

## Imposition of Consecutive and Concurrent Sentences in American Federal Criminal Law



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### Abstract

In the American criminal justice system, the execution of sentences for individuals convicted of multiple crimes constitutes a complex and highly debated aspect of the criminal justice system. This study aims to analyze the legal framework, case law, and practical issues regarding the consecutive and concurrent application of sentences in the American criminal justice system. It examines the broad discretionary power granted to federal judges under 18 U.S.C. §3584 concerning consecutive or concurrent application of sentences and the limits of this authority, while also comparatively and briefly examining the relationship between the merger doctrine and the institution of joinder of crimes in Turkish and German law. It is observed that the American system has not adopted a more distinct principle of the joinder of crimes, unlike Türkiye and Germany where offenses are combined. Additionally, the interpretation differences in the application of distinct provisions such as §924(c) and §924(j), as well as the legal basis of coterminous sentences, are controversial. The findings of the study reveal that there is no systematic regulation regarding the consecutive or concurrent execution of sentences in American federal criminal law, and uniformity in practice among courts cannot be achieved. The study concludes that this situation undermines the principles of legal certainty and predictability and that a uniform application and effective standardization need to be ensured.

### Keywords

Imprisonment · Multiple Sentences · Consecutive Sentence · Concurrent Sentence · Joinder of Crimes and Punishments



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## I. Introduction

The American criminal law system has a unique position in the world in terms of its structure and functioning. The coexistence of federal and state systems, the influence of the Common Law tradition and the application of codified legal rules together have caused this system to have a complex and multidimensional structure.

At the federal level in the United States, 18 U.S.C. §3584 largely determines the legal framework for consecutive or concurrent sentencing. This provision grants federal judges broad discretion to decide whether to impose consecutive or concurrent sentences. In addition, section 5G1.2 of the Federal Sentencing Guidelines contains rules on how to determine multiple prison sentences. These provisions operate within a broader context of constitutional principles, case law precedents, and evolving perspectives on the purposes of punishment, including retribution, deterrence, incapacitation, and rehabilitation.

This paper will analyze judicial discretion in sentencing determinations, examine the merger doctrine as a mechanism for preventing double jeopardy, explore specific and discrete statutory provisions such as §924(c) and §924(j) that create exceptions to general sentencing principles, and investigate the controversial concept of coterminous sentences. Throughout this analysis, we highlight the tensions between competing values in the criminal justice system: the need for proportionality and fairness, the desire for consistency and predictability, and the goal of individualized justice that accounts for the unique circumstances of each case.

By examining these aspects of consecutive and concurrent sentencing in American federal criminal law, this paper aims to contribute to a more nuanced understanding of how multiple sentences are imposed and executed, while identifying potential areas for reform that could enhance the fairness, consistency, and effectiveness of the sentencing process.

In the first section of the article, judges' discretionary power in determining consecutive or concurrent sentences will be examined. In the second section, the issue of the execution of sentences in American criminal law will be addressed. In the third section, the determination of concurrent sentences in the context of the merger doctrine will be examined and this doctrine will be compared with the institution of joinder of crimes in Turkish and German law. In the fourth section, the issue of the execution of sentences in the context of §924(c) and §924(j) will be addressed. In the fifth and final section, the place of the concept of coterminous sentence in the legal system will be discussed.

This study adopts a qualitative research method to examine the application of consecutive and concurrent sentences in American federal criminal law. The research employs case law analysis and comparative legal analysis methods. The court decisions examined were selected from landmark cases directly related to the topic, issued by the Supreme Court and Federal Courts of Appeals. For comparative legal analysis, the Turkish and German legal systems were considered. The theoretical framework of the study is shaped around the fundamental principles of criminal law, particularly the concepts of justice, deterrence, and rehabilitation. This methodological approach aims to comprehensively address both the legal and practical dimensions of the subject.

