



Expedited removal of foreign persons in Chile: An analysis of its application

Reconducción de personas extranjeras en Chile: Análisis de su aplicación

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Abstract

Expedited removal is a legal figure in force in Chile since 2022, enabling the immediate return of foreigners caught entering the country by circumventing immigration controls or under an enforceable order of expulsion, abandonment, or entry ban. This article, based on statistical analysis, shows that by January 2024, over ten thousand removals had been executed, mostly involving Bolivian nationals, with a focus on certain nationalities predominantly in the northern region of the country. A high rate of refusal by Bolivia is also observed, particularly in cases involving Venezuelan nationals, who account for the most reports of unauthorized border crossings. Consequently, it is concluded that this measure fails to prevent irregular entries and, instead, exacerbates the precariousness of migratory journeys.

Keywords: *Human mobility; expedited removal; irregularity; expulsion; migration.*

Resumen

La reconducción es una figura jurídica vigente en Chile desde 2022, que permite la devolución inmediata de extranjeros sorprendidos ingresando al país, ya sea eludiendo el control migratorio, o con resolución de expulsión, abandono o prohibición de ingreso. A partir del análisis estadístico, este artículo muestra que, a enero de 2024, se han realizado más de diez mil reconducciones, principalmente a personas bolivianas, priorizándose su ejecución en determinadas nacionalidades y en la zona norte del país. Se observa además una alta denegación de reconducciones por parte de Bolivia en casos de personas venezolanas, quienes lideran las denuncias de ingresos por pasos no habilitados. En consecuencia, se concluye que esta medida no evita los ingresos clandestinos, y, en cambio, precariza las travesías migratorias.

Palabras claves: *Movilidad humana; reconducción; irregularidad; expulsión; migración.*

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INTRODUCTION

The aim of this article is to analyze expedited removal of foreigners in Chile, a new feature in the national legal system, included in 2022 through the Immigration and Foreigners Act 21,325 of 2021 and its Regulations (Decree 296 of 2021 of the Ministry of Internal Affairs). Upon its entry into force, the Minister of Internal Affairs stated that “one of the most important tools for us [the Chilean government], perhaps at the border, which is what worries many people, is the possibility of expedited removal.”¹ Despite the importance given to it by the Executive, its operation has not yet been studied in the literature - except in relation to children and adolescents (hereinafter, NNA)² - Regarding expulsion,³ we will analyze it within the examination of measures that have proved ineffective in reducing irregular entries into the country⁴ and in terms of its legal nature, we will compare it with other mechanisms and with due process.⁵

The research question guiding this article is: Is the expedited removal mechanism for foreigners in Chile effective? The hypothesis we examine is based on the relationship: the greater the number of reports of entry through unauthorized border crossings, the less effective the expedited removal. Likewise, it is our belief that certain groups of migrants have been prioritized in its application, which is not consistent with the communities that register the greatest number of reports of entry through unauthorized border crossings. In this sense, our work contributes to the study of human mobility in Chile, by conducting an empirical review of immediate deportation, exploring its implementation and addressing the main problems and tensions generated in practice, to finally reflect on whether this institution, in addition to being ineffective, exacerbates the vulnerable conditions of migrants trying to enter Chile through unauthorized passage.⁶

At the methodological level, this article is based on qualitative research of an approximate nature and exploratory scope, which digs in the materialization of expedited removal in Chile from its creation to date. Through the collection⁷ and analysis of official statistics, we seek to understand the empirical magnitude of this figure, exploring whether the execution of this tool is in line with the purpose of controlling the border. To this end, the Policía de Investigaciones (hereinafter, PDI) was asked for the number of expedited removals carried out and refused between 2022 and today, broken down by region, sex, year and reason. However, it is important to note the empirical gaps reflected in the institutional statistics, whenever, when inquiring about the cause of this measure (by current resolution of expulsion, abandonment or prohibition of entry, or entry evaded border control, art. 152-153, Decree 296 of 2021), it was specified that the “action of expedited removal is a police power that does not require an administrative act, which is why (...) the expedited removals [are not] issued; the concept used is that of ‘expedited removal

¹ ROMÁN (2022).

² See: DIAZ (2024), pp. 345-ff.; COCIÑA-CHOLAKY and DIAZ (2023), p. 459; DIAZ and LUCERO (2022), p. 83-ff.

³ MOYA (2022), p. 29.

⁴ ÁLVAREZ *et al.* (2022), pp. 286-288.

⁵ JIMÉNEZ (2024), pp.42-64; DIAZ, COCIÑA and LUCERO (2024).

⁶ As BOIVIN (2024, p. 83) rightly points out, irregular migration is approached from a framework of marginality and vulnerability, provided that the term “irregular migrant” emphasizes the fact that the migrant’s experience is outside the regular, normative, legal, positive, and desirable experience.

⁷ All statistical material requested via the Transparency Act (Act 20,285 of 2008) for the preparation of this article is stored in a secure repository by the researchers. Its dissemination is of academic interest, and its full availability is therefore guaranteed to those who request it.

materialized”⁸, which leaves no record of the specific reason for its practice. This empirical gap is not only limited to immediate return, but is also observed in the expulsion of foreigners.⁹

To contextualize this figure, we have considered the current Chilean migration regulations,¹⁰ as background, as well as resolutions of the Servicio Nacional de Migrantes (hereinafter, SERMIG)¹¹ issued for this purpose and parliamentary reports and records on the matter.¹² Likewise, the analysis considered documents related to expedited removals, that is, publications on immediate return to Chile issued by the Chamber of Deputies regarding the processing of the regulations that govern this mechanism. In addition, the information reported by the national media and specialized organizations such as the Servicio Jesuita Migrante (SJM) and the Presidency Press portal, which has the speeches issued by the president available, has been taken into account. This documentary corpus, in turn, was complemented by a bibliographic review on human mobility, especially in relation to the Chilean context, for which task online academic repertoires were used to select publications on governance and migration policy.

This article is structured in three sections. The first briefly contextualizes expedited removal in Chile, accounting for the two cases in which it is applicable and its normative consecration. The second section analyzes the magnitude of this measure in practice, examining official statistics, investigating how it has been implemented in Chile, observing its concentration on people of a certain nationality and its materialization in the northern regions and in certain neighboring countries. The third part explores whether this mechanism fulfills the objective of reducing irregular entries, with an emphasis on the case of expedited removals carried out in Bolivia. Finally, the main conclusions are presented, which relate to the prioritization of its application in certain nationalities and regions and its degree of materialization.

I. CONTEXTUALIZING THE EXPEDITED REMOVAL OF FOREIGNERS IN CHILE

The aim of this section is to describe the legal establishment of expedited removal in Chile. However, in order to contextualize it, we must first examine this concept, referring to its legal nature and its recognition in comparative law. In terms of the former, expedited removal is an administrative mechanism in the field of migration that allows security officials (PDI) to immediately return foreigners who enter Chile while the resolution that decreed their expulsion, abandonment or prohibition of entry into the national territory is in force (art. 152, Decree 296 of 2021), or attempt to enter Chile by circumventing border control (art. 153, Decree 296 of 2021). It should be noted that, although expedited removal is a summary deportation, unlike the sanction of expulsion provided for in Chilean act, expedited removal does not involve a judicial process, but constitutes a material delivery that is carried out by the Investigative Police, and therefore does not present a double instance, as is the case with expulsion, hence the expedited

⁸ PDI response to information request AD010T0024221 (12 March 2024).

⁹ COCIÑA-CHOLAKY (2022a), p. 207; DÍAZ and LUCERO, 2023, pp. 117-ff.

¹⁰ Act 21,325 of 2021, “Ley de Migración y Extranjería,” and its Regulations (Decree 296 of February 2022) and Act 21,655 of 2024, which modified the concept of expedited removal, all from the Ministry of the Interior, were examined.

¹¹ With regard to SERMIG administrative acts, the analysis of Exempt Resolution 14,440, enacted in April 2024, and two previous resolutions that were rendered ineffective (17,548 of February 2022 and 39,798 of April 2022) were considered.

