European Ombudsman

Executive summary of strategic inquiry OI/3/2020/TE into how the ECDC performed during the COVID-19 crisis

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Background

In its proposal setting up the European Centre for Disease Prevention and Control (ECDC), the European Commission said: "[i] *n controlling a disease outbreak, time is of the essence. Every day lost in identifying the threat, deciding on control measures and implementing them can result in the outbreak spreading further. These lost days can mean the difference between a small outbreak and a serious epidemic. If the disease or pathogen involved is particularly lethal, then delay may cost lives* ".

The ECDC was created in 2004, in the aftermath of the Severe Acute Respiratory Syndrome (SARS) outbreak. Its mission is " *to identify, assess and communicate current and emerging threats to human health from communicable diseases* ".

While its name reflects that of classic epidemiological centres (like the US CDC), the ECDC's designated mandate under EU law is to support and coordinate the work of epidemiological centres in the EU's Member States, rather than to lead the EU response to infectious diseases. This is consistent with the overall political principle that the EU's role is to *complement* rather than supplant national policies in the area of health. The ECDC was given limited financial and human resources, which were not increased when its mandate was expanded in 2013.

Its limited mandate and resources were justified at the time by EU legislators on the grounds that it could carry out its function effectively with access to the resources of the Member States. There was little political appetite to grant it more powers.

Critically, the ECDC was given **no powers to inspect or gather information at source** relying instead on **data** sent to it from national authorities and international partners, such as the World Health Organisation (WHO). While Member States are obliged to provide the ECDC, in a timely manner, with available scientific and technical data relevant to its mission, this obligation has little relevance in practice, in particular when there are problems in the

way Member States perform disease surveillance at national level. The challenges this presents at a time of unprecedented crisis are obvious: without receiving data of a sufficient quality in a timely manner, the ECDC risks being unable itself to provide timely and relevant advice back to the Member States.

ECDC and the COVID-19 Pandemic

In January 2020, the ECDC began to monitor the novel coronavirus SARS¤CoV¤2 and the related disease (COVID-19), with the first case in the EU reported on 24 January. On 11 March 2020, the WHO declared COVID-19 a pandemic. The following day, the WHO described Europe as the centre of the pandemic.

The pandemic highlighted, in particular, the gap between how the Member States are supposed to work with the ECDC and what happened in practice. Without the mandate and the financial resources to impose certain surveillance standards and methods on the Member States, the ECDC's capacity to assess, advise and communicate was significantly hampered. At the initial stage of the pandemic, it had to rely on media reports to supplement limited or incomplete data from official sources. At critical points in the early stages of the pandemic, the ECDC gave positive assessments of the capacity of Member States to cope with the crisis that quickly became outdated as the EU moved from a 'containment' to a 'mitigation' approach.

For example, on 25 January, following the confirmation of three cases in France, the ECDC gave a positive assessment of the EU's capacity to deal with the virus, concluding:

"At this stage, 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."

Eight days earlier, on 17 January, a group of epidemiologists working for a 'WHO collaborating centre' had published a report [1] estimating what the actual number of infections in China was likely to be – and not what had been reported at that time. They warned of *"substantial human-to-human transmission"* and urged *" heightened surveillance, prompt information sharing and enhanced preparedness"* .

Five days later, on 22 January, the group shared another update [2] , warning of the almost certain human-to-human transmission of the virus and the extent of the control measures that would have to be put in place.
Inquiry
On 23 July 2020, the Ombudsman opened a strategic inquiry, with a view to providing an independent assessment of how the ECDC has gathered and communicated information in the context of the COVID-19 pandemic.
Main findings

How the ECDC gathers information

The ECDC collates data through: the European Surveillance System (TESSy), to which Member State authorities upload data on infectious diseases under European surveillance; the Early Warning and Response System (EWRS), to which Member States and the Commission must notify public health events meeting certain criteria; and surveys on specific issues conducted on its own initiative or upon request from the Commission. The ECDC faced challenges gathering data through all three mechanisms during the crisis. This meant it relied on epidemic intelligence screenings, through which it monitors information published on official sources.

Delays in receiving data from Member State authorities, as well as incomplete or incomparable data, undermined the ECDC's ability to coordinate a robust EU response. By 3 April, four Member States, including some with high numbers of cases, had not submitted any weekly data. Regarding data from international partners, by 27 January 2020, the ECDC was still missing a detailed epidemiological description of cases and did not know why such data was not yet available from the WHO and China.

According to the ECDC, the 'incident management module' in the EWRS, which was designed to collect information on response measures taken by countries, was not effective enough during the pandemic. For this reason, a separate database on response measures had to be set up.

