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

Szmulewicz Ramírez, E.

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Conclusions

This research has examined the constitutional and legal rules in terms of the territorial distribution of power and competences, as well as public policy making that revealed the actual functioning of the legal framework, regarding the Covid-19 pandemic and its impact on the dynamics of governance in decentralised States. The research contributes to debates in the discipline of public law, regarding which level of government should be given certain competences, what are the relationships between the different government levels, particularly on emergencies or crises, and how to coordinate decision-making by different government levels (Basta Fleiner and Gaudreault-DesBiens 2013; Barber 2018; Halberstam 2012).

The problem under examination was the government responses to the Covid-19 pandemic, as a stress test for the democratic health and the solidity of institutions in constitutional democracies, concerning the relationships between different levels of government. In this sense, for the selected cases, decentralization is considered to be part of their foundational democratic and constitutional principles¹⁷⁸. While many observers have focused on the challenges for the horizontal separation of powers and the difficulties faced by legislatures in terms of their workings, controlling and normative functions (Bar-Siman-Tov 2020; Cormacain 2020), this research has highlighted decentralisation and the territorial or vertical distribution of powers and competences as a significant institutional feature of the way countries dealt with the emergency¹⁷⁹. Considering the fact that significant scholarship has been concerned with this topic in the context of federal countries (Chattopadhyay et al. 2022; Molinari and Beylier 2022; Steytler 2022), this research aims to complement the research devoted to comparing decentralized non-federal states (Askim and Bergström 2022; Jüptner and Klimovský 2022)¹⁸⁰. As will be shown, a distinctive contribution is to deepen the knowledge about the dynamics of governance in non-federal countries, with different types and degrees of decentralisation, in the context of emergencies. COVID-19 presented a unique opportunity, since an external shock affected almost every country in the world, over a very proximate timeframe, yet government responses varied significantly and so did constitutional and intergovernmental relations to manage the crisis.

In terms of the research design, the central question guiding this project has been can be reinstated as follows:

In the context of decentralized States, how has the COVID-19 pandemic impacted intergovernmental relations and its effective and legitimate management?

¹⁷⁸ For Chile, see, among others, Silva Bascuñán 2004. For Italy, see, among others, Arban, Martinico and Palermo 2021. For the Netherlands, consult, among others, Voermans and Waling 2018.

¹⁷⁹ For examples of scholarship that is both comparative including federal and non-federal countries, as well as incorporating issues of horizontal and vertical distribution of power, but not necessarily focusing on territorial organization and functioning of the State, see among others: Ginsburg and Versteeg 2020; Bonaverio Institute of Human Rights 2020.

¹⁸⁰ For examples of scholarship that compares both federal as well as non-federal countries, see Bergström et al. 2022; Nader and Fuchs 2021; Greer et al. 2021.

This central question was subdivided into several more specific questions. The questions regarding the state of the art in debates about decentralization and the territorial organization of the government and public administration, particularly during crises, and the basic constitutional principles underlying those discussions, were the main concern of chapters 1 and 3. In turn, the more empirically orientated questions regarding the manner in which the selected cases organized their political system, in terms of the relationships between different government levels, during the Covid-19 pandemic, and how were tensions between central and subnational governments managed during this crisis, were addressed in chapters 2, 4, 5 and 6.

For the purpose of the conclusions, the central research question can be approached through three different angles. First how were different government levels in decentralized States able to coordinate or cooperate in their responses to the Covid-19 crisis? Second, to what extent that intergovernmental coordination and/or cooperation undermined local and regional autonomy as a distinctive feature of decentralized States? And third, how to address the challenges these crisis governance structures pose to fundamental public law principles, particularly to decentralization as a basic principle of the analysed countries?

Therefore, in order to contribute to the scientific literature on decentralization and intergovernmental relations in decentralized States, the method adopted consisted in analysing the constitutional and legal rules regarding decentralisation and the vertical or territorial distribution of powers and competences in three selected countries, that is Chile, Italy and the Netherlands. These all are States governed by rule of law, constitutionalism, and democratic principles, including different degrees and levels of decentralisation in terms of the territorial ordering of the State. However, since the project was mostly concerned with the actual interpretation and implementation of the public law framework by the political institutions, the government levels, involved, a law-in-action approach was preferred, involving extensive revision of primary sources, as well as gathering data directly from the actors themselves through the semi-structured interviews applied, as was explained in the introduction and in chapters 2, 5 and 6.

As mentioned in the introduction, the hypothesis that COVID-19 affected the effective and legitimate intergovernmental relations in the three cases has been confirmed by the empirical findings. Moreover, the research highlighted critical factors and conditions that need to be taken into account to adequately fulfil the competing public law principles of effectiveness and democratic legitimacy in the context of governing decentralized States during crises. Specifically, these conclusions explore three main variables. First, managing multilevel dependencies during emergencies requires sophisticated institutional capacities at the central level. Second, formal institutions for executive intergovernmental relations are crucial for effective coordination, while preserving basic accountability mechanisms both at the national and sub-national level is critical for legitimacy. Third, to explain intergovernmental relations in decentralized countries the researcher needs to look beyond formal institutions, particularly during emergencies.

In the following lines, this concluding chapter confronts the theoretical framework established in the introduction as well as in Chapters 1 (Intergovernmental Relations) and 2 (The regional

State in the Chilean constitutional proposal of 2022), with the empirical evidence and arguments presented in chapters 2 (The challenges of intergovernmental coordination in Chile during the Covid-19 pandemic), 4 (The Italian system of intergovernmental relations before and after the Covid-19 storm), 5 (Decentralization and intergovernmental relations in the Netherlands during the Covid-19 pandemic), and 6 (Comparative reflections on decentralization and intergovernmental relations in Italy and the Netherlands during the Covid-19 pandemic).

The following sections will develop the conclusions of the research, particularly the details of the three main variables mentioned before, as well as offer ideas for future research. Each section begins with a brief recapitulation of the guiding questions concerning the topic, as well as the theoretical expectations or ideas, which are then connected with the corresponding arguments, empirical findings, and eventual normative implications.

1. Central coordination of crisis governance

Considering that emergency times call for unorthodox actions, posing significant challenges to the rule of law and democratic principles of the Constitution, the research explored not only the formal/legal framework, but also its actual functioning of intergovernmental relations under the stressful context of the Covid-19 pandemic. The guiding questions for this part can be formulated in the following manner: were how are tensions between national and subnational authorities managed during exceptional circumstances? Are centralized crisis management structures better for addressing the crises? And, how to strike a balance between democratic inclusiveness, including institutional legitimacy and decentralization, on the one hand, and effectiveness, on the other?

To address these questions, the research started with the initial assumption that a “centripetal approach” (Gerring and Thacker 2008), meaning mostly a unitary and highly coordinated response, will be the more appropriate way to organize territorial relations in the context of a crisis. The authors explain that good government derives from broad-based inclusive institutions that also are authoritative, therefore providing effective mechanisms for reaching and implementing agreement. According to this theory, institutions pull toward the centre the diverse interests involved, offering incentives to participate and disincentives to defect, and culminating in an authoritative decision-making process. The causal mechanisms will make centripetal institutions more successful in achieving party government, conflict mediation and policy coordination (Gerring and Thacker 2008, pp. 9-23). One way of achieving coordination in the context of decentralized structures is the adoption of common standards, which is supposed to be a voluntary process for setting shared outputs between different government levels, and also among the subunits.

