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The COVID-19 Pandemic in Chile: Challenges of Intergovernmental Relations and Coordination in a Decentralized Unitary State*

Pandemia COVID-19 w Chile. Wyzwania dla stosunków między organami władzy i koordynacji w zdecentralizowanym państwie unitarnym

ABSTRACT

The paper explores the relationship between national and subnational authorities in Chile in the context of the government's response to the COVID-19 pandemic, particularly analyzing the principle of coordination and the complexities of the state of emergency. The analysis is carried out in light of the constitutional provisions of the Chilean political system. Although subnational authorities developed significant activities to address the effects of the pandemic in their respective territories, particularly the local mayors, this was not accompanied by legal or practical reforms to integrate institutional or procedural changes to incorporate the subnational levels of government in the decision-making processes. During this state of emergency, the formal and informal institutions failed to be accountable for the necessary coordination of their competences at national, regional and

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local levels. Therefore, the COVID-19 pandemic, occurring during a nationwide constitution-making debate in Chile, opened the opportunity to discuss institutions and arrangements that could lead to an effective and legitimate system of intergovernmental relations in a decentralized unitary state.

Keywords: coordination principle; intergovernmental relations; decentralization; municipalities; COVID-19 pandemic

INTRODUCTION

The State of Chile has been historically characterized by a strong central political and administrative decision-making structure and processes. After the military dictatorship promulgated the 1980 Constitution, it began a process of territorial reform and established a decentralized and deconcentrated territorial and administrative structure based on peripheral agencies strongly subordinated to higher national authorities, in consistency with the military logic of command and control. At the end of the dictatorship in 1990, democratic governments attempted to modify this structure by turning formerly designated local government bodies into elected offices, such as municipalities in 1991 and regional councils in 2009. However, regional authorities have recognized that the legal form of unitary state in force constrains them into administrative decentralization, restricting their political and even fiscal scope of action.

In this way, the Chilean legal doctrine maintains that the administrative decentralization and deconcentration of the state has generally lacked political depth, been carried with few substantial innovations, and remains extremely fragmented, failing to uphold a long-term strategy.[1] In this regard, its institutional design portrays a timid notion of decentralization in Chile since political decisions are commonly determined by central government bodies headed by the President of the Republic. Despite these constraints, sub-national entities – particularly municipalities, which enjoy constitutional autonomy – ran a prolific activity dealing with the COVID-19 pandemic. However, the actions of these local authorities have failed to go along with any legal or practical political changes to foster mechanisms or institutions to integrate the subnational level into the decision-making processes.

This paper provides a novel theoretical framework of the Chilean structure of government and administration at a territorial level, from the point of view of the coordination principle and intergovernmental relations. From this background, it then proceeds to a systematic analysis regarding national and sub-national policies adopted during the COVID-19 pandemic in 2020 and 2021. Therefore, in terms

[1] L. Hernández, *La descentralización en el ordenamiento constitucional chileno*, "Revista Chilena de Derecho" 1993, vol. 20(1); J.C. Ferrada, *El Estado administrador de Chile: de unitario centralizado a descentralizado y desconcentrado*, "Revista de Derecho" 1999, vol. 10; J.L. Cea, *El sistema constitucional de Chile: síntesis crítica*, Valdivia 1999.

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of the research methods, the paper introduces both a legal-dogmatic approach by reconstructing the vertical distribution of powers in Chile in light of the coordination principle, as well as a "law in action" approach and in-depth case study that investigates the actual application of this framework during the governance of the COVID-19 pandemic in this country by resorting to a range of bibliographical references, including the production of normative acts by the subnational authorities as well as secondary materials that demonstrate the relations between national and subnational authorities. In terms of empirical sources, the paper relies on the Chilean Official Gazette, a novel database of normative acts and jurisprudence during the COVID-19 pandemic, and an extensive revision of webpages of several local governments. It also includes newspaper articles who covered the political conflicts and tensions between different government-level authorities.

By this method, the article proves the hypothesis that, even though the institutional design lacks mechanisms to properly channel intergovernmental relations, the actual workings of the system show the manifold avenues that local governments are using to advance their autonomy, and the legal and governance limits to it. Particularly in the context of emergencies, this centralized framework leads to legal controversies, political tensions, and policy misalignments between the decisions issued by the different levels of the public administration, exacerbated by the imposition of a prolonged state of constitutional exception and the hierarchical powers associated with it.

THEORETICAL FRAMEWORK

1. The Chilean state's constitutional and legal system

In a unitary state, sovereignty is indivisible, laws apply to the entire territory, and the citizens follow a unique national constitution. National laws regulate the scope of action of its three subnational levels of government:[2] regions, provinces, and communes.[3] This unitary form of state relies on the existence of a single center of political and governmental impulse, the President of the Republic. This elected official acts simultaneously as the head of state and the government and leads the administrative branch at a national level.[4]

[2] H. Nogueira, F. Cumplido, *Instituciones políticas y teoría constitucional*, Talca 2001.

[3] Political Constitution of the Republic of Chile, 1980 (revised 2021), https://www.constituteproject.org/constitution/Chile_2021 (access: 29.5.2024), hereinafter: the Chilean Constitution; J.C. Ferrada, *El Estado administrador de Chile…*; J.L. Cea, *op. cit*.

[4] S. Ponce de León, *Bases de la organización administrativa en Chile*, [in:] *Estudios sobre descentralización y desconcentración administrativas*, eds. G. Bocksang Hola, J.L. Lara Arroyo, Santiago de Chile 2015, pp. 39–85.

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Since the 1990s, Chile has undergone recent reforms in regional democratization, deconcentration and administrative decentralization, recognizing the competences to new local entities created to act autonomously, with their own rights, obligations and fiscal responsibilities.[5] However, its Constitution enshrines an extremely unitary and highly politically centralized state. Despite this, it states that it is territorially and functionally decentralized or deconcentrated and mandates the state to promote equitable and solidary development through all three subnational levels.[6]

Despite positive developments, the distribution of political authority and governing capacity continues to favor the central government. This is explained by the dual role exercised by each regional executive office appointed by the president, who acts simultaneously as the head of the regional government and local representative of the national government. It is also the consequence of the centralization of many policy areas, such as the collection of regional taxes.[7] At the level of the territorial organization of power, a unitary state is deployed through the power vested on the president to appoint and remove at will any regional and provincial presidential delegates.[8] At the local level, the structure is somewhat different: municipalities are autonomous corporations, headed by a mayor and municipal councilors directly elected by the citizens of the commune.[9] Even though recent constitutional reforms established the direct election of regional governors and councilors,[10] the government level still considers appointed regional ministerial secretariats, as territorially deconcentrated delegates of the respective national sectorial ministries. Under Chilean public law, these are considered deconcentrated entities, following the French notion of a top-down executive powers delegated by the central officials in charge of public services such as education or health.[11]

At the regional level, the Constitution separates the governmental and political function from the function of the so-called higher regional administration.[12] The 2017 constitutional reform created regional presidential delegates, who exercise the

[5] D. Claps Gallo, *Bases institucionales de los Gobiernos Regionales*, [in:] *Universidades y Gobiernos Regionales: Planificación, Estrategias y Desarrollos Coordinados. Actas del Tercer Encuentro, La Serena, 10–11 abril 1997*, Santiago 1997.

