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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 6: Comparative reflections on decentralization and intergovernmental relations in Italy and the Netherlands during the Covid-19 pandemic[147]

Summary of the Chapter

The paper begins with the realization that despite the fact that territorial distribution of the State is traditionally motivated by the check and balances and grassroots democracy arguments, contemporary governance is as much about limitation of power as it is about building state capacity and organizing power, in order to achieve effectiveness. If so, the Covid-19 pandemic represents an opportunity to rethink decentralisation, because of initial reports highlighted the vertical functioning of the State as a significant variable for understanding the crisis' management in many jurisdictions, together with the challenges of horizontal accountability of central governments particularly to parliaments. The role of experts has been emphasized in both cases, especially those bureaucrats advising political leaders, as well as implementing policies or assisting in the design of public policies.

This paper analyses decentralization and intergovernmental relations between different government levels during the Covid-19 crisis in Italy and the Netherlands, particularly in years 2020 and the first half of 2021. The two countries share some common elements of the continental legal traditional, as well as several similar public law institutions, in terms of constitutional principles, yet their responses to the pandemic have been different particularly when adopting a law-in-action approach to the actual performance of the institutional design. The dynamics between central and subnational authorities were complex, variable and fluctuating, but in both cases with a clear lean towards centralization of decision-making, as well as accountability challenges both horizontally and vertically.

Centralised approaches in both countries were adopted which somehow alters decentralized competences and traditions: the strong tradition of local democracy in the Netherlands and significant federalizing trend in Italy. Overall, predominantly "competitive" relations between national and regional authorities were observed in Italy, especially during the first phase of the pandemic, which can be contrasted with the more "cooperative" or at least coordinated mode observed in the Netherlands. Therefore, this allows to assess in the conclusions the conditions that facilitate intergovernmental coordination and/or cooperation, without undermining local and regional autonomy.

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"How can we summarise the Covid year from a broad historical perspective? (…) Epidemics are no longer uncontrollable forces of nature. Science has turned them into a manageable challenge. Why, then, has there been so much death and suffering? Because of bad political decisions".

Yuval Harari (Financial Times, February 26th, 2021).

Introduction and methodological comments

Traditionally understood, territorial decentralisation is defined as the transfer of power, competences, or resources from the centre to peripheral units (Bartole 2012). This idea connects at a fundamental level with separation of powers and check and balances. On the other hand, decentralisation is justified also a bottom-up decision-making process, from grassroots democracy ideals. Still, it might be argued that contemporary democratic governance is as much about limitation of power as it is about building state capacity and organizing power. The quasi "natural experiment" situation with the Covid-19 pandemic represents an opportunity to rethink decentralisation, because almost every country in the world has been subject to the pandemic and its effects, during basically the same timeframe. However, countries did not respond to the pandemic in the same manner. Some of them adopted coordinated and nuanced nation-wide policies, while others privileged subnational governments' autonomy. While most researchers have focused on the horizontal distribution of power[148], one also needs to wonder about the territorial/vertical functioning of the State as a significant variable for understanding the countries' responses to the crisis[149].

By a comparative method, this paper addresses the question of how countries reacted to the pandemic in their territorial organization and what factors can account for these decisions. The paper looks at secondary sources while also conducting interviews with selected policymakers and researchers. Semi-structured online and in-person interviews were conducted by the author during 2021 and also during a research scholarship in Italy in early 2022. The interviews covered the period of 2020 and early 2021 and, because of confidentiality, the names of the interviewees are omitted in the article. More than a doctrinal or jurisprudential analysis, the article connects constitutional institutions with their actual implementation, introducing preliminary empirical research.

The paper compares the operation and functioning of the territorial distribution of power and the uses of power and competences during the Covid-19 crisis in Italy and the Netherlands, two "decentralised States" (Toonen and Steen 2007), not fully-fledged federal entities, representing different types and degrees of "decentralized territorial organization" (Ferrari 2006; Rolla 2008; Toonen 1990). These cases were selected based on their differences in dealing with the pandemic, as well as considering their common legal culture, particularly in the field of

[148] See the excellent contribution by Bar-Siman-Tov 2020.
[149] Especially, among the first to write about this, see Palermo 2020 and Gallarati 2021.

constitutional law. Additionally, both countries belong to the civil law tradition, represent consolidated democratic traditions and rule of law practices, as well as parliamentary democracies with multiparty systems. Although this study is exploratory in nature, it assumes the logic of "the most diverse cases" in comparative constitutional studies, given the differences between the two countries in terms of history, political culture, institutions, and so on (Hirschl 2014, 245-253).