¹² With regard to Congress documents, the following were considered: the History of Act 21,325, the Security Commission Report on the amendment of Act 21,325, the parliamentary debate on Act 21,655 of 2024, and the text of the parliamentary question to the Minister of Internal Affairs in May 2023.

removal since its creation (in the parliamentary discussion of Act 21,325) has been criticized for the risks to due process and the violation of the rights of people on the move.¹³

In comparative terms, it is essential to point out that expedited removal is not unprecedented as a mechanism for managing human mobility. Thus, in other legislations, similar measures have been adopted to control border areas and the arrival of flows of people, such as the so-called “*devolución en caliente*” in the Spanish context and expedited removal in the US framework. These figures involve the expedited removal of foreigners at the border by security authorities without recourse to a jurisdictional instance. These mechanisms have been criticized for not ensuring standards in accordance with due process and for violating the guarantees of those who are displaced,¹⁴ especially with regard to the population in the context of forced migration.¹⁵ In this sense, expedited removals have been understood as practices of restricting access for refugees that restrict, deny and dissuade potential asylum seekers.¹⁶ In Chile, unlike the comparative law studies that have explored the implications of these summary expulsion mechanisms, there is little literature that has addressed expedited removal and due process¹⁷ and there are no studies on the consequences of this figure with regard to forced mobility, so these are outlined as future lines of research.

Now, as we have already pointed out, in the Chilean case, Act 21,325 of 2021 in its article 131 provides for the two cases of expedited removal or immediate return:

- a) The first case is based on a previous action that is still in force, i.e. there was a court decision ordering expulsion, prohibition of entry or deportation, and this decision was breached by entering Chile, resulting in the person being returned to the country of origin or provenance.
- b) The second case refers to the forced departure from Chilean territory by the controlling authority (PDI) with no prior revision by a jurisdictional or administrative body. In this case, the immediate return of a foreigner to the border who has evaded immigration control or has used falsified or altered documents issued in the name of another person, is left to the discretion of a police body.

Due to the broad discretion granted to the PDI, this measure has been criticized by entities such as the SJM.¹⁸ In addition, a temporary ban on entry into Chile is imposed in this second case.

In addition to the Immigration Act (Ley de Migración y Extranjería) (articles 131 et seq.) and its Regulations (Decree 296 of 2021, articles 152 et seq.) which stipulate the procedure, the resources and rights available to those returned, expedited removal has also been regulated by SERMIG (Servicio Nacional de Migraciones) administrative acts (e.g. Exempt Resolution 17,548 of February 2022 and Exempt Resolution 39,798 of April 2022). The last of these, Exempt Resolution No. 14,440, published in August 2024, approved the protocol of instructions for the expedited removal of foreigners and rendered the previous ones null and void, clarifying the functioning of this measure.

¹³ History of Act 21,325, National Congress Library (2021).

¹⁴ SOLANES (2017), p. 201. In depth: DIAZ, COCIÑA and LUCERO (2024).

¹⁵ PISTONE and HOFFNER (2006), p. 167-211.

¹⁶ LÓPEZ and MORENO (2020).

¹⁷ JIMÉNEZ (2024), pp.42-64; DIAZ, COCIÑA and LUCERO (2024).

¹⁸ CNN (2024); SJM (2022).

Thus, Resolution No. 14,440 responds to the PDI's need to specify the application of this procedure, specifically the notion of "surprised" and its scope; and the procedure applicable to NNA in the case of expedited removal, as the regulations exempt this population group from sanctions. In addition, the aforementioned resolution issued instructions on whether a neighboring country should not receive a foreign person who is not its national, the relevance of reporting this fact for immigration violation and instituting administrative control measures.¹⁹ Thus, it is stated that non-national foreigners who are not received by the neighboring country will be subject to the expulsion sanctioning procedure established in art. 132 bis of act 21,325.

Finally, recent amendments to this measure, as set out in Act 21,655 of the Ministry of Internal Affairs of 2024, must be taken into account. This extended the returns to within 10 kilometers of the land border or within the territorial sea and extended the provisional ban on entry from 6 months to one year. Consequently, since February 2024, expedited removal must be carried out at the Chilean border within 10 kilometers, configuring a larger area of application and a longer period of deportation. In the parliamentary discussion, the amendment was put forward as a strategy to reinforce control in the northern border territories. The parliamentarians supporting the extension argued that it would facilitate more effective management of migration control in rural and remote areas that are difficult to access, where irregular crossings through unauthorized passages frequently occur. It was emphasized that the previous range (5 kilometers) restricted the possibilities of early intervention, limiting the capacity of the security forces to act quickly. The legislative debate also warned of the risk of expedited removals taking place without individual analysis, in contravention of the principle of *non-refoulement*.²⁰ This has been evidenced by comparative law literature.²¹

We will now analyze the implementation of this mechanism in practice.

II. REPATRIATION OF FOREIGN NATIONALS: WHAT DOES THE OFFICIAL STATISTICAL DATA REVEAL?

It is interesting to analyze how expedited removal has been applied to understand how this legal concept has worked in Chile. This is because expedited removal has been criticized for its efficiency (see section III), while Bolivia does not accept the return of foreigners of another nationality, only allowing the return of its own citizens, so people of other nationalities who have entered irregularly from the Bolivian country and have been caught at the border (cases in which expedited removal operates) have not been able to be returned, remaining in a legal limbo, which we will examine later.

2.1. Repatriation carried out by the PDI

From the implementation of expedited removal (February 2022) to January 2024, 10,419 expedited removals were carried out, distributed temporally as follows:

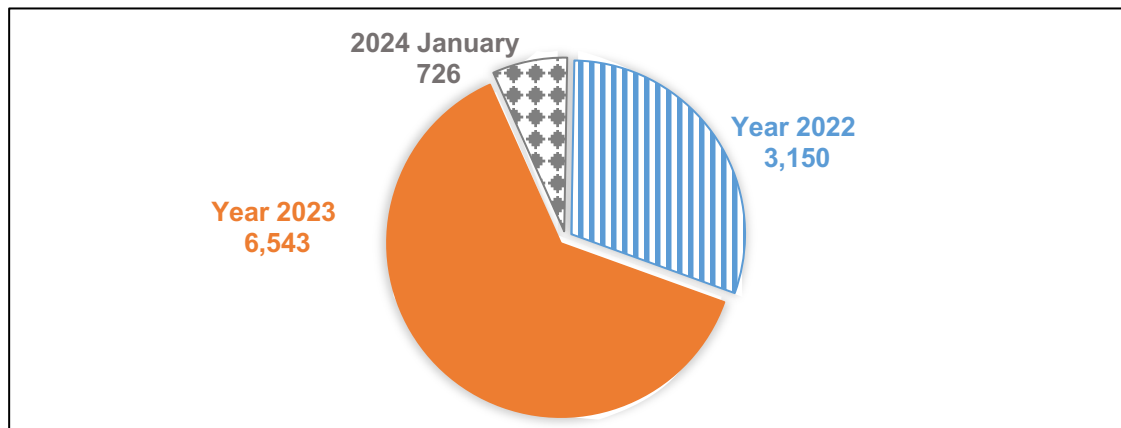
¹⁹ In accordance with Official Letter No. 31,804, Ministry of Internal Affairs and Public Security (2022), p. 1.

²⁰ History of Act 21,655, National Congress Library (2024).

²¹ LÓPEZ and MORENO (2020); PISTONE and HOFFNER (2006).

Graph 1

Expedited removals from 2022 to January 2024.



Source: Own elaboration based on responses to requests for information AD010T0022889 (requested on 11.27.2023) and AD010T0023881 (requested on 01.31.2024) to PDI.

As can be seen in the graph, in January 2024 more than 700 expedited removals were carried out, in 2022 more than three thousand, i.e. a third of the total for the period, and in 2023 they doubled, reaching more than six thousand. The disparity between years can be due to multiple factors, such as:

- in 2022 one month less should be counted, because this figure came into force on February 12 of that year;
- the ease or difficulty of carrying out expedited removals, depending on the flow and migratory nationality, this due to transportation costs, logistics involved, coordination with the government of another country, etc.;
- climatic and atmospheric factors that may affect irregular crossings of border crossings;
- the greater or lesser number of people caught circumventing border control and/or trying to enter through an unauthorized crossing, with falsified documents or with an outstanding order to leave the country or an entry ban; and,
- the consequences of the management of the pandemic on human mobility,²² in that “the Chilean State, in order to mitigate the effects of the health crisis generated by COVID-19, restricted freedom of movement and closed the land borders from March 2020 to April 2022”.²³

