

The Convergence of Continental Criminal Law and Common Law Systems in the Context of Legal Globalization

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Abstract

This study examines the interaction between continental law (civil law) and Anglo-Saxon (common law) focusing on their historical foundations and the main structural differences regarding the sources of law, the role of the judge and criminal procedure. It argues that legal globalization and the internationalization of criminal law have led to increasing functional convergence, reflected in the growing role of case law in civil law systems and codification trends in common law jurisdictions. A comparative analysis of Romania, the United States, France, and the United Kingdom shows both procedural convergence and persistent institutional and cultural differences. The study concludes that convergence is progressive but partial, as each legal system retains its distinct identity shaped by its historical and cultural background.

Keywords: common law; legal convergence; case law; codification; legal globalization; judicial precedent; continental system.

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1. Introduction

Contemporary criminal law is the product of a complex historical and institutional evolution, fundamentally marked by two major legal traditions: the civil law system and the common law system. These traditions do not simply represent different regulatory techniques, but rather distinct legal paradigms, reflecting different conceptions of legal norms, the role of the state and the function of the judge in the administration of criminal justice.

The continental law system is characterized by the centrality of codified

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law and a legal structure oriented towards systemic coherence and predictability. In this model, the role of the judge traditionally consists of applying the law within a pre-existing normative framework. In contrast, the common law system develops mainly through case law, based on the principle of binding precedent (*stare decisis*), where the judge plays an active role in the formation and evolution of the law through interpretation and gradual development.

However, the literature emphasizes that these systems cannot be understood only through a binary opposition, as they represent legal phenomena deeply rooted in culture and institutions. In the context of legal globalization, regional integration and the consolidation of supranational jurisdictions, the traditional differences between the two legal systems tend to diminish, giving way to processes of functional convergence.

This convergence is manifested through the progressive judicialization of continental legal systems, the development of codification and standardization mechanisms in common law, and the harmonization of criminal law at international and European level, especially within the European Union and the European human rights system.

In this context, the central hypothesis of this study argues that continental criminal and common law systems are evolving towards a gradual functional convergence under the influence of global and supranational pressures, without however achieving complete uniformity. The persistence of institutional and cultural differences determines the maintenance of distinct legal identities, despite functional proximity.

Therefore, the analytical objective of this research is to analyze this convergence dynamic, as well as its structural limits, within a criminal law system characterized by normative pluralism and transnational interaction.

2. A Comparative Functional Framework of Criminal Law Convergence

This study develops a structured comparative framework for analyzing the evolving relationship between civil law (continental law) and common law traditions in criminal justice. Rather than viewing these legal families as strictly opposed systems, defined by binary distinctions such as codification versus precedent or inquisitorial versus adversarial procedure, the analysis conceives of their interaction as a process of functional convergence within a multi-level legal order.

Functional convergence is defined here, in a strictly analytical sense, as the progressive alignment of legal outcomes, institutional practices, and procedural rules across jurisdictions, without implying doctrinal uniformity or structural assimilation. It is analytically distinct from (i) legal harmonization, understood as deliberate normative convergence through formal instruments, and (ii) systemic unification, understood as the replacement of different legal systems by

a single normative framework.

From this perspective, convergence is driven by three interdependent processes: supranational judicialization, the establishment of transnational legal standards, and the diffusion of regulations. These processes generate selective institutional adaptation while preserving underlying doctrinal diversity. As a result, formal legal categories remain differentiated, while functional outcomes increasingly converge across legal systems.

To understand this dynamic, the study proposes a multi-layered model of criminal law transformation, encompassing national legal systems, supranational jurisdictional regimes, and international legal frameworks. In this model, convergence is nonlinear, asymmetric, and path-dependent. Its evolution is driven by inherited institutional structures, variations in judicial authority, and different levels of codification density across jurisdictions.

