

## Covid-19: how has the EU reacted so far?

*Dionyssis G Dimitrakopoulos and Georgette Lalis analyse the EU's actions so far in the Covid-19 outbreak. They argue that despite a slow and initially haphazard approach, the response has ultimately been substantial.*

Public health care systems, alongside state bureaucracies and public finances, are being tested to their limits by the [Covid-19 pandemic](#). The same can be said – albeit in a different way – about the European Union. Indeed, since the problem at hand knows no borders, appealing to an organisation that operates at the ‘supranational’ level is not an unreasonable reaction to a crisis such as this and an existential threat like this pandemic. So, how has the EU fared thus far in this process?



Ursula von der Leyen in February 2020. Photo: [Kanceleria Premiera](#). Public domain

In what can only be a preliminary assessment, we argue that despite not having the legal powers to deal with the core element of this crisis (which started as a health issue first and foremost), the EU has done much more than meets the eye after what can be perceived (albeit not fairly – see below) as a slow start that has been marked by Christine Lagarde’s [monumental blunder of 12 March](#) that [exacerbated](#) Italy’s financial problems and [reportedly](#) forced her to apologise to the [European Central Bank’s Governing Council](#). Nevertheless, the jury is still out because the implementation of these measures will necessarily take time. Also, many of them (in the economic sphere) may amount to nothing short of a paradigm shift and opposition will not give up that easily (see below).

### A matter of legal competence alone? Yes and no

#### The treaty

Any such assessment – if it is to be fair – must start from the issue of legal competence to act in such matters. In relation to the pandemic’s pure public health basis, it is important to note that there is no common EU health policy in place because [organising and delivering public health care is the purview of national governments](#). Indeed, until 1992 and the Maastricht Treaty ([Art. 129](#)) the EU treaty did not even contain a direct reference to public health.

Post-Lisbon, the treaty [stipulates](#) that while the Union's action will merely *complement* national policies, it will cover (inter alia) 'the fight against the major health scourges, by promoting research into their causes, their transmission and their prevention, as well as health information and education, and monitoring, early warning of and combating serious cross-border threats to health'. Nevertheless, various other legal provisions have been used to regulate health-related issues ranging from standards for medical professions to pharmaceuticals, medical devices, human blood, health and safety at the workplace, anti-cancer/tobacco measures and last but not least free movement of patients and the famous [European Health Insurance Card](#).

## The agencies

The [European Medicines Agency](#) seeks to facilitate the development of and access to medicines, evaluates applications for marketing authorisation, contributes to monitoring the safety of medicines across their lifecycle and disseminates information to patients and professionals. The [European Centre for Disease Prevention and Control](#) (ECDC) is the EU agency that – since its establishment [in 2004](#) – collaborates with national health authorities across Europe so as to 'identify, assess and communicate current and emerging threats to human health posed by infectious diseases' by means of the collection, assessment and dissemination of data, the provision of scientific opinions and technical assistance (including training) and fostering the exchange of information and best practices.

In case of a pandemic, the [Early Warning and Response System](#) links the European Commission, the ECDC and the European Economic Area's national public health authorities that are in charge of countering serious cross-border threats to health, and it is used 'for notifications on outbreaks, exchanging information and decisions about the coordination of measures among Member States', including in cases such as severe acute respiratory syndrome (SARS), Ebola virus disease, avian influenza in humans and other communicable diseases.

Although the European Commission has [established the procedure](#) whereby alerts (and corresponding measures) are notified via this system [in relation to serious cross-border threats to health](#), ultimately member states are in charge of making and implementing the decisions. Earlier this month, British Prime Minister Boris Johnson [reportedly](#) vetoed the Department of Health's request to retain post-Brexit access to this system. Finally, EU member states and the European Commission seek to [co-ordinate](#) their views on issues under discussion by the [World Health Organization](#).

There are other, at least equally significant, ways in which the EU affects public health policy in case of a pandemic at the national level. After all, it started off as a public health crisis but is quickly morphing into a major economic and social crisis too. Three out of the four single market freedoms, namely the free movement of persons, services and goods can be affected by the pandemic, including export bans on sensitive public health products, import controls, the movement of health professionals, closing of frontiers and prohibition of citizens' movement around Europe.

With industrial production and consumption coming to a halt, and workers being forced to stay at home, action is required on the economic and monetary policy fronts, including for the members of the Euro Area that must comply with very tight limits on public spending and borrowing. Nevertheless, these countries differ in terms of financial wealth and the capacity of their national health care systems.

So, what form has the EU's response to the COVID-19 pandemic taken thus far? Does the impression match reality?

