

TYPES OF INSTRUMENTS

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The instruments in the legal instruments database are classified in different types, depending on the nature of the document and of the information provided. A short description of each type allows to identify how these instruments differ from each other.

AGREEMENT

International

An Agreement is a contract or treaty signed by two or more sovereign nations. It regulates matters of common concern or joint commitments.

Belgium – Cooperation agreement

In Belgium, attribution of competences is organised in such a way that some executive decisions need to be taken by several governments simultaneously (e.g., on a federal, regional and community level). Such decisions result in cooperation agreements between the different governments.

COMMUNICATION

European Union - European Commission

In its Communications, the European Commission expresses its opinions and proposals to Member States and other European Union institutions, and commits itself to take action to foster these objectives. Communications are sometimes referred to as "soft legislation", as they are non-binding forms of decision-making.

CONCLUDING OBSERVATIONS

Within their mandate to monitor the implementation of the relevant Convention, the Treaty Bodies of the United Nations review periodic reports submitted by State parties. The examination of a State report takes place in the format of a "constructive dialogue" and culminates in the adoption of concluding observations. These are recommendations by the Committee intended to give States concrete and practical advice on how to enhance the implementation of human rights in their domestic legal system. For instance, the Committee on the Rights of the Child adopts concluding observations on the implementation of the Convention on the Rights of the Child in a State party. (See also 'Report').

CONSTITUTION

The Constitution is the highest law of a State. It establishes the fundamental principles according to which the State should be governed.

DECISION

European Union

A Decision is a legal act which is binding in its entirety on those to whom it is addressed.

DECLARATION

International human rights declarations are not legally binding. States often choose the term declaration to indicate that the instrument is intended to declare certain aspirations rather than create binding obligations for the parties.

DECREE

Belgium – at community and regional level

In Belgium, a Decree is a primary regulation, adopted by the parliaments of the communities (the Flemish Community, the French Community and the German-speaking Community), the parliament of the Flemish region and the parliament of the Walloon region. Primary laws adopted by the parliament of the Brussels-Capital Region are called 'ordinances'.

DIRECTIVE

European Union

A Directive is a legal act, binding as to the result to be achieved, upon each Member State to which it is addressed. It leaves to the national authorities the choice of form and methods.

GENERAL COMMENT

The United Nations Treaty Bodies, among which the Committee on the Rights of the Child, publish general comments on their interpretation of the content of human rights provisions in their respective Conventions.

GOVERNMENTAL ORDER

Belgium – at community and regional level

(Regional and community) governmental orders are instruments made by the governments of regions and communities under powers delegated by a decree or ordinance.

GUIDELINES

Guidelines are non-binding legal instruments, containing proposals with respect to a certain subject or policy domain.

LAW

Belgium – at federal level

A Law is a primary federal regulation, enacted by the federal Parliament.

MINISTERIAL ORDER

Belgium – at federal level

(Federal) ministerial orders are made by the federal government under powers delegated by a law. They are promulgated by a minister to implement a royal order.

Belgium – at community and regional level

(Regional and community) ministerial orders are instruments made by the governments of regions and communities under powers delegated by a decree or ordinance.

OPINION

Council of Europe - Parliamentary Assembly (PACE)

The Assembly mostly expresses Opinions on questions put to it by the Committee of Ministers, such as the admission of new member states to the Council of Europe, but also on draft conventions, the budget, the implementation of the Social Charter, etc.

European Union – European Economic and Social Committee (EESC)

The European Economic and Social Committee issues consultative Opinions on matters of interest to the larger institutions of the European Union (the Council, the Commission and the European Parliament).

POLICY DOCUMENT

In a policy document, governments or organisations outline the ways in which they intend to conduct their affairs with regard to a specific policy domain (e.g., youth policy, family policy).

RECOMMENDATION

A Recommendation refers to an action which is advisory in nature rather than one having a binding effect. Recommendations are not subject to ratification, and consequently do not carry the same legal requirements as treaties.

Council of Europe - Congress of Local and Regional Authorities (CLRA)

The CLRA adopts Recommendations to the member states, to the Council of Europe Committee of Ministers and to the Parliamentary Assembly.