The analysis identifies four main mechanisms of functional convergence in contemporary criminal justice:

- (i) Judicial expansion in civil law systems, characterized by the growing normative authority of constitutional and supranational courts;
- (ii) Selective codification in common law systems, reflected in the growing role of legislative consolidation and model criminal laws;
- (iii) Procedural diffusion, in particular the spread of negotiated and consensual mechanisms within both legal families; and
- (iv) Rights-based transnationalization, defined by the consolidation of common norms derived from human rights jurisprudence and international criminal law.

These mechanisms function as interdependent factors of institutional change, rather than as isolated reforms.

Methodologically, the study integrates classical comparative legal analysis with socio-legal and empirical approaches, including the origins of legal theory and research on judicial behavior in multi-level governance contexts. This combined approach allows us to analyze how legal categories evolve through institutional practice, in addition to legislative design.

Supranational criminal law is conceptualized as a constitutive normative layer within this structure. Instruments such as the European Convention on Human Rights, the case law of the European Court of Human Rights, the harmonization of European Union criminal law, and international criminal jurisdiction serve as sources of legal norms². In this framework, supranational jurisprudence directly contributes to the redefinition of legality, procedural fairness, and criminal liability within national legal systems.

² Kai Ambos, *Treatise on International Criminal Law. Volume III: International Criminal Procedure*, 2nd ed. (Oxford: Oxford University Press, 2024), 1–98, <https://doi.org/10.1093/law/9780192868664.001.0001>.

3. Historical and Conceptual Foundations

3.1. The Continental System

The continental legal system has its origins in Roman law, one of the most sophisticated legal constructs of antiquity. Its foundation is the *Corpus Iuris Civilis*, codified under Emperor Justinian in the 6th century, which ensured the preservation and systematization of Roman legal principles that later shaped continental European law.

The rediscovery of Roman law in the Middle Ages, especially through the School of Bologna, generated an academic tradition based on rational interpretation and systematization.

The work of the Roman jurist Q. Mucius Scaevola, “Treatise on *Jus Civile*”, is said to have “laid the foundations not merely of Roman, but of European, jurisprudence”³, allowing for the unification of European legal thought.

This tradition produced a legal culture in which the law is understood as a coherent system of hierarchically organized general norms, rather than as isolated judicial solutions, emphasizing structured legal reasoning at the expense of case-based development.

A defining moment in modern continental law is codification, especially the French Civil Code of 1804, which established the supremacy of written law and normative clarity. The Napoleonic Code became a model for many legal systems. Napoleon said: “I have won 40 battles, but that means nothing, Waterloo will erase the memory of all my victories; my eternal glory will be the Civil Code”⁴.

From a doctrinal perspective, codification rationalizes law and limits judicial arbitrariness. Jan Peter Schmidt explains that “Today the term codification is generally used in the modern technical sense of the word that was coined by Jeremy Bentham. It denominates the legislative technique of stating an entire field of law in a clear, systematic and comprehensive manner”⁵.

3.2. Common Law

The common law system originated in medieval England and was consolidated after 1066, with the centralization of justice under the Norman crown.

³ Harold J. Berman, *Law and Revolution: The Formation of the Western Legal Tradition* (Cambridge, MA: Harvard University Press, 1983), 135.

⁴ Ion Predescu, “Elogiu Codului Civil,” *Revista de Științe Juridice*, no. 1 (2006): 7–9, <https://drept.ucv.ro/RSJ/images/articole/2006/RSJ1/0101PredescuIon.pdf>.

⁵ Jan Peter Schmidt, “Codification,” in *The Max Planck Encyclopedia of European Private Law*, ed. Jürgen Basedow, Klaus J. Hopt, and Reinhard Zimmermann, vol. 1 (Oxford: Oxford University Press, 2012), 221–225, <https://max-eup2012.mpipriv.de/index.php/Codification>.

The creation of itinerant royal courts and, later, the courts at Westminster led to the unification of English law, replacing local customary rules with a coherent judicial system.

In legal doctrine, common law is understood as law developed to a significant extent through judicial decisions. Baker's historical account shows that English law developed through case law, equity, and legislation, while systematic reform and codification played a comparatively limited role until the modern period⁶

An essential feature of common law is precedent (*stare decisis*), which obliges courts to respect previous decisions in similar cases. This ensures coherence, predictability and gradual legal development.

