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Europeanising health policy in times of coronationalism

The COVID-19 crisis has prompted the European Union (EU) to rethink its health policy, or rather those of its policies that influence the health policies of member states, as those largely comprise a national competence, and sometimes a subnational one. During the pandemic, EU institutions and EU member states identified issues where more EU coordination was desirable, for instance with regard to stockpiling and joint purchasing of medical products. Much is still unclear, however, about how a broadly supported revised EU health policy should look, particularly as this has traditionally been a field where EU citizens and EU member states saw little added value in the EU becoming involved. A newly proposed EU4Health programme saw a setback right at its inception, with its proposed funding being cut drastically by the European Council, even though EU health expenditure will continue to rise. This policy brief explores the future of EU health policy after the COVID-19 pandemic changed conventional thinking.

Introduction: saving Europe's health?

The crinkles and cracks in European and international relations have deepened during the first coronavirus shock wave. The immediate response of EU member states to the *global* pandemic was a predominantly *national* reflex:¹ measures were taken in a rather uncoordinated way, which resulted in a variety of different lockdowns and social distance policies, and even the closure of borders between EU

member states.² The European Commission was rather absent and its agency for disease control (ECDC) was criticised for initially painting a rosy picture of the risks linked to COVID-19.³ Competition emerged over scarce medical supplies such as medical facemasks and ventilators. Initially also the financing of the development, purchase and distribution of a vaccine seemed to become a national matter rather than a coordinated European endeavour. A conflict emerged over whether additional EU funding could be provided to

1 Colijn, K., 2020. 'Coronationalisme', 20 March; Debuysere, L., 2020. 'Coronationalism vs a geopolitical Europe?', Brussels: Centre for European Policy Studies, <https://www.ceps.eu/ceps-publications/coronationalism-vs-a-geopolitical-europe/>.

2 See: 'How do coronavirus containment measures vary across Europe?', *The Guardian*, 16 March 2020.

3 <https://euobserver.com/coronavirus/148039>.

pay for and bolster national health systems in European countries hit hardest, but many other countries proved unwilling to pay for it. This sequence of national reflexes undermined mutual trust and solidarity.

According to some observers the national reflex could eventually break the EU.⁴ However, at the same time several plans were presented to shore up EU coordination and safeguard the EU economy. The plans also included ideas to enhance EU competences in the field of health, even if this would require EU treaty change. French President Emmanuel Macron and German Chancellor Angela Merkel stated that a 'Europe of Health (EU Sante)' must become our priority', during their joint press conference on a corona recovery fund.⁵ Macron referred to the need for 'common stocks of facemasks and tests, common and coordinated buying power for cures and vaccines, shared epidemic prevention plans, common methods to report cases'.

However, in July 2020 the European Council slashed the EU4Health programme's budget of 9.4 billion euros that had been proposed by the European Commission in May 2020. The political leaders of EU member states were only willing to pay 1.67 billion euros for it. This is still an increase compared to the 450 million available in the period 2014-20, but does not reflect the new ambitions.

Yet in September 2020 Commission President Von der Leyen advocated a European Health Union in her State of the Union address to the European Parliament.⁶ Being a medical professional herself, she proposed to bolster the European Medicines Agency and ECDC, and to build a European BARDA – an agency for biomedical advanced research and development. Jointly with Italy, a Global Health Summit would be convened in 2021.

Furthermore, according to Von der Leyen, discussing the question of health competences is a noble and urgent task for the Conference on the Future of Europe.

The question now is whether a Europeanisation of health policy is likely to materialise and in what way. This policy brief will briefly review the EU's current engagement in the field of health, and the proposals and ideas floating around, and will discuss their prospects.

The EU's baby steps in the field of health

Together with education and culture, health has traditionally been one of the policy fields where EU member states and EU citizens saw the smallest role for the EU. Health systems in EU member states are organised, historically, in vastly different ways and in some countries they are largely funded by the state, whereas in others private insurance systems are in place. Education for physicians and even the medical indication of which specialist to visit in case of illness differs. Knowledge of EU health policy and the added value of European or international cooperation within EU member states' health ministries tends to be underdeveloped, and only now with the COVID-19 pandemic have the higher echelons and political levels of government become interested and engaged. The EU's expertise and capacity in the health domain are limited and in the past health experts feared more Commission involvement would favour economic over health interests.

