

# ON *A FORTIORI* ARGUMENTS

*Gonçalo Fabião\**

Pregledni znanstveni rad / Reviewed scientific paper

UDK: 340.132.6

34.03.01

Rad primljen / Paper received: 1. lipnja 2023./ June 1<sup>st</sup>, 2023

Rad prihvaćen / Paper accepted: 18. rujna 2023./ September 18<sup>th</sup>, 2023

## *Abstract*

*A fortiori arguments intend to draw conclusions from propositions deemed stronger. There are two types of a fortiori arguments, usually named as a maiore ad minus and a minore ad maius. The aim of this paper is the following. Firstly, following LUÍS DUARTE D'ALMEIDA and ALCHOURRÓN, to present the a fortiori arguments' features and structure. Secondly, to demonstrate that a fortiori is not an interpretation method but rather a systematization and ordering method. Thus, it occurs after interpreting legal provisions. Thirdly, to claim that a fortiori is a logically invalid inference, following what has also been claimed by several authors.*

**Keywords:** *a fortiori argument, legal argumentation, legal interpretation, systematization, logical validity.*

---

\* Gonçalo Fabião, Assistente convidado, Faculdade de Direito da Universidade de Lisboa, Lisbon Law School, Univesity of Lisbon, e-mail: goncalofabiao@fd.ulisboa.pt

## 1. INTRODUCTION AND AIM

In the continental European tradition, *a fortiori* is regarded by some authors as an interpretation method of legal provisions<sup>1</sup>.

*A fortiori* arguments intend to draw conclusions from propositions deemed stronger. There are two types of *a fortiori* arguments, usually named as *a maiore ad minus* and *a minore ad maius*. Translated from Latin, the first one means *from greater to less*, and the second one means *from lesser to greater*.

The aim of this paper is the following.

Firstly, following LUÍS DUARTE D'ALMEIDA and ALCHOURRÓN, to present the *a fortiori* arguments' features and structure.

Secondly, to demonstrate that *a fortiori* is not an interpretation method but rather a systematization and ordering method. Thus, it occurs after interpreting legal provisions. This will be the object of section 3 of this paper.

Thirdly, to claim that *a fortiori* is a logically invalid inference, following what has also been claimed by several authors. This will be dealt with in section 4 of this paper.

## 2. The structure of *a fortiori* arguments

*A fortiori* arguments presuppose a relation of comparison between two objects or a claim about an object's property within a scale – LUÍS DUARTE D'ALMEIDA refers to a «‘scalar’ property»<sup>2</sup>. According to ALCHOURRÓN,

---

<sup>1</sup> Tarello, Giovanni, *La Interpretación de La Ley*, Palestra Editores, Lima, 2013., p. 411 ff.; Chiassoni, Pierluigi, *Técnicas de Interpretación Jurídica: Breviario Para Juristas*, Marcial Pons, Madrid, 2011., p. 335–36; Guastini, Riccardo, *La Interpretación de Los Documentos Normativos*, Derecho Global, México, 2018., 283; Cordeiro, António Menezes, *Tratado de Direito Civil*, vol. I, Almedina, Coimbra, 2012., p. 731–32; Brito, Miguel Nogueira de, *Introdução Ao Estudo Do Direito*, AAFDL Editora, Lisboa, 2017., p. 240–43. Although the mentioned Genovese authors deal with the *a fortiori* argument as being a productive argument, they do it in the context of legal interpretation. This is due to their broad concept of interpretation. But, as it will be clear in this paper, the concept of interpretation adopted here is narrower.

<sup>2</sup> Almeida, Luís Duarte d', "Arguing a Fortiori", *Modern Law Review* 80 (2), 2017., p. 204 ff.; Marraud, Hubert, "Argumentos a Fortiori", *THEORIA. An International Journal for Theory, History and Foundations of Science* 29(1), 2014., pp. 106–107.

said relation has two features<sup>3</sup>:

- i) It is a transitive relation, *i.e.*, two objects share one property through a third object, functioning as a connector;
- ii) It is also an asymmetric relation, *i.e.*, the objects in comparison are not identical. One is stronger than the other.

Said relation is accompanied by an implicit proposition, called hereditary proposition<sup>4</sup>, that represents that a property of one object [source] is inherited by another object [target]<sup>5</sup>.

In the legal domain, an *a fortiori* argument needs the following:

- a) Finding a relevant property of an object [object1]<sup>6</sup>, *e.g.*, whether a human action is permitted, forbidden or obligatory;
- b) Finding a different object [object2]<sup>7</sup> to be compared with object1;
- c) Finding the reason for the state of affairs regarding object1;
- d) Comparing object1 and object2 in the context of the reason mentioned in c) in order to determine whether there is a transitive relation between the two<sup>8</sup>;
- e) Inferring according to the hereditary proposition (if *P*object1 and there is a transitive relation between object1 and object2, then *P*object2).

---

<sup>3</sup> Alchourrón, Carlos E., Los Argumentos Jurídicos a Fortiori y a Pari, in Alchourrón, Carlos E.; Bulygin, Eugenio *Análisis Lógico y Derecho*, Editorial Trotta, Madrid, 2021., p. 54.

<sup>4</sup> Alchourrón, Carlos E., Los Argumentos Jurídicos a Fortiori y a Pari, p. 57.

<sup>5</sup> Using the source/target binomial, see Lopes, Pedro Moniz, Balancing Principles and a Fortiori Reasoning, in Lopes, Pedro Moniz, *Estudos de Teoria Do Direito*, vol. I, AAFDL Editora, Lisboa, 2018.

<sup>6</sup> Also called *source*, as it is from this object that a relevant property is selected.

<sup>7</sup> Also called *target*, since it is this object that eventually will receive the *source*'s relevant property.

<sup>8</sup> This transitive relation will comprehend the two objects in comparison and the relevant property.

The comparison mentioned in c) presupposes a reason or criterion that allows a scale to be drawn, where it is possible to determine the relative position of object1 and object2 in that scale.

An *a fortiori* argument of the type *a maiore ad minus* applies to permissive norms in the following way<sup>9/10</sup>:

- i) There is a criterion *x* scale, according to which human action *y* is permitted until a threshold *z*;
- ii) According to the criterion *x* scale, human action1 ranks below threshold *z*;
- iii) Therefore, human action1 is permitted;
- iv) Human action2 ranks lower than human action1 in the criterion *x* scale;
- v) Hereditary proposition;
- vi) Therefore, human action2 is permitted.