From a conceptual point of view, decentralisation and centralisation are seen as functional categories, which can be measured and categorized in political, administrative and fiscal[150]. Following Lijphart's classification, countries can be federal or unitary, according to structural and institutional characteristics, and centralised or decentralised, following more political variables (Lijphart 2012, 177-180). Comparing countries with different degrees of decentralisation, although not fully federal, like Italy and The Netherlands, serves for keeping structural variables relatively similar to address variation (or similarity) in terms of the dynamics between the national and subnational governments, and intergovernmental relations (Ragin 2013, 13-4).

In terms of differences, Italy is a regional State[151], while the Netherlands is a unitary State with significant degrees of autonomy at the municipal (*Geemente*) level, which is explained by the fact that municipalities preceded the formation of the State and hence are entitled to self-government (van Haaren-Dresens 2012, 460-3). On the other hand, in Italy the management of the pandemic was characterized by larger differentiation and discoordination during the initial phase, which then led to top-down coordination. Conversely, the Dutch case has seen high levels of coordination throughout the crisis, coupled with criticisms for lacking sufficient accountability and democratic legitimacy. Italy only declared a state of emergency by law, while the Netherlands has resorted to emergency powers regulated in the Public Health and the Safety Regions Acts, except between January and March 2021 in which a night curfew was imposed by the central government based on the Exceptional Powers Act. Having stated this preliminary account, the paper now proceeds to elaborate on each of the cases.

1. Italy

Italy was the first western country to be strongly hit by coronavirus strongly, which affected mainly the northern regions (Lombardia, Veneto, Piemonte, Emilia-Romagna). On January 31st, the Government declared a national state of emergency, based on the Civil Protection Act of 2018, for six months[152]. On February 22nd, a new law decree by the Ministers imposed quarantine for 11 municipalities in northern Italy. Later, on February 23rd, the Council of Ministers adopted Decree Law Nº 6[153], which mandated "competent authorities to adopt all appropriate containment and management measures proportionate to the evolution of the

[150] On the different types and degrees of decentralization within the European Union countries, see Russo 2012, who already noted the centralizing effects of crises on the territorial organization of the State. Her conclusions regarding the effects of the 2008/09 economic crisis are also valid for the effects of the 2020/21 pandemic crisis.
[151] For a comprehensive account of Italian regionalism, see Arban, Martinico and Palermo 2021.
[152] The state of emergency was subsequently renewed at least until 15 October.
[153] Converted into Law Nº 13/2020, adopted by the Parliament.

epidemiological situation", initiated the full lockdown phase, and enunciated the containment measures to be adopted by the President of the Council of Ministers, after consulting with the competent Ministers and the Presidents of Regions (Kypraios and Garrido 2020, 250-4).

After that, the national government has adopted emergency measures in the form of Cabinet decrees with the force of law, also called "decree law" (art. 77 of the Constitution), which needed to be ratified by Parliament within 2 months, also called decrees by the Council of Ministers (CM). These decrees were later specified by administrative acts issue by the Prime Minister (Palermo 2020b), also called decrees by the President of the Council of Minister (PCM). Regarding the territorial distribution of powers, according to article 117 of the Italian Constitution, health is considered a matter of joint/concurrent legislation between the state and the region: the State determines general principles, and the regions can regulate in accordance with these principles. Between February 23rd and April 10th, the Prime Minister adopted nine Decrees, and the President signed four law decrees to implement lockdown measures (Nicola and G. Scaccia 2021). Also, under article 32 of the Constitution health is guaranteed as an individual right, as well as a collective interest.

In the second phase, once the full lockdown was lifted, some regions started to adopt their own measures and the national government tried to reassert its powers, challenging measures in the administrative courts. This arose from interaction between norms about constitutional rights limitations (Law for the National Health Service and the Law on local government) and the tension between unity and territorial differentiation, given that regions were only consulted prior to the adoption of national regulations but could adopt their own regulations to the extent that is allowed by national legislation or introduce stricter rules (Simoncini 2020). This regulatory mix was further complicated in relation to region-local interaction, since according to articles 117 and 118 of the Italian Constitution both regional and local levels of government have regulatory powers and administrative functions regarding health protection and sanitary measures (Delledonne and Padula 2020).