## An initially haphazard but ultimately substantial response

### A slow start in relation to public health?

The bulk of this response begun unfolding in March although the ECDC had [noted as early as on 9 January](#) reports of 59 pneumonia cases ‘possibly associated with a novel coronavirus’ in Wuhan, China that has direct flight links to London, Paris and Rome and pointed that ‘[c]onsidering there is no indication of human-to-human transmission and no cases detected outside of China, the likelihood of introduction to the EU is considered to be low, but cannot be excluded. However, more epidemiological and laboratory information is needed in order to elaborate a comprehensive assessment of this event and the possible risk for the international spread.’

The ECDC provided further updates on [14 January](#) and [25 January](#), in the latter case noting a) the first reported (and not unexpected) cases within the EU (all with a direct link to Wuhan), b) ‘the fact that these cases were identified, proves that detection and confirmation of this novel virus is working in France, showing a high level of preparedness to prevent and control possible infections of 2019-nCoV’, c) the fact that ‘[m]ost EU countries have plans and measures in place to contain this kind of infection and Europe has well-equipped laboratories that can confirm probable cases in addition to hospitals that are prepared to treat patients accordingly’ and d) urged EU/EEA countries to ‘ensure that timely and rigorous infection prevention and control measures (IPC) are applied around people diagnosed with 2019-nCoV’.

The ECDC also warned that ‘it is likely that there will be more imported cases in Europe. Even if there are still many things unknown about 2019-nCoV, European countries have the necessary capacities to prevent and control an outbreak as soon as cases are detected.’ Three days later, following a fourth case within the EU, the ECDC was [noting](#) that ‘[t]he source of infection is unknown and could still be active. Human-to-human transmission has been confirmed but more information is needed [...] As this is a rapidly evolving situation, ECDC is revising its risk assessment for Europe.’ It is unclear whether or the extent to which this reaction was due to inadequate information and the [alleged cover up](#) by the Chinese authorities of aspects of the problem.

[A series of decisions](#) (following frequent teleconferences of the ministers of health and the ministers of the interior of the 27 member states) were made without attracting the publicity that was rightly given to subsequent measures (see below). They included a [statement](#) (13 February, i.e. almost a month before the WHO declared a pandemic) of the 27 health ministers undertaking to seek to limit the damage caused by the virus by sharing information, resources and equipment within a broader cross-European strategy entailing ‘close and enhanced coordination between Member States to ensure effectiveness of all measures (including in relation to diagnosis and treatment), including, if necessary, measures regarding travel, while safeguarding the free movement within the EU’ as well as the adoption of a common approach seeking to limit the spread of the virus until a vaccine becomes available.

This approach entails tests to all airline passengers entering the Union via all major airports, extensive lock-down measures, the publication of detailed information on national capabilities (such as stocks of ventilators, drips, intensive care beds and anti-viral drugs) and a [decision](#) ‘to oversee the re-allocation of equipment and the re-distribution of healthcare professionals to member states in need’. On 2 March the Croatian presidency [escalated](#) the Integrated Political Crisis Response (IPCR) arrangements from information sharing mode to full activation mode so as to identify major gaps across sectors and elaborate concrete EU response measures.

## Industrial, trade and state aid measures

Rhetoric as well as decisions that have highlighted the need for co-ordination cannot conceal a national reflex despite the cross-border nature of the pandemic. For example, the European Commission, in addition to seeking to [promote a co-ordinated approach](#), has had to react to the decision of individual member states to put in place restrictions to the export of ‘an increasing range of products, starting with Personal Protective Equipment and extending more recently to medicines [...] [that] create bottlenecks to production of essential supplies by locking inputs in specific Member States [...], ultimately [...] reintroduce internal borders at a time where solidarity between Member States is the most needed and they put obstacles to the effective protection of the health and lives of all’.

Restrictions such as these have subsequently been lifted or modified in accordance with the Commission's observations but the image of individual states acting on their own remains very potent and is reflective of a broader trend (see below). The European Commission has [acknowledged](#) that the situation in Italy has been 'exacerbated by the fact that several Member States have adopted/are adopting national measures, such as export bans, which seriously disrupt the already strained supply chain. The Commission has therefore insisted that Member States refrain from adopting/implementing such untargeted national measures and requested that they cooperate for implementation of an effective EU-wide approach, based on solidarity among Member States.' It is, however, worth noting that [the treaty \(Art. 36\) allows](#) some prohibitions or restrictions on trade if 'justified on grounds of public morality, public policy or public security; the protection of health and life of humans, animals or plants' etc. as long as these do not 'constitute a means of arbitrary discrimination or a disguised restriction on trade between Member States.' It is difficult to argue that arbitrary discrimination applies in this case.