An *a fortiori* argument of the type *a minore ad maius* applies to prohibitive norms in a very similar way<sup>11</sup>:

- i) There is a criterion *a* scale, according to which human action *b* is forbidden from threshold *c*;
- ii) According to criterion *a* scale, human action3 ranks above threshold *c*;
- iii) Therefore, human action3 is forbidden;
- iv) Human action4 ranks higher than human action3 in the criterion *a* scale;
- v) Hereditary proposition;
- vi) Therefore, human action4 is forbidden.

---

<sup>9</sup> This and the next *schemata* are inspired and intend to agglutinate the contributions and elements put forward by ALCHOURRÓN and DUARTE D'ALMEIDA.

<sup>10</sup> Usually, it is said that the norm permitting the more, also permits the less.

<sup>11</sup> Usually, it is said that the norm forbidding the less, also forbids the more.

### 3. WHEN INTERPRETATION STOPS AND APPLICATION BEGINS

Interpretation is usually regarded as an ambiguous term: it may be regarded as an activity – to interpret a legal provision –, but it may also be regarded as the result of an action – the legal norm itself –; it may be regarded as cognitive – to identify the meaning or possible meanings of a legal provision –, but it may also be regarded as a decision – to settle the definitive meaning of a legal provision –; and it may still be regarded plainly as decoding the meaning of a legal provision or determining whether a certain case or situation is included in what is intended to be legally regulated<sup>12</sup>.

If one understands norms as meanings of legal provisions<sup>13</sup>, then one may consider as the relevant sense of interpretation, for the purposes of this paper, the action of ascribing meaning to a legal provision<sup>14</sup>.

Since interpretation is an action, it may be regulated by legal norms<sup>15</sup>. Interpretative norms prescribe an obligation directed to the interpreter to interpret a given legal provision according to a specific interpretative canon or argument. It has been suggested and claimed that there is

---

<sup>12</sup> Guastini, Riccardo, *An Analytical Foundation of Rule Scepticism*, in Duarte, David; Lopes, Pedro Moniz; Sampaio, Jorge Silva (ed.), *Legal Interpretation and Scientific Knowledge*, Springer International Publishing, Cham, 2019., p. 13–27; Tarello, Giovanni, *La Interpretación de La Ley*, p. 137–138.

<sup>13</sup> Sieckmann, Jan-R., *Norma Jurídica*, in Zamora, Jorge Luis Fabra; Vaquero, Alvaro Núñez; Rodríguez-Blanco, Verónica (ed.), *Enciclopedia de Filosofía y Teoría Del Derecho*, Universidad Nacional Autónoma de México, México, 2015., p. 902–907; Guastini, Riccardo “Two Conceptions of Norms”, *Revus: Journal for Constitutional Theory and Philosophy of Law*, 35, 2018., p. 1–10.

<sup>14</sup> Bulygin, Eugenio, *Legal Dogmatics and the Systematization of the Law*, in Bulygin, Eugenio, *Essays in Legal Philosophy*, Oxford University Press, Oxford, 2015., p. 220–223.

<sup>15</sup> Duarte, David, “Linguistic Objectivity in Norm Sentences: Alternatives in Literal Meaning”, *Ratio Juris* 24(2), 2011., pp. 132 ff.; Banaś, Paweł, *Legal Interpretation as a Rule-Guided Phenomenon*, in Araszkiewicz, Michał; Banaś, Paweł; Gizbert-Studnicki, Tomasz; Pleszka, Krzysztof (ed.), *Problems of Normativity, Rules and Rule-Following*, Springer International Publishing, Cham, 2015., p. 255–264; Sampaio, Jorge Silva, *An Almost Pure Theory of Legal Interpretation within Legal Science*, in Duarte, David, Lopes, Pedro Moniz, and Sampaio, Jorge Silva (ed.), *Legal Interpretation and Scientific Knowledge*, Springer International Publishing, Cham, 2015., pp. 116 ff..

an interpretative norm imposing interpretation according to *a fortiori* arguments. However, such suggestions and/or claims are thought to be missing a relevant distinction between empirical and logical issues<sup>16</sup>.

Interpretation serves the purpose of identifying legal norms. It deals with an empirical issue. Only after interpretation, *i.e.*, only after identifying the legal norms of a legal system, is it possible to ascertain whether the legal system raises logical issues<sup>17</sup>. These issues are inconsistencies that may manifest themselves as contradictions, that is, as normative conflicts<sup>18</sup> or as legal gaps<sup>19</sup>. Subsequently, confronted with a *non liquet* imposition, one must deal with such inconsistencies and finally obtain the all things considered legal norm to be applied to a specific case.

### 3.1. *A fortiori* arguments after interpretation

In the legal domain, *a fortiori* arguments are frequent. Consider case no. 521/2017 of the Portuguese Constitutional Court. The case concerns a citizen who formally subscribed the candidacy to a municipal body when, at the same time, the same citizen was a candidate to the same municipal body, but for a different candidacy from the one he had formally subscribed.

There is a legal norm forbidding the formal subscription of different candidacies, although no norm expressly regulates a simultaneous candidacy and formal subscription. However, the Portuguese Constitutional Court ruled as follows:

*«The prohibition itself [of simultaneous formal subscriptions] thus postulates its application to the hypothesis sub judice through an argument a minori ad maius (the law that forbids the less, also forbids the more): if the law expressly forbids the possibility of subscription by the same citizen to more than one candidacy to the*

---

<sup>16</sup> Bulygin, Eugenio, *Legal Dogmatics and the Systematization of the Law*, p. 222.

<sup>17</sup> Bulygin, Eugenio, *Legal Dogmatics and the Systematization of the Law*, p. 222; Ratti, Giovanni Battista, *El Gobierno de Las Normas*, Marcial Pons, Madrid, 2013., p. 204; Lopes, Pedro Moniz, *Derrotabilidade Normativa e Normas Administrativas: O Enquadramento Das Normas Regulamentares Na Teoria Dos Conflitos Normativos*, vol. I, AAFDL Editora, Lisboa, 2019., p. 299–300.

<sup>18</sup> Ross, Alf, *On Law and Justice*, Oxford University Press, Oxford, 2019., p. 149–53.

<sup>19</sup> Ratti, Giovanni Battista, *El Gobierno de Las Normas*, p. 204.

*same municipal body, a fortiori it must also forbid the possibility of the same citizen to stand as a candidate for a municipal body in a candidacy different from the one he subscribed»*

The Constitutional Court's *a fortiori* reasoning is presented as being something obvious. It translates as:

- (1) If the law expressly forbids the possibility of subscription by the same citizen to more than one candidacy to the same municipal body;
- (2) Then the law also forbids the possibility of the same citizen to stand as a candidate for a municipal body in a different candidacy from the one he subscribed to.