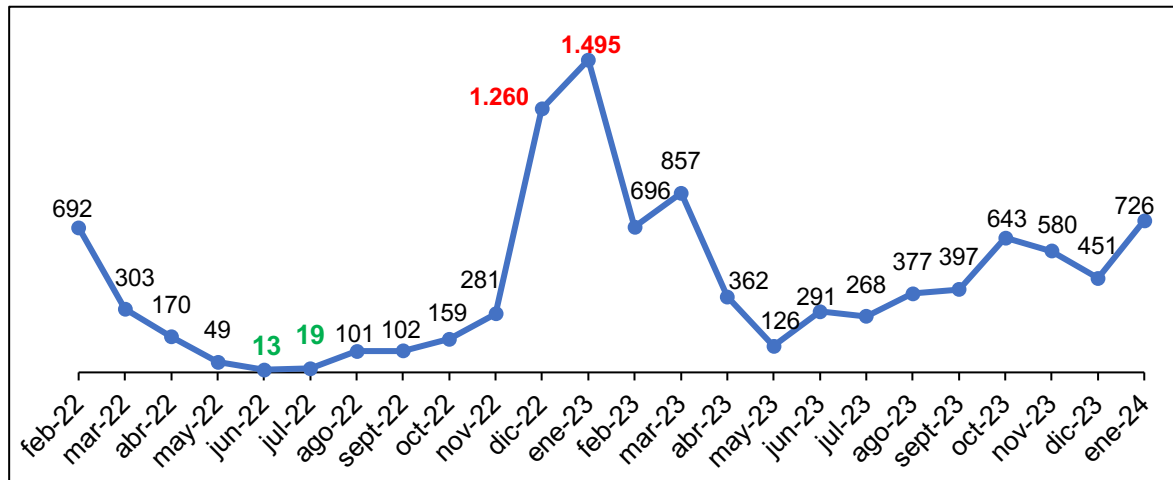
If the evolution of this figure is specified monthly, the following can be observed:

²² COCIÑA-CHOLAKY (2023), p. 122.

²³ COCIÑA-CHOLAKY and DIAZ (2023), p. 451.

Graph 2

Expedited Removals in Chile per month from 2022 to January 2024.



Source: Own elaboration based on responses to requests for information AD010T0022889 (requested on 11.27.2023) and AD010T0023881 (requested on 01.31.2024) to PDI.

As can be seen, the returns show significant variations by month, especially in December 2022 and January 2023 (highlighted in red). Both months represent almost a third of the total expedited removals and coincide with the Chilean summer season. By contrast, June and July 2022 (in green) have the lowest values. It should be considered that summer allows a better adaptation of migrants trying to enter Chile (and even the migratory exercise itself, often carried out on foot), and, therefore, avoiding the winter season in the central and southern parts of the country. Thus, the information in Graph 2 shows us that that the climatic and/or atmospheric factor is not decisive if the people deported aim to arrive at the destination of the northern regions of the country (where temperatures do not vary much throughout the year), but the climatic factor becomes relevant if we understand that the expedited migrants wanted to arrive at the central and southern regions of the country as their final destination.

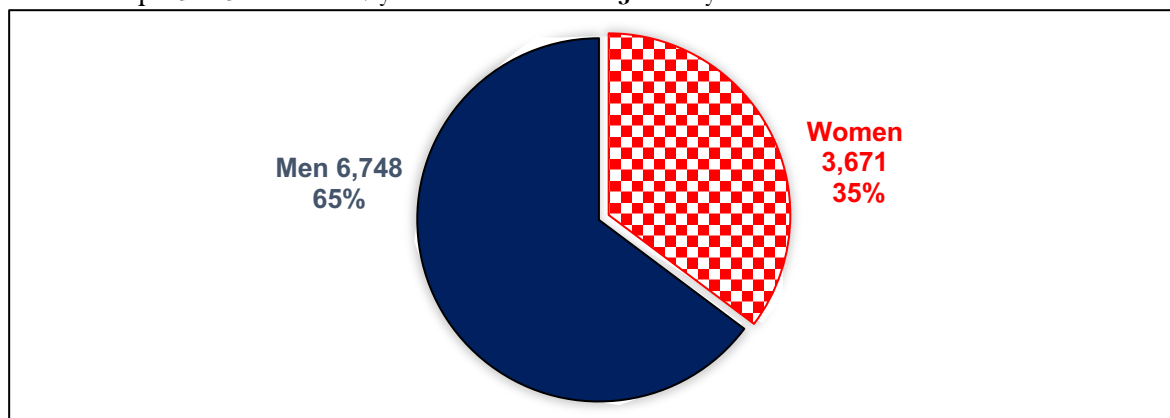
However, when analyzing the evolution of this figure, it must be considered together with other key elements, such as the territory where it takes place (to operate, it must necessarily be in neighboring countries), the group(s) on which it is carried out, the gender of the people repatriated, the age range, etc. This is because repatriations in Chile present significant differences depending on the region, the nationality of the people affected, their sex and age.²⁴ We will address the latter two below, and the former two in the following sections.

When the sex of the returnees is specified, it is clear that this measure has been applied mainly to foreign men.

²⁴ A request was made to specify the repatriations by region, age range, year, and country of destination. However, the PDI responded that, in accordance with Article 131 of Act 21,325, "foreign nationals shall be returned to the border of the country through which they attempted to enter or entered the national territory," without specifying the country where the expedited removal took place. Therefore, on 31 January 2024, a second request for information was made to the PDI requesting the number of repatriations carried out to Bolivia (AD010T0023877), Peru (AD010T0023878), Argentina (AD010T0023881), Colombia (AD010T0023879), and Venezuela (AD010T0023880).

Graph 3

Expedited removals by sex from 2022 to January 2024.

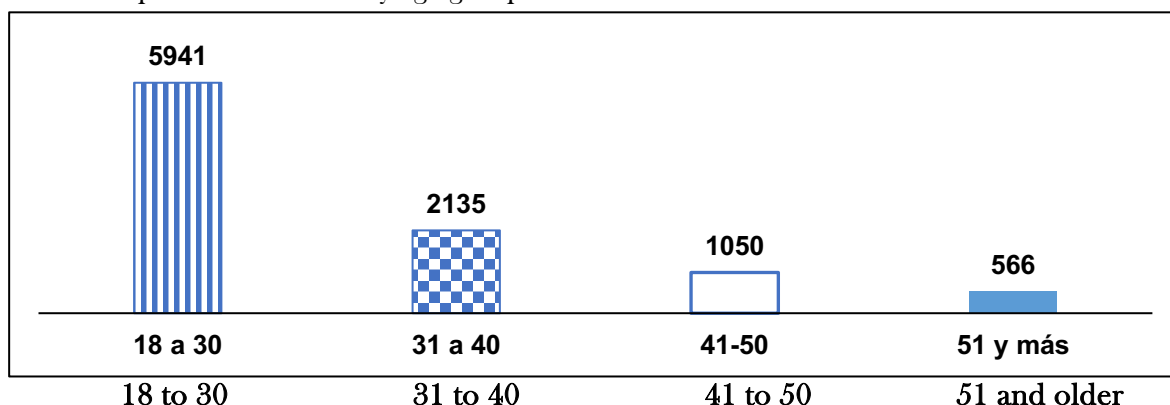


Source: Own elaboration based on responses to requests for information AD010T0022889 (requested on 11.27.2023) and AD010T0023881 (requested on 01.31.2024) to PDI.

As can be seen in the graph, while the more than six thousand repatriated men represent almost two thirds of the returns, the 3,671 women represent 35%. There are also differences in terms of the age of those to whom this tool has been applied:

Graph 4

Expedited removals by age group in 2022 and 2023.



Source: Own elaboration based on response to request for information AD010T0022889 (requested on 11.27.2023) to PDI.

Graph 4 shows that the immediate return has mainly affected young foreign nationals, i.e. those aged between 18 and 30, who account for 60% of repatriations, as well as foreigners aged between 31 and 40. If both age groups are added together, they account for 83% of the people shipped back in 2022 and 2023. In the other age groups (from 41 years of age and over) there are 1,616 people, equivalent to 17% of the deportations in that period.

