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Nota di contenuto	Introduction -- 1. The general concept of "due process of law" and its application -- in the continental and English legal system -- 1.1 . "Due process" in common law countries -- 1.2. German concept of "fair trial" -- 1.3. The concept of "fair trial" in the Polish legal system -- 2. The principle of "equality of arms" as a significant element of the notion of "fair trial" developed by the European Court of Human Rights -- 2.1. The formal scope of application of the concept of "fair trial" -- 2.2. Relationship between Article 6 paragraph 1 and the standard of minimum guarantees provided for the accused person in Article 6 paragraphs 2 and 3 of the Convention -- 2.3. "Equality of arms" under Article 6 of the Convention -- 2.3.1. Equality between the parties in the institutional framework of criminal procedure -- 2.3.2. The "equality of arms" principle and evidence in criminal procedure -- 3. The principle of "equality of arms" and the rights of witnesses in criminal procedure -- 3.1. The notion of an anonymous witness -- 3.2. The European Court on anonymous witnesses -- 4. "Equality of arms" in different models of criminal procedure in Europe -- 4.1. The scope of application of the principle in adversary criminal justice in common law

countries -- 4.2. Criminal procedure and the principle of "equality of arms" in Poland and Germany -- 4.3. "Equality of arms" - philosophical concept or reality? -- 5. Conclusions - the case law related to Article 6 of the European Convention on Human Rights as creation of a new standard of rights in criminal procedure.

Sommario/riassunto

The paper deals with one of the significant aspect of fairness in criminal cases, the concept of "equality of arms". The considerations focus initially on the analysis of the scope and meaning of the notion of "equality of arms" in the case-law of the European Commission and the European Court of Human Rights under Article 6 of the European Convention on Human Rights. The author reviewed the Strasbourg case-law on the concept of "equality of arms" in the context of three different but connected procedural topics: equality between the parties in the institutional framework of criminal proceedings, "equality of arms" principle in the evidentiary proceedings in general and "equality of arms" under Article 6 of the Convention in the jurisprudence concerning criminal trials involving anonymous witnesses. Subsequent chapters of the paper survey the application of this notion to different models of criminal procedure, namely to the common law system (of which England is a good example) and to the model of procedure adopted in the countries of Continental Europe (e.g. Germany and Poland). The analysis does not provide for a comprehensive treatment of all national regulations concerning the issue of equality between the parties in a criminal process. Its objective is rather to emphasise the general approach to the principle of "equality of arms" in different models of criminal justice. The final chapter of the paper focuses on the issue of the possible convergence of different models of criminal procedure adopted in Europe with the one model based on the standards and principles emerged from the jurisprudence of the organs of the Convention.