Moreover, the normative complexities arose from national, regional, and local implementation of said Decree Law number 6, because of the proliferation of decree laws by the CM, PCM decrees, ministerial orders, and decrees of the Presidents of the main regions affected by the virus. Examples of this complex approach are the unilateral decisions by Governors of the Friuli Venezia Giulia and the Marche region, which by late February began imposing restrictions to prevent the spreading of the virus. In fact, the Governor of Marche's decision was challenged by the central government to the Regional Administrative Court, which suspended the governor's order. There are many other examples of decisions by regional and local governments[154], in Campania, Milano and Sicily, conflicting with national provisions, and leading to administrative litigation[155]. Creative mayors also exercised their alleged powers.

[154] The legal foundation for the Mayor's powers to act under emergency situations is found in article 54 of Legislative Decree 267/2000, which allows mayors to adopt "*extra ordinem* orders, if they comply with "general principles," but these tools are under intense debate". See Vedaschi 2020.

[155] The Council of State supported the annulment of a local ordinance imposed by the Sicilian city of Messina, which required all citizens wanting to visit the city to register on the city's website 48 hours in advance, in a move to cut the number of visitors to the city. The Council of State held that the measure arbitrarily restricted the right to free movement (Ginsburg and Versteeg 2020).

Furthermore, Municipalities decided on closing schools, prohibiting mass concentrations and even restricting entrance to their municipalities for those coming from affected regions, although this latter decision was declared nulled and void by the Prefect of Naples, acting as representative of the central government[156].

Another example of the initial hurdles was the decree of the President of the Council of Ministers requiring the lockdown of the Lombardy region (and 14 provinces from other regions), on March 8th, which was published in draft version by one of Italy's most prestigious newspaper, leading to thousands of people leaving Milan to avoid being stuck and thus contributing to the spreading of the virus to the rest of the country (Nicola and Scaccia 2021). Given that scenario, on March 9th a new PCM decree extended the lockdown to the entire national territory, until April 3rd.

In order to deal with this complex scenario, Italian law establishes three mechanisms: 1) the Conference of State–Regions; 2) the Conference of State–Municipalities and other Local Authorities; and 3) the Unified Conference of State–Regions–Municipalities and Local Authorities (Ceccherini 2021; Woelk 2021). However, these formal mechanisms have not been fully deployed during the coronavirus crisis. On the contrary, the privileged interlocutor of the national government (through the Minister of Regional Affairs) was the Conference of the Presidents of Regions (a body of horizontal cooperation). Additionally, for archiving coordination *ad hoc* emergency tasks bodies between national and regional health authorities were established, as well informal conversations and dialogues with the Presidents of the regions, both bilaterally and multilaterally (interview with former high-ranking official at the Conte's government). Another measure was the approval of Decree Law Nº 19, on March 25th, 2020, which reorganised all the adopted decisions and introduced additional coordination instruments[157].

The need for coordination has also been sustained based on the "loyal cooperation principle" and solidarity, and in order to avoid dangerous fragmentation that undermines certainty of law, and to address the potential violations of the principle of equality when different rules govern equal situations (Fasone 2021). The reference to the "principio di leale collaborazione", and its relation to the conference system as well to the management of the pandemic, has been even highlighted by the President of the Italian Republic, while at the same time the President of the Conference of the Regions recognized the need for "an upgrade of the forms of institutional cooperation" (Woelk 2021, 184-5).

Later, on April 26th, a PCM decree outlined the transition to the transition period or phase 2. While the prohibition of movements across regions remained in place, movements between municipalities were permitted only for work and health reasons, or to visit relatives.

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[156] This latter is the case of the ordinance by the Isle of Di Ischia (http://www.comunebarano.it/public/2020/20200223150405ordinanza.pdf), while an example of decision prohibiting mass concentrations, can be found in the ordinance by the municipality of Sesto San Giovanni (https://www.unimi.it/sites/default/files/2020-02/Ordinanza%20Sesto%20San%20Giovanni_Misure_urgenti.pdf).

[157] In the same line, article 35 of Decree Law number 9, on the March 2nd, 2020, had already forbidden and declared void emergency orders by local mayors, if conflicting with national measures (Tega and Massa 2020).