2.2. Territorial concentration of repatriation: the northern border as epicenter

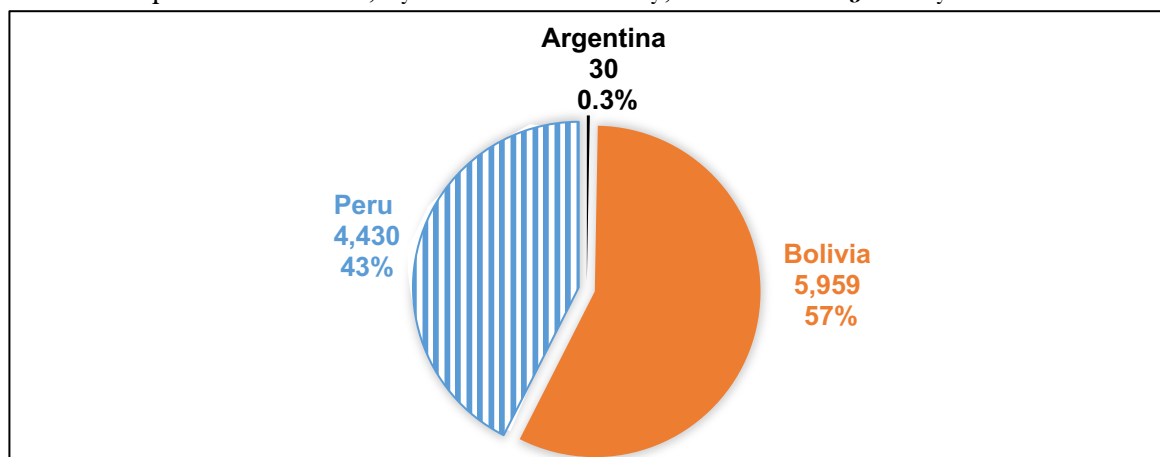
As for the territory where this mechanism has been implemented, the particular surface area and geography of Chile must be considered, which at continental level amounts to 7,801 kilometers of land borders.²⁵ In mainland terms, Chile is a narrow strip of more than 4,000 kilometers that borders Peru to the north, Bolivia to the northeast, the Pacific Ocean to the west, and shares an

²⁵ GOVERNMENT OF CHILE (2024).

extensive border with Argentina to the east. Although the Chilean-Argentine border is the longest on the continent - over 5,000 kilometers long²⁶ - it is difficult to cross because of the Andes Mountains. In contrast, the Peruvian or Bolivian border - despite the complexity of the Atacama Desert - can be crossed on foot. Due to these geographical circumstances, it can be seen that expedited removal, and in part, due to its very definition (expedited removal of foreigners caught at the border) and operability, has mainly been carried out towards Bolivia and Peru.

Graph 5

Expedited removals, by destination country, from 2022 to January 2024.

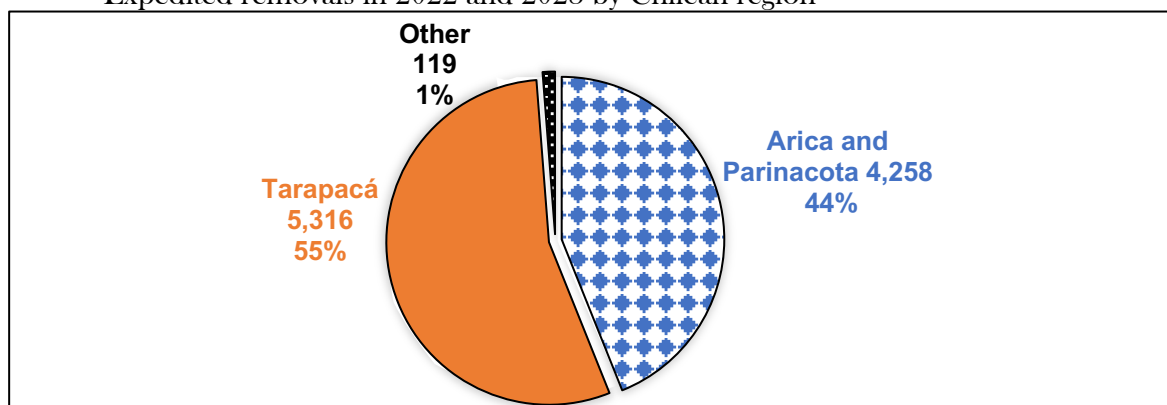


Source: Own elaboration based on responses to requests for information AD010T0022889 (requested on 11.27.2023) and AD010T0023881 (requested on 01.31.2024) to PDI.

As can be seen, Bolivia stands out in this area with 57% of all repatriations and Peru with 43% of returns. Both nations share a long, permeable and accessible border with Chile that stretches for 947 kilometers.²⁷ Consequently, and given Chile's geography, expedited removal has been applied in the Chilean regions bordering these countries, i.e., regions belonging to the so-called Norte Grande, as illustrated:

Graph 6

Expedited removals in 2022 and 2023 by Chilean region



Source: Own elaboration based on response to request for information AD010T0022889 (requested on 27.11.2023) to PDI.

²⁶ STATE OF ARGENTINA (2024).

²⁷ Report of the Special Investigative Commission on the implementation of the so-called "Northern Border Plan," Chamber of Deputies (2013), p. 70.

As shown, the regions of Arica and Parinacota, and Tarapacá account for almost half of the expedited removals. Together, both reach 98.8% of the repatriations for 2022-23. Then, with values not exceeding 1%, are the regions of: Antofagasta with 90 expedited removals; Valparaíso with 23; Araucanía with 4; and Magallanes with 2. The other regions do not register immediate returns in that period.

It is not surprising that the Tarapacá Region accounts for 55% of expedited removals, as it shares more than 250 kilometers with Bolivia.²⁸ Likewise, in this area the control mechanisms are vigorously enforced, as it is one of the most permeable cross-border areas for the entry of narcotics²⁹ and where border security is predominant.³⁰ In addition, this region has a significant migrant population: estimated at 73,410 in 2022.³¹ If we compare this with the projected regional population in Tarapacá for 2022 (396,697 inhabitants),³² migrants accounted for 19%, a figure that triples the national average of 6.6% in 2022.³³ In particular, the Tarapacá cross-border area has become more relevant in Chile in recent years due to tensions between some sectors of the local and migrant populations.³⁴

In addition, the Arica and Parinacota Region stands out in terms of expedited removals, accounting for 44% of returns up to 2023. This region is similar to Tarapacá, in that it also forms a trans-Andean borderland where different nationalities have historically coexisted and interact in this transit territory where borders are blurred.³⁵ In Arica and Parinacota, there is a “movement of people, Peruvians and Bolivians, who constantly cross the border in both directions. In the first case, practically 90% of all Peruvians entering and leaving the country do so through this region”.³⁶ These movements do not respond to geographical boundaries, but rather interact in a very permeable space with a high density of traffic, where returns become relevant, as it enables the PDI to return foreigners without resorting to a jurisdictional control instance. In this region, alongside the control, there are historical interactions and dynamics that respond to common cultural practices beyond the boundaries constructed by the nation-state, which is why it has been understood as a circulatory space in which the classic barriers are blurred or attenuated.³⁷

This complex panorama in the northern border area was exacerbated in the context of the global COVID-19 pandemic, as the literature shows, “the idea of the border as separation, protection and a protective shield was reinforced by the pandemic and structured the mobilities of those who crossed it, making them more precarious and vulnerable”.³⁸ In effect, the constant change of borders has not hindered their capacity for control and filtering, and even the confines, rather than fading away, have been strengthened.³⁹

2.3. Differentiated application of expedited removals by nationality: Bolivians are prioritized over foreigners

Expedited removals has fallen particularly on two nationalities:

²⁸ TAPIA and RAMOS (2013), p. 232.

²⁹ CORDER and RUIZ (2013), p. 46.

³⁰ RAMOS and OVANDO (2016), p. 57.

³¹ INE and SERMIG (2023), p. 22.

³² CORFO (2022), p. 2.

³³ INE and SERMIG (2023), p. 9.

³⁴ STANG *et al.* (2021).

³⁵ CORDER and RUIZ (2013), p. 36.

³⁶ TAPIA (2015), p. 202.

³⁷ TAPIA *et al.* (2017), p. 117.

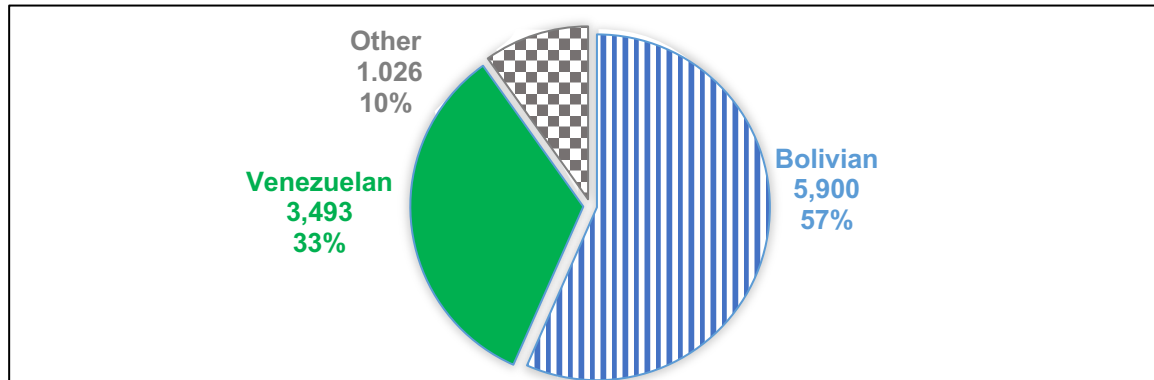
³⁸ TAPIA and QUINTEROS (2023) p. 2.