The Portuguese Constitutional Court argued that the purpose of a norm prohibiting the possibility of subscription by the same citizen to more than one candidacy to the same municipal body would be to reflect that a formal subscription constitutes a commitment to a particular political program, which would be undermined if the subscription of - and consequent commitment to - several political programs were allowed.

The Court considered two different cases:

- (A) A citizen simultaneously formally subscribing to two different candidacies to the same municipal body;
- (B) A citizen formally subscribing to one candidacy to a municipal body while being a candidate from a different candidacy to the same municipal body.

By analytically breaking down the Portuguese Constitutional Court's reasoning, the following steps are obtained:

- (i) Case to be solved: a citizen formally subscribing one candidacy to a municipal body while being a candidate from a different candidacy to the same municipal body [case (B)]
- (ii) Identification of the potentially relevant legal norm through interpretation: prohibition of the possibility of subscription by the same citizen to more than one candidacy to the same municipal body [norm (1)]

- (iii) Conclusion that there is no legal norm applicable to case (B) since norm (1) is only applicable when occurs a citizen formally subscribing one candidacy to a municipal body while being a candidate from a different candidacy to the same municipal body [case (A)]
- (iv) Establishing a transitive relation between case (A) and case (B) by an *a fortiori* argument of the type *a minore ad maius*
  - a. There is an undermining commitment to political programs scale, according to which certain human actions are forbidden from threshold *c*
  - b. According to the undermining commitment to political programs scale, subscribing two different candidacies to the same municipal body ranks above threshold *c*
  - c. Therefore, subscribing two different candidacies to the same municipal body is forbidden
  - d. Subscribing one candidacy to a municipal body while being a candidate from a different candidacy to the same municipal body ranks higher than subscribing two different candidacies to the same municipal body in the undermining commitment to political programs scale
  - e. Hereditary proposition: through the undermining commitment to political programs scale, there is a transitive relation between subscribing two different candidacies to the same municipal body and subscribing one candidacy to a municipal body while being a candidate from a different candidacy to the same municipal body
  - f. Therefore, subscribing one candidacy to a municipal body while being a candidate from a different candidacy to the same municipal body is forbidden

The *a fortiori* argument starts only on proposition (4), after the identification of the legal norms, that is, after interpretation<sup>20</sup>. The situation of a legal gap is

---

<sup>20</sup> This conclusion may also be found on the works of some Portuguese scholars. See Sousa, Miguel Teixeira de, *Introdução ao Direito*, Almedina, Coimbra, 2012., p. 442–443; Ascensão, José de Oliveira, *O Direito - Introdução e Teoria Geral*, Almedina, Coimbra, 2005., p. 469–470. However, claiming the contrary see Cordeiro, António Menezes,



necessary for the *a fortiori* argument to be made, that is, the conclusion that no legal norm is applicable to solve a given situation. This conclusion is only possible after interpretation, since only after interpretation does one obtain a legal norm. Consequently, only then will one be able to ascertain whether the situation to be solved is a condition of the norm's antecedent or not.

### 3.2. *A fortiori* arguments before application

In the previous sub-section, it was demonstrated that an *a fortiori* argument occurs after interpretation. This happens because *a fortiori* arguments are a means to solve logical inconsistencies within a legal system. In order to determine a legal system's logical inconsistencies, one should determine the Universe of Cases, the Universe of Actions and the Universe of Solutions; this is what BULYGIN refers to as being one of the activities that systematization involves<sup>21</sup>. It is also referred to as logical development, following RATTI's terminology<sup>22</sup>.

After the identification of the logical inconsistencies, which “it is only possible to perform (...) *once the problem of identification of legal norms has been resolved*”<sup>23</sup> – that is, after interpretation –, jurists and lawyers will solve them through ordering methods<sup>24</sup>. An *a fortiori* argument is a method of ordering since it intends to solve gaps or normative conflicts.

Indeed, *a fortiori* arguments can help lawyers in arguing to solve legal gaps.

The method consists of comparing a case that is expressly regulated by a legal norm [source] with another that is not expressly regulated [target], using the aforementioned scalar property. The purpose of this operation is to transpose the source solution to the target. This is a way of solving the logical inconsistency of legal gaps, either because it is argued that there is an implicit norm with the solution that is to be transposed to the target,

---

*Tratado de Direito Civil*, vol. I, 731–732; Brito, Miguel Nogueira de, *Introdução Ao Estudo Do Direito*, p. 240–243.

<sup>21</sup> Bulygin, Eugenio, *Legal Dogmatics and the Systematization of the Law*, pp. 223–224.

<sup>22</sup> Ratti, Giovanni Battista, *El Gobierno de Las Normas*, p. 204.

<sup>23</sup> Bulygin, Eugenio, *Legal Dogmatics and the Systematization of the Law*, pp. 224.

<sup>24</sup> Ratti, Giovanni Battista, *El Gobierno de Las Normas*, p. 204.

or because there is a generic legal principle whose scope of application includes the target.

After the ordering operation, that is, after solving the legal system inconsistencies, a case may be *all things considered* solved. In other words, after the ordering operation, a legal norm can be *all things considered* applied to a given case.

Application is here understood as the act of applying a norm. For a norm to be applicable, there must be a case where the conditions from the norm's antecedent are verified, and an obligation for that norm to be applied. CARPENTIER named these respectively as conceptual applicability and normative applicability<sup>25</sup>. However, it is perfectly possible for a norm to be applicable before one solves the inconsistencies of a legal system. That is the case of normative conflicts, a phenomenon that presupposes two (or more) contradictory norms that are simultaneously applicable. The norms in conflict are *prima facie* applicable. Only after the ordering operation, that is, only after solving the inconsistency does one obtain the norm to be applied.

Thus, a norm may very well be *prima facie* applicable before the ordering operation and consequently, before an *a fortiori* argument takes place. Nonetheless, in the case of inconsistencies within a legal system, it is only after the ordering operation that a norm is *all things considered* applied. Therefore, it is only after the ordering operation – which may include an *a fortiori* argument – that *all things considered* application begins.

#### 4. A FORTIORI ARGUMENTS AND LOGIC

*A fortiori* arguments are not logical arguments<sup>26</sup>. They are not logical arguments because they fail to provide truth-preserving inferences – thus

---

<sup>25</sup> Carpentier, Mathieu, “Validity versus Applicability: A (Small) Dose of Scepticism”, *Diritto & Questioni Pubbliche* 18, 2018., pp. 108–109.

