affiliated with both coalition and opposition parties, and were often mayors of municipalities where the opposition was the majority (Massart et al., 2021, 126).

## 7. Conclusions

Two important lessons from the Dutch experience arise so far. First, it shows the dramatic change in the balance within subnational institutions, with the executives playing a larger and stronger role, and the city council becoming less involved in determining policies. Even

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<sup>145</sup> Interviews in both Italy and The Netherlands pointed towards this factor as a critical variable: the pragmatism of the Dutch political culture contrasted with the more formalistic/rigid approach in Italy.

<sup>146</sup> In fact, the Netherlands Institute for Public Safety (NIPV, in Dutch) is the research and knowledge centre that links and strengthens ties between the country's 25 security regions, the central government and partner organizations, including the fire brigades, the police, regional medical emergency bodies, the municipalities, and other strategic partners (see: <https://nipv.nl/english-summary-of-this-website/>). I am grateful to Professor Sandra Resodihardjo for introducing me to this body and its critical contribution in terms of exchange of technical information, research about crises, and processing the lessons and learnings.



considering their controlling role, the actual accountability practices by city councils and city councillors were limited. This is a trend that has been observed in recent decades in other countries as well.

Second, it underscores the considerable transfer of powers from local municipalities to safety regions through an extensive and prolonged application of the SRA, the *de facto* transfer of powers from the safety regions to the central government and their extensive reliance on the SC. This included very little differentiation in terms of local regulations and their dependency on the model ordinances agreed upon by the SC. During the Covid-19 pandemic, this council emerged as a powerful actor in IGR, and reduced the involvement of the mayors in central decision-making, particularly after the first wave of the crisis was over (Wayenberg et al., 2022, 285).

The emergence of the SRs as a new layer of government, separate from provinces and municipalities, as well as the increasing centrality of the SC, renders moving the case of the Netherlands from the field of centre-local relationships, typical in the research about centralised States (Thoenig, 2006, 281) to the broader field of intergovernmental relations. This change represents a critical juncture in the study of intergovernmental relations and even in the territorial structures of states, given the fragile institutional position of the provinces, a shift that is also observed in countries like Portugal (Moreno González, 2023). It is certainly not a mere incremental change: the structure of the SRs and its application beyond the Covid-19 pandemic stands out from other regional arrangements with limited usage in the past. Nonetheless, it remains to be seen if this juncture materializes in formal and institutional changes that lead to more clear vertical pathways and an articulated relationship between the centre and the subnational governments.

Further research is needed to assess whether this shift represents a move from an effective vertical leadership -as executed by the national authorities in the firsts months of the pandemic- to a constant horizontal coordination between subnational authorities -as seen in the second stage of the crisis-, to an informal vertical coordination from the perspective of the SC (as it occurred after the summer of 2020 and especially after December 2020). The Dutch case shows that we need to further study the degree of institutionalisation and fulfilment of principles of these types of coordination bodies, such as accountability and democratic legitimacy. When doing so, learning from the Covid-19 pandemic experience can make democracy more resilient and better equipped to deal with the perma and poly crises of the 21<sup>st</sup> century.



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