[6] Chilean Constitution; J.C. Ferrada, *El Estado administrador de Chile…*; J.L. Cea, *op. cit*.

[7] J.C. Ferrada, *El Estado regional chileno: un modelo de descentralización administrativa sin participación política*, "Revista Iberoamericana de Administración Pública" 2001, no. 6, pp. 175–208; K. Eaton, *Designing Subnational Institutions: Regional and Municipal Reforms in Postauthoritarian Chile*, "Comparative Political Studies" 2004, vol. 37(2), pp. 227–228.

[8] Articles 32, 7 and 111 of the Chilean Constitution.

[9] Articles 118 and 119 of the Chilean Constitution.

[10] Article 113 (2) of the Chilean Constitution

[11] C.U. Çiner, *Centralization and Decentralization*, [in:] *Global Encyclopedia of Public Administration, Public Policy, and Governance*, ed. A. Farazmand, Cham 2018, p. 693.

[12] M. Verdugo Marinkovic, E. Pfeffer Urquiaga, H. Nogueira Alcalá, *Derecho constitucional*, vol. 1, Santiago 1994.

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functions of the President of the Republic in the regions.[13] Regional administration is vested in the regional government (GORE), an administratively and territorially decentralized body, composed of a regional governor and the oversight of a regional council (CORE).[14]

In April 2021, for the first time in Chilean history, regional governors were elected by universal suffrage, after an extensive legal reform expanded the functions of the GORE.[15] However, during the COVID-19 pandemic these new powers were not yet activated and failed to play a significant role for practical and political reasons, particularly because these new powers were not related to the policies adopted by the national government to manage the health emergency and its socioeconomic consequences.

The Constitution also regulates the communal administration. A municipality, constituted by a democratically elected mayor and municipal council, is a territorially decentralized body. They hold constitutional autonomy: the State must guarantee their institution and recognize their own sphere of interests and competences. It also enshrines the election of their governing bodies and gives them the power to dictate local ordinances and rules, even in fields subject to national laws.[16] Despite this, they are limited by the shape of the unitary state, and the Organic Constitutional Law of Municipalities provides them with technical decentralization, structure, and attributions.[17]

In practice, this relative autonomy gives municipalities a larger capacity for action – with a restricted degree of discretion – than other decentralized public services, executed through municipal ordinances. However, this additional capacity is limited by administrative jurisprudence: the Comptroller General of the Republic has historically determined that municipalities can only carry out those acts for which they are expressly authorized by a legal norm and insists that they abide by the principle of legal certainty – under no circumstances can they support or apply

[13] Indirect mandate of Article 115bis of the Chilean Constitution. At the provincial level, there are also presidential delegates, but this administrative level has even less competences.

[14] Article 111 of the Chilean Constitution.

[15] Law No. 21074 – Strengthening of the country's regionalization, 15 February 2018, https://bcn.cl/2f7d4 (access: 29.5.2024); B. Delooz, *Actualidad de la regionalización chilena*, "Estudios de Derecho" 2019, vol. 76(168), pp. 197–220; E. Castillo, *Elección de gobernadores regionales y descentralización territorial en Chile*, "Revista Prolegómenos" 2019, vol. 22(43), pp. 109–124; O. Henríquez, *Las leyes de descentralización en Chile: eje del cambio de la intergubernamentalidad pasando de la jerarquía a la negociación*, "RIEM" 2020, no. 21, https://www.scielo.cl/pdf/riem/n21/0719-1790-riem-21-5.pdf (access: 29.5.2024), pp. 5–28.

[16] L. Cordero Vega, *Lecciones de derecho administrativo*, Santiago de Chile 2015, pp. 212–213.

[17] Decree with Force of Law No. 1, Ministry of Interior, Chile – Establishes the consolidated, coordinated and systematized text of Law No. 18695 – Constitutional Organization of Municipalities, 26 July 2006 (updated 31 July 2024), https://bcn.cl/2f796 (access: 29.5.2024).

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regulatory texts that infringe the legal system, and cannot regulate constitutional freedoms and rights different from those enshrined in the general laws.[18]

This context partly explains the tensions and conflicts observed in central-local relations in the midst of the pandemic and can help explore the issue of coordination between the authorities at the national and sub-national levels.

2. Government and administration – a brief outline of multilevel coordination in Chile

According to L. Cordero Vega, three constitutional principles of administrative organization regulate relations between the national, regional and local levels: unity, legality and solidarity.[19] The latter – aimed to improve multilevel coordination – was introduced in a constitutional reform in 2005, mandated the state to provide harmonious and equitable territorial development, especially in the distribution of public resources between and within regions.[20] It further integrates the principle of coordination in inter-administrative relations, providing links between municipalities and the rest of the state, particularly regarding public services.[21] At the same time, many problems of multilevel coordination can arise from municipal constitutional autonomy and also from the most recent reforms to regional governments and their powers, particularly the direct election of regional governors.[22]

Intergovernmental coordination has long been debated in public administration studies as well as within federal studies, with scholars divided between arguments regarding the coordination costs of multilevel governance systems[23] as well as the need for additional capacities to manage and resolve conflicts,[24] on the one hand, and arguments connected to the fact that centralized policy processes tend to distrust

[18] J. Fernández Richard, *La administración del Estado y las municipalidades en Chile*, "Revista del Instituto de Ciencias Jurídicas de Puebla" 2013, vol. 7(32), p. 25.

[19] L. Cordero Vega, *op. cit.*, pp. 121–124.

[20] Article 155 of the Chilean Constitution.

[21] Article 123 (1) of the Chilean Constitution.

[22] Law No. 21074; E. Montecinos, E. Szmulewicz, *Gobernadores regionales y delegados presidenciales: zonas de conflicto y espacios de colaboración*, [in:] *Desarrollo territorial colaborativo. Descentralizando poder, competencias y recursos*, eds. H. von Baer, N. Bravo, Temuco 2019; O. Henríquez, *op. cit.*; E. Montecinos, *Descentralización, pandemia y el desafío de las relaciones intergubernamentales pos 2021 en Chile*, "Revista Estado, Gobierno y Gestión Pública" 2020, vol. 18(35), pp. 111–138.