<sup>26</sup> The opposite claim may be found in Almeida, Luís Duarte d’, “Arguing a Fortiori”, p. 237; Alexy, Robert, *A Theory of Legal Argumentation: The Theory of Rational Discourse as Theory of Legal Justification*, Oxford University Press, Oxford, 2009., pp. 279 ff.; Klug, Ulrich, *Logica Juridica*, Editorial Sucre, Caracas, 1961., pp. 198 ff.. This is also claimed by Portuguese scholars, such as Cordeiro, António Menezes, *Tratado de Direito Civil*, vol. I, p. 731–732; Martinez, Pedro Romano, *Introdução Ao Estudo Do Direito*, AAFDL Editora - Imprensa FDUL, Lisboa, 2021., p. 287; Ascensão, José de Oliveira, *O Direito - Introdução e Teoria Geral*, p. 469.

not being logically valid –, although their conclusions may very well be – but not necessarily – true<sup>27</sup>. This claim may seem contradictory, but it is not.

Recalling the previous case about the simultaneous candidacy and subscription to a different candidacy, the Portuguese Constitutional Court rules as follows:

*«The prohibition itself [of simultaneous formal subscriptions] thus postulates its application to the hypothesis sub judice through an argument a minori ad maius (the law that forbids the less, also forbids the more): if the law expressly forbids the possibility of subscription by the same citizen to more than one candidacy to the same municipal body, a fortiori it must also forbid the possibility of the same citizen to stand as a candidate for a municipal body in a candidacy different from the one he subscribed»*

The Portuguese Constitutional Court implicitly found it to be a transitive and asymmetric relation between case (A) – a citizen simultaneously formally subscribing two different candidacies to the same municipal body –, and case (B) – a citizen formally subscribing one candidacy to a municipal body while being a candidate from a different candidacy to the same municipal body.

The Court's reasoning was implicit because there was a masked premise comparing case (A) and case (B)<sup>28</sup>. The comparison criterion will allow for a scale to be drawn, in which one can assert the relative position of the objects in comparison with reference to a threshold. LUÍS DUARTE D'ALMEIDA calls such a criterion a «'scalar' property»<sup>29</sup>.

The task at hand, in order to grasp the masked premise of *a fortiori* arguments, involves: (1) determining the comparison criterion, (2) determining the scale threshold above which an action will be forbidden, (3) ascertaining

---

<sup>27</sup> Schiller, F. C. S., "The Argument a Fortiori", *Mind* (25, no. 100), 1916., p. 513; Alchourrón, Carlos E., *Los Argumentos Jurídicos a Fortiori y a Pari*, p. 68.

<sup>28</sup> Almeida, Luís Duarte d', "Arguing a Fortiori", p. 205; Alchourrón, Carlos E., *Los Argumentos Jurídicos a Fortiori y a Pari*, p. 55–56.

<sup>29</sup> This criterion is not a property that is identical in case A and case B. That would be the case of analogy, which is a different operation from *a fortiori* reasoning - Almeida, Luís Duarte d', "Arguing a Fortiori", p. 236.

where case (A) ranks, (4) ascertaining whether case (B) ranks higher or lower than case (A). It is not needed to accurately determine the precise rank of case (A) and case (B) in the scale; it is only needed to determine their relative position towards each other<sup>30</sup>.

In order to break down the Court's *a fortiori* argument, it is necessary to determine the criterion of comparison used. Why is it forbidden for a citizen to simultaneously formally subscribe to two different candidacies to the same municipal body? Does the reason for being forbidden the simultaneous formal subscription of two different candidacies to the same municipal body justify forbidding a citizen from formally subscribing one candidacy to a municipal body while being a candidate from a different candidacy to the same municipal body? These are the two questions one should answer in order to argue *a fortiori*. In other words, one must grasp the *ratio legis* of the legal norm<sup>31</sup>.

The task is by no means simple<sup>32</sup> since the *ratio legis* is not frequently made explicit by the norm's issuer, drafter, or legislator<sup>33/34/35</sup>. Additionally, it is not clear what the relevant *ratio legis* might be.

#### 4.1. Ascertaining relevance

In order to determine the *ratio legis*, one should consider the legislator's intentions or purposes. Thus, one should determine what legislator and what purposes.

---

<sup>30</sup> Lopes, Pedro Moniz, Balancing Principles and a Fortiori Reasoning, p. 267.

<sup>31</sup> Canale, Damiano; Tuzet, Giovanni, "The A Simili Argument: An Inferentialist Setting", *Ratio Juris*, (22, no. 4), 2009., p. 499–500; Miron, Alina, Per Argumentum a Fortiori, in Klingler, J.; Parkhomenko, Y.; Salonidis, C. (ed.), *Between the Lines of the Vienna Convention? Canons and Other Principles of Interpretation in Public International Law*, Wolters Kluwer, 2018., p. 200 ff..

<sup>32</sup> MacCormick, Neil, *Legal Reasoning and Legal Theory*, Oxford University Press, Oxford, 1994., p. 89 ff..

<sup>33</sup> Miron, Alina, Per Argumentum a Fortiori, p. 200.

<sup>34</sup> In Portugal it is common for *decree-laws* – legislative statutes enacted by the Government – to be accompanied by a preamble, where the context and the purposes for that statute are explained. The same does not go for *laws* – legislative statutes enacted by Parliament. The case at hand is one of the latter.

<sup>35</sup> For the purposes of the remainder of this paper, I will be addressing to the statute drafter or norms issuer by *legislator*, according to the continental European tradition.

However, determining the relevant legislator does not guarantee a safe and certain conclusion. A legislator may very well be an ideal one, a historical or original one, and even a current one<sup>36</sup>.

An ideal legislator is considered to act rationally. It is common to attribute to the purpose of the ideal legislator the *ratio legis* in a strict sense<sup>37</sup>. This *ratio legis* would be identified through the interpreter's criteria of rationality. Although there is a personalistic mark in the concept of an ideal legislator, the purposes that are attributed to it are not psychological elements that justify a decision. The purpose of the ideal legislator is functional and independent of the body that approves the legal norm<sup>38</sup>. This purpose is assessed by examining the enacted norm through a process of generalisation. In this way, a generic criterion is obtained that allows the subsumption of legally regulated and non-regulated situations.

A historical legislator is regarded as the individuals who drafted the text subject to interpretation. By regarding the legislator as such, when interpreting, one is committing to originalism, mainly dealt within a theory of constitutional interpretation. Originalism has two core ideas: (1) the fixation thesis, stating that the meaning of the constitutional or legal provisions is determined with reference to the time of the framing or ratification of said provision; and (2) the constraint principle, according to which the meaning obtained through the fixation thesis constraints "constitutional [or legal] practice"<sup>39</sup>. To grasp the purposes of a historical legislator, one resorts to intentionalism, a method through which the interpreter focuses on the intention of the drafters<sup>40</sup>.