Council of Europe - Committee of Ministers

The Committee of Ministers can make Recommendations to member states on matters for which the Committee has agreed "a common policy". Recommendations are not binding on member states and do not require a unanimity rule for their adoption.

Council of Europe - Parliamentary Assembly (PACE)

PACE adopts Recommendations containing proposals that call for action from the Committee of Ministers. They are adopted by a two-third majority. Implementation falls within the competence of governments.

International Labour Organisation (ILO)

ILO Recommendations are addressed to member states. Their goal is to stimulate and guide national programmes in given areas related to people and their work. Often, Recommendations are adopted at the same time as ILO Conventions dealing with the same subject. Recommendations then complement the Conventions in more detail.

UNESCO

UNESCO Recommendations are instruments in which "the General Conference formulates principles and norms for the international regulation of any particular question and invites Member States to take whatever legislative or other steps may be required in conformity with the constitutional practice of each State and the nature of the question under consideration to apply the principles and norms aforesaid within their respective territories" (UNESCO Rules of Procedure Article 1 (b)). Emanating from the Organisation's supreme governing body and hence possessing a certain degree of authority, Recommendations are intended to influence the development of national laws and practices.

REGULATION

European Union

A Regulation is a legal act of general application, binding in its entirety and directly applicable in all Member States.

REPORT

Reports of United Nations institutions

Reports are authoritative sources of information issued by a range of United Nations institutions, such as the Special Rapporteurs.

A number of reports are specific to the State reporting procedure to United Nations Treaty Bodies (see also 'Concluding Observations':

Initial State Report and Periodic Reports

In addition to their obligation to implement the substantive provisions of the Convention, State parties must also submit periodic reports to the relevant treaty body on how the rights are being implemented. The reports must set out legal, administrative and judicial measures

that States have undertaken to give effect to the treaty in question. Challenges and difficulties must be identified. After an initial report by the State party on the implementation of the treaty, reports are due periodically.

Alternative Report

Alternative Reports are adopted by non-state actors, such as non-governmental organizations (NGOs) or, in the context of the Convention on the Rights of the Child, children and young people themselves. An NGO Alternative Report provides an additional source of information to the Committee about the implementation of the rights and obligations under a particular Convention. Adopting the perspective of NGOs, it is complementary to the State report and provides the Committee with alternative insights that are not reflected elsewhere. Also children have issued alternative reports, in which they express their opinion on the implementation of the Convention on the Rights of the Child in their country.

List of Issues and Reply thereto

After having considered the State Report and alternative sources available to it, the Committee adopts a List of Issues containing requests for additional information to the State party. It may also ask the State to go into detail about a specific issue of particular concern. The List is also used as a guide to the line of questioning States are likely to face during the constructive dialogue before the Committee. States are advised to provide the Committee with a written Reply to the List of Issues before the oral session takes place.

RESOLUTION

Resolutions are international instruments that generally do not have a binding effect.

Council of Europe - Congress of Local and Regional Authorities (CLRA)

Resolutions of CLRA are addressed to the local and regional authorities of the Council of Europe member states. They are aimed to improve the governance in these institutions.

Council of Europe - Parliamentary Assembly (PACE)

In its Resolutions, PACE expresses its viewpoint on matters within the institutional competence of the Assembly. A majority of the votes cast is required.

European Union - Council of the European Union

A Council Resolution is a non-binding statement from the Council of the European Union, where it defines objectives and makes political declarations.

United Nations

United Nations Resolutions are formal expressions of the opinion or will of United Nations organs. They generally consist of two clearly defined sections: a preamble and an operative part. The preamble generally presents the considerations on the basis of which action is taken, an opinion expressed or a directive given. The operative part states the opinion of the organ or the action to be taken.

ROYAL ORDER

Belgium – at federal level

Royal orders are made by the federal government under powers delegated by a law. They are promulgated by the monarch to implement federal laws.

TREATY

A treaty is defined by Article 2 of the Vienna Convention on the Law of Treaties as “an international agreement concluded between States in written form and governed by international law, whether embodied in a single instrument or in two or more related instruments and whatever its particular designation”. A treaty may also be referred to as an (international) agreement, protocol, covenant, convention.