

# ***The Effectiveness of Adopting Strict Rules on the Admissibility of Evidence at Criminal Trials: A Turkish Perspective***

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Turkey has a very rigid exclusionary rule, which is, very unusually for the Continental European legal tradition, embodied in the Constitution itself. This approach was mostly prompted by the many findings of violation by the European Court of Human Rights on account of procedural irregularities committed by state authorities during criminal procedures. According to Art. 38 (6) of the Turkish Constitution, “Findings obtained through illegal methods shall not be considered as evidence.” In similar vein, many national statutes, and the Penal Procedure Code in particular, provide for strict requirements concerning the use of evidence. The prohibition on the use at trial of evidence obtained through intelligence activities, the many procedural and substantive requirements concerning interrogation, or interception of telecommunications are some examples.

The idea behind such detailed and strict regulatory regime was to discipline law enforcement officials on the one hand, but more important, to provide absolute guarantee for the protection of the suspect/defendant’s human rights.

On the other hand, law enforcement officials *in primis*, along with many scholars have argued that some of these rules are not realistic, and hinder the fight against criminality. Indeed, in practice, both the police and the judiciary have either found ways around such restrictions, or ignored them altogether. This phenomenon has led the lawmaker to make various amendments to the Penal Procedure Code, which had only been adopted in 2005.

In my presentation I will explain the way the various rules on the admissibility of evidence have been (or not been) implemented, and discuss whether the existence of idealistic and very strict, yet not easily practicable rules is efficient or not in protecting human rights.