Holmes states⁷: „The life of the law has not been logic: it has been experience.” This highlights the empirical evolution of legal norms through judicial practice.

Gennaioli and Shleifer argue that:

- „the law evolves when judges distinguish cases from precedents rather than just overrule precedents”;

- „... distinguishing brings new data into dispute resolution, thereby increasing the precision of legal rules...”

- „... policy-motivated judges distort the law away from efficiency...”

They conclude: „even when judges are motivated by personal agendas, legal evolution is, on average, beneficial because it washes out judicial biases and renders the law more precise.”⁸

Common law judges do not simply apply the law; they are also indirect legislators. By interpreting, distinguishing, and overruling precedents, they actively shape legal development. Eisenberg states: „The common law, in contrast, is that part of the law that is established by the courts. The rules established in every common law case ... are a product of the interplay between the rules announced in past precedents ... and moral norms, policies, and experience. Courts consciously take on the function of developing certain bodies of law, albeit on a case-by-case basis. The rules established in every common law case are a product of the interplay between prior precedents and background norms, policies, and experience”.⁹

⁶ John Baker, *An Introduction to English Legal History*, 5th ed. (Oxford: Oxford University Press, 2019), <https://doi.org/10.1093/oso/9780198812609.001.0001>.

⁷ Oliver Wendell Holmes Jr., *The Common Law* (Boston: Little, Brown, 1881), 1.

⁸ Nicola Gennaioli and Andrei Shleifer, “The Evolution of Common Law,” *Journal of Political Economy* 115, no. 1 (2007): 43–68, <https://doi.org/10.1086/511996>.

⁹ Melvin Aron Eisenberg, *The Nature of the Common Law* (Cambridge, MA: Harvard University Press, 1988).

3.3. Classical Structural Differences

The distinction between continental law and common law is essential in comparative law. The differences lie in the sources of law, the judicial function and the procedure. However, modern scholarship emphasizes an increasing convergence due to globalization and institutional interaction.

Continental law systems traditionally assign a central role to legislation and codification. Common-law systems traditionally assign a major law-making role to judicial decisions, although statutes also constitute an important source of law¹⁰

Continental law judges apply pre-existing norms under the prerogative of legislative supremacy (“la bouche de la loi”), “the judges of the nation are... only the mouth that pronounces the words of the law, inanimate beings who cannot moderate its force or rigor”¹¹.

Civil law systems are traditionally associated with the inquisitorial model and common-law systems with the adversarial model, although contemporary systems frequently combine elements of both. Langbein’s historical analysis shows how the English criminal trial evolved toward lawyer-dominated adversarial contest and away from earlier forms of judicially directed inquiry¹².

Continental law is based on codification and a systematic legal structure. Common law evolves gradually, through judicial decisions. Eisenberg describes this as „a product of the interplay between the rules announced in past precedents, on the one hand, and moral norms, policies, and experience, on the other”¹³.

Modern comparative law highlights increasing interaction between continental and common-law systems under the influence of globalization and supranational courts. Civil-law systems increasingly give jurisprudence a practical law-shaping role, while common-law jurisdictions make extensive use of legislation and codification. Zweigert and Kötz’s comparative method cautions against treating legal families as self-contained and impermeable categories¹⁴

In general, modern legal systems display hybrid characteristics, shaped by institutional convergence and mutual influence.

¹⁰ Konrad Zweigert and Hein Kötz, *An Introduction to Comparative Law*, trans. Tony Weir, 3rd rev. ed. (Oxford: Clarendon Press, 1998).

¹¹ Charles-Louis de Secondat, Baron de Montesquieu, *De l’esprit des lois* (Geneva: Barrillot & Fils, 1748), bk. 11, chap. 6.

¹² John H. Langbein, “The Criminal Trial before the Lawyers,” *University of Chicago Law Review* 45, no. 2 (1978): 263–316, <https://doi.org/10.2307/1599166>.

¹³ Eisenberg, *Nature of the Common Law*.