On 10 March the European Council [decided](#) to a) ask the Commission to analyse the needs in relation to the provision of medical equipment and to propose initiatives to prevent shortages (in response to which it [successfully](#) launched joint public procurement in relation to personal protective equipment), b) agreed to ensure that the internal market functions properly and any unjustified obstacles are avoided and c) declared that the Union and the member states 'stand ready to make use of all instruments that are necessary'. On 19 March the European Commission [decided](#) to create the first ever strategic 'rescEU' stockpile of medical equipment (e.g. ventilators, personal protective equipment, lab supplies) so as to assist EU member states in the context of the Covid-19 pandemic.

The European Commission has also [announced](#) the adoption of [rules](#) enabling member states to support the economy by making full use of the flexibility foreseen under [the EU's current state aid regime](#) through the provision of liquidity and supporting the continuity of economic activity during the pandemic. Specifically, the aforementioned new arrangement provides for a) direct grants, selective tax advantages and advance payments; b) state guarantees for company loans from banks; c) subsidised public loans to companies; d) safeguards for banks that channel state aid to the real economy and e) short-term export credit insurance. It has subsequently authorised several such measures from a broad [range](#) of member [states](#).

In addition, the European Commission [has instigated](#) the release of the European standards that apply to crucial medical devices and personal protective equipment (e.g. masks, gloves, gowns) thus facilitating the task of companies that are willing to swiftly start production and place products on the internal market more easily whilst also ensuring safety. Exceptionally, it has also authorised the placing on the market of non-EU marked medical equipment.

## Freedom of movement

The national approach of several member states was particularly evident in this area. Restrictions placed on the movement of people between the member states of the Schengen area were announced individually although they do reflect a previous collective decision (see *supra*). By 24 March, [one by one and acting individually](#), a total of 14 Schengen countries (in order of notification: Austria, Hungary, Czechia, Switzerland, Denmark, Poland, Lithuania, Germany, Estonia, Norway, Portugal, Spain, Finland and Belgium) had informed the Commission that they had reinstated border controls in response to the pandemic. These decisions affect in particular but not only crossborder workers. Acting in a more systemic manner, the Commission [proposed](#) temporary restrictions on non-essential travel from third countries into the EU, which the European Council [endorsed](#) politically via teleconference on 17 March and the member states are gradually putting into place.

## Financing the economy: a paradigm shift?

Despite [reported](#) opposition from (among others in a small minority) the head of the German central bank who as recently as 28 February was [reportedly](#) saying that “This is a very complex monetary policy issue which, in my view, does not require acute monetary policy action”, the European Central Bank launched two programmes, namely: a) a new [Pandemic Emergency Purchase Programme with an envelope of €750 billion until the end of the year](#), which has had a direct calming effect in bond markets; and b) extra net asset purchases of €120 billion [announced on 12 March](#). The ECB [has stated](#) that it will do whatever it takes to fight the expected economic consequences of the pandemic alongside the necessary fiscal effort that is required both at the European and the national level. As Marcel Fratzscher [points out](#), the PEPP programme ‘is much more potent than some have realised so far, and in many ways more potent than the OMT programme’, since it entails no conditionality, it is more flexible and the issue/issuer limit of 33 per cent does not apply to it.

Predictably, the ECB’s decision has already come under attack by some [usual suspects](#). Be that as it may, the [logic of the ECB’s plan](#) is to foster financing (including to SMEs and households) as well as – as its chief economist pointed out – to ensure that if necessary, targeted support can be provided (e.g. to Italy). By buying debt issued by governments and firms, [it lowers interest rates](#) and helps governments and firms borrow and invest, thus creating jobs and raising income. Assuming other elements of the ECB’s asset purchase programme remain in place, this [amounts](#) to more than 1 trillion euros worth of purchases this year and the monetisation of about five per cent of GDP in Covid-19 public debt issuance.

Crucially, for an institution that cares about its reputation as much as it does about its effectiveness, the ECB’s decisions have been praised by a broad range of economists (see, for example, [here](#), [here](#), [here](#), [here](#) and [here](#)) including [in Germany](#), and have the [support](#) of French President Macron but prominent economists such as [Paul de Grauwe](#), Karl [Whelan](#), Thomas [Philippon](#), and Luis [Garicano](#) argue further action will be required. For example, the US Senate and the Trump administration [have reached agreement](#) on a package worth 2 trillion dollars.