However, as the empirical findings from this research have shown, this approach needs to be complemented on the one hand by theories related to coordinated and cooperative federalism (Hills 1998) and cooperative decentralization (Toonen and Steen 2007), and its effectiveness in dealing with emergencies in States with different degrees of decentralisation as the decentralization paradox would expect (Saito 2011, 488 and 497), on the other. In order to

explore these theories, comparative observations between the three selected jurisdictions will be introduced.

First of all, among the key similarities observed between Chile, Italy and the Netherlands, the crucial role of national leadership needs not be understated. As the papers in this research have shown, the Covid-19 pandemic portrayed significant degrees of centralization in decision-making by national executives in Italy, while in the Netherlands scholars have also reflected on an analogue trend (Voermans 2021, 185-91), although in this case it is also a consequence of the institutional design of the Safety Regions Act (Evaluatiecommissie Wet veiligheidsregio's 2020). In the Netherlands, the data presented in papers 5 and 6 points towards little territorial autonomy and municipalities basically in an implementing role regarding decisions adopted at upper levels. In the Chilean case, the pandemic revealed a severe contradiction between the constitutional principle of local autonomy and the realities of political and administrative centralism, particularly in the context of a prolonged state of constitutional exception, as detailed in chapter 2.

Still, even with recourse to *ad hoc* mechanisms, central governments in the three countries adopted different strategies. In the case of Italy, the central government was not fully effective in managing coordination and interdependencies with subnational governments, especially in the face of increased decentralization of public services, such as the health sector, which is consistent with the “decentralization paradox”, as elaborated in paper 4. Further decentralization of powers to subnational governments implies that managing complex coordination becomes a critical issue, demanding sophisticated skills at the centre, requiring a more effective central government (Saito 2011). For constitutionalism and multilevel government to complement each other, there is the need of sufficient central state capacities to effectively exercise coordination (Saunders 2020). This implies that, especially when dealing with crises, central government needs to be able to properly tackle three types of asymmetries: information asymmetries, because the central government must safeguard overall planning and cohesion; administrative asymmetries, because the solution to a given problem transcends the strict boundaries of subnational governments; and political asymmetries, because of the possible incoherences or contradictions of the policies that would be implemented by different governments (Ruano and Proffirioiu 2017).

This was accentuated in the Chilean case, which lacks a proper central coordinating structure which means that the intergovernmental relations (herein after, IGR) were mostly conducted in a hierarchical, top-down manner¹⁸¹, relying on strong command and control exacerbated by the prolonged recourse to a constitutional state of emergency during 2020 and most of 2021. This was coupled with juridical, administrative, and financial oversight by centralized authorities. In other words, both the absence of an adequate framework for coordinated intergovernmental relations as well as the proliferation and fragmentation of locally based decisions, potentially reaching a great number of contradictory or misaligned policies, can explain the decision of the

¹⁸¹ A partial exception to this was the so-called Mesa Social Covid-19 (Covid-19 Social Roundtable), which started operating as an informal coordination body and to exchange information in late 2020, which incorporated the President of the Chilean Association of Municipalities but soon collapsed due to strong conflicts over the measures to adopt and over central government's decisions (Méndez 2021, 525-532).

national government to further centralize decision-making in crisis governance, despite a few successful examples of informal collaboration portraited in chapter 2.

In the Dutch case, the central government has a comparatively powerful political and administrative structure for managing coordination and interdependencies with subnational governments. Still, despite the ordinary well-functioning coordinating structure, a special coordinating body was created for the purpose of managing the covid-19 pandemic, with a central role played by the OMT and the network of health professionals. There was initial reluctance to incorporate a large number of voices in the decision-making process, particularly unspecialized actors such as the Chairpersons of the Security Regions (from herein after SRs). Hence, the struggles of the subnational authorities to gain a seat at the table of the coordinating structure at the national level reveals also the challenges faced in constructing a crisis governance structure that combines both political as well as technical expertise. Additionally, the parliament was sidelined during the first phases of the pandemic, only to resume a decisive role with the introduction of the Temporary Corona Act (TCA) in December 2020, and even then, specific ministerial regulations only required approval of the House of Representatives (Tweede Kamer), without the need for prior consent of the Senate (Eerste Kamer).

In other words, the Security Regions and particularly the Security Council did provided channels to resolved IGR, facilitated by a consensus culture both at the multilevel institutional side and also with regards to civil society, as well a robust support structure at the bureaucracy, even though accountability and legitimacy challenges can still be noted. Broadly speaking, Dutch society and administrative structure is less hierarchical and more egalitarian (Zwaan 2017, 246-7) than Italian and Chilean societies and administrative structures (Kuhlmann and Wollmann 2019, 169-71; Cravacuore, Montecinos, and Sanabria-Pulido 2024). In addition, the higher capacity of the Dutch state in general, as compared to Chile and Italy, can assist in reducing the so-called “decentralization paradox”.

1.1. Centralisation of pandemic governance in decentralised unitary States: breaking with tradition?

Before moving on to the topic of intergovernmental relations, it is worth considering whether in the context of emergencies, multilevel coordination and cooperation would undermine local and regional autonomy, and to what extent this represents a contradiction with long-established constitutional principles and traditions? As already mentioned, the comparative observation of the pandemic’ responses in Chile, Italy and the Netherlands stresses the need for institutions of intergovernmental coordination and an effective response to emergencies¹⁸². Yet are there democratic or constitutionalism trade-offs or losses in the expected loss of autonomy? Considering that the concept of decentralization is more dynamic than the concept of federal states, and has endured waves of advances and of retrenchment according to several variables

¹⁸² Although comparable countries such as Belgium, Spain, and the United Kingdom might face similar problems, state and sub-state nationalistic actors are a driving force in IGR that is not present in the cases selected for this research. For the crucial impact of this variable and its presence during the Covid-19 pandemic, see among others Anderson et al. 2023.

(Behnke 2018; Schakel 2021), the expectation is that States non constitutionally defined as federal or as federations will encompass more flexibility of the principle of decentralization in order to adapt the State's structure to a prolonged and polymorphic crisis such as the Covid-19 pandemic. Also, in States with a tradition of flexible arrangements, a way to reconcile the need of vertical coordination in the face of crises might be to establish national "soft law" mechanisms that would allow for a certain degree of autonomy to the subnational units.

The theoretical framework highlights the reasons in favour of decentralisation from both democratic theory and public choice literature: subnational governments give better voice to citizens, foster a greater sense of community, and better grasps relevant local facts and help to manage risk (Halberstam 2012), leading to more effective, better informed and more legitimate and accountable governance institutions, all of which will be particularly important in the midst of an emergency crisis. Decentralisation may also increase public policy innovation and learning processes: 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; Sabel and Zeitlin 2012).

Traditionally speaking, in the realm of non-federal countries the more rigid Napoleonic model prevalent in Chile, can be contrasted with the more autonomy-orientated model prevalent in Scandinavian countries, as well as in the Netherlands. Historically speaking, this model is characterized by a legalistic tradition, centralized government, and weak local authority (Peters 2008). Although the Netherlands shared some of these features, recent waves of decentralization as well as the more fluid relationship between the state and civil society and higher degree of local autonomy leads most authors to place it outside the realm of centralized countries (Kuhlmann and Wollmann 2019, 16-21). In turn, recent federalizing trends (Arban, Martinico, and Palermo 2021) as well as the consolidation of local autonomy, have inclined scholars to consider Italy as a more decentralized country, yet still sharing many organizational and public management characteristics of a unitary state (Ladner, Keuffer and Bastianen 2023).