³⁹ COCIÑA-CHOLAKY (2018), p. 58; (2022b), p. 249; LIBERONA (2020), pp. 49-50.

Graph 7

Expedited removals from 2022 to January 2024 according to the main nationalities of foreigners returned.

Source: Own elaboration based on responses to requests for information AD010T0022889



(requested on 11.27.2023) and AD010T0023881 (requested on 01.31.2024) to PDI.

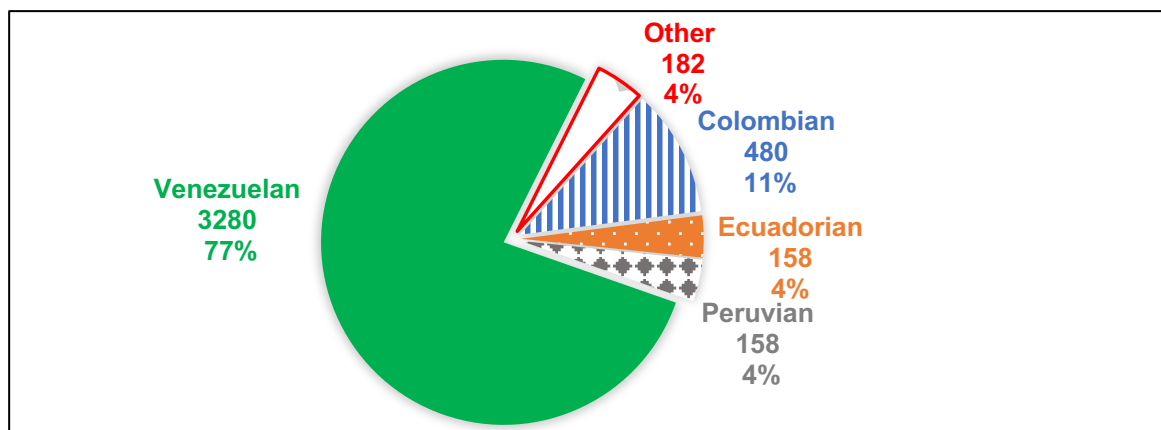
As illustrated, 90% of the returns have been executed on Bolivian and Venezuelan people. Then, in much smaller numbers, there are the expedited removals of other nationalities, which include 547 Colombians (5.3%), 171 Ecuadorians (1.65%) and 166 Peruvians (1.6%). Therefore, it is essential to investigate why this tool has been applied predominantly to Bolivian and Venezuelan people, to examine whether they are consistent with the nationalities that present the most reports of entry through unauthorized checkpoints, a topic that we will examine later.

However, it is worth noting that the proportion of nationalities of those expedited removed has varied significantly by year. Although in the two years that this measure has been in force (2022 to 2023) two communities stand out (Bolivian and Venezuelan), the flow differs each year. Thus, in 2023, 61% of the expedited removals were Bolivian people (4,010 returns) and 30% were Venezuelan people (1,989 returns). On the other hand, in 2022, the Venezuelans returned represented 43% of all expedited removals (1,354 Venezuelans), a similar figure for the Bolivians, who accounted for 44% of expedited removals (1,400). Therefore, there is a differentiated application of this mechanism by nationality and year.

Furthermore, it can be seen that the nationality of those repatriated is not distributed homogeneously according to the region. Thus, if analyzed according to regions with the highest number of returns (Tarapacá and Arica and Parinacota), this is the scenario:

Graph 8

Expedited removals in the Arica and Parinacota Region by nationality in 2022-23



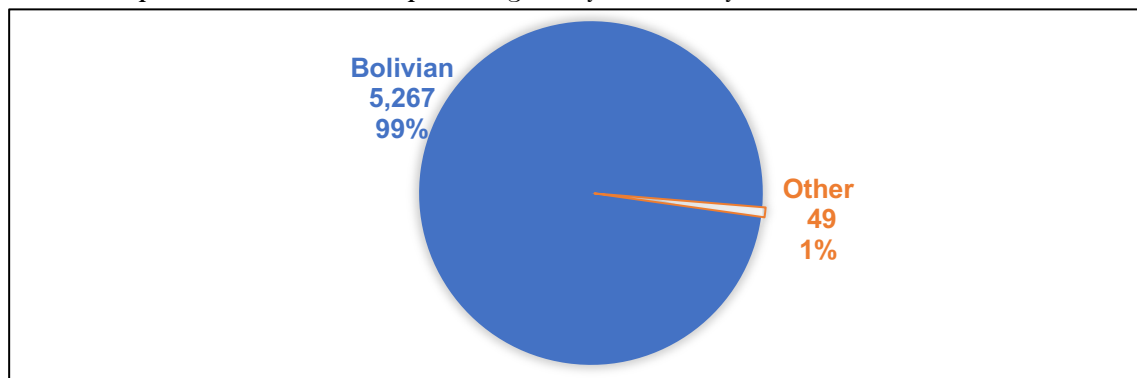
Source: Own elaboration based on response to request for information AD010T0022889 (requested on 11.27.2023) to PDI.

As can be seen in the graph, most of the returns in the Arica and Parinacota Region are of Venezuelan nationals, who, with 3,280 represents 77%; followed by Colombians, with 480 returned, equivalent to 11%; and then come the Ecuadorian and Peruvian communities, with 158 returned, equivalent to 4% of expedited removals in that region in 2022-23.

The picture for this mechanism in the Tarapacá Region is different, as only one nationality stands out:

Graph 9

Repatriation in the Tarapacá Region by nationality in 2022 and 2023.



Source: Own elaboration based on response to information request AD010T0022889 (requested on 11.27.2023) to PDI.

As shown, in the Tarapacá Region, nearly all (99%) of the returns correspond to Bolivian nationals, with the remaining 1% coming from the Venezuelan (31), Chinese (10), and Colombian (8) communities. In this region, unlike Arica and Parinacota, the repatriated Venezuelan community is almost non-existent, which is explained because immediate return is a Chilean mechanism that requires prior agreement and coordination with neighboring countries, in this case Bolivia, Peru, and Argentina. As we will analyze in section III, Bolivia only accepts the return of its nationals.

However, if we specify the border country to which the returnees are sent, their nationality, and the percentage they represent of the total number of returns, the picture is as follows:

Table 1

Expedited removals by destination country and nationality, 2022-January 2024.

A Nationality of expedited foreigners	B No. of expedited removals carried out	C Value of expedited removals
1. Bolivia = 5,959		
Bolivian	5,882	98.7%
Other	77	1.3%
2. Peru = 4,430		
Colombian	528	11.9%
Dominican	93	2.1%
Ecuadorian	171	3.9%
Peruvian	166	3.7%
Others	50	1.1%
Venezuelan	3,422	77.2%
3. Argentina = 30		
Argentina	2	6.7%
Bolivian	1	3.3%
Colombian	4	13.3%
Dominican	1	3.3%
Venezuelan	22	73.3%

Source: Own elaboration based on responses to information requests AD010T0022889 (requested on 11.27.2023) and AD010T0023881 (requested on 01.31.2024) to PDI.

Table 1 shows the nationality of the persons returned (column A), the number of cases completed (column B), and the percentage of the total measures taken in each country (column C). The rows show the countries bordering Chile to which the returns were made; Bolivia recorded almost 6,000 expedited removals (row 1), followed by Peru with 4,400 (row 2), and finally Argentina with only 30 repatriations (row 3).

What is clear from Table 1 is that Bolivia, unlike Peru and Argentina, has received almost exclusively expedited removals of Bolivians, who account for 98.7% of those returned to that country (in yellow), with the remaining 1.3% corresponding to persons of other nationalities (49 Venezuelans, 15 Colombians, 11 Chinese, 1 Argentine, and 1 Paraguayan). In contrast, the predominant nationality in Peru and Argentina is Venezuelan (yellow), accounting for over 73% of expedited removals to those countries, followed by Colombians, who represent 12-13% (purple) of repatriations to those countries.

When examining repatriations in 2022-23, it can be seen that, when broken down by nationality and sex, there is a clear predominance of Bolivian men, who account for 3,310 returns, representing more than a third of all returns; then, quite far behind, there are 2,328 expedited removed Venezuelan men, equivalent to a quarter of the total; and then Bolivian women, who account for 2,100 expedited removals, or 23% of the total. It is interesting to note how factors such as the sex and nationality of the foreign national play a relevant role in the functioning of this tool.