¹⁴ Zweigert and Kötz, *Introduction to Comparative Law*.

4. Convergences in Contemporary Criminal Law

4.1. Europeanization of Criminal Law and Judicial Integration

In contemporary criminal law, the influence of the jurisprudence of the European Court of Human Rights and the integration of the standards of the European Convention on Human Rights into domestic law can be observed in continental legal systems. Thus, procedural guarantees have a higher authority than national legislation.

In support of this statement, we recall the *Salduz v. Turkey Case*¹⁵, the Court ruled that in order for the right to a fair trial to remain sufficiently ‘practical and effective’, Article 6 § 1 requires that, as a rule, access to a lawyer should be provided as from the first interrogation of a suspect by the police...”.

Thus, the role of the judge, as an active interpreter of the law, was strengthened, creating a bridge between the civil law and common law systems.

Piet Hein van Kempen and Joeri Bemelmans¹⁶ examine the growing influence of EU fundamental-rights law on substantive criminal-law principles, including guilt and ne bis in idem, within a still incomplete European criminal justice framework.

This development:

- confirms that national criminal law is losing ground to European law;
- European case law is playing an increasingly important role.

The principle of ne bis in idem is another significant example. Through case law, this principle is developing from a national rule into an autonomous European standard.

Ger Coffey¹⁷ notes: „The ne bis in idem principle (procedural defence) proscribes multiple criminal proceedings and punishments for the same criminal offence/conduct...CJEU and ECtHR jurisprudence have delineated the scope and limitations of the procedural defence and the two European courts have reciprocally influenced their respective case law.”

This shows that criminal law is:

- uniformly interpreted at European level;
- depends also on case law, not only on legislation.

¹⁵ *Salduz v. Turkey* [GC], no. 36391/02, § 55 (ECtHR, November 27, 2008), ECLI:CE:ECHR:2008:1127JUD003639102.

¹⁶ Piet Hein van Kempen and Joeri Bemelmans, “EU Protection of the Substantive Criminal Law Principles of Guilt and ne bis in idem under the Charter of Fundamental Rights: Underdevelopment and Overdevelopment in an Incomplete Criminal Justice Framework,” *New Journal of European Criminal Law* 9, no. 2 (2018): 247–264, <https://doi.org/10.1177/2032284418778146>.

¹⁷ Ger Coffey, “An Interpretative Analysis of the European ne bis in idem Principle through the Lens of ECHR, CFR and CISA Provisions: Are Three Streams Flowing in the Same Channel?,” *New Journal of European Criminal Law* 14, no. 3 (2023): 345–373, <https://doi.org/10.1177/20322844231160246>.

The scope of application of criminal law, through evolutionary interpretation, has been extended by the ECHR, „Article 7 embodies, inter alia, the principle that only the law can define a crime and prescribe a penalty.”¹⁸

This demonstrates that:

- criminal law is no longer based solely on legislation;
- the shaping of legal standards is achieved through the normative role of the judge.

The literature in the field supports the idea that the continental criminal law system accelerates the process of jurisprudentialization, an aspect that results from the following considerations:

- the ECHR has an important role in its quasi-constitutional capacity;
- national judges have transformed themselves into interpreters of European standards;
- the supremacy of legislation over criminal norms has eroded;
- the continental law system has entered a process of convergence with the common law system.

4.2. Codification in Common Law

The modern evolution of the common law system, even if traditionally associated with judicial development, highlights an evolutionary process of legislative systematization. Thus, the coherence of criminal norms increases and normative fragmentation decreases.

The trend that reflects this aspect very well is found in the Model Penal Code¹⁹, adopted by the American Law Institute in 1962. The Model Penal Code is a model code, not federal law, and therefore has no binding force; nevertheless, it has been highly influential in the revision and codification of substantive criminal law in the American states.

Through this Model Penal Code, the aim was to standardize American criminal law, because each state had its own normative system, an aspect that generated differences in the definition of crimes, sanctions and guilt.