Furthermore, on June 11th, a PCM decree regulated the reopening of museums, theatres, restaurants, bars, bakeries, and the like, subjected to the sanitary conditions of the region or provinces where they were located. Conditions for the reopening would be decided at the regional/provincial level, following the nation-wide guidelines, reflecting a much more coordinated and nuanced multilevel governance. However, during the easing phase there has also been some discoordination, like the decision of the Calabria region to reopen many bars and restaurants, as of April 30th, which was challenged by the national government and struck down by the administrative court on May 9th. An even more audacious path was followed by the Bolzano/Bozen region, which issued its own law on May 8th, ordering the complete restart of activities, which was also challenged by the government before the Constitutional Court (Palermo 2020).

In this second phase, the State recourse to the concept of "international prophylaxis" for challenging the unilateral, differentiated decisions of some Regions. However, the constitutional jurisprudence has not been uniform and there remains significant debate on the need for a constitutional reform in order to strengthen the power of the central government (a sort of supremacy clause) or the fact that the power of substitution currently mentioned in article 120 could suffice for a more extensive role of the central government[158]. The topic of international prophylaxis was introduced by the judgment of the Constitutional Court which declared unconstitutional the Valle d'Aosta Region law Nº 11/2020, concerning the regulation of the health emergency Covid-19 in the regional territory (interview with judge from the Italian Constitutional Court)[159].

In terms of the pandemic management, Italy has suffered a high number of casualties, which led to the draconian measures at the beginning. Once the situation was more under control, the measures started to be lifted by regional decisions, according to the epidemiological situation of each territory, and with a higher degree of discretion for the subnational authorities. In fact, as early as mid-May 2020, several regions started to issued regulations regarding reopening of bars and restaurants. As of mid-September 2020, the pandemic seemed to be much under controlled, given the stark contrast between the first wave, which led to a total of almost 200.000 cases and more than 25.000 deaths by late April 2020, and the figures during the summer of 2020, around 80.000 cases and almost 9.000 deaths, still very high figures for any account[160].

2. The Netherlands

Moving on to the Netherlands case, according to Dutch constitutional law, municipalities and provinces have autonomous authority to regulate and administer their own affairs (Article 124 Constitution). However, subnational authorities can be required by law to cooperate with regulations and orders passed down from a higher government body (co-administration - Article

[158] For an extensive, comprehensive and detailed discussion of these arguments, see D'Atena 2021.
[159] For the official English version of the judgment by the Italian Constitutional Court, number 37 of 2021, see https://www.cortecostituzionale.it/documenti/download/doc/recent_judgments/Sentenza%20n.%2037%20del%202021%20red.%20Barbera%20EN.pdf
[160] For this comparison, see Kypraios and Garrido 2021, 249.

124 Constitution). Higher government bodies also monitor lower public authorities (Article 132 Constitution). A municipality is headed by the municipal council, the people's representation at local level, while Mayor (appointed by the government, not elected) and councillors comprise the local government. A province is headed by the provincial people's representation – the Provincial Council, the King's Commissioner (appointed) and the provincial executive (Voermans 2016a). The country is divided into 12 provinces with 352 municipalities[161]. Municipalities and provinces have autonomous authority to regulate and administer their own affairs (Article 124 of the Constitution)[162].

The Netherlands' approach to the Covid-19 pandemic was laid down by a series of strong advice by the central government, coupled with a set of rules from decentralised emergency regulations (Meuwese 2020). The subnational regulations were elaborated in technical-legal terms by emergency ordinances of the presidents of 25 Safety regions, regulated by the Safety Regions Act (Wet veiligheidsregio's, SRA in English[163]). This law also required them to follow the "binding instructions" issued by the Ministry of Public Health and the Ministry of Justice and Security (article 7 Public Health Act and article 37 of the SRA) (Julicher and Vetzo 2021). The Prime Minister, the above-mentioned Ministries, together with the experts from the Outbreak Management Team (OMT) and the RIVM, formed the so-called Emergency Cabinet, which issued binding instructions during the Covid-19 crisis to the Safety Regions. The content of the Emergency Cabinet instructions is based on the prescriptions of the Public Health Law, whereas the procedure for implementing these instructions is regulated in the Safety Regions Act.

