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Translation and interpretation in criminal proceedings.

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ERA ACADEMY OF EUROPEAN LAW LISBON, 27-28 FEBRUARY 2020

“PROCEDURAL RIGHTS IN THE EU: STATUS QUO AND THE NEED FOR FURTHER MEASURES”

AREA

mutual recognition

FREEDOM, JUSTICE

SECURITY

POST TAMPERE 1999

trust

procedural rights

*the rights of individuals in criminal
procedure (art 82 TFEU) - fundamental
rights (ECJ)*

*“procedural
rights”*



- ▶ *Legal Aid Reform (Measure C2)*
- ▶ *Vulnerable Accused and Suspected Persons (Measure E)*
- ▶ *Pre-Trial Detention (Measure F)*
- ▶ *Presumption of Innocence*

Access to a Lawyer (C1)

*Right to
Information (B)*

*Right to
Interpretation and
Translation (a)*

ROADMAP
[STOCKHOLM PROGRAM 2009]

**"FIRST EU FAIR
TRIAL LAW"**

B right to Information
(direttiva 2012/13/UE)
22 maggio 2012

A right to
Interpretation and
Translation

(direttiva 2010/64/UE)
20 ottobre 2010

**The Roadmap is designed to
operate as a whole; only when all
its components are implemented
will its benefits be felt in full.**

(considerandum 9 directive 2013/48/UE).

C access to a lawyer

(direttiva 2013/48/UE)
22 ottobre 2013

Directive 2010/64/EU

RIGHT TO INTERPRETATION AND TRANSLATION IN CRIMINAL PROCEEDINGS

- ✓ *Quality (ensure fair trial and rights of defense)*
- ✓ *no costs for individuals*
- ✓ *Court assessment*
- ✓ *register of independent translators and interpreters*
- ✓ *Waiver translation: informed, unequivocal and voluntarily*
- ✓ *List of essential documents*

vs. case law and Law 32/2014

Art 143 It. cpp

- *quality? NO*

competence of interpreters / translators

*Appointment of registers interpreter translator is not necessary
(see ECtHR Amanda Knox Case, 2019)*

No chance for challenging need or quality

- *Free of costs? yes*

- *assessment? Police forces*

- *defense? SI*

(..)

- ✓ *No translation or interpretation?*

Time limit

*(Cass. sez. 111
07/04/2015, 32709)*

- ✓ *nullity can be "healed" 183
c.p.p.*

- ✓ *special proceedings*

- ✓ *review of pretrial
detention order*

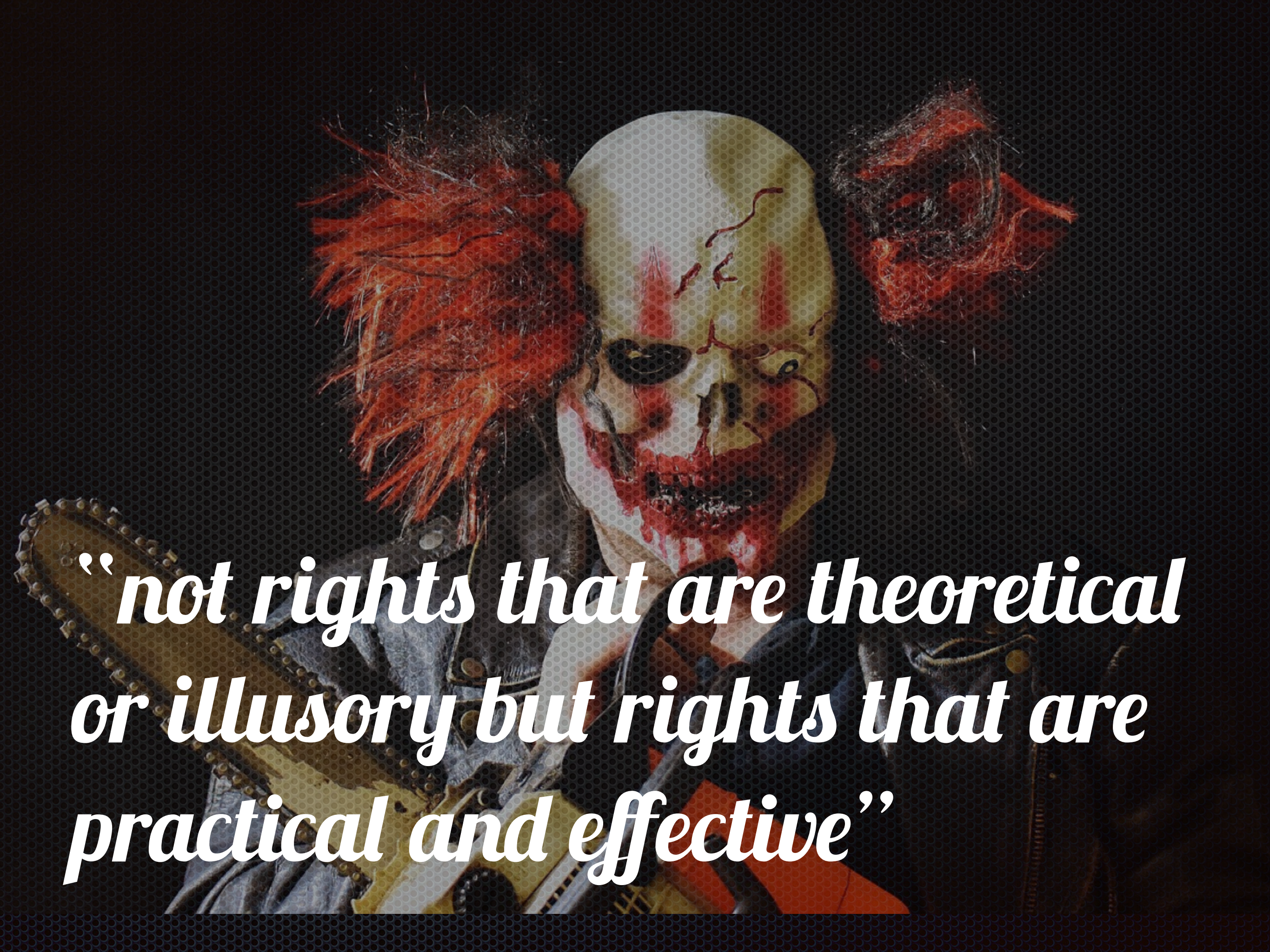
case law

implicit waiver

- ✓ *who assesses knowledge of
quality?*

Cass., sez. V, 09/10/2014 n. 52245

REMEDIES?



*“not rights that are theoretical
or illusory but rights that are
practical and effective”*

A conceptual image showing a person from the chest down, wearing a white dress shirt, a dark blue striped tie, and a dark suit jacket. Instead of hands, they are wearing two large, bright red boxing gloves. The background is dark and out of focus.

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