As a result of this examination, it is observed that there is no systematic regulation regarding the consecutive or concurrent execution of sentences in American federal criminal law and that uniformity in practice among courts has not yet been achieved. This situation undermines the principles of legal certainty and predictability and prevents the full realization of the right to a fair trial. In the study, suggestions for the solution to these problems will also be presented.

## II. Judicial Discretion in the Determination of Consecutive and Concurrent Sentences

The determination and enforcement of punishment are a judicial process, much like the determination of guilt or innocence. In this process, the state is obliged to adhere to the principles of legality, equality, and human rights, while also considering the limitations imposed on the authority responsible for determining the punishment.<sup>1</sup> The judge plays a key role in both regulating the manner in which the imposed sentence is carried out and ensuring that this sentence is lawful and fair, while safeguarding the right to access justice in the determination of punishment.<sup>2</sup> This discretion directly impacts defendants' personal liberty and security rights, making it a cornerstone of procedural justice.

In many states, the decision whether a person will receive consecutive or concurrent sentences largely depends on the discretion of the sentencing judge, who is not guided by the jury or other subjects.<sup>3</sup> At the federal level, the principle of discretion is also included in 18 U.S. Code §3584. This provision grants federal judges broad discretionary authority to decide whether sentences should be served consecutively or concurrently.<sup>4</sup>

Consecutive sentences, particularly those applied to dangerous offenders for the purposes of protecting society and condemning crime, provide a longer period of incapacitation than a single prison term. These sentences are preferred in serious crimes where concurrent prison terms would be insufficient, focusing more on punishment than rehabilitation. While strongly emphasizing society's rejection of criminal behavior, consecutive sentences serve both the goals of culpability and societal protection. Although these two objectives are not always fully compatible, they function as a substantive and rational tool of criminal policy by simultaneously addressing both aims.<sup>5</sup>

The practice of consecutive sentencing, which means serving prison sentences for different crimes one after another<sup>6</sup>, was given legal foundation by the Supreme Court's decision in *Blockburger v. United States*.<sup>7</sup> In this case, the Court ruled that a defendant can be tried and punished separately for each offense if each crime contains its own unique elements.<sup>8</sup> When the same act constitutes a violation of two separate legal provisions, it must be determined whether this constitutes two offenses or only one by investigating whether each requires the existence of an additional event or element that is not required by the other.<sup>9</sup> In the case of *Oregon v. Ice*, Supreme Court of the United States acknowledged that judges have legitimate discretionary power to impose consecutive sentences for multiple offenses. However, the Court neither mandated nor

<sup>1</sup>Sarah J Summers, *Judicial Imposition of Punishment, Sentencing and Human Rights: The Limits on Punishment* (Oxford University Press 2022) 195.

<sup>2</sup>Summers (n 1) 195.

<sup>3</sup>Jeffery T Ulmer and Miranda A Galvin, 'The "Dark Figure" of Incarceration—The Imposition of Consecutive Incarceration Sentences as a Window of Discretion' (2025) 62(1) *Journal of Research in Crime and Delinquency* 3, 5; After conviction, sentencing is typically the judge's responsibility, although in some states, juries have the authority to determine or recommend a sentence. Ronald J. Bacigal, *Criminal Law and Procedure* (3rd edn., Cengage Learning 2009) 301.

<sup>4</sup>Daniel E. Hall, *Criminal Law and Procedure* (6th edn., Cengage Learning 2012) 566; John L. Worrall and Jennifer L. Moore, *Criminal Law and Procedure* (Pearson 2014) 632.

<sup>5</sup>Ulmer and Galvin (n 3) 11, 12.

<sup>6</sup>Matthew Lippman, *Contemporary Criminal Law* (5th edn, Sage, 2019) 155.

<sup>7</sup>Ronald N. Boyce and Rollin M. Perkins, *Criminal Law and Procedure* (7th ed. The Foundation Press, 1989) 412.