The way this decentralised approach unfolded is the following: on the basis of Article 39 of the Safety Regions Act, the Chair of the Safety Region is authorized to issue emergency ordinances. In practice, however, the Presidents of the Safety Regions referred to the model emergency ordinances established by the Safety Council, which congregates the 25 Safety Regions' Chairpersons[164], with some autonomy within the parameters of the law if the subject was not regulated nationally. Even though some Safety Regions have adopted their own measures, for matters such as the regulation of local markets and tourism, bans on honorary edges and certain public areas, the actual differentiation has been limited (Esser and Boogaard 2020). Research showed that emergency regulations deviated very little from the model ordinances in the period up to December 1st, 2020 (Becker, Honée, Boogaard and Geertjes 2020)[165]. Enforcement of

[161] The actual number of Municipalities has been updated as to early 2022, although it changes from time to time. https://www.rijksoverheid.nl/onderwerpen/gemeenten/taken-gemeente.

[162] For a complete overview of the constitutional bases of the "decentralized authorities" in The Netherlands, see Bovend'Eert and Kortmann 2018, 44-51.

[163] The official English version can be found on this website: https://www.government.nl/documents/decrees/2010/12/17/dutch-security-regions-act-part-i. The law sometimes speaks about "safety" regions and other about "security" regions. The paper will use the word "safety" regions.

[164] The Safety Regions Act defines the Security Council as the chairmen of the Safety Regions acting jointly (article 1).

[165] The research analyses a total of 559 emergency regulations enacted by the Safety Regions and compares them to the 17 model emergency regulations by the Safety Council.

these ordinances relies on individual Mayors, which in turn can take their own safety measures in the absence of Safety Regions' regulation for that matter[166].

Notwithstanding the text of the law and the lack of formal powers of coordination bested on the so-called Safety Council, the fact that during the corona crisis Safety Regions adopted similar rules[167] and practiced sustained frequent communication and meetings, can be traced back to the consensual culture in policy-making in the Netherlands (Hendriks and Schaap 2010) as well as substantial informal cooperation over time (Toonen and Steen 2007, and also interview with public administration scholar and interview with political science scholar). In general, the system allowed little territorial autonomy: decisions were made at the national level, and municipalities basically must implement them.

"On 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…but 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" (interview with public administration expert).

This sort of "top-down" coordination is not the same as cooperation. Relationships characterized by a dominant role of the State are understood as coordination, whereas equal footing of all the levels of government involved is considered cooperation (Ceccherini 2021, 69). As the report on the SRA highlighted "safety regions function well individually for risk and crises within their own regional borders but fall short when dealing with cross-border incidents". Even though this report did not consider the corona crisis management, this conclusion is confirmed by the actual working of the institution during the pandemic (interview with public administration scholar)[168]. Also, there are coordination problems between the safety regions and related institutions for crisis: structures at municipal level, the GGD (public health organization)[169] and the provincial structure.

Some scholars have raised doubts about the constitutionality and legality of the restrictions imposed by the emergency regulations enacted by the Safety Regions, and the high degree of uncertainty that derives from a regulatory blend of soft and hard law (Meuwese 2020). Others stated that since there is no democratically elected body on the level of the Safety regions, accountability is barely impossible[170]. There is also the problem that, whenever confronted by local councillors, Mayors generally responded that their decisions in the context of the corona

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[166] There are few examples of Mayors who decided to stop or minimalize enforcement of rules which they did not agree with (van Der Steen 2021).

[167] In previous crises more differentiation did occur (See Evaluatiecommisie Wet veiligheidsregio's, *Evaluatie Wet veiligheidsregio's* 2020).

[168] Also considering that public order and management of local emergency situations are regularly competences of the Municipalities (arts .172-174a, and 175 and 176, respectively, both of the Municipality Act).

[169] 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.

[170] 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 regional institutions without the necessary legitimacy and accountability mechanisms (see Hulst 2005 and Andeweg, Irwin and Louwerse 2020, 202-3.

crisis were adopted in their capacity of Chairpersons of the Safety Regions, and not as Mayor of a single, individual municipality (interview with southern Netherlands councillor). In some cases, some form of accountability was possible by informal networks (for instance, of alderman or alderwomen from one small municipality connecting with their peers from larger municipalities) or through information gathering from organizations connected with safety regions. For instance, a meeting at a GGD regional coordination body where information about measures adopted in the context of the Safety Regions were discussed (interview with alderwoman from central Netherlands). In this realm, a word that commonly appears regarding city councils' role during the pandemic is "understanding": city councils assumed that the nature and urgency of the crisis required a more passive/concurrent role than normally (interview with alderwoman from central Netherlands).

