

1. Record Nr.	UNINA9910459863703321
Autore	Harbo Tor-Inge
Titolo	The function of proportionality analysis in European law // Tor-Inge Harbo
Pubbl/distr/stampa	Leiden, Netherlands ; ; Boston, [Massachusetts] : , : Brill Nijhoff, , 2015 ©2015
ISBN	90-04-28947-X
Descrizione fisica	1 online resource (349 pages)
Collana	Nijhoff Studies in EU Law, , 2210-9765 ; ; Volume 8
Disciplina	340/.11
Soggetti	Proportionality in law - Europe Electronic books.
Lingua di pubblicazione	Inglese
Formato	Materiale a stampa
Livello bibliografico	Monografia
Nota di bibliografia	Includes bibliographical references and index.
Nota di contenuto	Preliminary Material -- Introduction -- pa in eu Law -- pa in echr Law -- Conclusions to Part 1 -- uk Courts and pa -- Norwegian Courts and pa -- Conclusions to Part 2 -- pa: Between Rationality and Reasonableness -- pa: Between Substance and Procedure -- pa and the Role of Courts -- pa as a (General) Principle of Law -- pa and the Rule of Law -- Conclusions to Part 3 -- Conclusions with Resolutions -- Bibliography -- Index.
Sommario/riassunto	The proportionality principle has become ever more important in European law and elsewhere. The career of the principle has attracted considerable attention from legal practitioners, legal theorists and political scientists alike, but the debate so far has been quite fragmented. In this new book the author offers a broad and systematic analysis of the proportionality principle. Discussing and comparing proportionality analysis as applied by European courts in part one of the book, the author proceeds to contrast proportionality analysis with alternative assessment schemes. In the third part of the book the author reaches beyond doctrinal reconstructions as he deciphers the functions of proportionality jurisprudence. In view of the various facets of proportionality analysis the author departs from the asserted infringement of a legally protected position by some regulatory act, proceeds to discuss the legitimacy of this intervention and undertakes an analysis of its suitability, appropriateness and necessity. According

to the author, the safe grounds of proportionality means-ends rationality do not suffice where the legitimacy of an infringement has to be assessed, where conflicting values have to be “balanced” or where courts engage in a proportionality analysis “*stricto sensu*”. In the concluding remarks, the author proposes how proportionality analysis may be structured in order to better secure the legitimacy of the analysis.
