

MAIN Arguments PRO Proportionality Review	MAIN Arguments CONTRA Proportionality Review
Ensures that rights restrictions are justified, not arbitrary or disproportionate.	Grants judges excessive discretion, enabling unpredictable and subjective outcomes.
Provides a flexible framework capable of addressing diverse factual contexts across 46 States.	Undermines democratic legitimacy by substituting judicial for legislative balancing.
Imposes discipline on legislatures and executives, encouraging ex ante assessment of rights impacts.	The margin of appreciation makes proportionality review inconsistent and deferential.
Promotes dialogue between the Court and national authorities through graduated scrutiny.	The test can be manipulated to reach any conclusion — it is not genuinely constraining.
Reflects the inherent structure of ECHR qualified rights (Arts. 8–11), which expressly require necessity.	Fails to provide clear guidance to national courts and lawmakers ex ante.
Affords the Court legitimacy by appearing rational and principled rather than result-driven.	Proportionality conflates distinct legal tests (suitability, necessity, balancing) without discipline.
Allows protection of minimum guarantees while respecting subsidiarity.	Excessive rights protection risks paralysing States in sensitive security or social policy contexts.
Encourages States to provide adequate domestic reasoning, reducing ECtHR caseload.	Creates a 'culture of justification' that bureaucratises rights and burdens State action.