

# The international undertaking

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Convention on the Rights of Persons with Disabilities = The Convention

## ➤ The signature



- When a State signs a convention it just recognizes that the text is conform to what it has negotiated.
- The signature does not make the text legally binding for the State.

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The Convention was opened to signatures on March 30, 2007.

• **The signature does not urge a State to respect the Treaty.** However, a State party must abstain from acts which would deprive a Treaty of its object and its purpose. (**The State does not have obligation of action but an obligation of abstention** as soon as it signed a text)

• The signature is often a diplomatic act authorized by the executive power of a State.

• Depending to the national legal system of each State, the value of the signature can change. In the majority of the States, the signature is enough to engage the State when the Treaty is in connection with “not very important subjects” (for some business agreements but never for human rights), but for “important subjects” (as human rights, international criminal law, international humanitarian law...) the signature does not engage the State.

• In no democratic States, all powers being concentrated in the hands of one or few persons, the signature of it/them is generally enough to engage the State.

## ➤ The ratification



- The State agrees on the terms of the Convention which becomes legally binding (as soon as the Convention enters into force)

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See “*ratification toolkit*” *Disabled People International*

See “*Ratification campaign Handbook*” *Landmine survivors network*

- The terms accession or formal confirmation (art 44) have the same significance as ratification.
- In order for the treaty to become legally binding for a State, the State is required to ratify (and the text must be into force (see next slide)).
- The State parties (States which have ratified the Convention) must justify how they will implement the Convention. When the Convention enters into force (after 20 ratifications), the State parties shall send reports to the international monitoring committee (see teaching module 7).
- The ratification must generally be authorized by the legislative power. It is a **solemn act which generally comes from the Head of the State**. (The divergences between the executive power and the legislative power of a State can explain that a State signs a text but does not ratify it)
- The more a text is ratified by a States, the more it is difficult for the States which don't have ratified it to justify their position. It is the case of the International Convention on the rights of the child (CRC) which is ratified by the nearly all States except Somalia (which does not have a government) and by the United States. This refusal to ratify the CRC puts them in a very isolated position.
- Adhesion or acceptance have the same effects as ratification but these procedures are made for States which didn't take part in the negotiations or didn't sign the text but wish to be party to it.

## ➤ Entry into force



- The Convention will enter into force when at least 20 States have ratified it
- The Convention becomes legally binding for all States which have ratified it

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•As soon as 20 States ratify the Convention, it comes into force and become legally binding for those States. The monitoring committee will start working.

•The Convention should be quickly ratified by a great number of States as many States signed it on the opening day on March 2007. (see the [www.handicap-international.org](http://www.handicap-international.org) website to see the evolution of signatures/ratifications => June 7, 2007, the total number of Convention signatories is 95 and the total number of optional signatories is 52)

## ➤ The reservations

- A State expresses its intention not to comply with some part of an article or to do so according a specific interpretation.
- A reservation shall not be contrary to the aim of the Convention.

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•A State may make a reservation at the time of the signature or ratification. A reservation enables a State to accept the Convention as a whole by giving it the possibility not to apply certain provisions with which it does not want to comply. **The State decides to limit its undertaking.**

•A State can withdraw a reservation at any stage.

•A reservation cannot be “incompatible with the object and purpose of the Convention”. It will be probably the monitoring committee which will have to check the compatibility of the reservations to the Convention (in the event of a complaint of another State which considers that the reservation is incompatible with the Convention). If a reservation is incompatible with the Convention, the State which had expressed it fully undertakes the Convention and must denunciate it if the State doesn't want to be bound anymore.

•The use of reservations causes a lack of homogeneity in the States undertaking on the same Convention. However, the reservations allow a greater number of States to accept an international Treaty.

## ➤ The denunciation



- A State Party may denounce the present Convention by written notification to the Secretary General of the UN.
- The Convention is not legally binding for the State which denounces it

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•The Convention envisages denunciation (article 48).

•The State will remain responsible for the violations of the Convention which occurred when the Convention was legally binding for the State. **The denunciation is applicable only for the future.**

•The denunciation shall become effective **one year** after the date of receipt of the notification by the secretary general.

•The denunciation of an international human rights treaty often announces a major political change towards a non-democratic government in a State.