Kaya / Journal of Economics and Administrative Sciences, 26(2): 389-399, 2025
DOI: 10.37880/cumuiibf.1616280

Journal of Economics and Administrative Sciences

| esjournal.cumhuriyet.edu.tr | Founded: 2000 Available online, ISSN: 1303-1279 Publisher: Sivas Cumhuriyet Üniversitesi

Evaluation of Housing and Workplace Searches in Terrorist Crimes in The Context of Human Rights

Burak Kaya[1,*]

[1]*Political Sciences and Public Administration, Faculty of Economics and Administrative Sciences, Giresun University, Giresun, Türkiye*
**Corresponding author*

Research Article

History

Received: 09/01/2025
Accepted: 28/04/2025

JEL Codes: *K14, K33*

ABSTRACT

This study examined the search of housing and workplace in terrorist crimes within the framework of the case law of the European Court of Human Rights. The study aims to minimize the human rights violations that may occur during housing and workplace searches. This study used the text analysis method, which is one of the qualitative research methods. The method of the study is the application of the case law of the European Court of Human Rights to housing and workplace searches. Methodologically, the introduction part of the study reviewed the human rights violations that may occur in search operations or practices in the context of terrorist crimes. In the development section of the study, the way the European Court of Human Rights evaluates cases related to housing and workplace searches and the criteria that it applies were determined. Later, it was examined together with the Criminal Procedure Code No. 5271 examined by the European Court of Human Rights on housing and workplace searches. Then, the decisions of the European Court of Human Rights related to relatively old-dated cases in Türkiye were examined and criticisms were provided against the European Court of Human Rights. In the conclusion section of the study, recommendations have been provided on how housing and workplace searches should be conducted in the context of human rights, in line with the data obtained from the case law of the European Court of Human Rights.

Keywords: Housing and Workplace Search, Case law of the European Court of Human Rights, Compliance with the Law, Legitimate Purpose, Necessity in a Democratic Society

Terör Suçlarında Konut ve İşyeri Aramasının İnsan Hakları Bağlamında Değerlendirilmesi

ÖZET

Bu çalışmada terör suçlarında konut ve işyeri araması Avrupa İnsan Hakları Mahkemesi içtihatları çerçevesinde irdelenmiştir. Çalışmanın amacı konut ve işyeri aramalarında oluşabilecek insan hakları ihlallerini en aza indirgeyebilmektir. Çalışmada nitel araştırma yöntemlerinden biri olan metin analizi yöntemi kullanılmıştır. Bu bağlamda çalışmanın yöntemi Avrupa İnsan Hakları Mahkemesi içtihatlarının konut ve işyeri aramalarına uygulanmasından ibarettir. Metodolojik olarak çalışmanın giriş bölümünde terör suçları bağlamında arama işlemleri veya uygulamaları üzerine oluşabilecek insan hakları ihlallerine değinilmiştir. Çalışmanın gelişme bölümünde Avrupa İnsan Hakları Mahkemesi'nin konut ve işyeri aramasına ilişkin vakaları değerlendirme şekli ve ortaya koyduğu ölçütler tespit edilmiştir. Daha sonra konut ve işyeri aramasına ilişkin tespit edilen kriterler, 5271 sayılı Ceza Muhakemesi Kanunu'yla birlikte irdelenmiştir. Ardından Türkiye'ye ait nispeten eski tarihli davalara ilişkin kararlar irdelenerek Avrupa İnsan Hakları Mahkemesi'ne yönelik eleştirilerde bulunulmuştur. Çalışmanın sonuç bölümünde ise Avrupa İnsan Hakları Mahkemesi içtihatlarından elde edilen verilerle insan hakları bağlamında konut ve işyeri aramasının nasıl yapılması gerektiğine ilişkin öneride bulunulmuştur.

Süreç

Geliş: 09/01/2025
Kabul: 28/04/2025

Jel Kodları: *K14, K33*

Anahtar Kelimeler: Konut ve İşyeri Araması, Avrupa İnsan Hakları Mahkemesi İçtihatları, Kanuna Uygun Olma, Meşru Amaç, Demokratik Toplumda Gereklilik

[a] burak.kaya@giresun.edu.tr 0009-0003-6625-3748

Introduction

In the context of human rights, authorities receiving any report of a terrorist crime related to terrorism should take urgent action because the anti-terrorist intervention corresponds to an urgent social need (European Court of Human Rights (ECtHR), Buck v Germany, App no 41604/98, 2005). However, the urgent action of the authorities in terrorist crimes reveals an inconvenient situation. As a result of having to act quickly, some behaviours that are not by the law may be exhibited by the authorities when fighting terrorism. In other words, although the norm followed by the authorities engaged in the fight against terrorism does not violate human rights, the authorities may violate the relevant norm. In such cases, human rights may be violated. This may also occur in housing or workplace search applications.

It may be necessary to search a residence or workplace for the reason to proceed in the right way in terrorist crimes. As terrorist crime is a special type of crime, sometimes it may become necessary to carry out the search process immediately. Such an act should aim to urgently eliminate the suspicion of a terrorist crime and collect evidence related to a terrorist crime, if any. Even for these purposes, the authorities fighting terrorism may violate human rights for the reasons stated above. In other words, illegal actions may be performed before, during and after the search, or the norms related to the search may not be found in the laws of the relevant state. In both cases, human rights violations may be committed during the search process.

Together with all this, the search process may not always lead to the abuse of rights on its own. The inviolability of domicile, the right to freedom and security, respect for private and family life, etc. Are all related to the concept of search. The ECtHR also generally considers the concept of search in the context of these rights.

This study examined residence and workplace searches for terrorist crimes in the context of human rights within the framework of ECtHR decisions. In the introduction section of the study, the human rights violations that may occur during the search for terrorist crimes were mentioned. In the development section of the study, the ECtHR criteria related to housing and workplace searches and the Criminal Procedure Code No. 5271 (CMK, 2024) were examined together with the ECtHR decisions, after mentioning how the ECtHR considers complaints related to housing and workplace searches. These criteria are being lawful, legitimate purpose and necessity in a democratic society. In the development section, reference is made to the Decrees of the ECHR between 2005 and 2021. There are two main reasons for this. The first of them is to be able to detect human rights violations. The second is to reveal that the ECHR made incomplete examinations in the Decrees it made regarding Türkiye between 2005 and 2013. Then, the Decrees of the ECHR regarding Türkiye between 2005 and 2013 were examined and criticisms were made against the ECHR. The text analysis method, which is one of the qualitative research methods, was used in the Decrees reviews. In the conclusion part of the study, suggestions were made on how the search should be carried out in accordance with human rights and freedoms within the framework of ECtHR decisions.