[23] L. Hooghe, G. Marks, *Does Efficiency Shape the Territorial Structure of Government?*, "Annual Review of Political Science" 2009, vol. 12(1), pp. 225–241.

[24] Organisation for Economic Co-Operation and Development, *The Territorial Impact of COVID-19: Managing the Crisis across Levels of Government*, 10.11.2020, https://www.oecd.org/coronavirus/policy-responses/the-territorial-impact-of-covid-19-managing-the-crisis-across-levels-of-government-d3e314e1 (access: 7.10.2023).

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the value of local knowledge and consultation with the local governments, hence praising multilevel systems provided there are vertical pathways through which tensions can be resolved.[25] Yet only recently legal scholars concerned with decentralization in non-fully federal countries have focused on this topic. In particular, case studies regarding Portugal,[26] Romania,[27] or Albania[28] have highlighted the need for incorporating these countries into a wider conception of intergovernmental coordination challenges, while still accounting for their specificities in terms of higher government centralization, less formalized intergovernmental relations, and a prevalent role of national associations of municipalities in the negotiating table with central government. On the other hand, recent comparative studies focused on decentralized states in the European context[29] as well as in Southeast Asia,[30] have also stressed the crucial importance of a coordinated national response to emergencies, as well as the emergence of network-liked governance arrangements to self-coordinate certain capacities among subnational governments.

The Chilean case is consistent with the above-mentioned literature regarding the problems of vertical intergovernmental coordination in decentralized unitary countries. At the legal level, coordination is a basic principle in the structure of the administration of the state of Chile (*Ley Orgánica Constitucional sobre Bases Generales de la Administración del Estado*, LOCBGAE).[31] However, as a liaison between the national and regional levels, the regional governor – who coordinates public services – and the regional presidential delegate – who organizes the regional services dependent on the sectorial ministries – constitutionally share functions.

[25] T. Bergström, S. Kuhlmann, M. Laffin, E. Wayenberg, *Special Issue on Comparative Intergovernmental Relations and the Pandemic: How European Devolved Governments Responded to a Public Health Crisis*, "Local Government Studies" 2022, vol. 48(2), pp. 179–190. For an updated version of this debate, see M. Guderjan, M. Kölling, J. Schnabel, *Multilevel Crisis Management: COVID-19 Responses in Federal and Decentralised Polities*, [in:] *Jahrbuch des Föderalismus: Föderalismus, Subsidiarität und Regionen in Europa*, Baden-Baden 2023, pp. 178–191.

[26] T. Ruel, N. Bessa, N. Silva, Z. Oplotnik, *Intergovernmental Coordination in Portugal*, "Studia Iuridica Lublinensia" 2023, vol. 32(5), pp. 31–42.

[27] A. Murphy, F. Ghencea, *The Legal Framework for Local Government Coordination in Romania*, "Studia Iuridica Lublinensia" 2023, vol. 32(5), pp. 105–115.

[28] E. Bagaviki, E. Bushati, *Balancing Act: Albanian Experiences of Local Government Relations with Central Government*, "Studia Iuridica Lublinensia" 2024, vol. 33(1), pp. 11–28.

[29] P. Jüptner, D. Klimovský, *Vertical and Horizontal Intergovernmental Relations during the First Wave of the COVID-19 Crisis: Experience from the Extremely Fragmented CEE Countries*, "Local Government Studies" 2022, vol. 48(2), pp. 232–250.

[30] S. Shair-Rosenfield, *Decentralisation, Intergovernmental Coordination, and Response to Extreme Events in Southeast Asia*, "Regional Studies", 2.4.2024.

[31] Decree with Force of Law No. 1-19653, Ministry Secretariat General of the Presidency, Chile – Establishes the consolidated, coordinated, systematized and updated text of Law No. 18575 – Constitutional Organic Law on general basis of the public administration, 17 November 2001 (updated 31 July 2024), https://bcn.cl/2f96v (access: 29.5.2024).

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Laws on regional government and administration reinforce this duality.[32] However, a signal of coordination is the faculty of regional governments to enter into public investment program agreements with each other, including national ministries, or even incorporating municipalities.[33]

The Constitution states that public services must coordinate with the municipality when they work in the respective communal territory.[34] The law settles possible conflicts in the competences of national, regional, provincial, and communal authorities to be handled by the hierarchical superior they depend on or are related to.[35] This is a problem for regional governments and municipalities, both of which lack a hierarchical superior. A possible solution is the transfer of competences from the President of the Republic to one or more regional governments, but the foreseen permanent mechanism has yet to be activated since it is still under the control of the President, as the transition to put these instruments into practice will only finish in 2024.[36] In fact, the Constitutional Court considers this autonomy an "institutional guarantee", protecting municipalities from any legislation to contest it.[37] However, as the COVID-19 case confirms, its practical implementation has been rather limited.[38]

The lack of coordination mechanisms in Chile has led authors to note that most of the relations between municipalities, and with the organs of the central administration lack a specific structure, direction or sequence, and have little effectiveness.[39] When they share functions, local governments legally have limited practical powers over executive delegates, and unequally distributed human and financial means at their disposal.[40]

Constitutionally, municipalities can carry on shared duties "directly or in coordination with other organs of the state administration", in areas such as preventive public health, training, productive development, risk management and assistance in

[32] Article 20bis of the Decree with Force of Law No. 1-19175, Ministry of the Interior, Chile – Establishes the consolidated, coordinated, systematized and updated text of Law No. 19175 – Constitutional Organic Law on regional government and administration, 8 November 2005, https://bcn.cl/2f96z (access: 29.5.2024).

[33] Article 115 (4) of the Chilean Constitution. This is further detailed by an organic law on regional governments and administration, in Articles 9, 16, 81, 81bis and 81ter.

[34] Article 118 provides that public services must coordinate with the municipality when they develop their work in the respective communal territory, a matter emphasized by Article 123.

[35] Article 126 of the Chilean Constitution; Article 39 of Law No. 18575.

[36] O. Henríquez, *op. cit*.

[37] Judgment no. 80 of the Chilean Constitutional Court of 22 September 1989, https://vlex.cl/vid/58943041 (access: 29.5.2024).

[38] R.A. Nickson, *Local Government in Latin America*, Boulder 1995, pp. 27–29.

[39] J. Fernández Richard, *op. cit.*, p. 159.