Particularly, it is worth noting the importance of Bolivian nationality in the application of expedited removals, since, as will be examined below, this community is not numerically significant in reports of entry through unauthorized crossings; in fact, it barely exceeds 10% of the total reports of illegal entries in 2018-2023 (see Table 2). The overrepresentation of the Bolivian community in relation to irregular entries could be based on the same logic observed in the Chilean deportation system, i.e., it is applied preferentially to nationalities where it is most effective. Consequently, the operation of expedited removal would be “consistent with the management approach to migration, which prioritizes the most efficient deportations.”⁴⁰ This dynamic in deportation is due, among other reasons, to the fact that “no country has the capacity to execute all the expulsion orders it issues, as a result of which the system must operate by prioritizing expellable individuals,”⁴¹ thus “the expulsion policy is dissociated from the situation of irregularity in entry”.⁴² The same can be observed in expedited removals, in that its implementation is not consistent with the nationality that presents the highest number of illegal entries.

2.4. Expedited removals carried out in relation to reports of entry through unauthorized points: a proportion that does not add up

In order to establish the effectiveness of expedited removal based on the number of times it is carried out and the nationalities targeted, it is essential to look at reports of illegal entry as an approximate guideline to determine whether this number is over- or under-represented. To this extent, the greater the number of reports of entry through unauthorized border crossings (made by the migrants themselves, outside the 10 km from the border), the less effective the implementation of expedited removals will be, this number being understood as expedited removals not carried out in the territorial space where they could have been carried out.

⁴⁰ COCIÑA-CHOLAKY (2022a), p. 211.

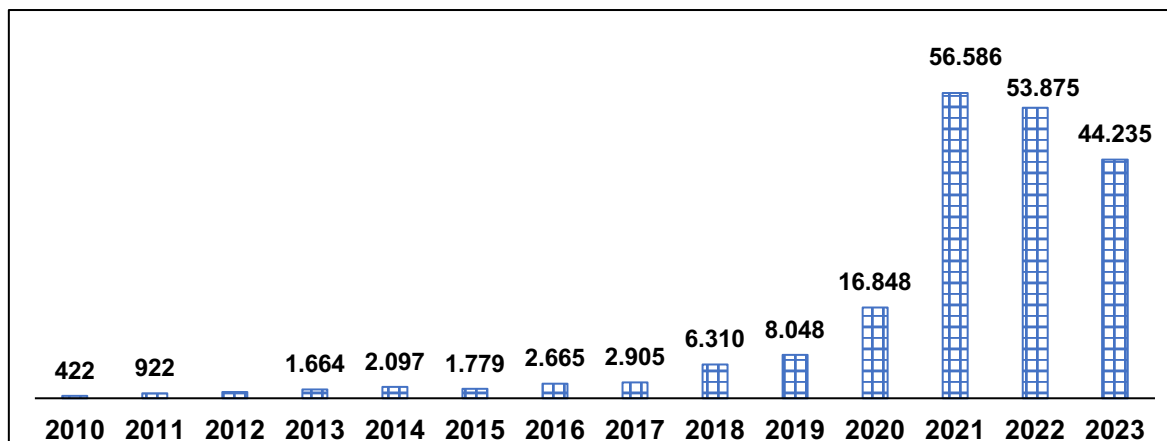
⁴¹ BRANDARIZ *et al.* (2018), p. 753.

⁴² UNIVERSIDAD CATÓLICA SILVA HENRÍQUEZ (2021), p. 1.

Thus, in 2018-2023, reports of clandestine entries into Chile have increased exponentially:

Graph 10

Reports of entries through unauthorized border crossings into Chile from 2010 to 2023.



Source: Own elaboration based on response to information request AD010T0020177 (requested on 16 March 2023) to PDI.

As shown in the Graph, complaints in this category have increased significantly, particularly in recent years: from 2019 to 2020 they doubled, the following year they tripled, in 2022 they reached almost 54,000, and in 2023 more than 44,000. This is extremely worrying because of the implications in terms of exacerbating irregularity and making the journey more dangerous. Nevertheless, the situation is exacerbated by the fact that these reports do not account for all clandestine entries, but rather represent a percentage, since, for various reasons, migrants do not come forward to complete this procedure (e.g., fear of expulsion proceedings being initiated against them, as has happened in several cases).⁴³ Thus, the exact number of people entering Chile through unauthorized border crossings is unknown, although it is clear that it is higher than the number of reports filed.

If we look at the groups with the highest number of reports of irregularities in entry, we see the following:

⁴³ COCIÑA-CHOLAKY and ANDRADE (2021).

Table 2

Reports of entry to Chile through unauthorized border crossings from 2018 to 2023.

Nationality/Year	2018	2019	2020	2021	2022	2023
Bolivian	322	755	844	6,975	5,323	3,286
	5%	9%	5%	12%	10%	7%
Colombian	270	439	742	2,311	3,882	3,579
	4%	5%	4%	4%	7%	8%
Venezuelan	101	3,333	12,935	43,449	40,089	34,025
	2%	41%	77%	77%	74%	77%
Cuban	3,574	1448	449	201	214	493
	57%	18%	3%	0%	0%	1%
Dominican	1,785	1,190	290	446	1,221	939
	28%	15%	2%	1%	2%	2%

Source: own elaboration based on response to request for information AD010T0020177 (requested on 03.16.2023) to PDI.

Table 2 highlights in pink the nationalities that account for the highest percentages of complaints. As can be seen, with the exception of 2018, when Cuba accounted for 57% of complaints, Venezuela predominated in the rest of the period, reaching 74-77% from 2020 to 2023, while the other communities accounted for much smaller percentages. Therefore, when examining the application of expedited removal in relation to reports of irregular entries, as has been argued:

“In the case of most illegal immigrants arriving in the country, this [expedited removal] has not been useful, since (...) they are migrants whose origin is mainly Venezuela or Colombia, which is why they are not accepted back into Bolivia, the country through which they arrived in Chile, thus creating the need to transport these people to national territory and process their immigration status while they are present in Chile.”⁴⁴

Furthermore, if we compare the number of returns with the number of reports of irregularity, expedited removal does not correspond to the number of illegal entries recorded,

⁴⁴ Report of the Public Safety Commission on the bill amending Act No. 21,325, Chamber of Deputies (2023a), p. 6.

nor does it come close to their volume. Thus, in 2022, while there were 53,875 reports of entry through unauthorized crossings,⁴⁵ there were 3,150 repatriations, meaning that irregular entries exceeded returns by more than 17 times. In 2023, there were 44,235 reports versus 6,000 repatriations, which is more than seven times the number of illegal entries. This gap increases even further when considering that the number of reports of irregular entry only includes those who voluntarily reported themselves, excluding those who entered through unauthorized border crossings and did not report themselves, as noted *supra*.

In this regard, in January 2024, during the parliamentary debate on extending the Armed Forces' border control duties, the Minister of Internal Affairs asserted that this work had led to "a 21% reduction in irregular income in the country. It also highlighted that repatriations had doubled, with 113% more than in the previous period."⁴⁶ Although, as the authority argues, these reports decreased in 2023, they continue to stand at more than 44,000, while expedited removals increased compared to the previous year, their number nevertheless stood at 6,500, i.e., a figure that is, as we have stated, nearly seven times lower than the reports of irregular entries.

Therefore, to date, immediate return is not effective in terms of reducing irregular entry into Chile, as recognized by the Report of the Citizen Security Commission on the bill amending Act 21,325, stating that "the measure [expedited removal] that was expected to be the main mechanism for addressing the situation of illegal migration has been a failure and has not managed to contain entry through unauthorized crossings."⁴⁷

However, and especially given the recent implementation of expedited removals, an in-depth assessment will require examining how this measure will evolve in the coming years.

III. DENIAL OF EXPEDITED REMOVAL: BOLIVIA AT THE CENTER OF DISCORD OVER THE EFFECTIVENESS OF EXPEDITED REMOVAL

This section analyzes how effective expedited removal has been in light of its implementation in Chile. It should be noted that, days after its implementation, the mayor of the border town of Colchane, Javier García, stated that "expedited removal is not being effective. For this to happen, that country must accept those citizens who are being removed, and from the very beginning, we have denounced that Bolivia was not receiving citizens who were not of its nationality."⁴⁸ The head of defense in the province of Tamarugal (Tarapacá Region) also spoke out in February 2022, stating that "at this time, Bolivia is not accepting these people."⁴⁹ Similarly, in February 2022, the Minister of Internal Affairs of former President Piñera's second government, Rodrigo Delgado, stated that "what we have today is effectively a lack of coordination between countries; some countries collaborate more than others. And I say this responsibly, Bolivia is by far the country that collaborates the least."⁵⁰ He made this statement when referring to the assistance provided by other nations to address irregular entry into Chile.

