

Hart Studies in European Criminal Law



Proportionality of Criminal Offences and Penalties in EU Law

A Hybrid Principle

Lorenzo Grossio

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Grossio



This book analyses the theorisation and application of proportionality of criminal offences and penalties in EU law, shedding light on its hybrid nature.

In the EU legal order, proportionality amounts to a general principle playing a crucial role in limiting the exercise of EU powers, assessing domestic measures' compatibility with internal market freedoms, and adjudicating fundamental rights. The EU concept of proportionality has a precise theorisation, but the principle assumes a distinct physiognomy in EU criminal law. Indeed, proportionality has a different meaning in criminal law, linked to theories of punishment. Not only do the two understandings of proportionality coexist in EU criminal law, but they are also intertwined. However, their uneasy relationship remains to be explored.

To understand this unique interaction, the book deepens the applications of the hybrid principle of proportionality of criminal offences and penalties in the EU legislative practice on the harmonisation of substantive criminal law and ECJ case-law on the review of domestic criminal measures. This analysis gives fresh insights into the relationship between the EU and criminal law concepts of proportionality.

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PROPORTIONALITY OF CRIMINAL OFFENCES AND PENALTIES IN EU LAW

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