High importance was therefore given to prudent application of the subsidiarity principle in the field of health. According to this principle, the EU aims to ensure that decisions are taken as closely as possible to the citizen. Action at European level should only be taken if it is more effective than action taken at national, regional or local level. In the field of health some measures were taken at EU level, for instance to ensure EU citizens receive medical treatment and are insured against healthcare costs in other countries when travelling. In addition, there is convergence in the recognition of medical diplomas, some health-related policies related to the internal

4 Rohac, D., 2020. 'Coronavirus could break the EU', *Politico*, 16 March.

5 'Qu'est-ce que "l'Europe de la santé" dont parle Macron?', *Huffington Post* (18 May 2020).

6 Von der Leyen, U., 2020. State of the Union Address, 16 Sept 2020, speech delivered in the European Parliament, https://ec.europa.eu/commission/presscorner/detail/en/SPEECH_20_1655.

market are in place, and a unified approval procedure for medicines and research into new medical treatments is financed from the Horizon programme.⁷ The European Semester, a governance mechanism through which the European Commission advises EU member states on national budgets and debt levels, also influences health systems and their financing. It was criticised for having pressured them to cut back on healthcare provision after the Eurocrisis of 2008.⁸

Experts are of the opinion that nowadays there are more EU policies that influence national health policies than is often realised by national policy makers.⁹ Nevertheless, the COVID-19 pandemic illustrated notable gaps, where more common EU health policies or guidance would have been helpful. Examples included different ways of measuring infection and mortality rates, diverging perspectives on whether children are able to transmit COVID-19, considerable variance of protective measures in elderly care settings, the development of national corona tracing apps, varying degrees of healthcare, intensive care unit capacities and testing capacity, and varying social distancing and mask-wearing policies.

Towards more strategic autonomy and EU solidarity

After the scramble for medical and protective equipment, a debate emerged about the EU's strategic autonomy with regard to medical aid and medicines, with suggestions being

made to restart production in central Europe to reduce the EU's dependency on Chinese imports. EU member states also agreed to no longer close internal EU borders, but when one country marked another country or region 'orange', meaning travelling was discouraged, very often those other countries 'retaliated' by also marking the original country orange. Only in October was agreement reached in the EU Council about the use of one map, developed by the ECDC. The issue was sensitive in light of the principle of the free movement of people, which is one of the four core freedoms on which the EU is based.¹⁰

Several months into the pandemic, coordination on health security policies has improved considerably, with representatives of EU member states and EU institutions meeting in the Health Security Committee and several other Council bodies, task forces and informal bodies. Within the Commission, the work is coordinated by the General Secretariat and EU Presidency Germany is very active on the health file. Member states have also expressed some signs of solidarity, such as Germany covering the costs of non-German COVID-19 patients in German hospitals and taking patients from neighbouring countries when their hospitals are full.

At international level, the EU made a strong political statement by organising a virtual pledging conference to raise money to fill 'immediate funding gaps' in vaccine research. The conference was organised one day after President Trump announced suspension of US funding to the World Health Organization (WHO). Commission President Ursula von der Leyen pointed out that 'one key element in the fight against coronavirus is accelerating the diagnostics, treatments and development of a vaccine – followed by the deployment of a vaccine all over

7 For an overview of EU policies influencing health, see: Townend, D.M.R., et al., 2020. 'What is the role of the European Union in the COVID-19 pandemic?', *Medicine and Law* 39(2), 249-268.

8 Dentico, N., 2020. 'Chronicle of a pandemic foretold', *Open Democracy*, <https://www.opendemocracy.net/en/can-europe-make-it/chronicle-pandemic-foretold/>.

9 Greer, S.L., et al., 2014. *Everything you always wanted to know about European Union health policies but were afraid to ask*, Copenhagen, World Health Organization Regional Office for Europe; De Ruijter, A. (forthcoming), 'The expansion of EU power in public health and health care', in: *EU Health Law & Policy*.

10 Council Recommendation on a coordinated approach to the restriction of free movement in response to the COVID-19 pandemic, adopted on 12 October 2020.

the world'.¹¹ In addition, in an EU-brokered resolution on 19th May, WHO member states tasked the WHO to look at 'scaling up global manufacturing and distribution capacity for vaccines, tests and treatments' via the use of existing international treaties and trade rules.¹²

What's in the cards? EU4Health

Presented by the European Commission in May and part of the Next Generation EU programme,¹³ EU4Health would run until 2027 and aims to create long-term stockpiles and reserves for medical equipment. It also wants to create a pool of 'flying' doctors that could be sent to areas of need. The European Medicines Agency and the European Centre for Disease Control (ECDC) would be expanded. Both agencies would have more powers when it comes to vaccines and surveillance. EU4Health would seek to improve national health systems, take measures against communicable and non-communicable diseases, and ensure availability and affordability of medicines and other crisis-relevant products.

