

## 35. JURISPRUDENCE

### PRINCIPLE OF PROPORTIONALITY AS A CRITERION FOR THE ADMISSIBILITY OF LIMITATIONS ON HUMAN RIGHTS

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**Abstract.** The article analyzes the principle of proportionality as a key criterion for determining the admissibility of limitations on human rights in constitutional and international law. It examines the origins and development of the proportionality doctrine and outlines its classical three-part structure: legitimacy of aim, necessity and suitability of the measure, and proportionality in the strict sense (balancing). Particular attention is given to the role of proportionality in restricting state discretion, ensuring judicial control, and maintaining a fair balance between individual rights and public interests. The study emphasizes that proportionality functions as an essential safeguard against excessive or arbitrary interference in a democratic society.

**Keywords.** proportionality principle, human rights, limitations of rights, rule of law, legitimate aim, judicial review, democratic society.

*Purpose of the Research:* To examine the principle of proportionality as a universal legal standard for determining the admissibility of restrictions on human rights and to demonstrate its significance in modern constitutional and international human rights law.

*Research Objectives:* to analyze the doctrinal origins of the proportionality principle; to describe the structure and elements of the proportionality test; to assess its role in limiting state discretion and ensuring judicial oversight; to identify challenges in its practical application, particularly in emergency situations and in balancing competing interests.

The principle of proportionality is one of the fundamental principles of modern constitutionalism and international human rights law. It functions as a key criterion for assessing the admissibility of restrictions on human rights and freedoms. In democratic societies, rights are not absolute; however, any interference by the state must be legally grounded, pursue a legitimate aim, and remain proportionate to that aim. The principle of proportionality ensures a fair balance between individual autonomy and public interests and serves as a safeguard against arbitrary or excessive interference by public authorities [1, p. 24].

The doctrinal origins of proportionality are closely connected with German constitutional jurisprudence, where it was developed as a structured method of judicial review. Over time, this concept was incorporated into the broader framework of European constitutional law and later became firmly established in international human rights adjudication.

Today, proportionality is recognized as a universal analytical tool applied by constitutional courts and international judicial bodies when reviewing the compatibility of state measures with fundamental rights guarantees [2, p. 57].

The classical structure of the proportionality test consists of three interrelated elements. First, the restriction must pursue a legitimate aim, such as national security, public order, public health, or the protection of the rights and freedoms of others. Second, the measure must be suitable and necessary, meaning that it is capable of achieving the intended objective and that no less restrictive alternative is available to reach the same result. Third, proportionality in the strict sense requires balancing: the advantages gained by achieving the legitimate aim must outweigh the harm inflicted upon the individual's rights. Only the cumulative fulfillment of these criteria allows a restriction to be considered constitutionally justified [3, p. 112].

The principle of proportionality also defines the limits of state discretion. Although public authorities enjoy a certain margin of appreciation in regulating social relations, this discretion is not unlimited. Proportionality obliges the state to demonstrate that the interference corresponds to a pressing social need and that its intensity is justified by the importance of the pursued objective. In this respect, proportionality strengthens judicial oversight and enhances the effectiveness of human rights protection within domestic and international legal systems [4, p. 89].

In international human rights law, proportionality is closely linked with the requirement that any restriction must be prescribed by law and pursue a legitimate aim. Nevertheless, compliance with these formal conditions is not sufficient. Even a measure based on law and serving a recognized public interest may violate human rights standards if it is excessive or unnecessary. Therefore, courts assess whether a fair balance has been maintained between individual freedoms and collective interests, taking into account the specific circumstances of each case [5, p. 73].

The application of the proportionality principle is particularly significant in cases concerning freedom of expression, freedom of assembly, the right to respect for private and family life, and property rights. In such matters, restrictions must be narrowly tailored and convincingly justified, especially because these rights form the foundation of pluralism and democratic governance. Judicial practice demonstrates that disproportionate interference, even when motivated by legitimate concerns, undermines the very essence of constitutional guarantees [2, p. 101].

The relevance of proportionality becomes even more evident during states of emergency. International human rights law allows certain derogations in exceptional circumstances; however, such measures must remain strictly proportionate to the actual threat faced by the state. Emergency restrictions must be temporary, limited in scope, and subject to effective oversight. The principle of proportionality thus prevents the normalization of extraordinary powers and safeguards the core of fundamental rights even in times of crisis [6, p. 134].

At the same time, the practical application of proportionality presents methodological challenges. The balancing stage requires courts to weigh competing values and assess the relative importance of conflicting interests. This process inevitably involves interpretative judgment and may give rise to debates about judicial activism or subjectivity. Nevertheless, proportionality provides a transparent and structured reasoning framework that enhances predictability and rationality in constitutional adjudication [3, p. 140].

Furthermore, the principle of proportionality is intrinsically connected with the broader concept of the rule of law. It reflects the idea that public power must be exercised in a restrained and justified manner, respecting human dignity and legal certainty. By transforming abstract human rights provisions into practical standards of review, proportionality bridges the gap between constitutional text and judicial application. It thereby reinforces the legitimacy of both legislative and executive actions within a democratic legal order [1, p. 96].

In conclusion, the principle of proportionality serves as a universal and indispensable criterion for determining the admissibility of limitations on human rights. It requires that restrictions pursue legitimate aims, be suitable and necessary, and maintain a fair balance between individual freedoms and public interests. Despite the complexity of its application, proportionality remains a cornerstone of modern constitutional and international human rights law. Its continued development strengthens judicial protection of fundamental rights and ensures that the exercise of state power remains consistent with the values of democracy, the rule of law, and respect for human dignity [1, p. 96].

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