Housing and Workplace Search in Literature

According to the Turkish Language Institution, the concept of search means “a search operation carried out at someone's home, workplace, or on their belongings in order to catch the accused or obtain criminal evidence” (“Turkish Language Institution”, 2025). The concept of search in the legal sense is a research process carried out in certain places in order to capture a suspect, accused or convicted person, to find evidence or items to be forced (Kunter, Yenisey and Nuhoğlu, 2006:897).

The search of housing and workplace is one of the protection measures. For this reason, the search process is one of the transactions that limit fundamental rights and freedoms because the search process has the nature of coercion (Ünver and Hakeri, 2012:348). An arrest may also be made as a result of the identification of any evidence that a crime has been committed during the search. All this can prevent the suspect from freedom. Due to such reasons, the search process is closely related to human rights.

The search operation should not be carried out in a way that is contrary to human rights. For this, the existence of the constitutional state is mandatory. The constitutional state is the state that provides legal security. It enables people to foresee their future in a legal sense, to trust the state and to develop themselves (Özbudun, 2011:123). It prevents arbitrary applications. For this reason, the concept of search should be regulated in constitutions. In other words, the search operation must be secured by constitutional guarantees. Thus, the fundamental rights and freedoms of persons are protected by the highest norm.

The search operation should also be regulated in detail by law (Erdoğan, 2002:190). This is related to the principle of legality in crime and punishment. Since the search process interferes too much with human rights such as privacy of private life and immunity of residence, it is necessary to regulate it in detail (Doğan, 2011:160). Otherwise, the door to arbitrary applications will be opened again.

As with all protection measures, the existence of a valid ground is required in the search process. This valid ground refers to formal rightness (Ünver and Hakeri, 2012:351). Whether a person is right or not can be determined as a result of trial. Unnecessary housing and workplace searches are incompatible with human rights.

The last aspect of the search process related to human rights is the principle of proportionality, which is considered a universal principle. The principle of proportionality ensures a balance between the search process and the intended purpose (Dost, 2018:363). First of all, the search operation should be a necessity. Secondly, the search process should be convenient. Third, the search process must be proportionate. If these do not occur cumulatively, there is necessarily a violation of the principle of proportionality. In this case, an arbitrary search operation can be mentioned.

House and Workplace Search in ECtHR Decisions

The concept of housing that the ECtHR focuses on does not only refer to a private residence belonging to any person. The concept of housing also covers the office, branches and other workplaces of a natural or legal person (ECtHR, Buck v Germany, App no 41604/98, 2005). The fact that government officials search these houses without some legal reasons means an inviolability of domicile (Ünver and Hakeri, 2012: 423). The ECtHR treats it in this way (ECtHR, Varga c Roumanie, App no 73957/01, 2008). According to the ECtHR, states may conduct house or workplace searches while fighting terrorism or other crimes (ECtHR, H. E. v Turkey, App no 30498/96, 2005). However, to avoid a human rights violation, the search operation must meet certain criteria. These are compliance with the law, legitimate purpose and necessity in a democratic society (ECtHR, Delta Pekarny A. S. c Republique Tcheque, App no 97/11, 2014).

ECtHR Criteria

Just as the ECtHR examines other cases when treating a case related to a search, it does not consider which evidence the national judiciary will accept, material and legal errors, except for exceptional issues. In other words, the ECtHR's task is not to determine the crime and the culprit. Arbitrarily accepting evidence, evaluating it, or issues that are not taken into account to the extent that they affect the merits of the case constitute exceptional cases (ECtHR, Moreira Ferreira v Portugal, App no 19867/12, 2017). In this context, the main task of the ECtHR is to ensure that the state parties to the ECtHR comply with their commitments (ECtHR, Jallow v Germany, App no 54810/00, 2006).

There are no restrictions on the receipt or acceptance of evidence for the ECtHR. The ECtHR has to consider the entire case and determine whether the national trial has acted fairly. If human rights and freedoms have been violated during the trial process, the Court examines the nature of this violation in detail (ECtHR, Bykoy v Russia, App no 4378/02, 2009).

The fair conduct of the trial depends on whether the necessary and mandatory rights of the defence are granted. In this context, the issue of the value of the evidence, i.e. its reliability, accuracy and whether the defending party is given the right to appeal, is among the issues that the ECtHR considers (ECtHR, Lisica v Croatia, App no 20100/06, 2010).

The national courts should adequately and effectively hear the defence of the party and examine the case in this way (ECtHR, Carmel Saliba v Malta, App no 24221/13, 2016). In particular, the court should consider the important and relevant opinions put forward by the charged party (ECtHR, Zhang v Ukraine, App no 6970/15, 2018). When national courts make decisions, the justification for this decision must reach a sufficient and legally satisfactory degree of explanation. Also, the justification for the decision should not be trite (ECtHR, Paradiso ve Campanelli v Italy, App no 25358/12, 2017).

With these criteria, the ECtHR maintains that the trial and the search, which is a part of this judicial process, will be fair.

Criteria for Compliance with the Law

Before a search warrant is issued by the judicial authorities, these authorities should know that the requested search warrant is related to the suspect's private life, residence and correspondence. In this context, it should be examined whether the search warrant to be issued by the judicial authorities and its application comply with the law. The ECtHR stated in the Robathin/Austria case that it is not enough to establish the concept of search in the law alone, but both the provision and policy of the law should have effective and adequate safeguards against arbitrariness (ECtHR, Robathin v Austria, App no 30457/06, 2012). In this case, for example, 116 to 122 articles of the CMK related to the search should provide effective and adequate safeguards against arbitrary applications (Doğan, 2011: 158).

In the practice of the code of criminal procedure, everything should be in writing as much as possible (Uslu, 2007: 60). The principle of law to be written is of great importance in terms of proving evidence for human rights violations that may occur before, during and after a search. The policy of being written for laws can prevent arbitrary applications or reduce arbitrary applications. Therefore, it should be mandatory for the judicial authorities to issue

search warrants (Frias, 2013: 122). The "*inviolability of domicile*" of the State of the Republic of Türkiye, entitled 21., is resolved that the search cannot be made unless there is a written order (Kocaoğlu, 2012: 49). CMK's "*search warrant*" entitled 119 also resolves that the search warrant may be in writing.[1]

According to this regulation, in cases where there will be a delay when the judge issues a search warrant to be carried out at the residence or workplace, a search warrant should be issued by the public prosecutor (Centel and Zafer, 2012: 368). In this case, a written order cannot be issued by the chief of law enforcement during house or workplace searches. In other words, the written order of the law enforcement chief can only be related to open spaces (Yılmaz, 2016: 262). The CMK provides the criterion of compliance with the law examined by the ECtHR regarding the principle of being written (Özel, 2019: 1225).

