

Analytic guide to the results of the Intergovernmental Conference

1. Although the range of subjects discussed by the IGC has increased over time, they are not all of equally important. We must therefore prioritise them to evaluate the final result of the negotiations.
2. There are two key issues with respect to reform:
 - *effectiveness*: An enlarged Union of nearly 30 Member States must be able to operate efficiently. It is here that the margin of uncertainty, and hence judgement, is highest.
 - *power*: This is related to how Member States are represented within European institutions. The Council of Nice has limited room for manoeuvre here, so it is vital not to sign away the future.

Points concerning efficiency

3. Of all of topics discussed by the IGC, the *extension of the use of the qualified majority* is the most important for the future. In an enlarged Union, unanimity would end up by paralysing Europe. We can therefore best judge the value of the Nice compromise in terms of the quality and number of areas in which majority voting is permitted.

In spite of substantial progress, negotiations are currently stumbling over such issues as cohesion policy, tax harmonisation, social welfare for migrant workers, immigration and the right of asylum, and common commercial policy (intellectual property and services). None of these subjects involves the new transfer of competence; they are listed here since they are now part of community competence. Each poses problems in one or more Member States where the situation is currently blocked. A successful ICG would contain a "escape via the top clause"; i.e., each Member State would agree to withdraw its reservations in order to set free the whole package. Conversely, the maintenance of the current freeze would reveal a collective lack of ambition.

4. The question of reinforced co-operation was included in the ICG agenda. This is important if we wish to sustain the dynamism of the integration process. Agreement should therefore cover the following:
 - simplified conditions for triggering reinforced co-operation (the minimum number of participants should exceed eight States; no Member State should be given the opportunity to veto reinforced co-operation),
 - the possibility of reinforced co-operation within the framework of the CFSP,

- recognition of the role of guardian of the Treaties of the Commission, both in the procedure for launching reinforced co-operation (issuing an advance opinion) and in the execution of approved co-operation actions.
5. Progress in negotiations concerning the reform of the European legal system, so that the backlog of cases at the Court of Justice and the Court of Appeal can gradually be dealt with. This, however, is not the angle from which we shall measure the success of the European Council of Nice. Yet the consolidation into the Treaty of the Eurojust unit, whose provisional creation has recently been unanimously accepted by the JHA Council, offers a historic chance to give the project for a space of freedom, security, and justice.

Points concerning power

6. Although difficult, the topic modifying *vote weighting* in the Council, is not the most important. What really matters is that the chosen solution respects the two principles governing the former balance of power:
- no Council majority if a majority of Member States do not agree,
 - a group of less-populated countries should not be able to put the most populated countries in a minority.
7. On the *composition* of the Commission: there is no point in expecting the principle of "one Commissioner per Member State" to be called into question at Nice. However, it is important that this is a purely provisional situation and that the Treaty adopts a *timetable* that limits the size of the Commission with respect to the increase in the number of Member States.

Linking to after-Nice

8. The *Charter of Fundamental Rights* will most probably be officially adopted by the three institutions. Questions about its legal status and changes to its contents are clearly after-Nice issues.
9. The reforms decided at Nice should extend to other topics that do not require modifications to the Treaties. In particular, it is necessary to decide on restructuring the General Affairs Council to ensure the proper functioning of the institutional triangle, in addition to the decisions made at Helsinki. This reform would demonstrate the Union's willingness to apply "the brakes" when there is a risk of intergovernmental slippage.
10. The debate on the *ultimate purpose of an enlarged Union* must continue after Nice, and any methods for "passing the baton" will be welcome. In this perspective of enlargement, what really matters is that this debate deals with values (why do we want to work together?) as well as projects (what do we want to do together?), and the relevant instruments (what can we do together?).