The empirical analysis of this research shows that the centralised approaches adopted to manage the Covid-19 pandemic, particularly during the first and second wave, somehow challenged the strong tradition of local democracy in the Netherlands (Hendriks 2009; Voermans and Waling 2018) and the federalizing trend observed in recent decades in Italy (Arban, Martinico and Palermo 2021), as illustrated in chapter 6. These traditions of accommodation and compromise in the Netherlands, that were somehow re-invented to incorporate 21st century democracy and citizen participation, are called into question when government structures tend to centralize decision-making (Hendriks and Toonen 2001; Voermans 2023, pp. 690-1). On the contrary, Chile's centralistic tradition proved quite prevalent (Veliz 1980). Despite constitutional and legal recognition, the coordination principle lacks legal, doctrinal, and jurisprudential elaboration, and has a notorious implementation deficit, particularly in its territorial implications.

In this light, the more “competitive” relations between national and regional authorities in Italy, and among levels of government¹⁸³, especially during the first phases of the pandemic, can be contrasted with the more “consensual” or “cooperative” mode observed in the Netherlands¹⁸⁴. This temporary centralization in the Netherlands, which was clear during the first wave of the covid-19 pandemic and also throughout the winter 2020-21, was contested both by academics and even some decentralized authorities, particularly city councillors. The legal transfer of powers from local municipalities to safety regions through the extensive and prolonged application of the Safety Regions Act, as well as the transfer of powers from the safety regions themselves to the central government, through the little differentiation in terms of the regulations and the extensive reliance on the model ordinances agreed upon by the so-called Safety Council are clear illustrations of that break with tradition, albeit temporary. So is the emergence of the SC as a powerful player in the intergovernmental relations, as well as the reduced involvement the mayors had in central decision-making, particularly after the first wave was over (Wayenberg et al. 2022, 285), challenging the traditional role performed by the VNG and the IPO in the intergovernmental bargaining table.

However, the attempted centralization, contested by both leading scholars as well as by city councillors, proved effective because of the recourse to informal coordination and in general a much more consensual mode than in other political systems¹⁸⁵. Yet it contradicts the history 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 significant confusion over regional and local roles, as well as to a conflicted process with limited subnational consultation (Bergström et al. 2022, 184-5).

2. The operation and impact of intergovernmental institutions

As mentioned in the first section of the conclusions, a crucial avenue for channelling IGR is the existence and workings of institutions and forums that bring together the different government levels and their authorities. The questions in this regard can be stated as following: Do national and subnational governments coordinated or collaborated in their responses to the Covid-19 crisis? if so, what were the institutions or mechanisms for that purpose? In other words, the research started from theories about relationship between government levels in federal systems, such as cooperative federalism (Börzel 2001), vertical power-sharing (Lijphart 2008), and intergovernmental relations (Poirier, Saunders, and Kincaid 2015; Hueglin and Fenna 2015; Palermo and Kössler 2017; Trench 2006), in order to see whether they can shed a light into the functioning of decentralised non-federal States. The initial hypothesis is that States functioning in a “cooperative decentralisation” dynamic will perform better during states of constitutional

¹⁸³ This competitive dynamic had already been noted for Italy, principally due to the unequal level of development among regions and their disparities in terms of capacities to integrate into the global economy (Loughlin 2001, 387-8).

¹⁸⁴ A characteristic that has been part of the Netherlands tradition of governance (Toonen and Steen 2007).

¹⁸⁵ From a comparative perspective, and not necessarily referring to the Netherlands, Italy, or Chile, see Boin, McConnell, and 't Hart (2021, 53-6) for an argument about how the centralized crisis governance was only partial and apparent, because many central governments had to rely on subnational authorities' capacities to implement policies as well as due to resistance by local and regional governments.

exception, particularly emergency states, and that the workings of intergovernmental organizations and institutions will be critical to that end, particularly because of concerns about throughput legitimacy (Schmidt 2020) as well as the fact that the larger the transfer of authority to subnational levels the larger the interdependences and interactions between government levels (Ruano and Profiroiu 2017) and that this interdependencies should be managed through cooperation in countries where subnational governments have an implementing role regarding legislation enacted nationally (Palermo 2021).

The dynamic relation between national and subnational authorities can be described as “loosely coupled”, given that governments have more latitude to carry on mandates, while also pointing to a flexible constitutional pattern of relations (Swenden 2006). Likewise, it is also expected in the literature that increasing reliance on direct negotiations between different government levels authorities will nudge towards “executive intergovernmental relations”, with the advantages (Christensen et al. 2016) and disadvantages (Peters and Pierre 2016; Smiley 1979; Benz 2021) normally associated with it, but now in the context of decentralized States, particularly in cases where none of the legislatures chamber at the national level performs an effective territorial representation function (Palermo 2021). As recent comparative research in the context of the Covid-19 pandemic has concluded, multilevel, decentralized countries can be more effective in coordinating crisis responses than centralized policy processes, provided IGR is structured in such a way as to provide pathways through which tensions can be resolved and where subnational governments have the capacity and mandate to negotiate with the centre (Bergström et al. 2022, 187). On the contrary, lack of effective IGR would also lead to increase judicial litigation, as evidence in the evolution of the Italian system of conferences (Bin 1996). The empirical evidence gathered can be summarized as follows.

In this regard, it is particularly important to recall the evidence that the workings of the Safety Council (hereinafter SC), the body reunion of the 25 Chairpersons of the Security Regions, has had an impact on regionalisation and intergovernmental relations in the Netherlands, as elaborated in chapter 5. As a matter of fact, by mid-February 2021, this institution was giving advice to the national Cabinet on the discussions regarding a long-term perspective after the first phase of the pandemic started to recede, even though it was not originally conceived for performing this advisory role to government measures (Redactie 2021). Originally, the Safety Council (SC) was designed as a forum of cooperation among the Regions, due to the networks that form around the SRs, based on interpersonal connections, exchange of information, sustained interactions over time between Mayors and also between public servants, and long management tenure (Resodihardjo et al. 2018, 169). Yet this original cooperative nature had somewhat transformed, in practice, to a more coordination role during the crisis (Boonstra 2021), probably because of the lack of a middle level government powerful enough and with the competences to assume coordination during crisis management (OECD 2014). In fact, some reports have referred to the Dutch territorial governance system as having a “hourglass” character, where the “regional” level is squeezed between the strong central and local levels of government (OECD 2014, 208). Further confirming this hypothesis, even after the corona-crisis had mostly ended the Government tried to use the structure of the Safety Regions for the asylum-crisis from Ukraine, even though negotiations failed to continue at that level.