Finally, the surveys on laboratory preparedness, conducted by the ECDC at the beginning of the pandemic and only a few weeks apart, led to very different results regarding how prepared laboratories in EU Member States were. Based on the first survey, conducted at the end of January, the ECDC informed EU health ministers that the Members States had sufficient capacity (" *the overall capacity from this survey to deal with diagnostic of cases is around 8 000 per week*" **[3]**). The two subsequent surveys conducted by the ECDC only a few weeks later in March 2020 revealed significant laboratory shortages in most participating countries (by the 'second wave' of SARS-CoV-2 infections, Germany alone was conducting more than one million tests per week). The ECDC explained that the first survey was conducted in the context of a 'containment' approach, while this laboratory capacity proved insufficient in a 'mitigation' context in March.

Transparency of information and communication

Transparency of the ECDC's scientific assessment

The Ombudsman evaluated the transparency of the ECDC's scientific assessment outputs, such as its rapid risk assessments, which it updates as often as possible to reflect the latest scientific evidence. In particular, the Ombudsman looked at issues where the risk assessment had evolved and how the ECDC communicated such updates.

Using the example of face masks, the Ombudsman noted that the ECDC's rapid risk assessment of 25 March stated that there was no evidence that they were useful for

preventing an infection when worn by *“persons who are not ill”* . [4] Yet two weeks later, on 8 April, the rapid risk assessment stated that face masks could serve to reduce community transmission when worn by “ *infected individuals who have not yet developed symptoms or who remain asymptomatic* ” [5] . The ECDC could have done more to draw attention to this shift in advice.

Communication to the public

The ECDC could have done more to communicate proactively about its work to the public. In part, this shortcoming stems from the ECDC’s communication strategy, which aims to complement the work of national bodies and defines a narrow primary target audience for its communication work, limited to health professionals, policy makers, health communicators and the media. The COVID-19 crisis should be used as an opportunity for the ECDC to rethink its role in communicating health threats to the public.
The future
The ECDC was set up in the wake of a disease outbreak to help the EU tackle similar outbreaks. Despite the huge efforts of its staff during this incredibly difficult year, the COVID-19 pandemic has shown the challenges the ECDC has faced living up to its stated mission. Shortcomings in its capacity to respond have been identified in the meantime, including by the Commission and through an external assessment commissioned by the agency itself. The Ombudsman’s findings are intended to feed into the ongoing discussion on strengthening its role.

The Commission and others have argued for the creation of an EU health agency. However, it may well be that the ECDC remains dependent on national data and information – provided by the Member States and without an independent means of access. Without a strengthened mandate which enables the ECDC to impose certain surveillance methods and standards and to bring all Member States up to the same level of surveillance systems quality, this could mean that the ECDC will face similar limitations in dealing with a future cross-border public health emergency. The Ombudsman believes that the EU legislators should reflect on this, and on the detailed findings from this inquiry, in the wider debate on creating a possible new ‘Health Union’.

A key principle that must guide the ECDC’s future work is transparency. Transparency enables the public, in particular experts at national, European and international level, to understand and scrutinise the ECDC’s work, and to hold accountable all actors involved. Greater transparency is therefore required in the interactions between the ECDC and Member States, as well as with its international partners, so that scientific and other experts can assess the timeliness, quality and completeness of the information exchanged. In the fast-moving and constantly changing environment of a pandemic from a novel virus, it is of the greatest importance that the work of experts around the world is facilitated through timely sharing of information. Those experts, and ultimately the public, need to know the sources on which the ECDC is basing its advice, particularly given global variations in methodologies used to tackle the pandemic, and the variations in outcomes.

To facilitate greater scrutiny of its work, the Ombudsman has made the following suggestions for improvement to the ECDC:

1. Enhance the transparency of the evolution of ECDC's risk assessments, such as by highlighting where elements or guidelines were updated after new scientific evidence became available.

2. Publish the results of its surveys on specific issues to the greatest extent possible.

3. Improve the transparency of the data in TESSy by creating an archive on its website, which contains all weekly overviews on TESSy data and indicates where the data may not be complete (for example from which Member States).

4. Examine if and to what extent exchanges between the ECDC and international partners – such as the WHO and the Chinese CDC - could be made public, in order to allow for greater scrutiny.

5. Revise its communication strategy, with a view to designating a wider target audience (the general public) for its communication work.

6. Update its language policy, with a view to making available more information in official EU languages other than English.

[1] https://www.imperial.ac.uk/mrc-global-infectious-disease-analysis/covid-19/report-1-case-estimates-of-c

[2] https://www.imperial.ac.uk/mrc-global-infectious-disease-analysis/covid-19/report-2-update-case-estima

[3] https://video.consilium.europa.eu/event/en/23906?start_time=0

[4] ECDC, Rapid risk assessment: Coronavirus disease 2019 (COVID-19) pandemic: increased transmission in the EU/EEA and the UK – seventh update, 25 March 2020, available here: https://www.ecdc.europa.eu/en/publications-data/rapid-risk-assessment-coronavirus-disease-2019-covic

[5] ECDC, Rapid risk assessment: Coronavirus disease 2019 (COVID-19) pandemic: increased transmission in the EU/EEA and the UK – eighth update, 8 April 2020, available here: https://www.ecdc.europa.eu/en/publications-data/rapid-risk-assessment-coronavirus-disease-2019-covic