The current legislator is deemed to be the present legislator, and so are their purposes. Thus, the interpreter who wants to reach the purposes of the current legislator must conjecture the reason the legislator would have for enacting a particular rule today<sup>41</sup>.

---

<sup>36</sup> Chiassoni, Pierluigi, *Técnicas de Interpretación Jurídica: Breviario Para Juristas*, p. 95.

<sup>37</sup> Chiassoni, Pierluigi, *Técnicas de Interpretación Jurídica: Breviario Para Juristas*, p. 95–96.

<sup>38</sup> Guastini, Riccardo, *La Interpretación de Los Documentos Normativos*, p. 263.

<sup>39</sup> Solum, Lawrence, "The Fixation Thesis: The Role of Historical Fact in Original Meaning", *Notre Dame Law Review*, (91, no. 1), 2015., p. 1–78.

<sup>40</sup> Brest, Paul, "The Misconceived Quest for the Original Understanding", *Boston University Law Review* (60, no. 2), 1980., p. 205–218.

<sup>41</sup> Chiassoni, Pierluigi, *Técnicas de Interpretación Jurídica: Breviario Para Juristas*, p. 97.

These accounts of different legislators and their respective purposes allow one to claim that *ratio legis* is but a fiction. If one understands *ratio legis* as the purpose of the ideal or current legislator, one is simply conjecturing that purpose with no guarantees of truthfulness. It is a matter of argumentation, where the interpreters present their arguments as to why they believe that the legislator's purpose is *a* or *b*. But suppose one claims that *ratio legis* is the purpose of the historical legislator. In that case, one faces a major difficulty: legal norms are often enacted by collective bodies, where each member may have different purposes for enacting a norm, irrespectively of agreeing to its enactment.

If it is possible to have different accounts of a legal norm's *ratio legis*, then it is not possible to have a true and singular correct *ratio legis*. This should be taken into account when reasoning *a fortiori*. What is a legal norm's *ratio legis* is a matter of debate, and it is not an undisputed truth waiting to be known.

Bearing that ascertaining the *ratio legis* by no means grants an undisputed conclusion, one still must ascertain it to argue *a fortiori*. This task is most conjecture-free – although not completely – when dealing with *ratio legis* in a strict sense. Indeed, this is the only concept of *ratio legis* that is free from intention conjectures about what the legislator would do or what the legislator intended. Dealing with *ratio legis* from a functionalist perspective allows one to focus on the product of the legislator's activity: the legal norm.

Following the model ALCHOURRÓN and BULYGIN presented in *Normative Systems*<sup>42</sup>, one will be able to come close to a *ratio legis by focusing on the*

---

<sup>42</sup> In *Normative Systems*, ALCHOURRÓN and BULYGIN present a model based on universes: Universe of Discourse (UD), Universe of Actions (UA), Universe of Properties (UP), Universe of Cases (UC), and Universe of Solutions (US). The UD is a “set of situations or states of affairs in which [an] action may take place” – Alchourrón, Carlos E.; Bulygin, Eugenio, *Normative Systems*, Springer-Verlag, Wien, 1971., p. 10. The UA is a set of basic – or fundamental, in *hoffeldian* terms – actions. The UP is a set of properties (for instance *p*), and “complementary properties” (for instance  $\sim p$ ) – Alchourrón, Carlos E.; Bulygin, Eugenio, *Normative Systems*, p. 11–12. The UC is the set of cases. According to ALCHOURRÓN and BULYGIN, “cases are circumstances or situations where it is of interest to inquire whether a certain action is permitted, made obligatory or prohibited by a certain normative system.” The Authors note as well that “cases are determined by combinations of the properties of the [Universe of Properties]” – Alchourrón, Carlos E.; Bulygin, Eugenio, *Normative Systems*, p. 22. As for solutions, they express the deontic

*legal norm.*

As stated by the mentioned Authors, “cases are determined by combinations of [...] properties”<sup>43</sup>. These properties may be regarded as conditions of the norm providing the solution to the case<sup>44</sup>.

Case (A) is an instantiation of the Universe of Cases with a property *s*, which is *simultaneously formally subscribing more than one candidacy to the same municipal body*. In order to determine whether property *s* is relevant, ALCHOURRÓN and BULYGIN claim that its complementary property, that is,  $\sim s$ , amounts to a different legal norm from that where property *s* is present.

According to Portuguese Law, property *s* instantiates the application of a norm forbidding the simultaneous formal subscription of more than one candidacy to the same municipal body<sup>45</sup>.

It should be noted that property *s* is a complex property as it is used to determine the relevant Universe of Cases for the mentioned prohibition. The complexity of property *s* reflects itself on the structure of the prohibitive norm’s antecedent<sup>46</sup>. The mentioned norm’s antecedent has an infinite set of disjunctive conditions: *simultaneously formally subscribing to two candidacies, simultaneously formally subscribing to three candidacies, simultaneously formally subscribing to four candidacies, ..., simultaneously formally subscribing to n candidacies*. Each of these infinite conditions may be better understood as a set of conjunctive conditions. Thus, *simultaneously formally subscribing to two candidacies* amounts to *formally subscribing to one candidacy and formally subscribing to a*

---

status of an action - Alchourrón, Carlos E.; Bulygin, Eugenio, *Normative Systems*, p. 14. The US is the “set of possible answers” Alchourrón, Carlos E.; Bulygin, Eugenio, *Normative Systems*, p. 4.

<sup>43</sup> Alchourrón, Carlos E.; Bulygin, Eugenio, *Normative Systems*, p. 22.

<sup>44</sup> Lopes, Pedro Moniz, *Derrotabilidade Normativa e Normas Administrativas: O Enquadramento Das Normas Regulamentares Na Teoria Dos Conflitos Normativos*, vol. I, p. 88–94; Sampaio, Jorge Silva, *Ponderação e Proporcionalidade*, vol. I, Almedina, Coimbra, 2023., p. 327–28.

<sup>45</sup> Article 16(3) of the Organic Law n. 1/2001.

<sup>46</sup> Lopes, Pedro Moniz, *Derrotabilidade Normativa e Normas Administrativas: O Enquadramento Das Normas Regulamentares Na Teoria Dos Conflitos Normativos*, vol. I, p. 93.