In other words, the SC could only be considered as a coordinating body, relying on the central government, when it came to the substance of the decisions taken during the Covid-19 pandemic, because the content of them was largely determined by the central government, the Ministries of Justices, and of Health particularly. Regarding all other decisions and from the perspective of the institutional design of the SRs, it can be considered as a cooperative formal institution, which is precisely why coordination and centripetal governance is one of the most challenging tasks, while respecting the principles of local autonomy and decentralization that derive from Dutch constitutional law and constitutional tradition. In concrete, it was the national nature of the crisis, classified as grip-4 level according to the crisis protocols, that triggered a range of coordinating mechanisms which served to steer, by the centre and by the leadership inside the SRs, the more informal cooperation which was the original design of the SRs. In other words, the decision to rely on the SR structure can be seen as a compromise in order not to impose the more vertical and hierarchical decision making that derives from declaring a state of emergency, while also reducing the complexity and potential fragmentation that the regular division of powers, based on decentralization of healthcare and the multiple subject matter covered by Covid-19 regulations in the normal policy domains of the more than 300 autonomous municipalities in the country, could pose¹⁸⁶.

On the other hand, this influence on national policy-making throughout the different stages of the pandemic has led some researchers to consider the Safety Council as some sort of a lobby group representing the interests of Mayors at the national level (interview with public administration expert), which can be problematic also for the traditional relationship between the Association of Municipalities (VNG) and the national government¹⁸⁷. In fact, even after the Safety Regions Act was reformed to allow for more central steering of the pandemic response in December 2020, still the Chairman of the Safety Council was allowed to attend the Cabinet meetings about the corona measures every week. However, attending the small team of ministers' meetings in an advisory role meant losing the influence Mayors had on national decision making in the first wave of the pandemic (Wayenberg et al. 2022, 282).

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 (Evaluatiecommissie Wet veiligheidsregio's 2020). On the criticism of IGR in the Netherlands during the pandemic was that *de facto* coordination role performed through the SC lead to ambiguities and opened the administrative structure to criticisms by opacity and lack of democratic legitimacy, as will be elaborated later (Loof et al. 2021). The search for this sort of "executive intergovernmental relations" institutions, like the Safety

¹⁸⁶ An interesting comparison could also be drawn with regards with Sweeden's approach to managing the covid-19 pandemic, in which a similar contexts of weak constitutional basis for imposing a state of emergency coupled with a large degree of autonomy in the health policy domain, but it the absence of similar structure as the SR, led the government to rely heavily on the leadership of scientific bureaucrats as well as imposing only broad guidelines, which were followed by most of the citizens due to the elevated levels of trust (Petridou 2020).

¹⁸⁷ For instance, the VNG was active during the discussion of the Temporary Corona Law (TCA), but not so much during the first phases of the pandemic and the decisions adopted at that time. 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).

Council, seems to connect with the ongoing debates regarding the Dutch Senate (*Eerste Kamer*) and the need to rethink bicameralism in the Netherlands (Voermans 2023b)¹⁸⁸. In fact, the Security Council was at its strongest when the *Eerste Kamer* was at its weakest. Not coincidentally, in the Corona Act (December 2020), the Senate stayed out of the procedure for the ordinances to be enacted, something they later had their revenge on by not renewing the application of the TCA on May 2022.

This increased reliance on executive IGR might present advantages, in terms of resources mobilization and potential cooperation between the different authorities but has to be analysed in light of the increased complexity of the institutional chart and the difficulties citizens face in establishing the competent authority to act on something, and who to hold accountable then (Savy et al. 2017, 8-9). This seems to be the case in all multilevel States, given that the actual allocation of powers does not correspond to a clear-cut dual division, which would be more prone to accountability (León and Jurado 2021; 209).

Not only is accountability hindered by shared or concurrent powers, but also the governance structure of intergovernmental relations depends largely on the executives of the respective government levels, therefore only attaining a form of indirect democratic legitimation and in the absence of representative and deliberative bodies that could provide checks and balances to the intergovernmental relations structure. Thus, this creates further distance in the chain of accountability both to subnational representative institutions (councils or assemblies) as well as to citizens themselves. In the Dutch case, the prolonged application of the Security Regions structure presented an additional complexity: the territorial boundaries of the security regions do not correspond to the political and administrative map of the country, further diminishing democratic legitimacy and leading to a sort of “administrative bustle”. Even though previous assessment did not consider democratic legitimacy and accountability problems of the Safety Regions, given the operational nature of the entities presumably restricted to the safety and security domain (Zwaan 2017, 236-7), in light of the extensive application during the corona crisis and the large scope of the measures enacted through that structure, even beyond the traditional understanding of safety and security, that reasoning needs to be revisited.

On the other hand, although the conference system in Italy has reached a certain degree of formalization, there is a significant divergence between the law on paper and the law in practice, as shown by the use of informal, *ad hoc* coordination mechanisms for the management of the Covid-19 pandemic, detailed in chapter 4. Even though in the three cases intergovernmental relations often shows a discrepancy between the actual governance practices and the constitutional design of political life (Rhodes 2000), the Italian case seems particularly acute.

As mentioned in the theoretical framework in the introduction, cooperative IGR is a matter not only of institutional design, but also of sustained practices over time and a political culture of negotiations and consensus, as is the case in Germany or Switzerland. Cooperative federalism and cooperative decentralization cannot be forced by the constitution or legal rules, although formal rules may encourage and incentivize it, but must be part of a certain “mindset”, a

¹⁸⁸ For an overview of recent debates surrounding the *Eerste Kamer* and proposals for reform, see Andeweg, Irwin and Louwerse 2020, 144-6.

political culture or “spirit” that relies on cooperation and a shared constitutional commitment (Burguess 2012; Tierney 2022). The idea of “power sharing” between the centre and the periphery can also be applied to non-federal States (Vese 2020) and has been connected to a more effective management of emergencies (Moorkamp, Torenvlied and Kramer 2020). Hence, the problem is not so much with a legal framework that allows for territorial differences in the context of decentralization, but the need to establish institutions and mechanisms to ensure cooperation between the different levels of governments in the appropriate measures (Palermo 2022, pp. 63-4).

In the Italian case, and in the absence of cooperative vertical IGR and taking into account the weak role of the Senate, at least as a chamber of territorial representation, political conflicts are litigated in the Constitutional Court, leading to a judicialization of the regional model in Italy, as well as creating incentives for bilateral, informal intergovernmental relations between regions and the central government (Alessi and Palermo 2022). In other words, the institutions designed to prevent conflicts or manage intergovernmental differences before they reach a more conflictual mode, failed to do so, hence opening the door at judicial remedies as the preferred pathway to solve these differences between the central government and certain regional governments.

Moreover, the formalization of IGRs, in the absence of practices and procedures that could make the system more fluid, can reduce the organization's flexibility and capacity for innovation, which has been deemed particularly useful in crisis situations (Christensen et al. 2016). For instance, the discussions surrounding the fragmentation and miscoordination between government levels during the first months of the covid-19 pandemic in Italy, paralysed the incipient process of differentiated regionalism that had recently been advanced, and add fuel to the division in academia and political parties regarding the advantages of strengthening decentralization, particularly in the healthcare sector (Alber, Arban, Colasante, Dirri, Palermo 2021)¹⁸⁹.