[40] I. Irarrázaval, E. Pérez, *Institucionalidad subnacional y el problema de coordinación de competencias*, [in:] *Un mejor Estado para Chile. Propuestas de modernización y reforma*, ed. Consorcio para la Reforma del Estado, Santiago 2009, p. 190.

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emergencies.[41] They may also partner with each other through nonprofit organizations to run local hospitals or school districts.[42] Constitutionally, relationships between the municipal and the national public services in their respective territories are carried out in direct agreements, without changing their respective powers and competences.[43]

In turn, the state's harmonization with regional and local plans is related to the legal principle of coordination, which appears when the central government applies provisions on issues such as public transport, transit, or urban development. Coordination is an element that leads to "supra-urbanism", a movement that calls to harmonize sectoral plans to improve territorial management and align different urban development plans.[44]

The municipal shared functions can be developed by the municipalities with another legal body after signing an inter-administrative agreement or directly by a municipality, respecting the principle of coordination.[45] In turn, each sectoral code establishes competences and obligations of the municipalities, especially in primary or preventive health, that failed to be pertinent when it came to managing the COVID-19 pandemic.

An organic constitutional law regulates states of exception[46] and provides the Chief of the National Defense with the powers and the capacity to directly issue instructions to all state or municipal officials.[47] This is a considerable centralization of the public power in case of an emergency as, under normal circumstances, neither the local mayor nor any other municipal officials, may receive orders or instructions from the central state administration.[48]

Consequently, it is not surprising that no coordination mechanisms between the municipalities and the central level are foreseen in the event the President declares a state of emergency. The territorial ramifications of a situation such as a national catastrophe are only referred in the Constitution when it states that it shall be de-

[41] Article 4 Law No. 18695.

[42] Article 118 of the Chilean Constitution.

[43] Article 10 of Law No. 18695.

[44] E. Cordero Quinzacara, *Ordenamiento territorial, justicia ambiental y zonas costeras*, "Revista de Derecho de La Pontificia Universidad Católica de Valparaíso" 2011, vol. 36(1), pp. 216–238.

[45] Articles 9 Law No. 18695; Articles 37 and 38 of Law No. 18575.

[46] Law No. 18415 – Constitutional Organic Law on States of Exception, 14 June 1985 (updated 24 January 1990), https://bcn.cl/2f6vs (access: 29.5.2024).

[47] Articles 7 and 5 of Law No. 18145 provide for the powers of the Chief of the National Defense.

[48] According to Article 5, when issuing instructions, the zone Chiefs of the Armed Forces must respect the administrative competences of the authorities under their jurisdiction. This somehow reflects the use of the coordination principle. This idea is later replicated in Decree No. 104 (Ministry of Interior and Public Security, Chile – Declares a state of constitutional exception of catastrophe, due to public calamity, in the territory of Chile, 18 March 2020 (updated 30 June 2021), https://bcn.cl/2ga7v, access: 29.5.2024), which set the state of emergency due to catastrophe based on the COVID-19 pandemic.

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clared by the President *determining the area affected by the same*.[49] Therefore, the state of emergency may cover a specific section or the entire territory of the nation, as was the case of the COVID-19 pandemic. In that context, the Constitution specifies that the President may impose exceptional restrictions of certain fundamental rights and adopt all the extraordinary administrative measures necessary for the prompt re-establishment of normality in the affected area.[50]

RESEARCH AND RESULTS

1. Overview of the measures taken in times of COVID-19

Intergovernmental relations during the COVID-19 pandemic faced many challenges in Chile. As will be detailed below, in the context of the declaration of a constitutional state of emergency, the Chilean regulation failed to foresee any specific coordination mechanisms between the subnational and the central level. Normally, the President declares a state of catastrophe and must only inform Congress about the decision, and the following measures to adopt. In the context of the pandemic, the President declared a 90-day state of catastrophe on 18 March 2020, which was extended to additional periods – each time, requiring a new parliamentary agreement.[51] The exceptional measures were extended nationwide for over a year, disrupting the continuity of several human rights, such as freedom of movement and assembly, economic activities or education.[52] This extension was renewed repeatedly, leading the state of emergency to finally end in September 2021, a year and a half after it was originally declared.

During states of exception, the zonal Chiefs of National Defense are endowed with powers to exercise command and control in the specific territory, issuing direct instructions to all state and municipal officials. These include the restriction of freedom of movement and assembly, the requisition of goods, setting limitations

[49] Article 41 of the Chilean Constitution.

[50] Article 43 of the Chilean Constitution.

[51] For a complete overview of the national constitutional and legal framework applicable to the COVID-19 response, see G. Jiménez, P. Grez, P. Marshall, *Chile: Legal Response to COVID-19*, [in:] *The Oxford Compendium of National Legal Responses to COVID-19*, eds. J. King, O. Ferraz, Oxford 2021.

[52] D. Méndez-Royo, D. Molina-Conzue, *Chile*, [in:] *A Human Rights and Rule of Law Assessment of Legislative and Regulatory Responses to the COVID-19 Pandemic across 27 Jurisdictions*, Bonavero Reports 7/2020, 30.10.2020, https://www.law.ox.ac.uk/sites/files/oxlaw/bonavero_report_7_2020.pdf (access: 29.5.2024), pp. 113–127; J. Contesse, *Exceptional Regulations for an Exceptional Moment: The Law and Politics of COVID-19 in Chile*, "Administrative Law Review" 2020, vol. 73(1), pp. 121–137.

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on the right to property, and adopting all the extraordinary measures necessary for a prompt establishment of normalcy in the affected areas.

Even though the legal framework of states of exception involves a considerable centralization of the state, Chilean doctrine has failed to provide a systematic treatment of the relations between the different levels of government and administration in this context. Even though from a legal standpoint these relations are generally conducted under the principle of hierarchy,[53] the practical experiences, as well as the political relations between government levels during the COVID-19 pandemic, require a more nuanced analysis.[54] If addressed properly, the lessons from the pandemic experience can create a window of opportunity for transitioning from a strong vertical hierarchy and control by the central government, to an approach based on coordination and sound intergovernmental relations, albeit still very unorganized and informal.[55]

2. National measures

During the pandemic, the government isolated the population through border closures, curfews, sanitary customs, and mandatory quarantines in several communes of the country.[56] As required by the Sanitary Code, in January 2020, the Ministry of Health decreed a sanitary alert and extended extraordinary powers to the National Health Authority – comprised by the Ministry of Health, each Regional Health Secretariat, and the Institute of Public Health – who began an emergency protocol using four levels of epidemiological risk of infection.[57] In terms of multilevel relations, the alert transferred extraordinary powers to each Regional Health Secretariat, including the capacity to request that municipalities take the necessary sanitary measures to contain the spread of the virus.[58]

A little less than two months after this regulation, the first confirmed case of COVID-19 in Chile was reported. From then on, various measures were sub-

[53] M. Rubano, *Estados de excepción constitucional en Chile*, "Revista de Derecho Público" 2015, no. 48, pp. 139–146; L. Ríos, *Los estados de excepción constitucionales en una perspectiva humanista*, [in:] *La Constitución reformada de 2005*, coord. H. Nogueira, Santiago 2006.