According to the proposal, 'the Commission will work closely with the Member States to make sure that the support provided by the EU4Health Programme is based on national needs'.¹⁴ It also recognises that 'whilst the Member States are responsible for the functioning of their health systems, there are specific areas where the EU can legislate, and others where the Commission

can support Member States' efforts'. The proposal also mentions that the programme 'will be implemented with full respect to the responsibilities of the Member States, for the definition of their health policy and for the organisation and delivery of health services and medical care as stated in Article 168 of the Treaty on the Functioning of the EU'. The subsidiarity principle and member states' potential resistance against a Europeanisation of health policy are thus duly taken into consideration.

Whereas EU4Health was prompted by COVID-19, the programme stretches way beyond surveillance and response measures to combat infectious diseases, or the need for European stock piles of personal protective equipment. Health would need to be more integrated into a range of EU policies, with the EU also stepping up its efforts to combat non-communicable diseases such as cancer or antimicrobial resistance. With the considerable cutting of the proposed budget by the European Council, it is not clear if this level of ambition can be maintained, nor is it certain that the high-level political attention for health will endure until the end of the budgetary term in 2027. The European Parliament may still be able to increase the health budget,¹⁵ although it is likely to stay in the range of the European Council, as EU member states pay for the EU budget and the European Parliament can only reject it, with the EU not having a budget as a result.

The litmus test: the EU's role in vaccine development

In addition to the EU4Health programme the Commission has stepped up its role with regard to EU citizens having quick and equitable access to a COVID-19 vaccine. It was keen to avoid competition among EU member states, which would likely drive up the price and availability in other states.

11 See Deutsch, J., 2020. 'Von der Leyen announces May 4 coronavirus vaccine pledging conference', *Politico*, 15 May.

12 See Bregner, S. et al., 2020. 'Upholding the World Health Organization: Next Steps for the EU', Comment published at Stiftung Wissenschaft und Politik, Berlin.

13 Proposal for a Regulation of the European Parliament and of the Council on the establishment of a Programme for the Union's action in the field of health – for the period 2021-2027 and repealing Regulation (EU) No 282/2014 ('EU4Health Programme'), COM(2020) 405 final, Brussels (28 May 2020).

14 Ibid.

15 For an overview of the European Parliament's activism in this field, see Von Ondorza, N., 2020. https://www.swp-berlin.org/fileadmin/contents/products/comments/2020C45_EuropeanParliament.pdf.

This happened when the UK bought most of the available vaccines after the swine flu epidemic, leaving other EU member states empty handed. Officially the EU is also an advocate of a global purchase effort of the vaccine, known as the CoVax facility, a platform co-hosted by WHO, GAVI and CEPI.¹⁶ This was also included as an objective in the EU-initiated resolution on COVID-19 adopted in May 2020 in the World Health Assembly. However, elements of competition have emerged between efforts to pool funding for vaccine purchasing at EU level or at global level.

Late June the Commission presented a new vaccine strategy aiming not only to develop a vaccine but also to produce it at scale in the European Union. According to the Commissions' Communication 'no Member State on its own has the capacity to secure the investment in developing and producing a sufficient number of vaccines'. A common strategy would allow for a 'better hedging of bets, sharing of risks and pooling investments to achieve economies of scale, scope and speed'.¹⁷ The so-called Emergency Support Instrument to provide the funding had already been amended in April 2020 – a record speed for EU decision making and illustrating the proactive handling of this aspect of the COVID-19 crisis by the European Commission.

Earlier in June, the Commission was sidelined when a vaccine alliance formed by France, Germany, Italy and the Netherlands reached agreement with Oxford-based AstraZeneca on supplying a coronavirus vaccine. If development of the vaccine is successful, the pharmaceutical company will be able to provide Europe with 300 to 400 million doses of vaccine in stages from the end of 2020. In August it was announced that the EU, under its vaccine strategy, has taken

over the advanced-purchase agreement of the four frontrunner states. Similar deals were concluded with, among others, Sanofi-GSK and Johnson & Johnson.