Sanford Kadish, a distinguished criminal-law scholar, described the project as animated by “the spirit of root-and-branch rethinking and reformulation toward a more just and more effective criminal law”²⁰.

The Model Penal Code significantly influenced criminal-code revision and codification in many American states, without creating a uniform or binding national criminal code.

¹⁸ *Kokkinakis v. Greece*, no. 14307/88, § 52 (ECtHR, May 25, 1993), ECLI:CE:ECHR:1993:0525 JUD001430788.

¹⁹ American Law Institute, *Model Penal Code: Official Draft and Explanatory Notes* (Philadelphia: American Law Institute, 1962), <https://www.ali.org/publications/model-penal-code>.

²⁰ American Law Institute, “Codes and Majority Rules,” December 18, 2017, <https://www.ali.org/news/articles/codes-and-majority-rules>.

In fact, Markus D. Dubber refers to the Model Penal Code as a key to American criminal law: „Reflecting the Code’s attempt to present an accessible, comprehensive, and systematic account of American criminal law, this book unlocks the Code’s potential as a key to American criminal law.”²¹

4.3. Codification as Convergence Between Common Law and Continental Law

„In all common law jurisdictions, an abundance of statute law exists... judges develop, supplement and sometimes even alter the written law”²².

This process does not eliminate case law, but complements it, through a more stable regulatory framework.

The internationalization of criminal law reflects the harmonization of norms at regional and global levels:

- The European Convention on Human Rights influences criminal law through the case law of the Court;

- The International Criminal Court. The Rome Statute defines crimes such as genocide and war crimes and establishes the principles of criminal liability;

- The criminal law of the European Union harmonizes criminal offenses through directives, in areas such as terrorism and cybercrime. Ester Herlin-Karnell frames the constitutional difficulty through the question: „Is it possible to simply translate the harmonisation of trade standards into the harmonisation of criminal provisions?”²³

- Common core of principles. A transnational core of principles includes legality, fair trial, proportionality and the presumption of innocence.

5. Comparative Analysis

5.1. Romania vs. United States

Romania belongs to the continental legal tradition (civil law), characterized by the existence of a unified Criminal Code and a Code of Criminal Procedure that regulates the criminal process in a systematic way. Romanian criminal procedure retains significant elements of the European inquisitorial model: “the judicial body cannot remain a simple arbitrator who administers and evaluates the evidence proposed by the parties, having the obligation to establish the truth ex

²¹ Markus D. Dubber, *An Introduction to the Model Penal Code*, 2nd ed. (Oxford: Oxford University Press, 2015), viii, <https://doi.org/10.1093/acprof:oso/9780190243043.001.0001>.

²² J. G. Sauveplanne, *Codified and Judge Made Law: The Role of Courts and Legislators in Civil and Common Law Systems* (Amsterdam: North-Holland, 1982).

²³ Ester Herlin-Karnell, *The Constitutional Dimension of European Criminal Law* (Oxford: Hart Publishing, 2012), 2.

officio, ordering the administration of new evidence necessary to achieve this objective.... the conduct of the criminal trial must be oriented towards finding the truth and not towards accusing a person at any cost”²⁴. „In Romanian criminal proceedings, the court may order, ex officio or at the request of the parties, a new or supplementary expertise when the expert report is incomplete, unclear or contradictory. The judge is not bound by the expert’s opinion and freely assesses the evidence when forming his judgment”²⁵.

In contrast, the American legal system belongs to the common law tradition and operates predominantly according to the adversarial model. „Procedural systems are configured as a confrontation between prosecution and defense, while the judge acts primarily as a neutral arbitrator...”²⁶ Thus, the emphasis is placed less on the formal search for objective truth and more on respecting procedural fairness and equality of arms.

A defining feature of the criminal justice system in the United States is plea bargaining. Comparative scholarship treats negotiated guilty pleas as a central mechanism of contemporary criminal adjudication²⁷. This mechanism transforms criminal proceedings into a process of procedural negotiation and is commonly justified by considerations of efficiency and the avoidance of lengthy trials. Jenny Roberts observes that ninety-five percent of convictions follow guilty pleas rather than trials²⁸. At the same time, American scholarship has emphasized the coercive risks of plea bargaining, including the pressure created by the prospect of a substantially harsher sentence after trial²⁹.