[54] E. Montecinos, *op. cit*.

[55] O. Henríquez, *op. cit*.

[56] A complete database of the legal framework as well the judicial and administrative decisions in the context of COVID-19 in Chile can be consulted in Diario Oficial del Estado (https://www1.doe.cl/Covid-19.html).

[57] Article 36 of the Decree with Force of Law No. 725, Ministry of Public Health, Chile – Sanitary Code, 31 January 1968 (updated 26 January 2024), https://bcn.cl/2f8kr (access: 29.5.2024); Decree No. 4, Ministry of Health, Chile – Decrees sanitary alert for the period indicated and grants extraordinary powers indicated by public health emergency of international concern (PHEIC) due to outbreak of the new Coronavirus (2019-NCOV), 8 February 2020, https://bcn.cl/2f9tc (access: 29.5.2024).

[58] Article 3 and 9 of Decree No. 4.

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sequently put in place, issued by the President and the health sector authorities, with the additional involvement of the Minister of the Interior and Public Security and the Minister of Defense, and included several stages. On 18 March 2020, the government decreed the first 90-day state of exception.[59] The Chiefs of National Defense would consider the sanitary measures and coordinate with the regional and communal authorities in each Regional Emergency Operations Committee – an operational intergovernmental management body rather than an intergovernmental relations institution.[60] Two days later, the Ministry of Interior declared all 346 communes in Chile as affected by a state of catastrophe for 12 months.[61] Later, the central government authorities set up total lockdown areas (*cordon sanitaires*) to control the spread of the disease in specific areas of Santiago, Chile's capital and largest city, after strong pressure from mayors. By the beginning of April, several communes in the center-south regions of Chile were incorporated into this mandatory quarantine, and these were subsequently extended or restricted in specific communes, provinces or regions, in a dynamic fashion, depending on the evolution of the epidemiological trends.

At the end of July, the Ministry of Health introduced a step-by-step plan with a gradual 5-stage strategy to de-escalate protective measures.[62] The health authorities increased or lowered the stage in each sector, in accordance with the evolution of epidemiological indicators, the state of the health network and traceability of infections.[63] In light of the proliferation of local ordinances that sought to regulate this matter, these resolutions additionally centralized the regulation regarding the use of face masks.[64]

To deal with the social and economic consequences of the pandemic, in December 2020 the Chilean Congress created a Temporary Emergency Fund to help protect

[59] Decree No. 104.

[60] Article 4 of Decree No. 104. For this distinction, see T.A.J. Toonen, *Multi-Level Governance and Intergovernmental Relations: Integrating the Theoretical Perspectives*, [in:] *Governance and Intergovernmental Relations in the European Union and the United States*, eds. E. Ongaro, A. Massey, M. Holzer, E. Wayenberg, Cheltenham 2010, pp. 34–46.

[61] Decree No. 107, Ministry of Interior and Public Security, Chile – Declares a state of constitutional exception of catastrophe, due to public calamity, in the territory of Chile, 18 March 2020 (updated 30 June 2021), https://bcn.cl/2ga7v (access: 29.5.2024).

[62] Exempt Resolution No. 591, Ministry of Health, Chile – Sanitary measures indicated for COVID-19 outbreak and "Step by Step" Plan, 25 July 2020 (updated 15 January 2021), https://bcn.cl/2o50r (access: 29.5.2024).

[63] *Ibidem*.

[64] Despite the slow and progressive lifting of restrictions, the Sanitary Alert set by the Ministry of Health to manage the COVID-19 pandemic only ended on 31 August 2023, although most of the restrictions had been already reorganized, decreased or even entirely lifted by the central government resolutions on a region-by-region basis. For instance, see Exempt Resolution No. 2530 – Decrees que restructuring, reduction and lifting of strategies associated with COVID-19, 7 February 2023, https://www1.doe.cl/covid19/normativa/20230207319001.pdf (access: 29.5.2024).

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family incomes and to provide economic and employment stimulus packages.[65] To further provide social assistance, the executive was enabled to allocate direct cash transfers to families, to fund the municipalities' assistance programs as well as civil society organizations dealing with the emergency. However, municipalities only served as a local implementing body and generally lacked powers and resources to deal with social security matters.[66]

During the state of emergency and with these regulations set in motion, the municipalities had very limited capacity to regulate fundamental rights due to the legal provisions of the Constitution and the centralization of powers vested in the president and the provisional military authorities. Regional governments were also constrained in this matter and practically had no intervention during the pandemic.

3. Sub-national emergency measures

Chilean constitutional law allows municipalities to carry out functions related to public health and risk prevention and provide emergency relief.[67] Nevertheless, this generic norm that fails to grant specific powers to local entities to manage health emergencies, and the Health Code reserves epidemic management to the central government.[68]

The relationship between the central government and regions was different from its interaction with municipalities, consistent with the institutional design of the territorial organization of government and administration. No conflicts arose at the level of regional and provincial authorities acting on behalf of the president, as they are hierarchically accountable to the same legal person.[69] Until their first term as elected officials in June 2021, the same logic applied to the decentralized regional governments, headed by an executive appointee. At the municipal level, their constitutional autonomy means that any conflict with the national or regional

[65] Law No. 21288 – Creates the COVID-19 Transitional Emergency Fund, 14 December 2020, https://bcn.cl/2mq4b (access: 29.5.2024).

[66] For details of this and other socioeconomic measures, see G. Jiménez, P. Grez, P. Marshall, *op. cit*.

[67] Law No. 18695.

[68] Part of this section was previously elaborated in E. Szmulewicz, *Descentralización en tiempos de pandemia. Una visión desde Chile*, [in:] *COVID-19 y Estados en acción: un estudio constitucional comparado entre países federales y no federales*, eds. E. Nader, M.C. Fuchs, Bogota 2021, pp. 189–197.

[69] Even though some regions created a "social committee" for the pandemic, incorporating civil society, academia and municipalities, the fact is that this was only an informative body with little impact on decision-making, and limited to replicating at the regions the measures adopted at the national level. Only in two cases, representatives of the central level in the regions questioned the measures taken for not considering sufficiently the particularities of the respective territory, but these conflicts were ventilated through the press and did not result in legal or administrative actions. See E. Montecinos, *op. cit.*, pp. 125–126.