Against this background, public actors have voiced concerns over the equal treatment of all Municipalities in the country, considering that main/larger cities are the key players while concerns by smaller communities are downplayed (interview with Mayor and councillors from two different Municipalities, especially interview with councillor from central Netherlands). Even within Safety Regions, there is concern about municipalities from cities different than the one from which the Safety Region Chairperson is the Mayor at the same time (normally, the largest municipality within the region) (interview with councillor from central Netherlands).

Also, there are concerns as to what extent the enhanced role of executive leadership (Mayors in Municipalities and Chairpersons of the Safety Regions) is balanced out by representative and deliberative institutions[171], particularly city councils (interviews with councillors from different Municipalities). In this vein, accountability mechanisms for the decisions under the SRA are very limited. On the one hand, city councillors could raise questions to Mayors, but this could only work in municipalities where the mayor is, at the same time, Chairperson of the respective safety region. In reality, very few city councillors have made used of this mechanism (interview with subnational governance researcher and Councillor from southern Netherlands). On the other hand, Chairpersons of the Safety Regions must submit a report detailing their decisions and reasoning for policies adopted, but this is only done once the crisis is over, which in the case of the corona crisis meant several months after the first decisions were made (report of the SRA and interview with public administration scholar). Still, positive examples like the case of the Municipality of Oss, in the Noord-Brabant Safety Region, where the Mayor and Vice-Chairperson of the Safety Region concurred to another city's council to explain some measures, showed that the positive advantages of local accountability can be achieved to a certain extent (van de Lustgraaf 2020)[172].

Additionally, some Mayors did inform their city councils on the measures to be adopted by the Safety Council during its weekly meetings in the first phase of the pandemic. The example of the Mayor of Amsterdam, and Chairwoman of the Amsterdam-Amstelland region stands out.

[171] This power shift towards the executives, and away from local and provincial had been already noted by scholars. See, among others, Voermans 2016b; and Vollard, Boogaard, van der Berg and Cohen 2018.
[172] Also confirmed by interview with Mayor from Brabant region and interview with subnational governance researcher.

The more approachable attitude and the interlocution with her city council were signalled as positive.

"They have a debate like this. And I remember watch this and thinking…well…she sees herself as accountable to her own city councillors…and she was there in the city council, she explained what they have done…" (interview councillor from southern Netherlands)

In addition to all of this, there is evidence that the workings of the Safety Council may have an important impact on regionalisation and intergovernmental relations in the Netherlands. This confirms the intuition that the original consultative nature of the body had somewhat transformed, in practice, to a more coordination role during the crisis (Boonstra 2021), probably also because of the lack of a middle level government powerful enough and with the competences to assume coordination during crisis management (interview with alderwoman from central Netherlands). According to our definition, it appears more as a coordination body than as a cooperative institution, mediating between the government's decisions affecting the territories, allowing regional involvement in national policy making[173]. This new interactions between multilevel institutions have revealed themselves during the pandemic:

"These relations have to be discovered and negotiated along the way, and that is actually what happened. In the first instance it was central government that tried to come up with all kinds of regulations, which were often about telling others that they were responsible themselves and should manage themselves…but along the way it became clear that others also were 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 and also within the Safety Regions there was a delegation of Mayors which discussed how the rules should take place and this was also the lobby group or the group that negotiated with the central government…" (interview with public administration expert).

In fact, the report on the evaluation of the Safety Regions even calls for a stronger and formalized position of the Safety Council, in order to increase the decentralised management structure of crisis, without entirely changing the coordination and policy-defining role assigned to the central authorities (Evaluatiecommisie Wet veiligheidsregio's 2020). Moreover, the tendency to strengthen the municipal (or regional) executive was already reported, at least since the 2002 legislative reform (de Groot, Denters, and Klok 2010; Mazza 2016). Another issue to consider is that the nomination procedure of the Mayors, which does not include direct election like in any other western European country (Congress of Local and Regional Authorities 2021) has been justified mainly because of their "executive" nature, meaning that they are "above"

[173] A caveat should be introduced in the sense 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 corona crisis this seems to cover many areas, and their powers appeared extended, but in normal times this ought not to be the case.

local politics in order to secure a proper management and implementation of public policies (interview with subnational governance researcher).