In addition to the principle of being written, it is also important who issued the search warrant. It is clear in the CMK's article 119 that the judge's issuing a warrant is appropriate (Şahin, 2015: 97). When the recent decisions of the ECtHR are examined, the search warrant should be issued by judges. For example, in the case of Sher and Others v United Kingdom, it is clear that the search warrant was issued by the Manchester Magistrates' Court (ECtHR, Sher and Others v United Kingdom, App no 5201/11, 2015). There are many similar examples in the recent decisions of the ECtHR. However, when the ECtHR's former decisions regarding Türkiye are examined, it is seen that searches could be made even with the written proceeding prepared by law enforcement officials. Since the ECtHR did not make a detailed examination of who issued the search warrant in its former decisions regarding Türkiye, it did not make a violation of the right decision in this regard either.[2] On the other hand, judges and prosecutors have been trained to be appointed as judicial authorities. However, law enforcement officers are the manpower trained to ensure the security of the country. Therefore, issuing a written order by the law enforcement officer for housing and workplace search or the ability of law enforcement officers to search with a written proceeding may constitute a violation of human rights and freedoms.

On the other hand, the issue of the public prosecutor for search warrants may also violate human rights and freedoms in case of delay as the phrase "*cases that are inconvenient for delay*" seems to be an ambiguous expression. As a rule, the authority to issue a search warrant in the context of human rights is given to the judge. In this case, the following conclusion can be reconciled: if public prosecutors are to issue a search warrant when a delay may occur, they should include the reasons, disadvantages and possible consequences of the delay in this order, provided that it is stated under other conditions in the context of human rights. In other words, even the suspect, the charged and other persons should be able to understand why the search warrant was issued by the Public prosecutor and why delay seems to be inconvenient. The Criminal General Assembly of the Supreme Court also found a decision in 2009 unlawful after stating that the major judge had the authority to issue a search warrant, as the delay cases and possible inconveniences that may occur in the decision of the judge were not included in the minutes (Centel and Zafer, 2012: 368). If a search warrant is to be issued by the public prosecutor, a new regulation on this issue should be made in Article 119 of the CMK. For example, the relevant regulation may include the statement "*The public prosecutor may issue a search warrant provided that the reasons why delay is inconvenient for delay are clearly and understandably explained in the search warrant.*" When such an expression is added to article 119 of the CMK, the phrase "*cases that are inconvenient for delay, if any"* should be added to the 2. paragraph. Thus, any violation of human rights and freedoms can be prevented.

A law regulating protection measures may be effective and adequate in preventing arbitrary practices. Sometimes, at the implementation stage, it may be contrary to the principle of compliance with the law. For example, in the case of Budak v Turkey, law enforcement officials issued a search proceeding against the 119th of the CMK. According to this regulation, two people should be present either from the elderly delegation or from the neighbours when searching (Özbek, 2005: 432). However, in the Budak v Turkey case, law enforcement officials did not keep two people available. Despite this, they had him sign the search proceeding. This is against the principle of compliance with the law. Although the ECtHR has decided that it was unlawful, another issue that needs to be considered in this case is

[1] 119th Article of CMK is as follows: *"Upon the judicial decision or public prosecutor in the cases where any delay may cause problems, or law enforcement officers when the public prosecutor cannot be reached may conduct searches with the written order of the chief of law enforcement. However, a search at the residence, workplace and closed areas that are not open to the public may be carried out by a judicial decision or in the cases when any delay may cause a problem, it could be conducted with a written order of the Public prosecutor. The search results conducted by the written order of the law enforcement chief are immediately notified to the Chief Public Prosecutor's Office. (2) In the search warrant; a) the act that constitutes the reason for the search, b) The person to be searched, the address of the residence or other place where the search will be conducted, or the item to be searched for, c) The period during which the search warrant will be valid, is clearly stated. (3) The clear identities of those signing the warrant are written. (4) To be able to search houses, workplaces or other closed places before the public prosecutor is present, two people from the council or neighbours of that place shall be present. (5) (Changed: 25/7/2018-7145/14 art.) The search to be conducted in military areas is carried out by judicial law enforcement officers with the participation of military authorities under the supervision of the public prosecutor. In cases where any delay may cause problems, a search may be conducted by judicial law enforcement officers with the participation of military authorities by the written order of the public prosecutor."* For more detailed information see. < https://www.mevzuat.gov.tr/mevzuatmetin/1.5.5271.pdf > accessed 15 March 2024.

[2] This issue has been examined in detail under the heading "Criticism of the ECtHR in the Light of Criteria."

that the search was conducted at dawn and that neighbours or people around the residence avoided being present as it was a terrorist crime. The opinion of law enforcement officials is in this direction. In our opinion, both the ECtHR and the national courts should examine such issues.

If the search operation was carried out at dawn, when were the attendants to be present notified? If they were notified at dawn, who was notified to be present? Usually, people are asleep at dawn. All these details should be covered in the search warrant. If the ECtHR seeks answers to such questions, it will have made a decision that can shed light on human rights. Law enforcement officials may have made such a statement to get rid of a violation order. In other words, it may be possible that no one was notified. To uncover the material fact and identify violations of human rights in different dimensions, national courts and the ECtHR should ask for proof on such issues, for example, whether law enforcement officials notified people in the neighbourhood or nearby. The ECtHR, which conducted such an examination in the Budak v Turkey case, found that there was no such detail in the search proceeding regarding this issue - albeit in general terms-, the national courts never addressed this issue, and there was no attempt by law enforcement officials to have two attendants. For the reasons detailed above, the ECtHR has concluded that the search operation and action are not in compliance with the law (ECtHR, Budak v Turkey, App no 69762/12, 2021). Perhaps it would be understandable if this was caused by the lack of information on law enforcement officials because law enforcement officers in Türkiye act according to the instructions to be given by the prosecutor or the judge in such cases. In such instructions, the prosecutor or the judge cannot be assumed not to know the legislation. According to a decision of the Council of State, since it cannot be assumed that even administrators do not know the legislation, it cannot be assumed that prosecutors and judges who make decisions about people's lives do not know the legislation related to the search at all. In such cases, the prosecutor or judge in charge should be tried for negligence of duty. In addition, the award of damages arising from the violation decision should be recoursed to the relevant prosecutors and judges. In this regard, a statement should be added to CMK's 141. article and Paragraph 4 as that recourse will be granted to judges and prosecutors who "*caused a violation decision to be issued in international courts.*"[3] The recourse that is explained in this study is related to the violation decision. As a matter of fact, in the case of Budak v Turkey, law enforcement officers applied to the authorized Public prosecutor for a search warrant. The public prosecutor has also demanded from the competent judge.