It remains to be seen whether European ranks will remain closed when a vaccine is available. As production facilities are limited in Europe, it will also be interesting to see how the EU engages with China, the US, Russia and India, and whether it buys vaccines developed and produced in those countries. It will also be interesting to keep on eye on whether a reasonable price is secured and on trust by European citizens that the vaccine is safe.

With regard to the immunisation policies to roll out the vaccines, the Commission by means of a Communication called upon member states to speed up their preparations and to give precedence to the most vulnerable groups and health workers.¹⁸ This could be considered an attempt to have more coordination on this front as well.

Overcoming coronationalism

The limited competences given to the EU on health policy in the Treaty on the Functioning of the EU and the strong adherence to the subsidiarity principle resemble the sensitivity among EU member states when it comes to Europeanising health policy. However, despite the budget cut in the Multiannual Financial Framework (MFF), the budget for EU health policies has increased considerably and significant steps are being made with regard to coordinating the purchase and distribution of vaccines and medical equipment. Member states hit particularly hard economically will, moreover, be explicitly allowed to use EU grants and loans to bolster their health systems, according to the agreement reached in the European Council.

16 See for more information : <https://www.who.int/initiatives/act-accelerator/covax>.

17 Proposal for a Regulation of the European Parliament and of the Council on the establishment of a Programme for the Union's action in the field of health – for the period 2021-2027 and repealing Regulation (EU) No 282/2014 ('EU4Health Programme'), COM(2020) 405 final, Brussels (28 May 2020).

18 Preparedness for COVID-19 vaccination strategies and vaccine deployment, Communication by Commission to the Parliament and Council, Brussels 15.10.2020, accessible on: https://ec.europa.eu/health/sites/health/files/vaccination/docs/2020_strategies_deployment_en.pdf.

It would perhaps be more efficient if EU member states would coordinate their national coronavirus policies to a larger degree, but in light of the sensitivities of, for instance, social distancing policies in relation to civil liberty and privacy, a common European approach in that respect currently seems unattainable. Moreover, the fundamental differences in healthcare systems and capacities, and the financing of health services, policies for healthcare workers, and so on may complicate efforts to Europeanise this policy domain.

For the time being, EU institutions still lack the expertise and capacity to monitor and advise EU member states on issues such as infection risks when children are attending school. Nevertheless, more could be done to integrate health considerations into a wider range of EU policies to avoid, for instance, the increased health inequalities resulting from the austerity of the previous decade requested in the European Semester, or to avoid health workers moving to more affluent parts of the EU.

Perhaps most important for the European Commission now is to seize the momentum to engage with EU member states and citizens on what could be gained from greater European coordination in the field of health and on which specific issues – and should do this not only with Germany and France but also with other EU member states. It should think about how a more Europeanised health policy would look in different contexts: for instance would an acceptable rate of immunisation be achieved only when vaccination reaches the non-vulnerable groups in the less-affluent EU member states; masks produced in Bulgaria or Slovakia may be more expensive, but would make the EU less dependent on China; and if a US vaccine is very expensive it might be worth waiting slightly longer and strike a deal with India to produce at scale an efficient and safe vaccine developed in Europe, to name just a few potential difficult issues.

With the reduced budget it is probably also important not to be overly ambitious with regard to the reach of EU health policy. It may not be realistic to aim for integration of health in all policy areas, and to target infectious and non-communicable diseases and other health challenges simultaneously. In comparison to national health budgets, EU funding will still be negligible and therefore ambitions with regard to addressing member states' needs to improve their health systems, as outlined in the Commissions' proposal, might not be very realistic. Instead, a more gradual and selective approach might be more fruitful, with the Commission clarifying the added value of EU engagement and how cooperation and buy-in of member states is ensured.

As a first step, quick wins may be needed to prove the added value of a common European approach. A potential quick win might be to ensure fair vaccine deals that will gain the approval of European populations when the time comes. The Commission needs to ensure that the EU will not be mangled in between the other great powers or squeezed by big pharmaceutical companies and their shareholders.

The Commission and EU agencies need to use this pandemic to show that they can help EU member states to strike a good balance between the development of new medicines and treatments, and ensuring acceptable costs and the provision of equitable public health services. The importance of health has become all the more obvious, and it is time to use the momentum and make structural improvements that will have beneficial systemic outcomes when *coronationalism* is something of a distant past. But more analysis and thinking is required on why more EU competence would be needed and how more European coordination could make best use of the (sub)national capacities and keep them engaged.

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