The fundamental distinction between the two systems therefore lies in the underlying logic of criminal procedure. In the continental model represented here by Romania, the official fact-finding function and the institutional search for truth traditionally occupy a more prominent place³⁰. The adversarial American model assigns a greater role to procedural competition between prosecution and defence in the production and testing of evidence.

²⁴ Ovidiu Predescu and Gheorghe Ivan, “Marile sisteme procesuale penale și sistemul procesual penal român,” *Revista Pro Lege*, no. 1 (2017): 15–25, <https://portal.penalmente.ro/index.php/10098/>.

²⁵ Adrian Șandru, “The Use of Experts in Criminal Proceedings in Romania: Inquisitorial Background and Future Trends,” *RAIS Conference Proceedings* (2021), paper 0112, <https://ideas.repec.org/p/smo/lpaper/0112.html>.

²⁶ Mar Jimeno Bulnes, “El proceso penal en los sistemas del Common Law y Civil Law: los modelos acusatorio e inquisitivo en pleno siglo XXI,” *Justicia* 2013, no. 2 (2013): 201–304.

²⁷ Jacqueline S. Hodgson, “Plea Bargaining: A Comparative Analysis,” Warwick School of Law Research Paper no. 2013/29 (December 12, 2013), <https://ssrn.com/abstract=2366847>.

²⁸ Jenny Roberts, “Effective Plea Bargaining Counsel,” *Yale Law Journal* 122 (2013): 2650, <https://yalelawjournal.org/essay/effective-plea-bargaining-counsel>.

²⁹ H. Mitchell Caldwell, “Coercive Plea Bargaining: The Unrecognized Scourge of the Justice System,” *Catholic University Law Review* 61 (2012): 63–96, <https://scholarship.law.edu/law-review/vol61/iss1/2/>.

³⁰ Mirjan R. Damaška, *The Faces of Justice and State Authority: A Comparative Approach to the Legal Process* (New Haven, CT: Yale University Press, 1986), 3–4.

Contemporary comparative studies nevertheless identify processes of convergence and hybridization between adversarial and inquisitorial traditions³¹. The structural differences between the traditions remain important, however, for understanding the institutional logic of criminal justice.

5.2. France vs. United Kingdom

France represents the classic continental-law tradition and retains important inquisitorial features in criminal procedure. A distinctive institution is the judicial investigation. Article 81 of the French Code of Criminal Procedure provides that the investigating judge carries out, in accordance with the law, all investigative acts considered useful for establishing the truth and investigates both incriminating and exculpatory matters³². The search for material truth is therefore institutionally integrated into the pre-trial phase.

The United Kingdom operates under the adversarial common law model. Criminal proceedings are structured around the procedural confrontation between the prosecution and the defence. „There is no impartial third party present, just the prosecution and defence, and the defence has the chance to question the witnesses³³“. The judge does not actively investigate the facts. He ensures procedural fairness, and the jury determines guilt, based on the evidence presented by the parties.

However, the European Convention on Human Rights, in particular through the requirements of Article 6, concerning the right to a fair trial, has influenced the convergence between the two systems: “The Court has developed a body of case-law reflecting the common principles underlying the notion of a fair trial in both common law and civil law systems.”³⁴

In France, reforms have progressively reduced the dominance of the investigating judge and strengthened adversarial safeguards in the pre-trial phase. Article 7(2) of Directive 2012/13/EU provides that “Member States shall ensure that access is granted at least to all material evidence in the possession of the competent authorities, whether for or against suspects or accused persons, ... in

³¹ Riccardo Montana, “Procedural Tradition in the Italian Criminal Justice System: The Semi-adversarial Reform in 1989 and the Inquisitorial Cultural Resistance to Adversarial Principles,” *The International Journal of Evidence & Proof* 20, no. 4 (2016): 289–304, <https://doi.org/10.1177/1365712716655164>.