It is the judge who issues the search warrant. In this case, the competent judge should have clearly stated all the details in the search warrant. Let's assume that there was something that the judge missed out. In this case, the demanded prosecutor should have reviewed the retrospective warrant. Nevertheless, if there was a missing detail, law enforcement officials should have alerted the competent prosecutor or judge. Thus, law enforcement officers would carry out the search warrant prepared by the law, according to the regulations. The purpose of the proposals is not to free the terrorist, protect the terrorist or take the side of the terrorist. The purpose here is that even a person who is under suspicion of a terrorist crime should be tried in accordance with the law. If such procedural shortcomings or arbitrariness continue -which is evident from the ongoing applications to the ECtHR, - if judicial and administrative sanctions are not applied to prosecutors and judges who commit such shortcomings or arbitrariness, and if recourse is not made to prosecutors and judges in the context of compensation, social order will deteriorate. People may attempt to rebel with the words of right, law and justice. On the other hand, these shortcomings or arbitrariness can also spread to crimes that are not terrorist crimes. For example, a doctor who keeps his patient waiting, a soldier who experiences tension during a match, or an academic may be detained even if he follows the instructions of the prosecutor. Even worse, prosecutors and judges on trial for such cases may be protected by their colleagues. For example, in the case of Budak v Turkey, if a prosecutor or judge had been tried due to the shortcomings stated by the ECtHR, these people would have been tried by another prosecutor and judge again. In this case, the prosecutors and judges acting with similar feelings to their colleagues can also produce a new injustice. All these are the types of mistakes that, together with historical experience, can destroy not only a government but even a state.

Although improvements have been made in this regard in Türkiye, they have not aimed at the essence of the issue. The introduction of the assisting judges can be shown as an example of this. The fact that a prosecutor or judge has been working as an assistant judge for even twenty years does not guarantee that s/he will not commit an arbitrary practice. Nowadays, when a judicial complaint is filed against a doctor in Türkiye, s/he can be prosecuted for the negative consequences of his/her profession. Doctors are forced to respond even to administrative investigations at a busy work pace. A doctor's profession is more important than other professions as human life matters. Again, when law enforcement officials commit an unlawful act requiring compensation, the State of the Republic of Türkiye may recourse the compensation to the relevant law enforcement officials. When considered in this context, judicial and administrative sanctions should be introduced among prosecutors and judges. The existence of such sanctions will

[3] Article 141/4 of the CMK is as follows: *"(Annex: 18/6/2014-6545/70 art.) The state shall recourse to judges and public prosecutors who abuse their office by acting contrary to the requirements of their duty within one year due to the compensation they have paid."* For more detailed information see. <https://www.mevzuat.gov.tr/mevzuatmetin/1.5.5271.pdf> accessed 19 March 2024.

further strengthen the impartial and independent investigation and prosecution process. Prosecutors and judges will make their decisions on procedures and rules more carefully. In our opinion, article 44 of the Judges and Prosecutors Law No. 2802 should be regulated again. In particular, each judicial and administrative sanction should be counted in the law one by one in accordance with the principle of legality in crime and punishment, instead of vague expressions such as "*those who have been decided not appropriate to stay in the profession*". In addition, except for very serious crimes in the context of the Law on Judges and Prosecutors, the relocated prosecutor or judge may continue to conduct the same practice elsewhere. There is no difference between human rights violations taking place in Ankara or Şırnak province. It should be a different application rather than a relocation. In our opinion, the implementation of such proposals can ensure that the investigation and prosecution process, including protection measures such as search, is carried out in accordance with the law.

On the other hand, decisions regarding protection measures in Türkiye usually proceed through printed documents. In our opinion, prosecutors and judges should not be bound by the relevant printed documents and should be able to make relevant addition and subtraction. Thus, human rights violations can be minimized. In any case, the ECtHR is interested in the printing of the contents of the documents rather than the printing of the documents. In other words, the ECtHR examines whether the decisions made by the courts are decisions that repeat what is known (ECtHR, Paradiso ve Campanelli v Italy, App no 25358/12, 2017). If there are any deficiencies or inaccuracies in a printed search document authorized by prosecutors or judges that lead to a violation of human rights, they should be corrected. In our opinion, as the elimination of such deficiencies will vary depending on the investigation or prosecution, prosecutors or judges should prepare the search warrant themselves without bounding to the printed documents and should provide all the details in the search warrant to the extent required by the situation, taking into account special circumstances.

Criterion of Legitimate Purpose

Since the legitimate purpose of the law is the fight against terrorism itself, the ECtHR also does not focus on this issue. However, the application should be in the direction of fighting terrorism. In addition, the relevant state must prove to the ECtHR that a search warrant was issued for fighting terrorism.[4]

Criteria of Necessity in a Democratic Society

The first requirement of necessity in a democratic society for terrorist crimes is that the search warrant of law enforcement officers is based on reasonable suspicion. Reasonable suspicion, which is explained here, is a concrete suspicion aimed at capturing the person to be searched for or obtaining evidence that a crime has been committed (Seyyidoğlu, 2021: 16). When issuing the search warrant, the prosecutor or the judge must base it on reasonable suspicion. Reasonable proof regarding the suspicion should be included in the search warrant. As a matter of fact, in the case of Sher and Others v United Kingdom, while ECtHR conducted its investigations on the search warrant, it also examined the demand of law enforcement officials for a search warrant. According to the decision, law enforcement officers demanded permission from Manchester Magistrates' Court to search the residence. The law enforcement officer put forward some reasons for reasonable suspicion when demanding the search warrant. According to law enforcement officials, if the search and seizure process is not carried out, some materials that may be evidence in the context of a terrorist investigation may be destroyed, hidden, lost or damaged (ECtHR, Sher and Others v United Kingdom, App no 5201/11, 2015). When Paragraph 2 of CMK's Article 119, it is seen that an arrangement has been made about what should be included in the search warrant. There is no statement regarding reasonable grounds of suspicion among those who will be included in the search warrant. As the ECtHR stated in the case of Sher and Others v United Kingdom, there must be reasonable grounds of suspicion in the search warrant related to the search. In this context, a statement in the form of "*reasonable grounds of suspicion*" should be added to paragraph 2 of CMK's article 119 regarding what the search warrant covers.

The second requirement of necessity in a democratic society is the limitations on the search warrant. The scope of the search warrant cannot be granted as unlimited. The ECtHR found that the search warrant was granted indefinitely in the case of Niemietz v Germany (ECtHR, Niemietz v Germany, App no 13710/88, 1992).