*second and different candidacy; or simultaneously formally subscribing to three candidacies amounts to formally subscribing to one candidacy and formally subscribing to a second and different candidacy and formally subscribing a third and different candidacy, and so on.*

On the other hand, property's complementary property,  $\sim s$ , instantiates a norm permitting the formal subscription of one candidacy to a municipal body<sup>47</sup>. Indeed, the contrary of *simultaneously formally subscribing more than one candidacy to the same municipal body is not simultaneously formally subscribing more than one candidacy to the same municipal body*. Therefore, the possible cases where property  $\sim s$  is present are two: (i) not formally subscribing any candidacy to a municipal body, and (ii) formally subscribing one candidacy to a municipal body. These are precisely the cases solved by the mentioned permissive norm: both action (i) and action (ii) are permitted.

According to ALCHOURRÓN and BULYGIN, this state of affairs allows the conclusion that property  $s$  is relevant.

Case (B) partially instantiates property  $s$  and its complementary property, property  $\sim s$ .

Property  $s$  is partially instantiated because in case (B) there is an action of *formally subscribing to one candidacy* [action 1] and *presenting oneself as a candidate in a second and different candidacy* [action 2]. Action 1 is part of one of the atomistic properties that make up property  $s$ .

Property  $\sim s$  is also partially instantiated because in case (B) there is action 1, which is one of the possible cases of the Universe of Cases defined by property  $\sim s$ .

In order to determine the relevance of action 2, one must, like one did regarding action 1, determine whether action 2 is permitted, forbidden, or obligatory.

According to Portuguese Law, citizens are permitted<sup>48</sup> to be candidates for

---

<sup>47</sup> Article 16(1c) of the Organic Law n. 1/2001.

<sup>48</sup> Electing Portuguese citizens, electing EU citizens, electing PALOP and at least four-year resident citizens, and electing residents, for at least five years, that are citizens from other countries that reciprocally allow Portuguese electing citizens to be candidates there.



municipal bodies<sup>49</sup>. However, citizens are forbidden to simultaneously be candidates in more than one candidacy to the same municipal body.

The latter norm is applicable to a Universe of Cases determined by property *c*, which is *being a candidate simultaneously in more than one candidacy to the same municipal body*. Property *c* is relevant since its complementary property, property  $\sim c$  – that is, *not being a candidate simultaneously in more than one candidacy to the same municipal body* – has a different “normative status in the system”<sup>50</sup>.

Similarly to property *s*, property *c* is also a complex property that manifests itself in the prohibitive norm’s antecedent as an infinite set of disjunctive conditions: *being a candidate simultaneously in two different candidacies to the same municipal body*, *being a candidate simultaneously in three different candidacies to the same municipal body*, *being a candidate simultaneously in four different candidacies to the same municipal body*, ..., *being a candidate simultaneously in *n* different candidacies to the same municipal body*. Each of these disjunctive conditions may be understood as a set of conjunctive conditions: *being a candidate simultaneously in two different candidacies to the same municipal body*, amounts to *being a candidate in one candidacy and being a candidate in a second and different candidacy*; or *being a candidate simultaneously in three different candidacies to the same municipal body* amounts to *being a candidate in one candidacy and being a candidate in a second and different candidacy and being a candidate in a third and different candidacy*.

Case (B) also partially instantiates property *c* and its complementary property, property  $\sim c$ .

Property *c* is partially instantiated in case (B) since action 2 – *presenting oneself as a candidate in a second and different candidacy* – is present. Property  $\sim c$  is also partially instantiated in case (B) because *presenting oneself as a candidate* [action 3] is present.

---

<sup>49</sup> Article 5(1) of the Organic Law n. 1/2001.

<sup>50</sup> Alchourrón, Carlos E.; Bulygin, Eugenio, *Normative Systems*, p. 103.

The mentioned actions present relevant properties according to a descriptive relevance sense<sup>51</sup>. Thus, descriptively, one may state that:

- i) According to Portuguese Law, it is permitted to formally subscribe a candidacy to a municipal body;
- ii) According to Portuguese Law, it is forbidden to simultaneously formally subscribe more than one candidacy to the same municipal body;
- iii) According to Portuguese Law, it is permitted to present oneself as a candidate to a municipal body;
- iv) According to Portuguese Law, it is forbidden to simultaneously present oneself as a candidate in more than one candidacy to the same municipal body.

Portuguese Law gives relevance to complex actions that consist of either the simultaneous formal subscription of different candidacies or the simultaneous presentation as a candidate in different candidacies.

Thus, it is possible to argue that Portuguese law forbids the conjunction of simultaneous formal subscription actions of different candidacies or the conjunction of simultaneous actions of presentation as a candidate in different candidacies.

It is also possible to argue that the formal subscription of candidacies or the presentation as a candidate in a candidacy are actions that can be traced back to a generic category of actions that can be termed as actions revealing a commitment to a political program.

Thus, the generic property, arguably, apt to establish a scale, will be the level of commitment to a political program.

There will be a threshold on an undermining commitment to political programs scale beyond which certain actions should<sup>52</sup> be forbidden.

---

<sup>51</sup> As opposed to a prescriptive relevance sense, that presupposes a claim of what should be and should not be relevant. Alchourrón, Carlos E.; Bulygin, Eugenio, *Normative Systems*, p. 103.

<sup>52</sup> This is not a concession to a prescriptive relevance thesis. It is a reconstruction of the *ratio legis* from what the existent norms have as legal effects.

This was, arguably, the *ratio legis* of the norm that forbids the simultaneous formal subscription of two different candidacies. Note that it is a plausible explanation of the enacted norm's function; but it is not an undisputed fact.

#### 4.2. Arguing *a fortiori*

According to the undermining commitment to political programs scale presented in the previous section, the Portuguese legislator enacted two norms forbidding two actions. On the one hand, it is forbidden the simultaneous formal subscription of more than one candidacy to the same municipal body [case (A)]. On the other hand, it is forbidden the simultaneous presentation as candidate in more than one candidacy to the same municipal body [case (C)]. The Portuguese legislator understood these actions as being above the threshold of the undermining commitment to political programs scale. That is, the Portuguese legislator understood that these actions should be forbidden.

It can be argued that being a candidate in a candidacy for a municipal body manifests a higher level of commitment to a political program than a formal subscription to a candidacy. In fact, the formal subscription of a candidacy demonstrates a public and expressed commitment to a political program with relevance mainly for electoral purposes. Being a candidate also demonstrates a public and expressed commitment to a political program, but with relevance beyond the electoral period, as candidates commit themselves to exercise a representative mandate according to a political program. This commitment does not exist in the situation of a formal subscription to a candidature. Thus, it can be understood that case C comprises actions that undermine the commitment to political programs in a more serious way than the actions comprised in case A. This is demonstrated in Figure 1, *infra*.