Unsurprisingly, then, horizontal IGR among the regions themselves seems to be working relatively better off in Italy than vertical IGR, as shown by the less competitive dynamic of the Conference of Presidents of the Regions. This horizontal cooperation among subnational governments, including regional and municipal associations, can help reduce transaction costs by sharing resources and knowledge, yet it needs to consider the unequal distribution of capabilities and financial resources between and within regions in Italy (Mavrot and Malandrino 2022). Moreover, cooperation among regions was mainly motivated by their shared position against the central government, and not so much by a dynamic aimed at seeking common and shared solutions, as could have been a cooperative harmonization of the heterogeneous and at times chaotic legislation produced by the regions during the Covid-19 pandemic (Ceccherini 2022, 204).

¹⁸⁹ Regarding these discussions, see the several contributions recently published on the journal *Italian Papers on Federalism*, Number 2-2023, available at <https://www.ipof.it/wp-content/uploads/2023/09/Fascicolo-completo-IPOF-2-23.pdf>, consulted on 28 January 2024.

Furthermore, horizontal collaboration among subnational governments can also be born out of a response to traditions of overly centralized political systems, like in many countries in Latin America. Accordingly, the evidence suggests that the Chilean Association of Municipalities (AChM) performed an important role during the pandemic, although limited to managerial aspects and particularly during the first phases of the pandemic, and not to the more high-level, political decisions, due to centralization in decision-making (Méndez 2021, 530-2). As documented in chapter 2, only a weak, ad hoc, and informal coordinating mechanism between the central government and the AChM was established; the content and the procedure for enacting the decisions were mainly determined by the central government. Regional governments did not play a role, either because of lack of competences regarding the healthcare sector, or because of the fact that their respective executive heads were appointed by the President at the central level. Only after May 2021, directly elected regional governors took office in Chile, representing a significant historical shift that in the medium term might create challenges for IGR and even the need for a formalization of intergovernmental institutions.

In consequence, the recent movements in the power and competences of different government levels and in the relations between central and subnational authorities, exemplified by the emergence of the Security Council and the Security Regions in the Netherlands, the debate surrounding the implementation of differentiated regionalism in Italy, and democratization reforms at the regional level in Chile, may create a momentum, a certain window of opportunity, for the reorganization of intergovernmental relations in decentralized States (Trein and Magetti 2020, p. 205).

2.1. The strengthening of the executive branch at the subnational level and the elusive search for accountability

In the context of decentralized States, with significant degrees of interdependences and requiring collaborative or at least coordinated intergovernmental relations, the issue of accountability for the decisions adopted, both nationally and at the subnational level, becomes critical. In this context, the theoretical framework rests on the idea that multilevel government needs to be coherent with constitutionalism principles, ensuring the general interest and common good (Saunders 2020), which means, among others, holding executives, both at the national and the subnational level, accountable for their decisions. However, government accountability is normally challenging in the context of executive intergovernmental relations (Peters and Pierre 2016), particularly during crises when the normal channels for checks and balances are sidelined. It is difficult to implement accountability and to identify who has the final say in the decision, while also providing flexibility and less friction to the decision-making process.

As elaborated in chapter 5, this research has concluded that the enhanced role of executive leadership in Dutch Municipalities and Safety Regions has not been properly balanced out by

representative and deliberative institutions, particularly city councils¹⁹⁰. Among other problems, accountability mechanisms for the decisions made under the SRA are very limited in paper. In reality, very few city councillors made use of this mechanism. 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 more than a year after the first decisions were made¹⁹¹ (Evaluatiecommissie Wet veiligheidsregio's 2020). Additionally, this strengthening of the municipal executive is in fact of only one part of the executive, the mayor. The other part, the alderman or alderwoman, has been generally left out of the decision-making during the covid-19 crisis.

Another issue to consider is that the nomination procedure of the Mayors, which does not include direct election like most European countries (Congress of the Regions and Local Authorities 2021). This has been justified because of their “executive” nature, meaning that they are “above” local politics in order to secure a proper management and implementation of public policies. However, if their role were to change, from this sort of managerial understanding to a more political, strategic, and decision-making model, then the own justification for their nomination procedure would be under severe questioning. This appears not only as a contradiction with the Constitution, which clearly positions the city council as the head of the Municipality (article 125 of the Kingdom of the Netherlands Constitution), but also with the comprehension and justification of the Mayor’s appointment procedure.

In the Dutch case this stands out as a distinctive problem with the SRA itself, because Mayors resorted to 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 (Esser and Boogaard 2020, p. 1651). Others stated that since there is no democratically elected body on the level of the Safety regions, even a basic level of accountability is almost impossible. In rare cases, some form of accountability was achieved through informal networks, but in this realm, a word that commonly appears regarding city councils’ role during the pandemic is “understanding”.

Also, it needs to be remembered that this discussion about constitutional values, particularly regarding accountability, is predicated in the Netherlands regarding implementing subnational powers, and not legislative competences. Yet it is clear, at least since Thoebecke’s constitutional reforms in the 19th century, that in the Dutch context these “executive” powers are far from a mechanical implementation of the law enacted at the national level. Quite the opposite, executive subnational powers, particularly at the Municipal level, need to be interpreted in the context of local governments’ autonomy and self-government, therefore referring to broad, largely autonomous, and flexible implementation of the national legislation. On the other hand, given that the substance of the Covid-19 measures was decided mostly at the national level by the central government, and this is the locus where most of the politically sensitive decisions were made, parliamentary oversight and accountability at that level was

¹⁹⁰ The tendency to strengthen the municipal (or regional) executive was already reported, at least since the 2002 legislative reform (Mazza 2016).

¹⁹¹ Still, positive examples like the case of the Municipality of Oss, in the Noord-Brabant Safety Region, showed the potentials for local accountability.

required, and was largely missing, particularly during the first months before the TCA (Loof et al. 2021).

In the Italian case, this is a characteristic already observed by scholars (Ceccherini 2021, 66), which has augmented during the Covid-19 crisis. Moreover, executive IGR in Italy, whether through the systems of conference or through ad hoc, informal, or bilateral mechanisms, means that regional parliaments were largely left out of the decision-making processes. In the Chilean case, considering the centralized nature of the crisis management structure, exacerbated by the imposition of the state of emergency via constitutional exception provisions, it is the lack of legislative control and oversight over central executive decisions, and even restricted judicial review of them, which has gathered the attention of critics (Contesse 2020). Weak accountability of regional and local governments to their respective representative bodies has remained largely unaltered during the pandemic.

3. The law and politics (dis)connection

Having established the general framework of both the centralized governance as well as the functioning and dynamics of IGR in the three countries, the centrality of adopting a law-in-action perspective when studying this theme emerges. Intergovernmental relations provide an adequate lens through which to analyse the actual functioning of the system of vertical distribution of powers, beyond the text of the Constitution. Hence, this framework advances the research on the relationship between law and politics, and even public administration, moving the project from comparative constitutional law to the field of comparative constitutional studies (Hirschl 2014)¹⁹². In other words, the initial expectation that formal institutions will be “enabling” is confirmed, meaning that they have been understood as an integrated system of rules that structures social and organizational interactions, therefore causing certain dispositions for particular behaviours (Hodgson 2006), but not constraining entirely actors’ behaviour, particularly during the crisis. From the empirical findings highlighted in papers 2, 5, and 6 a more nuanced picture of the real life of the formal institutions emerges, one that highlights adherence to law in the books, as well as points of departure or adaptation from it. The key findings are scrutinized in the following paragraphs.