The ECtHR has made some assessments to determine this limit in the case of Sher and Others v United Kingdom. The ECtHR states that the search warrant in the case of Sher and Others v United Kingdom is general and unlimited in scope. On the other hand, according to the ECtHR, since terrorist crimes are a special type of crime and concern the lives of many people, they urgently need to be acted upon. After a terror report is received, it may become mandatory for law enforcement officers to search a house or workplace to prevent an attack. The presence of more than one suspect in terrorist crimes or the use of encrypted language by terrorist organizations can make the work of law

[4] For more detailed information. Burak Kaya, "İnsan Haklarının Korunması Bağlamında Avrupa Konseyi Terörizmin Önlenmesi Sözleşmesinin Değerlendirilmesi" <https://tez.yok.gov.tr/UlusalTezMerkezi/tezSorguSonucYeni.jsp.> accessed 13 May 2024.

enforcement even more challenging. Since the suspicion of terrorism is only a notification, it becomes impossible to identify the materials to be searched one by one and write these materials down in warrants. Again, the fact that the notification about terrorism is only a notification leads to the fact that its content cannot be known for sure. In such cases, the materials to be searched may not be identified individually. According to the ECtHR, for these reasons, an unlimited and comprehensive search warrant may be granted only to seize materials related to terrorist crimes (ECtHR, Sher and Others v United Kingdom, App no 5201/11, 2015).

When Paragraph 2, Subclause B of Article 119 of the Code of Criminal Procedure is examined, it is seen that the expression "*or item*" is used with the scope of the search. The expression "*or*" used in the regulation should be changed to "*and*". In addition, the expression "*property*" should be changed and the expression "*object*" should be used instead. According to the Turkish Language Institute, the concept of "*property*" refers to inanimate things that can be used and transported for different purposes, while the concept of "*object*" refers to all kinds of portable or immovable inanimate things ("Türk Dil Kurumu", 2024). For example, a terrorist can carry out a biological attack with a poisonous weed or flower that grows in his garden. The poisonous plant that grows in this terrorist's garden is not man-made. However, it has concrete evidence. With these suggestions, CMK's article 119, paragraph 2, subclause b should be arranged as "*The person to be searched, the residence to be searched and the address and object of the other place, if any*". Thus, everything that can be searched for living, inanimate, man-made or not in obtaining evidence will be covered by law.

On the other hand, since it is mandatory in the context of human rights to include reasonable causes of suspicion in the search warrant, it should be stated in the search warrant that reasonable suspicion is based on the things to be searched. For example, a terror suspect or a fugitive accused should be indicated in the arrest search. There is a regulation on this in the CMK. However, if what is to be searched for is material of evidentiary value, that is, if the search warrant covers the search for research (evidence), this should also be indicated in the search warrant (Kiziroğlu, 2009: 144). For example, if the weapons used by the terrorists during the conflict or the materials used in bomb-making are being searched, they should be indicated in the search warrant. Çöpoğlu expresses this as "*the certainty principle in search measure*" (Çöpoğlu, 2019: 161). For example, in the case of Sher and Others v United Kingdom, the list of those which can be searched in the form is detailed in the search warrant together with reasonable suspicion as;

> *"... correspondence, brochures, posters, magazines, membership forms, identity documents, travel documents, passports, maps, sketches, plans, phone records, accommodation information, written works/books, vehicle documents for use/control, correspondence about other properties/locked places/garages and their keys, receipts for purchased goods, records of religious/political views, handwritten notes, receipts, invoices, order forms, order delivery notes, announcements, road, sea and airline travel information. Computers, computer equipment, pocket computer (PDA) software, hardware, digital memory, faxes, printers, scanners, copiers, printing papers, DVDs, CDs, CD ROMs, video/audio cassettes, flash drives, mobile phones, sim cards, evidence of the purchase, registration and billing of mobile phones, credit cards, cash, chequebooks, money transfer documents, financial documents, cameras, video equipment, photos/negatives, communication tools, chemicals or precursors, relics/ornaments/flags, concealment or shipping items.... (ECtHR, Sher and Others v United Kingdom, App no 5201/11, 2015)."*

There is no need to express here the difficulties that writing them item by item will open up. As stated above, the ECtHR has made these statements. However, after the evidence to be sought in the search warrant is written together with reasonable causes, this may be stated in the proceeding if other evidence related to the crime is obtained. If evidence related to a crime other than the terrorist crime is obtained, actions related to this may be taken separately. As the suspect or accused is the same person, the case files can be cumulated later.

If counting item by item method is not considered appropriate, restrictions may be placed on those to be searched. In other words, people or things that cannot be searched could be listed. Indeed, these methods are more reliable in the context of the principle of legality in crime and punishment. The fact that an issue related to criminal law is not regulated at all in the law or regulated with vague expressions may increase arbitrary practices. The clear, understandable, predictable, effective and anti-arbitrary statements related to the search in the CMK and the search warrant comply with both universal principles such as the principle of legality in crime and punishment and allow people to look at the future with legal assurance. Otherwise, people's trust in the law and the judiciary may be damaged or reduced.

The third requirement of necessity in a democratic society for terrorist crimes relates to whether an independent attendant other than the suspect or the accused is present during the search. The ECtHR here does not mention one independent attendant in number. It states that the independence of the attendant is in accordance with human

rights. According to the ECtHR, the status or number of independent attendants is related to the domestic law of the state parties to the ECtHR. (ECtHR, Ayetullah Ay v Turkey, App Nos 29084/07 and 1191/08, 2020).

Sometimes a preliminary search may be carried out for security reasons. There should be an independent attendant who should be present even during this search process. It should be noted here that preliminary search and intercepting search are different. According to the Yeşil v Turkey case, the preliminary search is a short search conducted by law enforcement officials before the search is conducted for some reasons. The reason in the Yeşil v Turkey case is security. Therefore, the concepts of search and preliminary search are different. Decryption is Decryption. Therefore, all the criteria that apply to the search should also apply to the preliminary search. In other words, the preliminary search should also be carried out in accordance with the criteria of compliance with the law, legitimate purpose and necessity in a democratic society. These criteria should not be violated for safety or other reasons. As a matter of fact, in the case of Yeşil v Turkey, although Türkiye stated to the ECtHR that preliminary search had become mandatory due to the terrorist incidents in Tunceli, according to the ECtHR, acting contrary to the regulations of the CMK on search or blocking its procedural guarantees is the same as conducting a preliminary search only by presenting a security justification because search and preliminary search are different. Both should be grounded on a legal basis. This legal basis should cover the search, the manner of application and the limitation of the search, and have effective and adequate safeguards against arbitrary applications or abuses. Since there is no legal basis for a preliminary search in Türkiye, it has not already been realized according to other criteria put forward by the ECtHR. For these reasons, the ECtHR has decided on the violation (ECtHR, Yeşil v Turkey, App no 28349/11, 2021).