<sup>8</sup>Edwina Rogers, *The Unsystematic Issuing Of Consecutive Sentences In America: A Report for the Ohio Criminal Justice Recodification Committee* (Center for Prison Reform 2015) 3; In U.S. criminal law, criticisms have been raised regarding the use of methods such as the Blockburger test to determine whether the same act constitutes different offenses. These criticisms suggest that such practices pave the way for inconsistent applications concerning concurrent and consecutive sentences., see. Connie de la Vega and others, *Cruel and Unusual: U.S. Sentencing Practices in a Global Context* (University of San Francisco School of Law Center for Law and Global Justice 2012) 38.

<sup>9</sup>Worrall and Moore (n 4) 61.



encouraged the imposition of such sentences.<sup>10</sup> With this precedent, judges retain the authority to decide whether sentences for separate offenses should be served consecutively or concurrently. However, there are views arguing that the consecutive sentencing system adopted by the United States, in addition to providing diminishing returns in terms of justice and rehabilitation, can produce unfair results among people who commit the same crimes depending on how frequently they can be subject to judicial proceedings, can become a threatening element that prosecutors can use to force defendants into settlements, and creates a Soviet-style bureaucracy that restricts judges' discretion in individual cases.<sup>11</sup>

In criminal law systems, when multiple crimes are committed, some countries adopt a consecutive or cumulative system that requires offenders to serve their sentences one after another, while other countries implement a concurrent system that is satisfied with the execution of the most severe punishment. Some countries exhibit a mixed approach by using both systems.<sup>12</sup> Hybrid approaches such as in Türkiye and Germany<sup>13</sup>, where sentences merge at adjudication rather than execution.<sup>14</sup> They adopted the principle of determining the sentence at the judgement stage by combining the offenses, rather than using a system of combining the penalties.

In Türkiye, when a person commits multiple independent offenses, the court does not merge the offenses during adjudication. Each sentence remains separate and independent. According to Article 99 of Law no. 5275 on the Execution of Sentences and Security Measures, each sentence retains its individual legal existence. However, if there are multiple final convictions against the same person, a consolidation decision is requested from the execution judge for the purposes of applying Article 107.<sup>15</sup> In Germany, the court determines separate sentences, which are then combined for the purposes of execution (Strafgesetzbuch - StGB §53<sup>16</sup>).<sup>17</sup> In the German system, the total multiple sentences are determined during the trial phase, not the execution phase.<sup>18</sup> This is a fundamental difference from the practice of aggregation of sentences during the execution phase in Article 99 of Law No. 5275 in Turkish law.

In systems where sentences are aggregated, the practice of multiplying charges and convictions for the same criminal act can lead to repeated punishments that overlook the fact that it is a single transaction. Although this problem can be partially solved with good legislative drafting techniques and the elimination of duplicate penalty provisions, there is a danger that consecutive sentences can effectively transform into life sentences without the possibility of parole, especially in cases where penalties accumulate over

<sup>10</sup>Ulmer and Galvin (n 3) 13.

<sup>11</sup>At this point, Rogers clearly criticizes consecutive sentencing from a human rights law perspective. According to Rogers, in line with the rehabilitation-centered approach of international human rights law that considers the requirement of treatment adopting prisoner rehabilitation and reintegration into society as fundamental goals as envisioned by the International Covenant on Civil and Political Rights, most judicial systems around the world either adopt concurrent sentencing methods or allow serious crimes to encompass lesser offenses. This approach significantly differs from the unlimited consecutive sentencing system practised in the United States, which seriously reduces the possibility of prisoner rehabilitation. Despite the United States' commitments in the International Covenant on Civil and Political Rights, which it has signed and ratified and which defines the primary purpose of the penal system as the reformation and social rehabilitation of prisoners, its unprecedented frequency of applying consecutive sentences and its focus on deterrence and punishment while ignoring the possibility of rehabilitation demonstrates that the country exhibits an attitude that conflicts with international human rights law. Rogers, (n 8) 4, 5

<sup>12</sup>de la Vega and others (n 8) 36.

