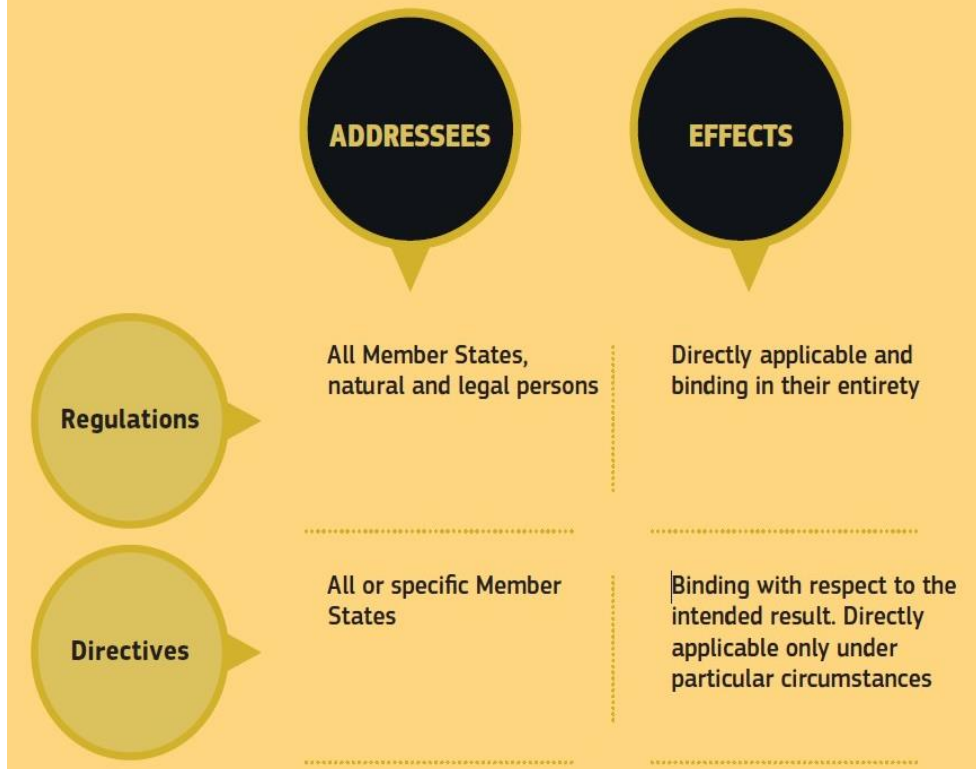


System of EU legal instruments



A directive is the most important legislative instrument alongside a regulation. Its purpose is to reconcile the dual objectives of both securing the necessary uniformity of Union law and respecting the diversity of national traditions and structures. What the directive primarily aims for, then, is not the unification of the law, which is the regulation's purpose, but its harmonisation. The idea is to remove contradictions and conflicts between national laws and regulations or gradually iron out inconsistencies so that, as far as possible, the same material conditions exist in all the Member States. The directive is one of the primary means deployed in building the single market.

A directive is binding on the Member States as regards the objective to be achieved but leaves it to the national authorities to decide on how the agreed Union objective is to be incorporated into their domestic legal systems. *The reasoning behind this form of legislation is that it allows intervention in domestic economic and legal structures to take a milder form. In particular, Member States can take account of special domestic circumstances when implementing Union rules. What happens is that the directive does not supersede the laws of the Member States but places the Member States under an obligation to adapt their national law in line with Union provisions.* The result is generally a two-stage lawmaking process.

First, at the initial stage, the directive lays down the objective that is to be achieved at EU level by any or all Member State(s) to which it is addressed within a specified time frame. The Union institutions can actually spell out the objective in such detailed terms as to leave the Member States with no room for manoeuvre, and this has in fact been done in directives on technical standards and environmental protection.

Second, at the national stage, the objective set at EU level is translated into actual legal or administrative provisions in the Member States. Even if the Member States are in principle free to determine the form and methods used to transpose their EU obligation into domestic law, EU criteria are used to assess whether they have done so in accordance with EU law. The general principle is that a legal situation must be generated in which the rights and obligations arising from the directive can be recognised with sufficient clarity and certainty to enable the Union citizen to invoke or, if appropriate,