³² France, *Code de procédure pénale*, art. 81, Légifrance, https://www.legifrance.gouv.fr/codes/article_lc/LEGIARTI000038369344.

³³ John D. Jackson and Sarah J. Summers, *The Internationalisation of Criminal Evidence: Beyond the Common Law and Civil Law Traditions* (Cambridge: Cambridge University Press, 2012), <https://doi.org/10.1017/CBO9781139093606>.

³⁴ European Court of Human Rights, *Guide on Article 6 of the European Convention on Human Rights: Right to a Fair Trial (Criminal Limb)*, updated August 31, 2025 (Strasbourg: Council of Europe/European Court of Human Rights), https://ks.echr.coe.int/documents/d/echr-ks/guide_art_6_criminal_eng.

order to safeguard the fairness of the proceedings and to prepare the defence³⁵”.

In the United Kingdom, ECHR case law has strengthened procedural safeguards, particularly with regard to disclosure obligations, equality of arms and protection against self-incrimination. „The right not to incriminate oneself is primarily concerned ... with respecting the will of an accused person to remain silent”³⁶.

France and the United Kingdom, therefore, remain rooted in distinct legal traditions. Contemporary criminal procedure, in both systems, reflects a process of hybridization. This convergence is particularly visible in the strengthening of fair trial guarantees. „Each party must be afforded a reasonable opportunity to present his case – including his evidence – under conditions that do not place him at a substantial disadvantage vis-à-vis his opponent³⁷”.

6. Conclusions

This study refers to the fact that contemporary criminal law can no longer be understood through the traditional distinction between continental law and common law. Currently, it develops on three levels, old rules, systems are approaching each other, and European law influences national systems.

The traditions of continental law and common law continue to reflect distinct historical and institutional logics. These differences remain visible in the sources of law, judicial reasoning and procedural organization. However, these structural distinctions no longer function as absolute oppositions. Rather, they function as enduring institutional systems that condition, without entirely determining, contemporary legal developments.

At the functional level, the analysis reveals a clear trend towards procedural convergence between legal systems. This convergence is expressed in the progressive harmonisation of procedural guarantees, standards of evidence and guarantees of a fair trial. It is mainly determined by judicial interpretation. It is important to note that this process does not lead to doctrinal uniformity, but rather to a selective and asymmetrical harmonisation of legal practices. At the supranational level, institutions such as the European Court of Human Rights, the Court of Justice of the European Union and international criminal tribunals have become key actors in the development of contemporary criminal law. Through their case law, these bodies contribute to the formulation and dissemination of common legal standards relating to legality, proportionality, procedural fairness and

³⁵ European Parliament and Council of the European Union, Directive 2012/13/EU of May 22, 2012 on the Right to Information in Criminal Proceedings, art. 7(2), *Official Journal of the European Union* L 142 (June 1, 2012): 1–10, <https://eur-lex.europa.eu/eli/dir/2012/13/oj/eng>.

³⁶ *Saunders v. the United Kingdom* [GC], no. 19187/91, § 69 (ECtHR, December 17, 1996), ECLI:CE:ECHR:1996:1217JUD001918791.

³⁷ *Dombo Beheer B.V. v. the Netherlands*, no. 14448/88, § 33 (ECtHR, October 27, 1993), ECLI:CE:ECHR:1993:1027JUD001444888.

criminal liability. In this sense, supranational decisions constitute a fundamental element of the architecture of contemporary criminal justice and not just an external influence.

Taken together, these dynamics generate a differentiated form of integration within criminal law. The system is characterized by the coexistence of persistent structural diversity and increasing functional alignment, mediated by supranational normative frameworks. Consequently, contemporary criminal law evolves as a multi-layered legal order, in which convergence occurs without eliminating institutional pluralism. In conclusion, the results confirm the thesis that contemporary criminal law undergoes a process of functional convergence, in a context of structural differentiation and supranational influence. This configuration does not lead to a complete doctrinal unification, but rather to a stable and dynamic form of legal pluralism in which diversity and convergence coexist within a common normative framework.

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