In the Yeşil v Türkiye case, the video recordings were also taken after a preliminary search was conducted. In our opinion, law enforcement officers who take action after a search warrant is issued should have cameras before leaving their position, and these cameras should be turned on until the search and the search documents are signed. An arrangement should be made in the CMK on this issue. The presence of cameras can prevent false statements.

Criticism of the ECtHR in Terms of Criteria

In this part of the study, reference is made to the Decrees of the ECHR regarding Türkiye between 2005 and 2013. The reason for this is that the criteria determined by the ECHR in its new decisions cannot be seen in its past decisions. Thus, it can be stated that the ECHR has been deficient in revealing different human rights violations related to this issue in its past decisions.

When the ECtHR's decisions regarding Adırbelli and others v Turkey (ECtHR, Adırbelli and the Others v Turkey, App no 20775/03, 2008), H.E. v Turkey (ECtHR, H. E. v Turkey, App no 30498/96, 2005), Kahraman Korkmaz and Others v Turkey (ECtHR, Korkmaz and Others, App no 35979/97, 2006), Oral and Atabay v Turkey (ECtHR, Oral and Atabay v Turkey, App no 39686/02, 2009), Öner and Others v Turkey (ECtHR, Oner and Others v Turkey, App no 64684/01, 2005), Özçelik v Turkey (ECtHR, Ozçelik v Turkey, App no 56497/00, 2007), Pehlivan v Turkey (ECtHR, Pehlivan v Turkey, App no 4233/03, 2008), Fındık v Turkey and Kartal Turkey (ECtHR, Fındık v Turkey and Kartal v Turkey, App Nos 33898/11 and 35798/11, 2012), Mahfuz Talu v Turkey (ECtHR, Mahfuz Talu v Turkey, App no 2118/10, 2012) and Tüzer v Turkey (ECtHR, Nebahat Tüzer and Muhammet Sait Tüzer v Turkey, App no 22519/06, 2013) are examined, it seems that a detailed and satisfactory examination has not been carried out according to the criteria regulated by the ECtHR. The common features of these cases are that they are the cases of Türkiye, that they are not sufficiently examined and that they are relatively old.

When compared to new-dated decisions, which were discussed in the formed sections, the ECtHR should have examined the existing legal regulations regarding the search decision in Türkiye first in its relatively old Turkish decisions. It should have determined whether these regulations were effective and preventive of arbitrariness. However, it seems that none of these examinations were carried out in the decisions.

When the relatively old–dated decisions regarding Türkiye are examined, it is seen that a search warrant or search proceeding was issued. However, the ECtHR did not examine the search warrant or the search proceeding at the trial stage. As with the new-dated decisions, it should have been examined whether the search warrant or the search proceeding complied with domestic law. A violation decision should have been made to the search proceedings that law enforcement officers had the suspect signed after the capture because it is unclear whether the suspect was under pressure when signing. The legitimate purpose sought in search decisions is the fight against terrorism, as it is also mentioned frequently in the old or new-dated decisions of the ECtHR. The ECtHR offers a stable case law on this issue. Maybe for this reason, it did not mention the legitimate purpose in the relatively old-dated cases of Türkiye. Even so, the ECtHR should have stated its established case law.

In the relatively old-dated cases of Türkiye, the criterion of necessity in a democratic society was examined. In this context, it was not examined whether the search warrant or the search proceeding were prepared based on reasonable suspicion. However, there should be reasons with the least reasonable degree of suspicion in the search warrant. Otherwise, human rights violations related to private life, inviolability of domicile and correspondence occur.

The ECtHR also did not examine the limitations on search warrants or search proceedings in relatively old-dated cases in Türkiye. According to the new decisions, a search warrant cannot cover an unlimited search. However, since the ECtHR has not conducted any examination of the search warrant or search proceeding, it cannot be understood whether a violation decision occurred in this regard. The ECtHR noted that in some of the relatively old-dated cases of Türkiye, the applicant or an independent attendant was present during the search. In some cases, it did not notify this issue at all. For example, it was stated that the applicant was present during the search in the H.E. v Turkey case. However, in the case of Adırbelli and Others v Turkey, no notification has been given on this issue.

As stated by the ECtHR in its recent decisions, the issuance of a search warrant alone does not mean that this warrant is in accordance with the law, has a legitimate purpose and is necessary in a democratic society. In this context, human rights violations may not have been detected as the relatively old-dated cases of Türkiye were not sufficiently examined by the ECtHR. In this case, the ECtHR may have violated human rights and freedoms as well.

Conclusion

There must be a reasonable suspicion of a terrorist crime in order for a search to be carried out in the context of human rights. Based on this suspicion, there should be a reasonable degree of doubt for the search. A search warrant must then be issued by the competent judge or prosecutor. Reasonable grounds of suspicion regarding the search, the scope of the search and the presence of an independent attendant should also be included in the written warrant. A document should also be prepared to contain details about when and where the independent attendant was notified and whether s/he will be present during the search, if the independent attendant volunteers to be present during the search, the relevant documents should be signed by him/her. The information contained in this document should also be included in the search warrant based on this document. If there is a person who does not speak Turkish at the residence or workplace to be searched, a certified interpreter should be present and the details about the translator should be notified in the search warrant.

Law enforcement officers who receive a search warrant should activate their cameras, which should be on their shoulders or helmets, and go to the ground to be searched with an independent attendant. Law enforcement officers should try to take all security measures before leaving for the search venue. For example, a bomb squad team should be present at the search site with materials that can protect them from an explosion or reduce its effect. Law enforcement officers should also wear their steel vests due to the possibility of an armed fight. If the search is conducted at night or dawn, nightscope binoculars should be present. If the items given as an example are not found during the search, the ECtHR may issue a decision of violation in terms of procedure.

The independent attendant could join law enforcement officials immediately before the search begins. The other regulations notified in the CMK regarding the independent attendees could also be applied at this stage. When arriving at the residence or workplace where the search will be conducted, the necessary security measures should be taken in the vicinity. In particular, a bomb squad should be ready. The doorbell should be rung before forcing the door. If the door is not opened intentionally, reasonable door-opening methods should be used. If the residence or workplace seems to be unavailable after the ringing of the bell, a reasonable period should be given, and when this is resolved, law enforcement officials should enter the residence or workplace as people may not be very available, especially during searches conducted at dawn. Searching when people are in an inconvenient situation is probably a situation that no one will like, including law enforcement officers. If the place of search is a house, shoes should be taken off. Regardless of whether s/he is guilty or not, the suspect or the accused, his family and residence should be respected. If such respect is not shown within the framework of the law, and if the suspect is found not guilty as a result of the trial, this may have consequences that will affect national unity and solidarity.

