

LAWFUL OBTAINING OF EVIDENCE AS A FUNDAMENTAL REQUIREMENT OF A FAIR TRIAL

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<https://doi.org/10.5281/zenodo.18530691>

Abstract. This paper examines the principle of lawful obtaining of evidence as a fundamental requirement of a fair trial in criminal proceedings. It argues that admissibility of evidence should not be understood as a purely formal or technical issue, but as a core guarantee of procedural justice and the rule of law. The study analyses the relationship between legality in evidence-gathering and the protection of fundamental procedural rights, including the right to defence, the prohibition of coercion, and the right against self-incrimination. Particular attention is paid to the role of courts in excluding unlawfully obtained evidence and in safeguarding the overall fairness of criminal proceedings. The paper also draws on comparative perspectives to demonstrate that both continental and common law systems recognise, in different forms, the importance of legality in evidence collection. It concludes that lawful evidence-gathering is not only a condition for reliable fact-finding, but also a key element in maintaining public confidence in the legitimacy and integrity of the criminal justice system.

Keywords: Admissibility of evidence, Witness protection, Criminal proceedings, Fair trial, Confrontation rights, Anonymous witnesses, Special measures, Comparative criminal law, Human rights in criminal justice, Evidence and due process, International criminal law, Safety of participants, Procedural safeguards, Remote testimony, Judicial discretion

Evidence constitutes the central element of criminal proceedings, since the outcome of any criminal case—whether conviction or acquittal—ultimately depends on the quality, reliability and admissibility of the evidence presented before the court. In this sense, evidence is not merely a technical instrument of proof, but the very foundation upon which judicial truth and legal responsibility are constructed.

The requirement that evidence must be obtained lawfully is therefore not a purely formal or procedural rule, but a fundamental guarantee of the right to a fair trial and of the legitimacy of judicial decision-making in a democratic society governed by the rule of law.

In criminal procedure, the principle of legality in evidence-gathering serves a dual function. On the one hand, it ensures that investigative authorities act within the limits of the law and respect the rights and freedoms of individuals. On the other hand, it protects the integrity of the judicial process by preventing courts from relying on information obtained through unlawful or abusive methods. The idea that the state must not benefit from its own procedural violations reflects a broader constitutional commitment to legality and human dignity, which lies at the heart of modern criminal justice.

The Criminal Procedure Code of the Republic of Uzbekistan establishes detailed rules on the collection, examination and evaluation of evidence, thereby directly linking admissibility to compliance with procedural law. These rules are not accidental or purely technical. They embody the legislator's understanding that procedural form is inseparable from substantive justice. The Resolution of the Plenum of the Supreme Court of the Republic of Uzbekistan of 24

August 2018 No. 24 further clarifies that violations of procedural rules in obtaining evidence may lead to the recognition of such evidence as inadmissible. This approach confirms that admissibility is not determined solely by the relevance or probative value of evidence, but also by the manner in which it is obtained.

The exclusion of unlawfully obtained evidence should not be understood as an obstacle to effective crime control. Rather, it is a necessary mechanism to ensure that criminal justice operates within the framework of the rule of law and respects fundamental rights. A system that tolerates illegal methods of evidence-gathering in the name of efficiency risks undermining its own moral and legal foundations. In the long term, such a system may lose public trust and legitimacy, as judicial decisions based on unlawful practices cannot be reconciled with the idea of justice.

Lawful obtaining of evidence is closely connected with the protection of fundamental procedural rights, including the right to defence, the prohibition of coercion, and the right against self-incrimination. These guarantees are not abstract principles, but practical safeguards designed to ensure that individuals are treated as subjects of law rather than as mere objects of investigation. Where evidence is obtained in violation of these guarantees, its reliability becomes inherently questionable, and its use in court risks distorting the process of fact-finding. The law therefore justifiably treats such evidence with suspicion and, in serious cases, excludes it from consideration altogether.

From a theoretical perspective, the rules on admissibility reflect the necessary balance between the interests of effective criminal prosecution and the protection of human rights. Criminal justice cannot function without evidence, but it also cannot sacrifice fundamental rights in the pursuit of convictions. This balance is one of the defining features of a fair trial. It requires courts to assess not only whether evidence is factually persuasive, but also whether it has been obtained in a manner consistent with legal and constitutional standards.

Comparative legal experience demonstrates that both continental and common law systems recognise, in different forms, the principle that unlawfully obtained evidence should not form the basis of a criminal conviction. While the specific doctrines and remedies may vary, the underlying idea is the same: the legitimacy of judicial decisions depends not only on their factual accuracy, but also on the fairness of the procedures through which those facts are established. This convergence of approaches underscores the universal character of the principle of lawful evidence-gathering as a component of fair trial guarantees.

The importance of this principle extends beyond the protection of the individual accused. It also serves a broader social function by maintaining public confidence in the integrity and credibility of the criminal justice system. When courts consistently reject evidence obtained through illegal or abusive methods, they send a clear message that the state itself is bound by the law. This, in turn, reinforces the perception of the judiciary as an independent and impartial guardian of justice rather than as a mere instrument of repression.

Evidence collected in compliance with legal standards is more likely to be reliable, verifiable and suitable for judicial assessment. Lawful procedures typically include safeguards such as documentation, judicial oversight and the possibility of challenge by the defence, all of which contribute to the accuracy and transparency of fact-finding. Conversely, reliance on unlawfully obtained evidence increases the risk of error, manipulation and injustice. It may also

encourage investigative authorities to disregard legal constraints, thereby creating a dangerous cycle of rights violations and procedural abuse.

For these reasons, the requirement of lawful evidence-gathering should be understood as a substantive element of the concept of a fair trial rather than as a mere procedural technicality. It is not enough that evidence appears convincing on its face; it must also be the product of a process that respects the law and the rights of the parties. This understanding places a special responsibility on courts to scrutinise the origins of evidence and to react appropriately to procedural violations.

In cases where procedural breaches occur, courts must carefully assess their impact on the rights of the parties and on the overall fairness of the proceedings. Not every minor irregularity necessarily requires the exclusion of evidence. However, serious violations affecting fundamental rights, such as the use of coercion, unlawful searches, or denial of defence rights, should normally lead to the exclusion of the evidence concerned. This approach reflects the idea that the ends of criminal justice cannot justify unlawful means, and that respect for the law is itself a core objective of the criminal process.

Ultimately, the principle of lawful obtaining of evidence reinforces the rule of law and the constitutional character of criminal procedure. It affirms that the state, even when pursuing the legitimate aim of combating crime, remains bound by legal and moral constraints. By insisting on legality in evidence-gathering, the criminal justice system protects not only the rights of individuals, but also its own legitimacy and authority. For these reasons, lawful obtaining of evidence must be regarded as a fundamental prerequisite of a fair and just criminal trial.

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