In mid-March the ECB also announced action (in tandem with other central banks across the globe) in relation to currency swap lines so as to [limit](#) the risk of dislocation in the financial sector and a potential procyclical reduction of bank lending. The Commission has also [instigated](#) the ‘Coronavirus Response Investment Initiative’ whereby 37 billion euros will be directed from the EU’s cohesion budget to the fight against the coronavirus crisis and proposes to extend the scope of the EU Solidarity Fund by also including a public health crisis within its scope.

However, the most path-breaking act is the European Commission’s [proposal](#) (that the finance ministers of the member states [have endorsed](#)) to activate the general escape clause that operates [since 2011](#) under the Euro Area’s [Stability and Growth Pact](#) so as to enable ‘a coordinated and orderly temporary deviation from the normal requirements for all Member States in a situation of generalised crisis caused by a severe economic downturn either in Euro Area or the EU as a whole.’ In this way member states will have much more room to pursue fiscal policy measures commensurate with the scale of the crisis.

It is worth noting that these economic measures have been adopted in addition to the national measures introduced by national governments, the most emblematic of which is [the German government’s](#). There is no doubt that fiscal policy measures too are needed if the EU is to limit the damage done by the pandemic, as Isabel Schnabel too, [pointedly noted](#).

Further proposals abound. Hundreds of social scientists (including prominent figures such as [Thomas Piketty](#) and [Mark Blyth](#)) signed an open letter to the European Council ([published in the FT](#)) calling for Eurobonds. Spain’s Prime Minister Pedro Sanchez [called](#) for a ‘Marshall Plan’ also involving joint bonds. He is one of [nine heads of state or governments](#) who support common debt issuance. As expected, Dutch PM Mark Rutte [opposes](#) them as does Chancellor [Merkel](#). No wonder the teleconference of the European Council on 26 March [ended](#) in failure. Martin Sandbu proposed the use of [‘helicopter money’](#).

## Conclusion

As is always the case, ‘Brussels’ is not hard to blame or criticise. On this occasion though, we argue that criticism must be confined to speed, rather than the substance. After a slow start, the EU has deployed its full panoply across a whole range of policy areas in an effort to counter the devastating consequences of this pandemic.

As Guy Verhofstadt [rightly noted](#), ‘Covid-19 showed how little it means to be European in times of crisis. It made one thing clear: the Eurosceptic mantra of the ‘European Superstate’ becoming more ridiculous by the day. People see the European Directorate [sic] for Health and Food Safety and the European Medicine Agency and think: they have the tools and money, why don’t they act? The answer is: because – just like Europol is not a real police force – these European health administrations do not have any real powers to act. They are largely – you get it – “coordinating” bodies; assembling information and data from all over Europe and sending it back and forth between member states; the most what they can do, is issuing recommendations. What is absolutely insufficient in times of pandemic. Then it is the 27 health ministers who take it over and are supposed to launch decisive collective action. Or more correctly – as we have seen – mainly fail to streamline their actions.’

The national tendencies of several member states were initially quite prominent. Nevertheless, as Commissioner Johansson [reportedly](#) noted, in this crisis EU member states acted like humans do – the first instinct being to fend for themselves, until they realised the value of cooperation. It remains to be seen whether the joint action that has followed will be effective but there are some lessons that the EU can already draw.

First, those who – like Bill [Gates](#) – have been arguing that the West ought to pay much more attention to this kind of issue, clearly have a point. Second, some of the capability that the Chinese state possesses and has mobilised to counter the virus, is clearly unwelcome and not feasible in Europe. This does not mean that Europeans cannot be educated in combatting pandemics so that the next one finds us better prepared. Third, capability-wise, Europe should invest in new medicines (i.e. R&D), testing materials, and the security of supply of key equipment so that they are available when needed. This also means increasing the production of critical equipment within the EU.

Fourth, the EU should strengthen its decision-making process in times of crisis to ensure efficiency, speed and visibility. The [recent proposal](#) made by the President of the European Council is a step in the right direction. Subsidiarity in normal times is fine in areas where competence is shared between levels of governance, but this pandemic is a cross-border issue that can be better handled at the European level with better co-ordinated and science-based decisions. If the ‘supranational’ centre remains weak or docile, those who stand to lose ultimately include EU citizens as well as the member states themselves. So, more confidence in the Commission’s capacity to coordinate would be welcome, as would more visibility in relation to its activity.

Finally, it is high time austerity policies were reviewed now that everyone knows that it has undermined public health systems’ ability to combat pandemics.

*This post represents the views of the authors and not those of the Brexit blog, nor LSE. It first appeared at [LSE EUROPP](#).*