A first observation is that The Netherlands has a more fluid and flexible political and administrative territorial organization, than Italy and Chile. In terms of the comparative reflection, the relation between formal and informal institutions is much more fluid and flexible in the Netherlands, particularly after examining the actual performance of the IGR system. In

¹⁹² It needs to be recanted that the methodology for this research considered, first, the revision and comparison of the constitutional and legal framework of decentralisation in the selected countries, as well as it’s the crisis regime applied for managing the Covid-19 pandemic. Additionally, given that the research adopted a “law in action” approach, the actual functioning of the legal rules was accounted for by a wide range of sources. First, several digital and printed sources were consulted regarding the actual functioning of the distribution of powers and competences during the pandemic in the selected countries, including electronic journals, blogs, newspapers, and main media outlets from the three countries. Second, online interviews with key informants from the selected countries were conducted throughout 2021. Some in person interviews were also conducted in 2022 once the pandemic restrictions were further lifted, as well as including work trips to Chile and a research stay at Genova University in Italy, during late February and March 2022.

contrast, in both Italy and specially in Chile, there are much more clearcut divisions and tensions between the formal and informal institutions, between the institutional design and its actual operation. In fact, it can be said that the SR and particularly the meeting of the 25 Chairpersons of the SRs (the Security Council), performed a sort of informal accountability function with regards to both the central government's decisions, as well as concerning the decisions adopted by the SRs themselves. This function went well beyond its original design and somewhat compensated the lack of accountability of government decisions by the parliament, despite the shortcomings.

Conversely, in Italy, the effectiveness of the pandemic management required displaying important informal institutions, which contradicted clear formal institutions, that is the Conference System as the privileged legally designed platform for IGR, hence causing a number of political tensions, and eventually leading to judicial litigation. The conference system proved ineffective in promptly responding to the demands of urgency and coherence in the early stages of the emergency. Furthermore, it was politically ineffective in subsequent phases, when reaching agreements with the central government on a unified and commonly accepted strategy became challenging, sometimes leading to open conflicts between national and regional laws, due to the regions' legislative competences. This also contributed to exacerbating the differences between regions of Italy as per the number of casualties and in the response to the emergency in general (Malandrino and Demichelis 2020). Likewise, in Chile there was very little reliance on informal institutions, hence translating the locus of power to a highly centralized and formalized organizational structure, particularly in the context of the prolonged state of constitutional exception as explained in chapter 2.

Therefore, the discrepancy between the actual practices of governance and the constitutional design of political life (Rhodes 2000), continues to be a topic where interdisciplinary studies, combining law, political science, public administration, and related fields, are highly necessary. The research methods applied in this project shed light on the questions posed at the beginning. For example, the executive nature of IGR in Italy leaves room for political leadership and personality traits to be an important intervening variable shaping the concrete form that the dynamics will take (Hueglin and Fenna 2015), which is even more accentuated in this country given the direct election of the Presidents of the regions and its effects on the direct legitimacy, mandate, and accountability of these authorities. Italy's more political decentralization contrasts the kind of administrative decentralization that is prevalent in The Netherlands and especially Chile, which affects intergovernmental relations and the ability to implement measures in emergencies.

Moreover, a certain instability and lack of continuity in the structuring of IGR in Italy contributed to the blurring of lines of accountability, representing a serious problem for multilevel constitutionalism (Saunders 2020). Analogue reflections can be posited regarding the Chilean case because local Mayors are also directly elected and displayed considerable activism, and in light of the recent implementation of direct election of regional governors, yet here the limits of administrative decentralization were severely imposed by the internal control mechanisms (the General Comptroller Office) and the courts. Considering these two factors, the problem of IGR that are much less institutionalized is a serious concern. In fact, as debated

in chapter 3, during the constitution-making process of 2021-2, one of the central topics of discussion among the convention members was the need to institutionalize IGR both at the level of each region and regarding central-local relations. In connection with the former, the proposal aimed at creating a sort of council of local authorities together with the regional governors for each region, much like the Italian constitution stipulates. At the national level, the proposal consisted of creating a council of governorates that will bring together the President with the heads of the regional governments, in order to periodically discuss certain issues of common interest. Unfortunately, this proposal ultimately failed to see the light of day, given the minority support for the constitutional draft in the 2022 referendum.

As mentioned in the introduction, the added value of Chapter 3, despite seemingly remote from the rest of the thesis, is that should the process of decentralization continue in the direction of more territorial autonomy, it could result in new coordination problems that would need to be addressed, and that could evolve into political tensions. This same reasoning could be applied to other countries facing similar decisions, and the framework of intergovernmental relations would be valid, preventing the constant referring of such problems to the constitutional jurisdictions or the courts, which may result in a “judicialisation of political grievances”.

Still, following this reasoning, one can question whether the formalization of existing practices of governance would impact on the need for urgent and rapid responses in terms of crisis management. One might say that the minimised necessity of detailed rules can be a sign of trust and confidence in the government as a general feature of political culture in the Netherlands, at least as compared with the other countries. This greater flexibility is also visible in the larger level of operation innovation of Mayors during the crisis, regarding informal collaboration and pooling resources together (Wayenberg et al. 2022, 286). Notwithstanding this, empirical research on a relatively similar structure, inter-municipal cooperation in the Netherlands, has shown that institutional provisions for the organization of a certain entity can contribute to the democratic quality of an organization that otherwise lacks a more direct democratic mandate (Klok et al. 2018, 165-6)¹⁹³. Or, to put it differently, functional organizations created above the municipalities, like the Safety Regions or inter-municipal collaboration, not only create risks for accountability particularly for the role of local councils, but also raises a number in terms of informality, transparency, and multiplicity of roles (Veenendaal 2024).

Additionally, studies have highlighted the emergence of informal coordination mechanisms during the Covid-19 pandemic in Italy, which left significant room for manoeuvre to subnational units, but lacked the necessary democratic legitimacy and accountability that formal mechanisms could provide. To facilitate coordination for emergency tasks, ad hoc bodies were established between national and regional health authorities, alongside informal discussions, and dialogues with the Presidents of the regions, conducted both bilaterally and multilaterally. Although these “aformal” mechanisms have greater flexibility and agility, the question is to

¹⁹³ This problem is somehow similar to the paradoxical relationship between the law and the public administration. In this regard, the conclusions of a Law and Public Management conference more than 20 years are illuminating: “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).

what extent these instances or practices can guarantee the autonomy of the decentralized entities and to what extent they are not degraded to places of mere exchange of information and transmission of deliberations already adopted elsewhere, with no institutionalization (Ceccherini 2022, 201).

Additionally, the meetings of the informal coordination mechanisms lacked adequate minutes or notes explaining the deliberations, or they were so brief that this prevented understanding the motivation or reasoning of the decisions, opening the door to the judicialization of conflicts in the courts (Nader, Fuchs, and Méndez 2021). The logic behind this is that the State, and particularly administrative authorities are under the mandate to provide sufficient and proper reasons for their decisions, especially when potentially affecting fundamental rights and freedoms, or encroaching on the competences of other government levels (Delsignore and Ramajoli 2021), which opens these poorly motivated administrative decisions to constitutional litigation. In cases of central government decisions that affected the concurrent competence with regions regarding public health, the regions can challenge those decisions to the Italian Constitutional Court, for unconstitutionally encroaching on their competence without sufficient substantiation.