Before the search is conducted, the possessor and his/her lawyer, if this is not possible, one or more people recommended by the possessor and his/her lawyer should be present at the site of the search. If there is someone who cannot speak Turkish at the residence or workplace where the search is conducted, the certified translator should act as an interpreter and there should be camera footage of him/her when interpreting. If any untidiness has been caused at the residence or workplace when searching, this untidiness should be tidied up after the evidence is collected.

At the end of the search, all details about the search should be included in the proceeding clearly and understandably. This record must be signed by those present at the site during the search. However, it should not be forcibly signed by anyone. The person or persons who have not signed the proceeding can then inform the judicial authorities of their reasons. After the proceedings are signed, a sample of them must be delivered to those who may demand a signed copy of the proceedings within a reasonable period along with the signature of law enforcement officials. After the search is over, law enforcement officers should leave the residence or workplace as they found it. Then the necessary notification should be made to the judicial authorities. All these are valid for the preliminary search. According to the ECtHR decisions, the procedures and practices related to the search for terrorist crimes in the

context of human rights should be done in this way. For this reason, issues that are not covered in the CMK must necessarily be regulated by the legislative body.

Katkı Oranları ve Çıkar Çatışması / *Contribution Rates and Conflicts of Interest*

Etik Beyan	Bu çalışmanın hazırlanma sürecinde bilimsel ve etik ilkelere uyulduğu ve yararlanılan tüm çalışmaların kaynakçada belirtildiği beyan olunur.	**Ethical Statement**	It is declared that scientific and ethical principles have been followed while carrying out and writing this study and that all the sources used have been properly cited
Yazar Katkıları	Çalışmanın Tasarlanması: İHC (%100) Veri Toplanması: İHC (%100) Veri Analizi: İHC (%100) Makalenin Yazımı: İHC (%100) Makale Gönderimi ve Revizyonu: İHC (%100)	**Author Contributions**	Research Design: İHC (%100) Data Collection: İHC (%100) Data Analysis: İHC (%100) Writing the Article: İHC (%100) Article Submission and Revision: İHC (%100)
Etik Bildirim	iibfdergi@cumhuriyet.edu.tr	**Complaints**	iibfdergi@cumhuriyet.edu.tr
Çıkar Çatışması	Çıkar çatışması beyan edilmemiştir.	**Conflicts of Interest**	The author(s) has no conflict of interest to declare
Finansman	Bu araştırmayı desteklemek için dış fon kullanılmamıştır.	**Grant Support**	The author(s) acknowledge that they received no external funding in support of this research.
Telif Hakkı & Lisans	Yazarlar dergide yayınlanan çalışmalarının telif hakkına sahiptirler ve çalışmaları **CC BY-NC 4.0** lisansı altında yayımlanmaktadır.	**Copyright & License**	Authors publishing with the journal retain the copyright to their work licensed under the **CC BY-NC 4.0**

References

Centel, N and Zafer, H. (2012). *Ceza Muhakemesi Hukuku*. Beta Yayınevi.

CMK (2024). https://www.mevzuat.gov.tr/mevzuatmetin/1.5.5271.pdf, accessed 12 March 2024.

Çağlar, D. D. (2011). Ceza Muhakemesinde Adli Arama. *TBB Dergisi*, (92), 157-180.

Çöpoğlu, H. S. (2019). Ceza Muhakemesi Hukukunda Arama Koruma Tedbirinde Belirlilik İlkesi. *Ankara Barosu Dergisi*, (1), 155-229. https://doi.org/10.30915/abd.556954

Doğan, D. Ç. (2011). Ceza Muhakemesinde Adli Arama. *TBB Dergisi*, (92), 157-180.

Dost, S. (2018). Uluslararası Hukukta Orantılılık İlkesi. *Uyuşmazlık Mahkemesi Dergisi*, (12), 361-399.

ECtHR, Adırbelli and the Others v Turkey App no 20775/03 (2 December 2008) https://hudoc.echr.coe.int/tur#{%22fulltext%22:[%22ad%C4%B1rbelli%22],%22languageisocode%22:[%22TUR%22],%22respondent%22:[%22TUR%22]}.

ECtHR, Ayetullah Ay v Turkey App nos 29084/07 and 1191/08 (27 October 2020) https://hudoc.echr.coe.int/tur#{%22tabview%22:[%22document%22],%22itemid%22:[%22001-210356%22]}.

ECtHR, Buck v Germany App No 41604/98 (28 April 2005) https://hudoc.echr.coe.int/eng#{%22appno%22:[%2241604/98%22],%22itemid%22:[%22001-68920%22]}.

ECtHR, Budak v Turkey App no 69762/12 (16 February 2021) https://hudoc.echr.coe.int/tur#{%22tabview%22:[%22document%22],%22itemid%22:[%22001-211627%22]}.

ECtHR, Bykoy v Russia App no 4378/02 (10 March 2009) https://hudoc.echr.coe.int/eng#{%22appno%22:[%224378/02%22],%22itemid%22:[%22001-91704%22]}.

ECtHR, Carmel Saliba v Malta App no 24221/13 (29 November 2016) https://hudoc.echr.coe.int/eng#{%22appno%22:[%2224221/13%22],%22itemid%22:[%22001-169057%22]}.

ECtHR, Delta Pekarny A. S. c Republique Tcheque App no 97/11 (2 Octobre 2014) https://hudoc.echr.coe.int/eng#{%22appno%22:[%2297/11%22],%22itemid%22:[%22001-147075%22]}.

ECtHR, Fındık v Turkey and Kartal v Turkey App nos 33898/11 and 35798/11 (9 October 2012) https://hudoc.echr.coe.int/tur#{%22fulltext%22:[%22f%C4%B1nd%C4%B1k%22],%22languageisocode%22:[%22TUR%22],%22respondent%22:[%22TUR%22]}.

ECtHR, H. E. v Turkey App no 30498/96 (22 December 2005) https://hudoc.echr.coe.int/fre#{%22languageisocode%22:[%22TUR%22],%22appno%22:[%2230498/96%22],%22documentcollectionid2%22:[%22CHAMBER%22],%22itemid%22:[%22001-121558%22]}.

ECtHR, Jalloh v Germany App no 54810/00 (11 July 2006) https://hudoc.echr.coe.int/eng#{%22appno%22:[%2254810/00%22],%22itemid%22:[%22001-76307%22]}.

ECtHR, Korkmaz and Others v Turkey App no 35979/97 (21 March 2006) https://hudoc.echr.coe.int/tur#{%22fulltext%22:[%22KORKMAZ%22],%22languageisocode%22:[%22TUR%22],%22respondent%22:[%22TUR%22]}.

