

Summary for general public

The right not to incriminate oneself is a cornerstone of the modern criminal justice system. It prohibits to legally oblige or compel a person to provide information that could reasonably lead to the person's prosecution for a criminal offence. It can be seen, however, that during last decades the right not to incriminate oneself is in crisis. Its purpose, scope and applicability have become a matter of numerous controversies. The digital revolution and its influence on evidence gathering resulted in further controversies, regarding e.g. whether compelled decryption violates the *nemo se ipsum accusare tenetur* principle. Since the concept of the right not to incriminate oneself has become obscure there is a pressing need of its clarification. The challenges brought by the digitalization of everyday life create a perfect opportunity to reconsider the original rationale, role and meaning of the right not to incriminate oneself in criminal proceedings.

The objective of the project's research is to establish how the right not to incriminate oneself should be understood in the digital era. As the challenges brought by digitalization of everyday life are also affecting criminal proceedings in a significant manner, the research studies the impact of new technologies on the discussed right. However in order to reinterpret the *nemo se ipsum accusare tenetur* principle in line with the changing reality we have to go back to its roots and answer the question of what is the essence, purpose, rationale and scope of applicability of right not to incriminate oneself. The project analyzes what is the rationale of the right not to incriminate oneself, how it was originally defined and the evolution of its understanding. Finally it attempts to answer the question if the original assumptions regarding right not to incriminate oneself are still valid in the XXI century or they need to be reinterpreted to answer the challenges we are facing in the world of rapid scientific and technological development.

The research will be based mainly on the analytic, dogmatic and comparative method. The analytic and dogmatic method will be used to detect the meaning of legal norms contained in the applicable legal acts in analyzed national legal systems (England and Wales, USA, Germany, France, Italy, Spain, Belgium and Poland) as well as in international law (including the European Convention on Human Rights and EU law - Directive 2016/343 of the European Parliament and of the Council of 9 March 2016 on the strengthening of certain aspects of the presumption of innocence and of the right to be present at the trial in criminal proceedings). This part of the research will also include a comprehensive study of the legal doctrine as well as case law analysis in order to present practical applications of the legal norms in question. It will allow to identify the general nature, purpose and scope of the right not to incriminate oneself as well as remedies accessible in case of violation of the discussed right.

The comparative method will be used to identify both common elements and differences in understanding of the right not to incriminate oneself. The analysis of common law and continental law jurisdictions is planned. As for the common law countries, the focus will be primarily on England and Wales as the mother-system of all common law jurisdictions. The attention will also be directed at the US federal law. As far as the continental system is concerned, the project will focus on law and practice in Germany and France. The analysis will be supplemented with the study of legal systems of Belgium, Italy, Spain and Poland.

The project will result in publication of scientific articles in renowned international and Polish legal journals as well as collected volumes published by recognized publishing houses. The dissemination of the project will be also carried on through the presentation of its results during both national and international conferences. This will enable to expand the reach of the project among academia both in Poland and abroad.