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level cannot technically be resolved by applying the principle of hierarchy, but rather by coordination between administrative authorities, a power distribution that is nevertheless altered in the context of a state of constitutional exception.[70]

In lieu of this structure, political conflicts affecting coordination are bound to arise in between national and municipal authorities, especially when they belong to different political parties. However, the chances of municipal authorities blocking any public policies in Chile are practically non-existent, given its unitary nature and the scarce socioeconomic resources managed by the communes. Still, the municipalities more likely to have conflicting relations with the executive are those of a larger size and that are regional capitals at the same time, and this would occur more frequently with municipalities in political opposition to the central government.[71] In the case of regional authorities, since direct election is a very recent phenomenon, these potential conflicts are likely to be further accentuated in the future.[72]

In relation to the COVID-19 response, open conflicts between some municipal authorities and the central level were initially observed, even between officials of the same ruling center-right political coalition. This pattern is observed in federal and unitary states, such as Colombia or France.[73]

To a greater or lesser extent, many cases were demands by local authorities for the relevant central executives to take appropriate measures.[74] For example, some mayors requested the government to suspend basic and secondary education activities even before they had declared a state of emergency.[75] Later, mayors from different localities urged the health authority to reinforce protective measures such as appointing law enforcement and security forces to limit and control the points of entry to specific locations[76] or decreeing a national quarantine beyond the initially targeted communes of Santiago.[77] This situation would be replicated after the

[70] *Ibidem*.

[71] E. Szmulewicz, *Descentralización en tiempos de pandemia…*, pp. 175–210.

[72] E. Montecinos, E. Szmulewicz, *op. cit*.

[73] J.C. Covilla, *Orden público, jerarquía y coordinación entre niveles de gobierno*, [in:] *Seis perspectivas del derecho público en tiempos del COVID-19*, coord. J.C. Covilla, Colombia 2020; T. Perroud, E. Guernaoui, *France's Health Crisis Is a Democracy Crisis, Too*, 21.4.2020, https://www.theregreview.org/2020/04/21/perroud-guernaoui-frances-health-crisis-democracy-crisis (access: 29.5.2024).

[74] From here on, sources are in Spanish, since they are links to local ordinances by Chilean municipalities or news articles published by Chilean press.

[75] El Día, *Alcalde de Coquimbo pide al Gobierno suspensión inmediata de las clases en la región*, 15.3.2020, http://www.diarioeldia.cl/region/alcalde-coquimbo-pide-gobierno-suspension-inmediata-clases-en-region (access: 7.10.2023).

[76] El Día, *Alcaldes de la región piden cierre de ciudades, pero Intendenta desestima la medida*, 18.3.2020, http://www.diarioeldia.cl/region/alcaldes-region-piden-cierre-ciudades-pero-intendenta-desestima-medida (access: 7.10.2023).

[77] El Mostrador, *Alcaldes aumentan presión y exigen cuarentena total nacional por crisis sanitaria del COVID-19*, 20.3.2020, https://www.elmostrador.cl/noticias/pais/2020/03/20/alcaldes-aumen-

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government adopted a dynamic and flexible quarantine strategy in other densely populated metropolitan areas such as Valparaíso and Coquimbo, where mayors continued to disagree with the central government's decisions and demanded tougher measures to deal with the pandemic.[78]

Invoking their relative constitutional autonomy and normative powers, municipalities issued local ordinances to regulate specific local activities and extensively set fines when citizens breached their restrictions.[79] Before the government declared a national state of emergency, several municipalities had already declared a so-called "state of communal emergency".[80] The extensive implementation of this so-called "local health policing" was severely questioned by the Comptroller General of the Republic. This is a complex legal situation, given the broad legal powers provided to local governments, and contradicts the clear competences given to the national health authorities. For instance, the municipality of Las Condes, a wealthy district of Santiago, decreed restrictive measures on the same day that the state of catastrophe was declared by the President, suspending the operation of certain facilities, imposing restrictions on commerce, and setting up additional requisites for businesses, such as the adaptation of facilities to comply with social distancing requirements.[81]

In the same spirit, the Municipal Council of Easter Island (Rapa Nui) issued a Decree on 8 April, setting measures to minimize the risk of the spread of the pandemic in their specifically regulated overseas territory, directing issues such as

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tan-presion-y-exigen-cuarentena-total-nacional-por-crisis-sanitaria-del-Covid-19 (access: 7.10.2023); El Día, *Alcaldes de la región de Coquimbo y Colegio Médico exigen cuarentena total*, 21.3.2020, http://www.diarioeldia.cl/region/alcaldes-region-coquimbo-colegio-medico-exigen-cuarentena-total (access: 7.10.2023).

[78] El Día, *Alcalde de La Serena exige cuarentena total en la región tras aumento de casos*, 15.5.2020, http://www.diarioeldia.cl/region/alcalde-serena-exige-cuarentena-total-en-region-tras-aumento-casos (access: 7.10.2023); El Mostrador, *Indignación en Valparaíso: autoridades claman por cuarentena regional ante negativa de Mañalich y tres alcaldes se suman a los contagiados*, 27.5.2020, https://www.elmostrador.cl/dia/2020/05/27/indignacion-en-valparaiso-autoridades-claman-por-cuarentena-regional-ante-negativa-de-manalich-y-tres-alcaldes-se-suman-a-los-contagiados (access: 7.10.2023).

[79] P. Soto, *La resurrección de la policía sanitaria municipal durante la pandemia de COVID-19. Una cuestión de densidad legal en clave histórico-normativa*, [in:] *Derecho público y emergencia. Respuestas ante el COVID-19*, coord. C. Rojas Calderón, J.C. Ferrada Borquez, P., Méndez Ortiz, Santiago 2021.

[80] El Mostrador, *El liderazgo de los alcaldes: más municipalidades decretan estado de emergencia comunal ante el coronavirus*, 17.3.2020, https://www.elmostrador.cl/noticias/pais/2020/03/17/el-liderazgo-de-los-alcaldes-mas-municipalidades-decretan-estado-de-emergencia-comunal-ante-el-coronavirus (access: 7.10.2023).

[81] Article 1 of Decree No. 1911, 18 March 2020, Municipality of Las Condes – Decrees emergency measures, as a consequence of the health emergency indicated, https://www.lascondes.cl/municipalidad/ordenanzas-municipales/um-ordenanzas-municipales/ordenanzas-municipales.html (access: 29.5.2024). Las Condes Municipality had modified the local ordinance for the exercise of commerce regarding the mayor's power to restrict certain commercial activities in the municipality.