ECtHR, Lisica v Croatia App no 20100/06 (25 February 2010) https://hudoc.echr.coe.int/eng#{%22appno%22:[%2220100/06%22],%22itemid%22:[%22001-97213%22]}.

ECtHR, Mahfuz Talu v Turkey App no 2118/10 (4 December 2012) https://hudoc.echr.coe.int/tur#{%22fulltext%22:[%22talu%22],%22languageisocode%22:[%22TUR%22],%22respondent%22:[%22TUR%22]}.
ECtHR, Moreira Ferreira v Portugal App no 19867/12 (11 July 2017) https://hudoc.echr.coe.int/eng#{%22appno%22:[%2219867/12%22],%22itemid%22:[%22001-175646%22]}.
ECtHR, Nebahat Tüzer and Muhammet Sait Tüzer v Turkey App no 22519/06 (17 December 2013) https://hudoc.echr.coe.int/tur#{%22fulltext%22:[%22t%C3%BCzer%22],%22languageisocode%22:[%22TUR%22],%22respondent%22:[%22TUR%22]}.
ECtHR, Niemietz v Germany App no 13710/88 (16 December 1992) https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-57887%22]}.
ECtHR, Oner and Others v Turkey App no 64684/01 (25 October 2005) https://hudoc.echr.coe.int/tur#{%22fulltext%22:[%22%C3%B6ner%22],%22languageisocode%22:[%22TUR%22],%22respondent%22:[%22TUR%22]}.
ECtHR, Oral and Atabay v Turkey App no 39686/02 (23 June 2009) https://hudoc.echr.coe.int/tur#{%22fulltext%22:[%22oral%22],%22languageisocode%22:[%22TUR%22],%22respondent%22:[%22TUR%22]}.
ECtHR, Ozçelik v Turkey App no 56497/00 (20 February 2007) https://hudoc.echr.coe.int/tur#{%22fulltext%22:[%22%C3%B6z%C3%A7elik%22],%22languageisocode%22:[%22TUR%22],%22respondent%22:[%22TUR%22]}.
ECtHR, Paradiso and Campanelli v Italy App no 25358/12 (24 January 2017) https://hudoc.echr.coe.int/eng#{%22appno%22:[%2225358/12%22],%22itemid%22:[%22001-170359%22]}.
ECtHR, Pehlivan v Turkey App no 4233/03 (9 December 2008) https://hudoc.echr.coe.int/tur#{%22fulltext%22:[%22pehlivan%22],%22languageisocode%22:[%22TUR%22],%22respondent%22:[%22TUR%22]}.
ECtHR, Robathin v Austria App no 30457/06 (3 July 2012) https://hudoc.echr.coe.int/eng#{%22appno%22:[%2230457/06%22],%22itemid%22:[%22001-111890%22]}.
ECtHR, Sher and Others v The United Kingdom App no 5201/11 (20 October 2015) https://hudoc.echr.coe.int/tur#{%22tabview%22:[%22document%22],%22itemid%22:[%22001-162505%22]}.
ECtHR, Varga c Roumanie App no 73957/01 (1 Avril 2008) https://hudoc.echr.coe.int/eng#{%22appno%22:[%2273957/01%22],%22itemid%22:[%22001-85643%22]}.
ECtHR, Yeşil v Turkey App no 28349/11 (19 October 2021) https://hudoc.echr.coe.int/tur#{%22tabview%22:[%22document%22],%22itemid%22:[%22001-215089%22]}.
ECtHR, Zhang v Ukraine App no 6970/15 (13 November 2018) https://hudoc.echr.coe.int/eng#{%22appno%22:[%226970/15%22],%22itemid%22:[%22001-187602%22]}.
Erdoğan, M. (2002). *İnsan Hakları Teorisi ve Hukuku*. Orion Yayınevi.
Frias, A. S. (2013). *Avrupa İnsan Hakları Mahkemesi İçtihadında Terörle Mücadele ve İnsan Hakları*. Kamu Düzeni ve Güvenliği Yayınları.
Kaya, B. (2022). *İnsan Haklarının Korunması Bağlamında Avrupa Konseyi Terörizmin Önlenmesi Sözleşmesinin Değerlendirilmesi.* Dicle Üniversitesi.
Kiziroğlu, S. K. (2009). 5271 Sayılı Ceza Muhakemesi Kanunu'nda Basit Arama (Adli Arama). *Ankara Üniversitesi Hukuk Fakültesi Dergisi, 58*(1), 139-168. https://doi.org/10.1501/Hukfak_0000001566
Kocaoğlu, S. S. (2012). Üst ve Büro Araması, Postada El Koyma, İletişimin Denetlenmesi Gibi Çeşitli Koruma Tedbirlerinin Pasif Öznesi Olarak Kuram ve Uygulamada Avukatın Bağımsızlığı. *Ankara Barosu Dergisi,* (1), 43-69.
Kunter, N., Yenisey, F. and Nuhoğlu A. (2006). *Muhakeme Hukuku Dalı Olarak Ceza Muhakemesi Hukuku*. Beta Yayınevi.
Özbek, V. Ö. (2005). *Yeni Ceza Muhakemesi Kanununun Anlamı (Gerekçeli-İçtihatlı)*. Seçkin Yayınevi.
Özbudun, E. (2011). *Türk Anayasa Hukuku*. Yetkin Yayınları.
Özel, K. C. (2019). Bir Koruma Tedbiri Olarak Arama. *D.E.Ü. Hukuk Fakültesi Dergisi*, *21*(Özel Sayı), 1217-1266.
Seyyidoğlu, M. S. (2021). Ceza Muhakemesi Hukukunda Arama ve El Koyma. *İnsan ve Sosyal Bilimler Dergisi*, *4*(1), 11-32. https://doi.org/10.53048/johass.855801
Şahin, E. (2015). Sayısal Delilin Ortaya Çıkarılması Kapsamında Koruma Tedbirleri. *International Journal of Legal Progress*, *1*(2), 88-106. https://doi.org/10.20978/ijlp.80518
Türk Dil Kurumu (2024). *Güncel Türkçe Sözlük*, https://sozluk.gov.tr/
Türk Dil Kurumu (2025). *Güncel Türkçe Sözlük*, https://sozluk.gov.tr/
Uslu, F. (2007). Ceza Yargılaması Hukukunda Koruma Önlemi Olarak Konutta Arama. *İstanbul Barosu Dergisi*, (Özel Sayı), 47-61.
Ünver, Y. and Hakeri, H. (2012). *Ceza Muhakemesi Hukuku.* Adalet Yayınevi.
Yılmaz, Y. (2016). Bir Ceza Muhakemesi Hukuku İşlemi Olarak Adli Arama. *TBB Dergisi*, (124), 247-304.