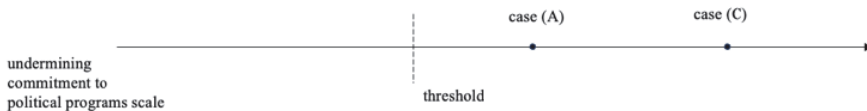


Figure 1

So far, the following steps of an *a fortiori* reasoning have been established:

- (i) There is an undermining commitment to political programs scale, according to which certain human actions are forbidden from threshold  $c$ ;
- (ii) According to the undermining commitment to political programs scale, subscribing two different candidacies to the same municipal body ranks above threshold  $c$ ;
- (iii) Therefore, subscribing to two different candidacies to the same municipal body is forbidden.

The next step is determining whether there is a transitive relation between case (A) and case (B).

Case (A) instantiates a prohibition of simultaneously formally subscribing two different candidacies to the same municipal body. Case (C) instantiates a prohibition of simultaneously being a candidate in two different candidacies to the same municipal body. The two cases concern two conjunctive actions towards two different candidacies. Case (B) also concerns two conjunctive actions towards two different candidacies.

Case (B) refers to two conjunctive actions. One of them, the formal subscription, is relevant when joined with an equal action in relation to a different candidacy. The other, presenting oneself as a candidate, is relevant when joined with an equal action in relation to a different candidacy.

The three cases have the similarity of referring to two conjunctive actions.

Case (A), which refers to actions whose level of commitment to a political program seems to be lower than the action of presenting oneself as a candidate, instantiates a prohibition of simultaneous formal subscription to different candidacies.

Case (C), which refers to actions whose level of commitment is higher than the action of formally subscribing to a candidacy, implies a prohibition to present oneself as a candidate for two different candidacies.

Case (B), which refers to two conjunctive actions, one of which has a higher level of commitment to political programs, seems to be located on the scale between case (A) and case (C), as presented in Figure 2, *infra*.

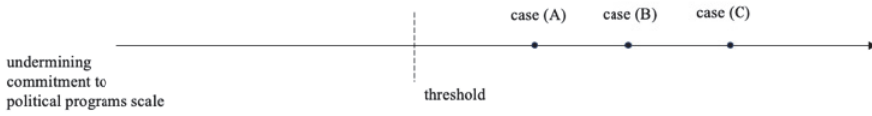


Figure 2

This reasoning allows for concluding the remaining stages of arguing *a fortiori*.

- (i) Subscribing one candidacy to a municipal body while being a candidate from a different candidacy to the same municipal body ranks higher than subscribing two different candidacies to the same municipal body in the undermining commitment to political programs scale;
- (ii) Hereditary proposition: through the undermining commitment to political programs scale, there is a transitive relation between subscribing two different candidacies to the same municipal body and subscribing one candidacy to a municipal body while being a candidate from a different candidacy to the same municipal body;
- (iii) Therefore, *a fortiori*, subscribing one candidacy to a municipal body while being a candidate from a different candidacy to the same municipal body is forbidden.

### 4.3. Logical problems in arguing *a fortiori*

*A fortiori* arguments may be named *quasi*-logical arguments since they present a structure similar to a logical one<sup>53</sup>. But they are not logically valid since even considering that the premises are true, it doesn't follow that the conclusion necessarily is true as well.

However, not even the arguments premises may be considered necessarily true. The premise *there is a criterion a scale, according to which human action b is forbidden from threshold c*, cannot be generally deemed as

<sup>53</sup> Perelman, Chaïm; Olbrechts-Tyteca, Lucie, *Tratado Da Argumentação - A Nova Retórica*, Martins Fontes, São Paulo, 2005., p. 219 ff.

true since it is a descriptive proposition about what the Law is. This is so because, Law being contingent, it may very well be the case that a norm is enacted permitting human action *b* in a specific position of the criterion *a* scale above threshold *c*<sup>54</sup>.

Furthermore, the premise containing the criterion of comparison is not necessarily true either. It is, at best, a guess, intuition, or conjecture since the *ratio legis* cannot be proven to be true.

The claim on the logical invalidity of *a fortiori* arguments does not deem them useless<sup>55</sup>. They are arguments that may – and indeed are – used to convince someone (*e.g.*, a judge) of a solution to a certain case or situation<sup>56</sup>. Nevertheless, the conclusions put forward by *a fortiori* arguments should not be understood as logical truths<sup>57</sup> and should be questioned according to an analytical breakdown of their steps.

## 5. CONCLUDING REMARKS

*A fortiori* arguments presuppose a comparison relation between two objects, through a “scalar property”, and they intend to establish a transitive relation between the two so that a relevant property of object1 [source] is inherited by object2 [target].

Through case no. 521/2017 of the Portuguese Constitutional Court this paper aimed at demonstrating, first and foremost, that reasoning *a fortiori* belongs in the ordering process of legal reasoning. That is, it aims at solving logical inconsistencies within a legal system. However, since in order to grasp the logical inconsistencies of a legal system one has to

---

<sup>54</sup> Alchourrón, Carlos E., *Los Argumentos Jurídicos a Fortiori y a Pari*.

<sup>55</sup> However, pointing out some fragilities in this type of argument, see Marraud, Hubert, “Variedades de la argumentación a fortiori”, *Revista Iberoamericana de Argumentación* 6, 2013., pp. 16-17.

<sup>56</sup> Almeida, Luís Duarte d’, “Arguing a Fortiori”, p. 234–37. Emphasising the role of arguments *a fortiori* in the coherence of legal reasoning, see Peczenik, Aleksander, *On Law and Reason*, Springer Netherlands, Dordrecht, 2009., p. 329.

<sup>57</sup> Stating that legal arguments are not useful exclusively for their logical truth, see Aienza, Manuel, *Razonamiento jurídico* in Rodríguez-Blanco, Verónica, Zamora, Jorge Luis Fabra (ed.), *Enciclopedia de Filosofía y Teoría Del Derecho*, Universidad Nacional Autónoma de México, México, 2015., pp. 1428.

have identified the relevant legal norms, and assuming that norms are the meaning of legal texts that were interpreted, it is claimed that arguing *a fortiori* has nothing to do with interpretation. Or at least, arguing *a fortiori* has nothing to do with interpretation understood as decoding the meaning of legal texts.