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the self-care of its local inhabitants, the mandatory use of gloves and face masks in public areas, a permanent sanitization of any establishment with public access, among others.[82] Later, several local governments adopted health protection measures such as the use of masks,[83] screening locations and social distancing rules,[84] vehicle checkpoints, suspension of local markets,[85] and restrictions on the hours of sale of alcohol.[86] The Health Authority resolutions additionally centralized the regulation on the use of masks, after many local ordinances attempted to deal with this matter.[87] The case of locally imposed mandates for wearing face masks in public

[82] Decree No. 801, 8 April 2020, Municipality of Rapa Nui – Municipal Ordinance that establishes measures to minimize the risk of spreading the pandemic caused by the COVID-19 virus in the special territory of Easter Island, https://www.rapanui.net/secciones/2904 (access: 29.5.2024). The proactive approach of this territory is comparable to the regional-based orientation of the Madeira government, in Portugal. See T. Ruel, N. Bessa, N. Silva, Z. Oplotnik, *op. cit.*, p. 35.

[83] See Decree No. 684, 9 April 2020, Municipality of Coquimbo – Ordinance that stipulates the use of masks for those who move in public spaces of the commune, https://www.municoquimbo.cl (access: 29.5.2024); Municipal Ordinance No. 1/2020, 15 April 2020, Municipality of Antofagasta – On the use of nasobuccal devices in the context of the COVID-19 outbreak in all public spaces and national public property in the municipality of Antofagasta and others, https://www.municipalidaddeantofagasta.cl (access: 29.5.2024); Decree No. 728, 6 May 2020, Municipality of Lonquimay – Municipal ordinance on the use of masks and facial protection in the context of the outbreak of COVID-19 in the public space of the commune of Lonquimay, https://bcn.cl/3i23o (access: 29.5.2024); Decree No. 19, 2 May 2020, Municipality of Peñalolén – Local ordinance that establishes the use of masks and other protective elements on public roads, public spaces and municipal premises of the commune of Peñalolén, whose use is necessary to protect the community in the event of pandemics, catastrophes or public health calamities so decreed by the competent authority, https://bcn.cl/2gql4 (access: 29.5.2024); Decree No. 1001, 8 May 2020, Municipality of Tierra Amarilla – Approves municipal ordinance on the mandatory use of masks in the context of the COVID-19 outbreak, in the public space of the commune of Tierra Amarilla, https://bcn.cl/3i23p (access: 29.5.2024); Decree No. 557, 19 May 2020, Municipality of Ollagüe – Approves Ordinance No. 1 of 2020 on the use of masks in the context of the COVID-19 outbreak, https://bcn.cl/3i23q (access: 29.5.2024); Decree No. 1167, 6 June 2020, Municipality of Nogales – Approves municipal ordinance on the use of masks in public spaces or places of public use and the application of other sanitary measures in the commune of Nogales.

[84] For instance, see Decree No. 710, 4 June 2020, Municipality of Illapel – Official State Gazette, https://www.doe.cl/Covid-19.php (access: 29.5.2024).

[85] For instance, see Decree No. 1952, 17 June 2020, Municipality of Lo Espejo – Official State Gazette, https://www.portaltransparencia.cl/PortalPdT/documents/10179/62801/1952+MODIF+ORDENANZA+N%C2%BA11+DE+FERIAS+LIBRES.pdf/f0dee0fa-1cf5-471b-90d8-9b5ba380bebd (access: 29.5.2024).

[86] For instance, see Decree No. 1, 28 April 2020, Municipality of San Pedro de Atacama – Establishes the hours of operation of premises where alcoholic beverages are sold, https://bcn.cl/3i23t (access: 29.5.2024); Decree No. 3, 17 April 2020, Municipality of Calama – Modifies ordinance regulating the sale of alcoholic beverages, https://bcn.cl/3i23r (access: 29.5.2024); Decree No. 1325, 24 August 2020, Municipality of Coquimbo – Official State Gazette, https://www.portaltransparencia.cl/PortalPdT/documents/10179/62801/SCAN0178.PDF/d8ee9152-dfa6-4302-901f-5a489ff80997 (access: 29.5.2024).

[87] The Sanitary Alert only ended on 31 August 2023, although most of the restrictions were gradually decreased or lifted.

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was noted in comparable countries such as France, giving rise to similar tensions and reactions by the central government, as well as legal actions by administrative courts against these municipal orders, until the national government reacted from a top-down perspective.[88]

Contrary to these cases, there were also examples of coordination and collaboration between authorities at different levels of government and administration. Before the emergency body was formally set up, the municipality of Caleta Tortel was the first commune to be declared in local quarantine for 14 days, after the mayor requested the Communal Emergency Committee.[89] Hence, a dynamic of collaboration between the municipality and a deconcentrated entity of the central level was observed. In the region of Coquimbo, a local authority promoted the creation of a provincial roundtable to discuss measures to deal with the spread of the virus, bringing together mayors and representatives of the central level.[90] Additionally, several mayors of the greater Santiago area also promoted inter-municipal coordination measures in the city following the first cases of coronavirus.[91]

In short, although officials hoped that a constitutional state of emergency would contribute to reducing conflicts between different levels of government and administration, it was hardly the case for municipal actors. Only later, by mid-2020, authorities implemented informal instances of communication and information between the authorities of the Ministry of Health and the mayors.[92] This shows the importance of leadership styles in addressing multilevel governance issues, especially in crisis contexts.

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[88] T. Buthe [et al.], *Patterns of Policy Responses to the COVID-19 Pandemic in Federal vs. Unitary European Democracies*, "SSRN Electronic Journal" 2020 (September).

[89] Exempt Resolution No. 209, Aysén Regional Ministerial Secretariat of Health – Decrees a sanitary measure for the period indicated and grants extraordinary powers indicated, 14 March 2020, https://es.scribd.com/document/451713268/Comunicado-Seremi-Salud-Aysen (access: 29.5.2024).

[90] El Illapelino, *Alcalde de Illapel impulsó creación de mesa provincial para combatir al coronavirus*, 7.4.2020, https://elillapelino.cl/2020/04/07/alcalde-de-illapel-impulso-creacion-de-mesa-provincial-para-combatir-al-coronavirus (access: 7.10.2023).

[91] La Tercera, *Alcaldes opinan sobre cómo lograr una ciudad coordinada en Estado de Catástrofe*, 20.3.2020, https://www.latercera.com/pulso/noticia/alcaldes-opinan-sobre-como-lograr-una-ciudad-coordinada-en-estado-de-catastrofe/VXCMJRCHFBE2VOIAZPXCVO7QNQ (access: 7.10.2023).

