

The new landscape of suspects' rights in Europe: moving backwards in England and Wales?

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The decision of the European Court of Human Rights (ECtHR) in *Salduz v Turkey* led to considerable reforms of custodial interrogation regimes in European countries that had long resisted recognition of suspects' rights such as the right to legal assistance and notification of the right to silence. *Salduz* unsettled custodial interrogation practice in France, Belgium, Scotland and the Netherlands, while it also accelerated efforts to create common minimum standards on the rights of suspects across the EU, most notably through a Directive on the right to access to a lawyer. At the same time, the British government has so far refrained from opting in the proposed Directive, while developments within the law of England and Wales demonstrate a move away from a rights-centred approach towards custodial interrogation. A gradually increasing reliance on assigning custodial legal assistance to non-solicitor staff and restricting opportunities for face-to-face consultation with legal counsel, coupled with an ever-shrinking legal aid budget and the use of a full-blown system of adverse inferences impacting upon lawyers' ability to adopt an adversarial approach to police interrogation, offer an illustration of such developments. Taking this observation as its starting point, this paper will offer an analysis of why the UK might be moving backwards and away from the due process-centred model of custodial interrogation that it was one of the first countries to adopt in Europe (with PACE 1984 and the relevant Codes of Practice), paradoxically at a time when Europe is finally waking up to the need to adopt such a model.