Finally, in terms of the corona crisis numbers, The Netherlands saw a severe increase in cases by mid-March, which led to the already mentioned national lockdown, followed by a flexible easing of the measures by mid-May, in light of improving figures. During the summer, numbers declined significantly, which led to a further relaxation of the measures, only to return to a steep rise by late-September 2020[174].

3. Conclusions and comparative remarks

Among the key similarities observed, the crucial role of national leadership needs not be understated. Researchers have pointed to centralisation in decision-making by former national executives in Italy (interview with constitutional law professor), while in the Netherlands scholars have also called into question an analogue trend[175], although in this case it is also a consequence of the institutional design of the Safety Regions Act. Additionally, both countries resorted to new legal instruments, which can be an advantage because since they can tailor it to the particularities of the pandemic. Even though the Netherlands had the Public Health Act and the Safety Regions Act, both were conceived only for short-term emergencies. Italy also needed to develop new instruments, and the key was that it lose some time at the beginning of the pandemic. Naturally, the evolution of the relations between the national and subnational governments has changed during the course of the pandemic. A future paper will address the changing nature of this relationships, especially in light of the dynamics taking place during 2021, which were not covered by the interviews conducted.

Another similar theme that emerged is the lack of accountability for the decisions adopted at the regional level. In the Italian case, this is a feature already observed by scholars (Ceccherini 2021, 66) but has been especially visible during the Covid-19 crisis. In the Dutch case this stand out as a distinctive problem with the SRA (interviews with city councillors). The Maastricht case reveals that Mayors resorted to the argument of their "national role", their position as Chairpersons of the Safety Regions representing national government in the territories, as the reason not to be accountable to their own city councils (interview with council member from southern Netherlands and interview with subnational governance researcher).

Finally, 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, has been crucial for managing the pandemic. The well-oiled bureaucracy at the local level in the Netherlands, with a high degree of continuity and multilevel technical cooperation (interview with public official at one municipality), has been essential for a good management of the pandemic. In Italy this has also been the case, especially in some regions with a much

[174] For updated figures, consult the special Covid-19 webpage of the National Institute for Public Health and the Environment: https://www.rivm.nl/en/novel-coronavirus-covid-19/current-information.
[175] This was Professor Wim Voermans' opinion, see Hendrickx 2020.

more fine-grained bureaucracy, notwithstanding the high degree of socioeconomic differences among regions (interview with constitutional law scholar).

To conclude, the comparative observation of the pandemic' responses in Italy and the Netherlands highlights the relationship between institutions for coordination and an effective response to emergencies. Centralised approaches in both countries were adopted which somehow alters decentralized competences and traditions: the strong tradition of local democracy in the Netherlands[176] and significant federalizing trend in Italy. This traditions of accommodation and compromise, that were somehow re-invented to incorporate 21st century democracy and citizen participation, are called into questioned when government structures tend to centralize decision-making[177]. On the other hand, decentralisation may increase public policy innovation, by the diversity of policy solutions and the learning process between territories: decentralised structures may have advantages for solving difficult problems since they empower several subunits to search for policy solutions in parallel, and to share and coordinate the information discovered (Kollman, Miller and Page 2000).

It seems that any approach trying to explain the functioning of the systems would need to account for cooperation. For instance, "centripetal theory" say that the main question is not whether power, competences and resources are distributed, but rather how institutions promote coordination and convergence in decision-making (Gerring and Thacker 2008). On the other hand, "cooperative federalism" consists of a culture of multilevel bargaining and consensus-building (Börzel 2001) and to the idea of "power sharing" between the centre and the periphery (Vese 2020). This latter idea can also be applied to non-federal States and has been connected to a more effective management of emergencies (Moorkamp, Torenvlied and Kramer 2020). In this light, the "competitive" relations between national and regional authorities in Italy (interview with constitutional law scholar), especially during the first phase of the pandemic, can be contrasted with the more "consensual" or "cooperative" mode observed in the Netherlands (interview with political science scholar). Moreover, the importance of cooperation beyond the formal distribution of powers, represented by the instruments and institutions for promoting cooperation among levels of government as well the cooperative dynamic inside the party system have also been highlighted by comparative federalism scholars.

[176] A tradition that has been coined as "a unitary state with federal characteristics" (Hendriks 2009).
[177] For a review of this tradition and re-invention of consensus tradition on the Dutch case, see Hendriks and Toonen 2001.

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