Therefore, if a central question is how to balance effectiveness with democratic legitimacy in multilevel crisis government, then institutional design needs to take into account the potential trade-offs of emphasizing purely one side of the spectrum. If an organization is performing at a reasonable/acceptable level of effectiveness, yet public law principles are considered to be less well engrained, then a balance between the two competing values needs to be carefully considered. One alternative could be to introduce “nudges”, soft law mechanisms or incentives that can further support the overall institution’s effectiveness, while preserving the foundational public law principles of democratic legitimacy and accountability.

3.1. Intergovernmental relations and the role of the bureaucracy

One specific ambit in which the interface between the law in the text and the law in action approach reveals fruitful is in the connection between the level of the intergovernmental constitution (distribution of competences), the level of intergovernmental relations (such as the conference system in Italy), and the operational functioning of the legal framework, understood as intergovernmental management (Toonen 2010). In terms of integration between the three types of IGR, the theoretical expectation is that a “professional” civil service, one that is (relatively) immune from partisan influence, is more likely to facilitate effective IGR, offering stability in the face of political change (Wright and Stenberg 2007; Poirier, Saunders, and Kincaid 2015). Accordingly, Unikowski (2008) has highlighted that key bureaucratic officials are a crucial intergovernmental actor, yet it is not clear the way in which different institutional designs affect the way these actors conduct (federal v. non-federal, dual v. integrated, and so on), as part of intergovernmental management.

In correspondence with the theoretical expectation, the role of experts in decision-making, and especially those key bureaucrats advising political leaders, as well as implementing policies or

assisting in the design of public policies, has been crucial for managing the pandemic, as contrasted in chapter 6. The well-oiled bureaucracy at the local level in the Netherlands, with a high degree of continuity, agency, and multilevel technical cooperation has been essential for a good management of the pandemic. Even smaller municipalities have a relatively good support structure for local councils, including several public servants collaborating with councillors in their roles particularly when coming to information-gathering. Also, the local executive can rely on key public servants, particularly the figure of the “*griffier*” who has multiple functions at the local government¹⁹⁴.

In Italy this has also been the case, especially in the northern regions, and some of the special regions and autonomous provinces, with a much more fine-grained bureaucracy, although the high degree of socioeconomic differences among regions requires a more heterogenous perspective. In turn, the highly political and constitutional nature of IGRs is not adequately counterbalanced by a technical support structure, a professional bureaucracy that could sustain intergovernmental management and thus assist in building a kind of network governance through consistent and permanent interactions over time, staff continuity, sectoral subcommittees and other practices that the literature highlights as conducive to cooperative IGR, particularly when dealing with crises and emergencies (Bergström, Kuhlmann, Laffin and Wayenberg 2022). The advantages of that structure, including information sharing, policy learning, coordination and the like, are not yet present or underdeveloped in the Italian conference system.

Similarly, Chilean bureaucratic structures at the municipal level are comparatively underdeveloped and unequally distributed across the country (OECD 2017), while a multilevel intergovernmental management organization is almost non-existent, apart from a small team of public servants at the Under Secretary for Regional Development, which played a limited role during the management of the Covid-19 pandemic.

Overall, as expected from the theory (Agranoff 2010, 72-8), networks are not replacing other forms of governance mechanisms, like centralized guidance or centralized-led coordination, as it was mentioned for the Dutch case particularly during the first wave of Covid-19. Different forms of managing intergovernmental relations might coexist and tend to overlap, and this is more evident in the Dutch case than in Italy or Chile. In Italy, there seems to be an alternation either between a more top-down coordination mode at the acutest part of the crisis or a more differentiated and often uncoordinated approach for organizing the lifting up of restrictions. In Chile, a more hierarchically orientated governance mode was prevalent, which meant that other governance approaches could not be properly reconciled.

¹⁹⁴ While not related to IGR, it is relevant to remember that the normal bureaucracy that was deployed at the national level during the first weeks of the Covid-19 pandemic in the Netherlands proved incapable of managing the level of coordination and complexity the crisis required, hence the national government had to call for the intervention of the group of public servants specialized in dealing with crisis management.

4. Avenues for a future research agenda

Considering the limitations of this research, several themes could be tackled in future projects. For instance, the reconfiguration of territorial governance has been a permanent concern during and after the Covid-19 pandemic. In this sense, for the Dutch case, the reliance on the Safety Regions can be connected to the trend of creating “regional arrangements” in several policy domains, which sets a *de facto* shift towards “functional regionalization” and has been questioned for its lack of a proper, updated, and clear legal framework (OECD 2014)¹⁹⁵. The emergence of the Security Regions as a sort of “new layer” of government, apart from provinces and municipalities, as well as the increasing centrality of the so-called Security Council, renders moving the Netherlands from the field of “center-local relations” that is typical of centralized States (Thoening 2006, 281) to the broader field of intergovernmental relations. This situation could represent a critical juncture in the structuring of intergovernmental relations and perhaps even in the territorial structures of the State, given the ongoing debates about the role and functions of the provinces¹⁹⁶ (de Vries 2004; L’Ami 2023). As was explored in chapter 5, despite the formal coordinating role of the provinces, there are several difficulties in enforcing these tasks, so the changes in IGR would be an important development to observe¹⁹⁷.

Additionally, whether the emergence of the Safety Regions represents an incremental change in an already visible trend, or it stands out as a critical juncture particularly when compared to the limited usage of other “regional arrangements” in the past, for instance for its application beyond the Covid-19 pandemic to the unfolding “asylum crisis”. Furthermore, more research is needed to see whether the movement from effective vertical leadership, led by the central government the first months of the pandemic, to constant horizontal cooperation between subnational authorities in the second part, and less strict vertical coordination from the perspective of the Security Council, especially after December 2020, can be confirmed future crises. The question is whether that development constitutes a “institutional transformation without legislated reform” (Toonen 2010, 40)¹⁹⁸. However, it is clear that in order to address the challenges that emerged with informal horizontal cooperation and vertical coordination, from the national government to the Security Council and from the Security Council to the local Mayors themselves, further institutionalization, and compliance with rule of law and constitutional principles, such as accountability and democratic legitimacy, is required.

To explore this, as well as to advance the changing role of the conference system in Italy and the more differentiated and decentralized measures regarding the socioeconomic consequences of the pandemic, and to a certain degree the initial proactive role of the Chilean National Association of Municipalities only to be relegated to a secondary position in the second half of 2020 and 2021, a longer longitudinal perspective would be helpful, particularly incorporating

¹⁹⁵ To further understand and analyse the evolution of debates surrounding regionalization in the Netherlands, see Toonen 1998.

¹⁹⁶ A movement that might also be observed in other countries, like Portugal (Moreno González 2023).

¹⁹⁷ Highlighting the challenges as well as the opportunities for “provincial repositioning”, particularly in terms of finding “a philosophy to underline their unique importance within the larger State”, see Hendriks, Raadschelders, and Toonen 1995, p. 229-230.

¹⁹⁸ In this context, an important framework regarding how to assess institutionalization of intergovernmental forum has been proposed by Bolleyer (2013 and 2018).

intergovernmental relations after 2021¹⁹⁹. Additionally, in order to assess why more horizontal collaboration or vertical coordination emerges in the context of intergovernmental relations²⁰⁰, other variables also need to be accounted for, like the number of jurisdictions involved or the number of popularly elected subnational officials, and so on.