[92] El Mostrador, *Del "ninguneo" de Mañalich al nuevo estilo de Paris: ministro da potente señal al sumar a alcaldes al balance diario del COVID-19*, 15.6.2020, https://www.elmostrador.cl/noticias/pais/2020/06/15/del-ninguneo-de-manalich-al-nuevo-estilo-de-paris-ministro-de-salud-da-potente-senal-al-incorporar-a-alcaldes-al-balance-diario-del-Covid-19 (access: 7.10.2023); El Mostrador, *Ministro Paris reconoce que alcalde Alessandri 'tiene razón' respecto al desconfinamiento en Santiago y adelanta que estudiará su situación el domingo*, 31.7.2020, https://www.elmostrador.cl/dia/2020/07/31/ministro-paris-reconoce-que-alcalde-alessandri-tiene-razon-respecto-al-desconfinamiento-en-santiago-y-adelanta-que-estudiara-su-situacion-el-domingo (access: 7.10.2023).

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CONCLUSIONS

This analysis shows that, despite its constitutional and legal recognition, the principles and techniques of coordination between the central, regional, and local levels of government and administration in Chile lack legal, doctrinal, and jurisprudential elaboration, and have a notorious deficit in their implementation. This is particularly complex in emergency contexts, such as states of constitutional exception, as the COVID-19 pandemic experience portrays.

Even though sub-national authorities – particularly mayors – deployed significant actions to address the effects of the pandemic in their territories, their efforts were not accompanied by legal or practical changes to generate mechanisms or institutions that formally incorporate the sub-national level in the decision-making processes. In other words, the pandemic revealed a severe contradiction between the idea of legal or formal autonomy and the realities of political (and administrative) centralism, particularly in the context of a state of constitutional exception.[93] Furthermore, it is important to consider the differences in multilevel coordination in relation to the regions and that related to the municipalities – at least at the level of constitutional and legal rules. The constitutional and legal rules on associativity and coordination with regional governments have a low normative density in comparison to the rules on coordination regarding municipalities. This may be a consequence of the constitutional autonomy municipalities enjoy, which is reflected not only in issuing formal rules but also in their capacity to both politically challenge the central government as well as to horizontally organize to advance municipalities common interests, and the fact that – until its first election in mid-2021 – regional governments lacked political impetus of their own, given that their chief executive was appointed by the President. This situation has changed considerably since the first elected officials took office in the executive of regional governments in mid-2021, although the practice so far with the recently created association of regional governors (Asociación de Gobernadores y Gobernadoras Regionales de Chile, AGORECHI) points more to an interest in mobilizing political efforts than to impact the provision of public goods and services.[94]

Whether any future coordination strategies and institutions in Chile will yield better results in dealing with national emergencies or disasters, remains to be seen. At the same time, one wonders what are the available mechanisms or institutions for

[93] D. Cravacuore, A. Nickson, *Intra-State Relations in Argentina: A Permanent Conflict between Legal Autonomy and Political Centralism*, [in:] *A Modern Guide to Local and Regional Politics*, Cheltenham 2022.

[94] C. Avellaneda, R. Bello Gómez, *Alcances y desafíos de la descentralización en América Latina: ¿qué se ha logrado y qué está por venir?*, "Revista Iberoamericana de Gobierno Local" 2024, vol. 2, pp. 31–32.

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any of the sub-national authorities, municipalities and regional governments to protect themselves against any disproportionate and intrusive incursions into their competences by the central government, even in the context of a declaration of a state of emergency. On the other hand, considering the lack of a powerful middle-level government, and faced with the proactive approach of several municipalities that started to issue stricter COVID-19 measures than the central government, the national government decided to centralize decision-making, including the extended and prolonged application of the state of constitutional exception. 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 hundreds of contradictory or at least misaligned policies in the country, could explain the decision of the national government to further centralize decision-making in crisis governance, despite a few successful examples. This pattern can be contrasted to the more consensual approach adopted in other countries, like the Netherlands or even Italy by way of informal intergovernmental relations between the center and the regions,[95] and raises questions that mirror the COVID-19 experiences in comparable countries, such as Portugal[96] and France,[97] in terms of the need for more formalized intergovernmental relations, deepening decentralization, as well as stronger central government capacities for coordinating with subnational authorities, particularly during crises.

Considering the conflicts and multilevel coordination problems observed in the context of the COVID-19 pandemic in Chile – which was also revealed after the "social outbreak" of October 2019 – it is also important to ask how these scenarios will be organized 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 what has been introduced in this article, it is time to address the institutions, mechanisms, and procedures of coordination systematically and coherently applying these principles.

[95] E. Szmulewicz, *Governing Decentralised States under Emergency Situations: Italy and the Netherlands during the COVID-19 Crisis*, "DPCE Online" 2022, vol. 54.

[96] T. Ruel, N. Bessa, N. Silva, Z. Oplotnik, *op. cit.*, p. 39.

[97] R. Bourget, *El estado de emergencia sanitaria provocado por la pandemia de COVID-19 desde la perspectiva del Estado unitario y centralizado francés*, [in:] *COVID-19 y Estados en acción…*, pp. 342–345.

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ABSTRAKT

W artykule zbadano relacje pomiędzy krajowymi i terenowymi organami władzy publicznej w Chile w kontekście odpowiedzi państwa na pandemię COVID-19, w szczególności analizując zasadę koordynacji oraz specyfikę stanu wyjątkowego. Analiza została przeprowadzona w świetle przepisów konstytucyjnych chilijskiego ustroju politycznego. Chociaż organy szczebla niższego niż krajowy, zwłaszcza burmistrzowie, podjęły szeroko zakrojone działania dla zapobiegania skutkom pandemii na obszarach swojej właściwości, to nie towarzyszyły temu reformy prawne czy praktyczne, mające na celu zintegrowanie instytucjonalnych czy proceduralnych zmian w kierunku włączenia organów terenowych w procesy decyzyjne. W okresie stanu wyjątkowego instytucje formalne i nieformalne nie zdołały podjąć się niezbędnej koordynacji swoich zadań na poziomie krajowym, regionalnym i lokalnym. Dlatego też pandemia COVID-19, trwająca w czasie ogólnokrajowej debaty konstytucyjnej w Chile, stała się okazją do omówienia instytucji i rozwiązań mogących doprowadzić do utworzenia skutecznego i sprawiedliwego systemu relacji między organami władzy publicznej w zdecentralizowanym państwie unitarnym.

Słowa kluczowe: zasada koordynacji; relacje między organami władzy publicznej; decentralizacja; gminy; pandemia COVID-19