

The Right to Silence and Related Rights in Pre-Trial Suspects' Interrogations in the EU



Welcome to the EmpRiSe Ireland Training Programme on the Right to Silence in Garda Custody.

Below you will find links to the e-learning content for this Training Programme. There is just over an hour of “Essential E-learning Content” and nearly two hours of “Optional Extras” should you wish to access those also. **Please be sure to access and watch/listen to each of the Essential videos in advance of your face-to-face Zoom session.** We will assume in that session that you are up-to-date on the law and practice as outlined in these videos, and the face-to-face sessions will focus more on enhancing your ability to offer client-centred advice on the exercise of the right to silence for persons detained for questioning in garda custody.

We have also asked you to **provide a brief reflection** in advance of the face-to-face session. This will help you to begin thinking specifically about the right to silence, and will assist the trainers in directing the training in a specifically meaningful way for participants.

Essential E-learning Content

[Introduction - EmpRiSe - Right to Silence Training](#) (3 mins)

[EmpRiSe e-learning A – Law and Practice on Right to Silence](#) (15 mins)

[EmpRiSe e-learning B – Inferences](#) (30 mins)

[EmpRiSe e-learning C – Recent case-law](#) (20 mins)

Reflection

In advance of your face-to-face session, please write a brief reflection on a difficult situation that you have encountered in advising a client in relation to the right to silence. You should give some of the details of the situation, while maintaining your client’s anonymity, and an indication of (a) why you found the situation challenging, (b) what approach you adopted in the circumstances, and (c) an explanation of why you adopted that approach.



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 **Maastricht University**

 **Universiteit Antwerpen**

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Optional Extras

The following two videos were recorded for other events, but are available should you be interested in watching them. They give further insight on the empirical findings of the EmpRiSe project in Ireland.

[Silence, Prepared Statements, and Evidence at Trial](#) (1 hour)

[The Law and Practice of Inferring from Suspect Silence in Garda Interviews](#) (43 mins)

Recommended Reading

You may be interested in accessing some of these readings on the right to silence in Ireland.

Books

Fennell, Caroline *The Law of Evidence in Ireland*, 4th edition, Bloomsbury Professional, 2020 – Chapter 9

Heffernan, Liz *Evidence in Criminal Trials*, 2nd Edition, Bloomsbury Professional, 2020 - Chapter 13

Journal Articles

Jackson, John "Re-Conceptualizing the Right to Silence as an Effective Fair Trial Standard" (2009) 58 *International and Comparative Law Quarterly* 835

Daly, Yvonne Marie "Is Silence Golden? The Legislative and Judicial Treatment of Pre-Trial Silence in Ireland" (2009) 31 *Dublin University Law Journal* 35

Daly, Yvonne Marie "[The Right to Silence: Inferences and Interference](#)" (2014) 47(1) *Australian and New Zealand Journal of Criminology* 59

Daly, Yvonne Marie "[Detained suspects, prepared statements and the right to silence: DPP v M \[2018\] IESC 21](#)" (2019) 1 *Irish Supreme Court Review* 206

Daly, Yvonne, Pivaty, Anna, Marchesi, Diletta, and ter Vrught, Peggy "[Human Rights Protections in Drawing Inferences from Criminal Suspects' Silence](#)" (2021) 21(3) *Human Rights Law Review* 696

McGillicuddy, Tony "Restrictions on the Right to Silence under the Criminal Justice Act 2007" Part I (2008) 18(3) *Irish Criminal Law Journal* 77 and Part II (2008) 18(4) *Irish Criminal Law Journal* 112



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