Given the Bolivian government's refusal to accept the expedited removal of persons of other nationalities, it was observed that foreigners who entered through Colchane coming from Bolivia have remained in the border area awaiting return. This was reported by the Instituto Nacional de Derechos Humanos (hereinafter, INDH) in the Tarapacá Region in 2022:

⁴⁵ Response from the PDI to request for information AD010T0020177 (16 March 2023).

⁴⁶ CHAMBER OF DEPUTIES PRESS CENTER (2024).

⁴⁷ Report of the Public Safety Commission on the bill amending Act No. 21,325, Chamber of Deputies (2023a), p. 6.

⁴⁸ POBLETE (2022a).

⁴⁹ POBLETE (2022b).

⁵⁰ NAVARRETE (2022).

“It was established that on February 18, 48 of them were taken by bus from Colchane to a health facility in Iquique while the situation at the border is resolved. Most of them are families. During their visit to the area, INDH observers found that at least 13 people are in legal limbo because they entered the country while the old legislation was still in force. Six of them received foreigner offender cards, while the other seven were awaiting the application of the previous rule, which does not provide for the expedited removal mechanism.”⁵¹

Probably one of the most critical situations highlighted by the INDH is the legal limbo faced by the 13 people whose irregular entry into Chile coincided with the change in regulations, as some were subject to the previous immigration legislation (which did not provide for expedited removal), while others were subject to the current expedited removal rule.

In this context, the current President of the Republic, Gabriel Boric, stated in the town of Colchane on 15 March 2023:

“I have mandated our new Minister of Foreign Affairs to strengthen talks with our neighboring countries, particularly Bolivia, with whom we have not had diplomatic relations since 1978 and who are currently not carrying out the expedited removal of Venezuelan and Colombian citizens who enter through the Colchane border and are not received by the place where they enter, and we have to resolve this.”⁵²

Despite statements by the agent expressing the willingness to activate diplomatic talks with the neighboring government, a couple of months later Bolivia’s refusal continued, as stated by Minister of Internal Affairs, Tohá, in the parliamentary questioning in May 2023:

“Expedited removal is a process that takes place at the border, and Chile does it very successfully on the border with Peru, because Peru has a cooperation agreement with Chile in this regard and receives people who cross irregularly, whether they are nationals or from another country. In the case of Bolivia, unfortunately, when the new act came into force, still under the previous government, repatriations began with that country, but there was still no agreement with Bolivia on the matter. Thus, Bolivia rejected those repatriated migrants who were not Bolivian nationals and only accepted Bolivians, which created considerable tension in the relationship. Our Foreign Ministry has been working to rebuild that relationship and make it more collaborative, but that does not depend on Chile; it depends on Bolivia accepting the expedited removed persons.”⁵³

As the minister stated, this diplomatic impasse with Bolivia has caused significant tension, as has been reported in the press. The news was published that the PDI had compiled a registry revealing that between 12 February and 10 March 2022 alone, “2,804 repatriations of adults were rejected [by Bolivia]: 2,415 Venezuelan citizens, 228 Colombians, 83 Haitians, 29 Ecuadorians, 25 Peruvians, and dozens of citizens from other countries.”⁵⁴ To verify these figures, the PDI was asked to provide its registry,⁵⁵ to determine the number of rejected repatriations, the nationalities of those rejected, and the country that denied them. The PDI reported that in February and March 2022, Bolivia rejected the return of 4,383 Venezuelans, 400 Colombians, and 322 of other nationalities. These figures would be consistent with what was published.

However, looking at the overall picture, since the expedited removal process came into effect in January 2024, there have been 23,763 refusals of return to Bolivia (13,399 in 2022, 9,361 in 2023, and 1,003 in January 2024), while 10,419 were returned.⁵⁶ Thus, this measure was applied to less than a third of the people targeted. This calls into question the statement made by the

⁵¹ INDH (2022).

⁵² CHILEAN PRESIDENTIAL PRESS OFFICE (2023).

⁵³ Inquiry to the Minister of Internal Affairs and Public Security, Chamber of Deputies (2023b), p. 25.

⁵⁴ DIAZ (2023).

⁵⁵ PDI response to request for information AD010T0023891 (2.1.2024).

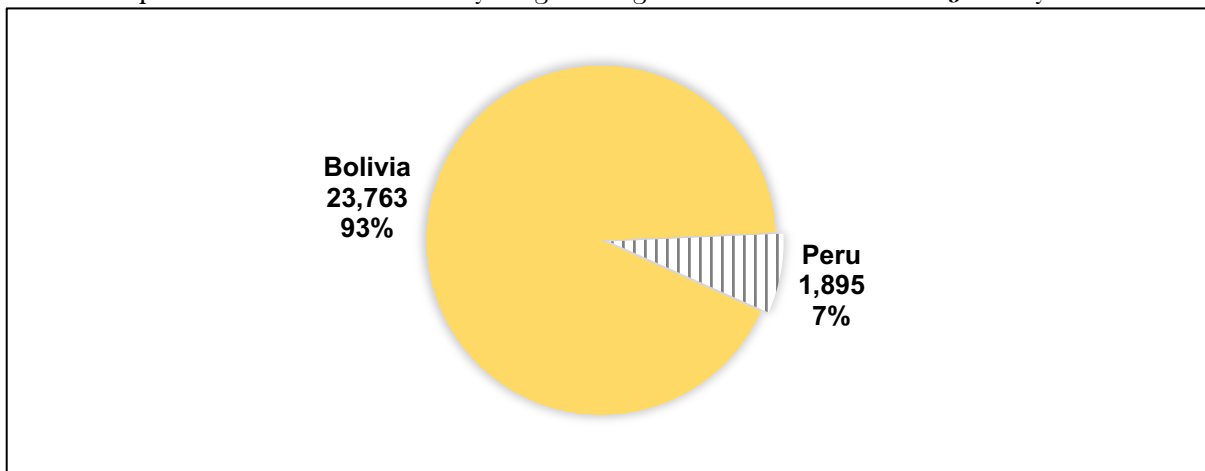
⁵⁶ PDI response to request for information AD010T0024157 (5.3.2024).

director of SERMIG in March 2024, when he asserted that “more than 10,000 repatriations have been carried out. That is regaining control of the border”,⁵⁷ because, first, border security would be measured through police measures that are not rigorous enough to address the needs of migrants and inhabitants of these areas, and second, it omits the fact that the expedited removal mechanism, for the most part, has not been possible because neighboring countries, particularly Bolivia, have refused to accept migrants that the Chilean state has attempted to return, especially Venezuelans. The figures are clear: as of January 2024, there were more than 23,000 rejections by Bolivia, of which more than 18,000 correspond to Venezuelans, that is, 77%.

If we illustrate the denial of immediate return by neighboring country, we obtain the following:

Graph 11

Expedited removals denied by neighboring countries from 2022 to January 2024.



Source: Own elaboration based on response to request for information AD010T0024157 (requested on 5 March 2024) to PDI.

As illustrated, almost all of the rejections come from the Bolivian government and a minimum number correspond to the Peruvian government. Thus, its application has been very uneven depending on the neighboring country. For example, in 2022, while 100% of expedited removals to Peru were carried out, Bolivia registered 13,399 denials, of which 11,633 were of Venezuelans,⁵⁸ that is, 87% were of this nationality, which accounts for the majority of reports of entry through unauthorized border crossings (in 2022, it reported 40,089, representing 74% of clandestine entries).⁵⁹ This highlights the low effectiveness of expedited removal in forcing the immediate return of those who, for the most part, enter Chile through unauthorized border crossings.

If we compare the denial of this measure with its implementation, we see that in 2022 Bolivia accepted 1,456 expedited removals and denied 13,399; thus, it is clear that in that year it was only applied to almost one-tenth of the people intended for this neighboring country, a much lower percentage considering the volume that could have been applied. In contrast, Peru in 2022 presented more than 1,600 expedited removals that were carried out and no rejections.

⁵⁷ BATARCE (2024).

⁵⁸ PDI response to request for information AD010T0024157 (5 March 2024).

⁵⁹ PDI response to request for information AD010T0020177 (16.3.2023).