Moreover, the type of leadership at both national and sub-national levels, as well as the public discourses constructed and communicated at both levels, will also be a matter for future concern, particularly in the context of governments that are advancing a narrative of permanent crisis or that are recurrently framing different controversial and complex issues as a crisis. Hence, alluding to the need for a strong and central government and, more often than not, the granting of exceptional powers under the idea of the emergency constitution or the crisis, will be a reason for permanent concern for public law studies.

Another line of future research is the role of the party system in promoting cooperation among levels of government. In the Dutch case, it has been noted that the national government closely cooperated and consulted with the security regions' chairpersons before and during the introduction of measures either in the Veiligheidsberaad or by inviting the chair of the Veiligheidsberaad to the council of ministers, and that the Chairpersons of security regions are affiliated with both coalition and opposition parties and are often mayors of municipalities in which opposition parties form the majority (Massart et al. 2021, 126). During normal intergovernmental negotiations, coordination is achieved through the structure of the party system, given the role of the association of municipalities (VNG) and the provinces association (IPO) and considering the appointment system of mayors. In these contexts, it is not always clear that the incentives' structure provided by the party system is orientated towards further advancing local governments' autonomy. On the contrary, during the covid-19 pandemic, considering the network style of the SRs, as well as the technical and urgent nature of the crisis, party lines were less relevant as an explanatory variable. Hence, as hypothesis for future testing, it can be said that the dynamics of the party system do not seem to have played a major role in the Dutch case, as opposed to the relevance of the high level of interpersonal connections between the 25 Chairpersons of the SRs.

Similarly, as shown by the level of proactive behaviour, Chilean municipalities did not respond to corresponding party lines in relation with the national government: the right-wing government was faced with active municipalities challenging its leadership both from the left-wing and from the right wing. In the Italian case, in contrast, during the first wave of the Covid-19 pandemic, tensions were more frequent between regional governments affiliated to a different ideological perspective than the one in Rome. Therefore, the role of the party system and party conflict between the central government and regional governments seem to be more relevant in this case.

Moreover, introducing other cases of decentralized States that might be facing or will probably face similar challenges in terms of intergovernmental coordination would also be important to

¹⁹⁹ For a comprehensive literature review in this line, see Carroll et al. 2023.

²⁰⁰ In the United States, the expectation is that the large number of local government jurisdictions coupled with a very large presence of popularly elected local officials and the active role of nongovernmental organizations would lead to more extensive horizontal interactions (Wright, Stenberg III, and Cho 2010, 139-140).

test the potential to generalize the hypothesis analysed in this research, regarding the conditions for effective and legitimate intergovernmental relations under emergencies. For instance, the theoretical framework might be suitable for States such as France²⁰¹, Portugal²⁰², Colombia²⁰³, Denmark²⁰⁴, and the United Kingdom²⁰⁵, among others.

Another line for future research is connected to the conflicts and multilevel coordination problems that were revealed after the Chilean “social outbreak” of October 2019, which were discussed during the constitution-making processes of 2021-2 and 2023. It will be important to wonder how these questions will be addressed in the context of the newly established two-headed regions with a democratically elected regional governor, on the one hand, and a regional presidential delegate on the other, in light of the discussions about institutions, mechanisms, and procedures of intergovernmental relations that have been introduced in this research.

Finally, the role of the government type at the subnational government level and its difference concerning the national political system is something worth further exploring. The theoretical expectation is that subnational governments would prioritize autonomy protection over problem-solving capacity depending on the political pressures they are exposed in their homes arenas (Bolleyer 2018), which would lead to intergovernmental relations less institutionalized and likely more competitive. In this line, the political systems both at Chilean municipalities and regions, as well as at Italian regions and local governments, consider executives directly elected by the citizens. The expectation is that this form of government will tend to induce the authorities at the subnational level to enhance their own autonomy, at the expense of the need for vertical intergovernmental coordination. On the other hand, the indirect appointment of Dutch mayors coupled with multi-party coalitions at the local councils supporting them, would lead to intergovernmental relations that are more oriented towards problem-solving, and more focused on long-term coordination, since subnational executives are less threatened by the next election.

However, as explained in the introduction, given the case-oriented research method and the limitations in terms of data gathering, privileging detailed information about the cases and tracing processes in the explored institutions, the small number of cases reduces the validity of

²⁰¹ A premier example of this potential line of research in the French case is the book chapter by Bourget (2021), in which a pattern active behaviour on behalf of local municipalities in order to adopt stricter rules than the ones being pursued by the central government level, especially in first weeks of the Covid-19 pandemic, is described, which led to political and even juridical confrontation with the central government, operating also under the umbrella of a state of emergency. This dynamic somehow resembles the intergovernmental tensions that were observed in Chile and the subsequent centralization of the pandemic governance, also in the absence of institutionalized forums for intergovernmental relations.

²⁰² Although not strictly observing the governance of the Covid-19 pandemic, the paper by Ruel et al. (2023) advances the same line of research.

²⁰³ Rubaii and Sanabria-Pulido (2020).

²⁰⁴ A good departing point might be the work by Blom-Hansen (1999), which explores intergovernmental relations in Sweden, Norway, and Denmark, although mostly from the point of view of the role of each countries' associations of local governments in the national decision-making process. More recently, Askim and Bergström (2021) have compared the dynamics of intergovernmental relations during the Covid-19 pandemic between Norway and Sweden, highlighting a relatively similar influence of the respective associations of subnational governments in the national policy making during the pandemic.

²⁰⁵ As mentioned in the introduction, Guderjan (2023) provides a very comprehensive and multidisciplinary approach to intergovernmental relations in the devolutionary process of the UK.

extrapolating more general statements from the empirical results (Jackson 2012, 65). While recognizing the complexities of generalizing from a small-N study (Hopkin 2010, 300) as well as the difficulties regarding data gathering and processing, the initial research questions and initial assumptions have been reasonably tested, hence internally validating the conclusions. Moreover, given that the three experiences observed varied in terms of their regionalized structure, the conclusions are also relevant for comparative federal studies, since the transformations, advantages, and shortcomings of intergovernmental relations is a central theme common to all types of territorial structuring of the State, whether federal, regional or decentralized. Time constraints, resources, and the COVID-19 pandemic context proved formidable barriers, as well as the inherent challenges of multi-disciplinary research. Extending the research design to all or some of the cases mentioned, testing the effect of the more informal variables pointed out in this conclusion, and extending the methods to different research techniques, would also enhance the potential to generalize the conclusions of this project.

In the end, the comparative observation of the pandemic's responses in Chile, Italy, and the Netherlands highlights the relationship between institutions for coordination and an effective and legitimate response to emergencies. Decentralization is always a permanent process of finding the right balance between the territorial autonomy of subnational unities and effective and legitimate central government. This exercise is even more challenging in the context of an emergency, particularly one like the Covid-19 crisis, but that does not mean that public law should relinquish the task altogether. Even though other factors, such as political culture and the party system, might play a mediating role in the nature of intergovernmental relations, formal institutions and mechanisms are key to conducting to more or less cooperation of actors, as the explored cases show. As mentioned in the introduction, learning from the Covid-19 pandemic experience can make democracy more resilient and better equipped for dealing with the seemingly permanent and poly crises of the 21st century.

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