Additionally, this paper claimed that much of what is involved in arguing *a fortiori* is about convincing guesses. That is, the structure of a legal *a fortiori* argument includes premises that are highly improbable to deem as true. They are rather deemed as probable. Therefore, one cannot regard an *a fortiori* argument as a necessarily truth-preserving logical inference. It is not claimed that *a fortiori* arguments, because they are not logically sound, they are not useful. They are, but they should be questioned and should not be seen as argumentation stoppers.

## Bibliography

1. Alchourrón, Carlos E., Los Argumentos Jurídicos a Fortiori y a Pari, in Alchourrón, Carlos E.; Bulygin, Eugenio *Análisis Lógico y Derecho*, Editorial Trotta, Madrid, 2021.
2. Alchourrón, Carlos E.; Bulygin, Eugenio, *Normative Systems*, Springer-Verlag, Wien, 1971.
3. Alexy, Robert. *A Theory of Legal Argumentation: The Theory of Rational Discourse as Theory of Legal Justification*, Oxford University Press, Oxford, 2009.
4. Almeida, Luís Duarte d'. "Arguing a Fortiori", *Modern Law Review* 80 (2), 2017.
5. Ascensão, José de Oliveira, *O Direito - Introdução e Teoria Geral*, Almedina, Coimbra, 2005.
6. Atienza, Manuel, Razonamiento jurídico in Rodríguez-Blanco, Verónica, Zamora, Jorge Luis Fabra (ed.), *Enciclopedia de Filosofía y Teoría Del Derecho*, Universidad Nacional Autónoma de México, México, 2015.

7. Banaś, Paweł, Legal Interpretation as a Rule-Guided Phenomenon, in Araszkievicz, Michał; Banaś, Paweł; Gizbert-Studnicki, Tomasz; Pleszka, Krzysztof (ed.), *Problems of Normativity, Rules and Rule-Following*, Springer International Publishing, Cham, 2015.
8. Brest, Paul, “The Misconceived Quest for the Original Understanding”, *Boston University Law Review* (60, no. 2), 1980.
9. Brito, Miguel Nogueira de, *Introdução Ao Estudo Do Direito*, AAFDL Editora, Lisboa, 2017.
10. Bulygin, Eugenio, Legal Dogmatics and the Systematization of the Law, in Bulygin, Eugenio, *Essays in Legal Philosophy*, Oxford University Press, Oxford, 2015.
11. Canale, Damiano; Tuzet, Giovanni, “The A Simili Argument: An Inferentialist Setting”, *Ratio Juris*, (22, no. 4), 2009.
12. Carpentier, Mathieu, “Validity versus Applicability: A (Small) Dose of Scepticism”, *Diritto & Questioni Pubbliche* 18, 2018.
13. Chiassoni, Pierluigi, *Técnicas de Interpretación Jurídica: Breviario Para Juristas*, Marcial Pons, Madrid, 2011.
14. Cordeiro, António Menezes, *Tratado de Direito Civil*, vol. I, Almedina, Coimbra, 2012.
15. Duarte, David, “Linguistic Objectivity in Norm Sentences: Alternatives in Literal Meaning”, *Ratio Juris* 24(2), 2011.
16. Guastini, Riccardo, An Analytical Foundation of Rule Scepticism, in Duarte, David; Lopes, Pedro Moniz; Sampaio, Jorge Silva (ed.), *Legal Interpretation and Scientific Knowledge*, Springer International Publishing, Cham, 2019.
17. ———. *La Interpretación de Los Documentos Normativos*, Derecho Global, México, 2018.
18. ———. “Two Conceptions of Norms”, *Revus: Journal for Constitutional Theory and Philosophy of Law*, 35, 2018.
19. Klug, Ulrich, *Logica Juridica*, Editorial Sucre, Caracas, 1961.



20. Lopes, Pedro Moniz, Balancing Principles and a Fortiori Reasoning, in Lopes, Pedro Moniz, *Estudos de Teoria Do Direito*, vol. I, AAFDL Editora, Lisboa, 2018.
21. ———. *Derrotabilidade Normativa e Normas Administrativas: O Enquadramento Das Normas Regulamentares Na Teoria Dos Conflitos Normativos*, vol. I, AAFDL Editora, Lisboa, 2019.
22. MacCormick, Neil, *Legal Reasoning and Legal Theory*, Oxford University Press, Oxford, 1994.
23. Marraud, Hubert, “Variedades de la argumentación a fortiori”, *Revista Iberoamericana de Argumentación* 6, 2013.
24. ———. “Argumentos a Fortiori”, *THEORIA. An International Journal for Theory, History and Foundations of Science* 29(1), 2014.
25. Martinez, Pedro Romano, *Introdução Ao Estudo Do Direito*, AAFDL Editora - Imprensa FDUL, Lisboa, 2021.
26. Miron, Alina, Per Argumentum a Fortiori, in Klingler, J.; Parkhomenko, Y.; Salonidis, C. (ed.), *Between the Lines of the Vienna Convention? Canons and Other Principles of Interpretation in Public International Law*, Wolters Kluwer, 2018.
27. Peczenik, Aleksander, *On Law and Reason*, Springer Netherlands, Dordrecht, 2009.
28. Perelman, Chaïm; Olbrechts-Tyteca, Lucie, *Tratado Da Argumentação - A Nova Retórica*, Martins Fontes, São Paulo, 2005.
29. Ratti, Giovanni Battista, *El Gobierno de Las Normas*, Marcial Pons, Madrid, 2013.
30. Ross, Alf, *On Law and Justice*, Oxford University Press, Oxford, 2019.
31. Sampaio, Jorge Silva, An Almost Pure Theory of Legal Interpretation within Legal Science, in Duarte, David, Lopes, Pedro Moniz, and Sampaio, Jorge Silva (ed.), *Legal Interpretation and Scientific Knowledge*, Springer International Publishing, Cham, 2015.

32. ———. *Ponderação e Proporcionalidade*, vol. I, Almedina, Coimbra, 2023.
33. Schiller, F. C. S., “The Argument a Fortiori”, *Mind* (25, no. 100), 1916.
34. Sieckmann, Jan-R., Norma Jurídica, in Zamora, Jorge Luis Fabra; Vaquero, Alvaro Núñez; Rodriguez-Blanco, Veronica (ed.), *Enciclopedia de Filosofía y Teoría Del Derecho*, Universidad Nacional Autónoma de México, México, 2015.
35. Solum, Lawrence, “The Fixation Thesis: The Role of Historical Fact in Original Meaning”, *Notre Dame Law Review*, (91, no. 1), 2015.
36. Sousa, Miguel Teixeira de, *Introdução ao Direito*, Almedina, Coimbra, 2012.
37. Tarello, Giovanni, *La Interpretación de La Ley*, Palestra Editores, Lima, 2013.