Faced with this disparity in criteria between the receiving countries, the director of SERMIG stated in 2022 that:

“Most (of the expedited removals) took place at the Colchane crossing in the Tarapacá Region, and the people are not received by the Bolivian authorities and re-enter Chile. Thus, it is a vicious circle and a waste of resources (...). In the case of Peru, it is different: the volume is lower, but the authorities do effectively receive people from third countries (...). If we do not move forward with Bolivia, Peru, Argentina, and countries bordering them in a response based on shared responsibility, this situation will not be resolved.”⁶⁰

Rather than being resolved, the situation has worsened in the following years, with more than 1,500 rejections by Peru in 2023 and 342 in March 2024. Therefore, not only the Bolivian government has denied expedited removals, but also the Peruvian government. This fact has emerged from statistics provided by the PDI, as to date there was no knowledge that this country had denied this measure. A number of factors could explain Peru’s denial, including the political crisis that has been ongoing in that territory since 2023 (replacement of President Castillo by Boluarte), the multiple demonstrations and repression in response, leading, inter alia, to the blockade of the border in Tacna⁶¹ and the declaration of a state of emergency and the closure of the borders with Chile,⁶² etc.

Similarly, as this measure does not provide any explanation for the rejection of expedited removal, it not only makes it impossible to know the reason for the denial, but also highlights the shortcomings of the summary nature of this process, which prevents any investigation into the objectives pursued by the receiving countries.

However, in 2023, the low efficiency of expedited removal in Bolivia worsened, with 3,347 returns recorded compared to 9,361 denials, i.e., almost three times more rejections than actual returns, revealing its low application to those to whom it applies. If Bolivia had accepted the expedited removals, more than 12,700 could have been achieved in 2023. Given this high rejection rate, it should be noted (according to figures provided by the PDI) that in 2023, more than 2,000 people of Bolivian nationality were registered whose expedited removal was denied by that country. This is striking considering that these are rejections of their own nationals. This is because the neighboring country does not accept expedited removal when the person does not have identification documents or when there is no record that they entered through a border crossing from that country.

Thus, when analyzing the effectiveness of expedited removal at the border with Bolivia, a number of factors must be taken into account that affect its application, both socio-political and other more everyday factors related to the nature of the work of border officials. As explained by an expert in the field, the operation of expedited removal in Chile is very informal,⁶³ which is important to explore in depth in future research.

⁶⁰ CERDA (2022), p. 3.

⁶¹ EL COMERCIO (2023).

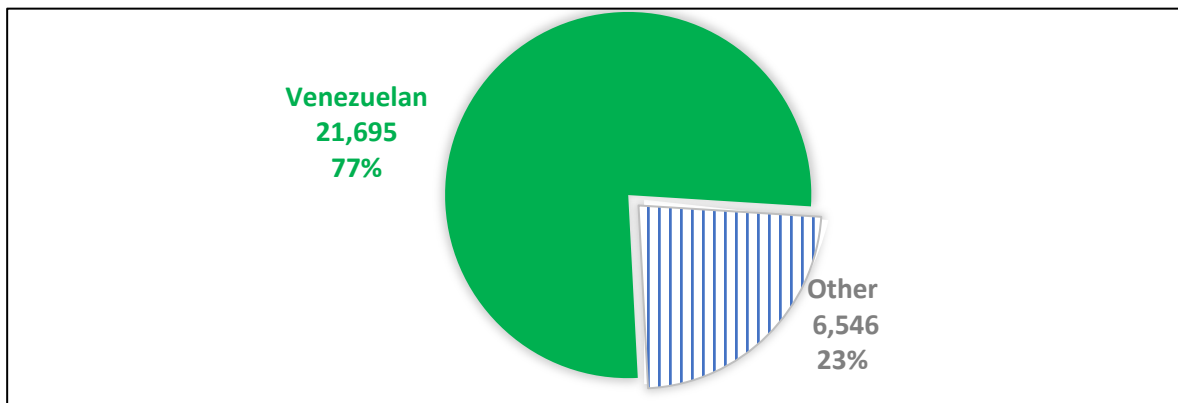
⁶² OLMO (2023).

⁶³ Idea proposed by academic Romina Ramos in a communication dated 18 April 2024, to clarify doubts about the data provided by the PDI for writing this article.

As we mentioned earlier, the refusal of expedited removal falls mostly on one nationality:

Graph 12

Expedited removals denied by nationality from 2022 to March 2024.



Source: Own elaboration based on response to request for information AD010T0024157 (requested on 5 March 2024) to PDI.

When graphing the nationality of those who have been sought for return, it is clear that expedited removal is not working in Bolivia, particularly for Venezuelans, who account for the majority of reports of entry through unauthorized border crossings.

Consequently, as has been stated, expedited removal has not been useful in practice in preventing irregular entry. It exposes the shortcomings in its implementation and, therefore, the failure to comply with the teleological content of these measures. In this sense, the Chilean undersecretary of the Ministry of Internal Affairs stated that:

“Expedited removal was announced as one of the major measures to address the irregular entry of immigrants, and the truth is that when there is no bilateral agreement, when there have been no diplomatic efforts, expedited removal can turn into a major failure, and unfortunately that is what has happened.”⁶⁴

All of the above has led to the extension of legal limbos, where highly vulnerable people are caught between two countries: Bolivia, which refuses to take them back, and Chile, which denies them entry (and temporarily prohibits subsequent entry), and therefore attempts, unsuccessfully, to redirect them.

All in all, the situation reflects that bilateral talks with neighboring countries are crucial for the proper functioning of expedited removal. This was made explicit in the “National Migration and Foreigners Policy” published on July 6th, 2023, which states that “efforts will be made to strengthen the application of the expedited removal mechanism through better coordination with our neighboring countries. Without their cooperation, it will be difficult for this tool to achieve the effects for which it was created” (Article 1 of Decree 181).⁶⁵

Therefore, there is currently no quick solution in sight for the effectiveness of expedited removal, since in November 2023, Minister Tohá stated that there had been progress in the talks with Bolivia, although she admitted that no agreement had yet been reached on expedited removal.⁶⁶ Nevertheless, even with an eventual agreement with Bolivia, there would still be

⁶⁴ RIQUELME (2022).

⁶⁵ Decree No. 181. Establishes national policy on migration and foreign nationals, Ministry of Internal Affairs and Public Security (2023).

⁶⁶ PRESS CENTER, CHAMBER OF DEPUTIES (2023).

concern that this measure could become a catalyst (of a police nature) for further precariousness in the vulnerable conditions of migrants.

In closing, given the tensions raised throughout this article about the functioning of expedited removal, it is worth reflecting on whether, with a different stance from neighboring countries, expedited removal, as currently established, would be an effective and useful tool for controlling and reducing irregular entry. Given this, it should be noted that, while expedited removal is currently ineffective for lack of political and diplomatic will between Bolivia and Chile, we must not lose sight of the fact that expedited removal is a mechanism that is weak in terms of legal controls *in actum* and subsequent controls,⁶⁷ as well as being subject to the discretion of police officers. Therefore, even with the decrease in the rate of repatriation rejections by the border countries, this measure raises serious doubts regarding the harmony that should exist between regular migration policy and the effective protection of the human rights of all persons entering Chilean jurisdiction.

CONCLUSIONS

In Chile, expedited removal of foreigners was recently introduced with the new migration act. It is a legal concept created to strengthen immigration control and prevent irregular entry and stay in the country. However, an analysis of the statistics shows that its effectiveness is unsatisfactory, as its implementation doesn't match the number of reports of entries through unauthorized border crossings, but falls significantly short.

Furthermore, expedited removal has not mainly affected the nationality with the highest rate of irregular entry (Venezuelans), but has been applied mainly to Bolivians, especially men. This selectivity in its application is consistent with the logic of prioritizing the most efficient enforcement. Thus, its implementation does not correspond to the groups with the highest number of reports of illegal entry, but rather to the communities that have been able to return in practice.

One possible explanation for the lack of coordination between expedited removal and irregularity stems from Bolivia's refusal to accept foreigners of other nationalities, who have been left in a legal limbo between two countries. This situation highlights the importance of developing dialogue and collaboration with neighboring countries. This also applies to Peru, as statistics show that, as of March 2024, the Peruvian government has denied more than 1,800 repatriations.

It is vital to understand that expedited removal, as proposed by the Servicio Jesuita Migrante, is a very fragile measure that does not resolve all the issues being experienced at the border.⁶⁸ In this regard, the Chilean state should consider the complex scenario in the northern border area, avoiding simplistic solutions based on legal modifications that reinforce coercion and seek summary expulsion (such as extending the application of expedited removal to 10 kilometers from the border), and instead commit to managing human mobility with a plurality of mechanisms that, rather than making the crossings more precarious, address them in all their complexity, establishing mechanisms that encourage regularity.

⁶⁷ DIAZ, COCIÑA and LUCERO (2024).

⁶⁸ SERVICIO JESUITA MIGRANTE (2022).

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