<sup>13</sup>For detailed information, see. Mahmut Koca and İlhan Üzülmöz, *Türk Ceza Hukuku Genel Hükümler* (14th ed. Seçkin Publishing 2021) 515 ff.

<sup>14</sup>For the German system, see. Michael Bohlander, *Principles of German Criminal Procedure* (2nd ed.). Hart Publishing 2021) 193 ff.

<sup>15</sup>Article 107 sets out detailed provisions regarding probation.

<sup>16</sup>StGB §53: "(1) If a person has committed more than one offence, all of which are to be adjudicated at the same time, and incurred more than one sentence of imprisonment or more than one fine, an aggregate sentence shall be imposed. (2) If a term of imprisonment concurs with a fine, an aggregate sentence shall be imposed. The court may impose a separate fine; if fines are to be imposed for more than one offence, an aggregate fine shall to that extent be imposed." Bohlander (n 14) 194.

<sup>17</sup>Bohlander (n 14) 193.

<sup>18</sup>Hans-Jörg Albrecht, 'Sentencing in Germany: Explaining Long-Term Stability in the Structure of Criminal Sanctions and Sentencing' (2013) 76(1) Law and Contemporary Problems 211, 214.

decades or multiple life sentences are imposed.<sup>19</sup> Indeed, consecutive life sentences or near-life sentences prioritize punitive interests. Most importantly, such sentences disregard the possibility that offenders can be rehabilitated.<sup>20</sup> At this point, the correct determination of sentences is crucial for achieving the expected purpose of criminal law and for ensuring that personal freedom and security are not compromised.

One of the fundamental criticisms of the US judicial system is that insufficient importance is given to the issue of punishing multiple crimes arising from a single act, both in terms of aggregation of crimes and determining sentencing.<sup>21</sup> This two-stage problem leads to excessive punishment. First, the practice of charge stacking<sup>22</sup>, which allows prosecutors to classify a single act as multiple separate crimes, forms the basis of the problem. Second, the fact that the sentencing for these separate crimes can be stacked consecutively without limit intensifies the problem. Charge stacking negatively affects defendants' freedom to seek justice and, consequently, their right to a fair trial. In particular, it can trigger prejudice and violate the presumption of innocence.<sup>23</sup> The problematic consequences of the United States being one of the minority countries that allows unlimited consecutive sentences for multiple offenses arising from a single act are clearly evident in the 2006 California case of Khalid Berny. In the initial stage of the case, the problem arose in the way the prosecutor's office exercised its discretionary power. In this case, Berny's 170 goats trespassed onto his neighbour's property. Each goat pass was charged as a separate offense, transforming a single event into 170 distinct crimes.<sup>24</sup> Consequently, Berny was sentenced to a severe prison term of 60 years.<sup>25</sup> This is a typical example of how a single act can be blown out of proportion through the stacking of charges. Berny's sentence is not merely a matter of sentencing but also a result of disregarding the principle of the concurrence of crimes that underlies criminal law.<sup>26</sup>

In our opinion, legislative drafting improvements and redundant penalty elimination could mitigate overpunishment but fail to address the transformation of stacked terms into virtual life sentences and the erosion of judicial flexibility through mandatory guidelines. Such regulatory initiatives overlook two fundamental issues: The broad discretionary power of prosecutors to accumulate charges, and the manner in which these accumulated charges can effectively result in life sentences through successive penalties. Ultimately, this situation undermines judicial flexibility and the principle of proportionality, upon which criminal justice is founded.

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<sup>19</sup>de la Vega and others (n 8) 36.

<sup>20</sup>de la Vega and others (n 8) 39, 42.

<sup>21</sup>Jacqueline E Ross, 'Damned Under Many Headings: The Problem of Multiple Punishment' (2002) 29(2) American Journal of Criminal Law 245, 249; On the view that consecutive sentencing imposes unnecessary burdens on individuals, see. Rogers (n 8) 3 ff.

<sup>22</sup>The prosecutor's decision to charge the suspect with multiple crimes, based on various motives, is defined as charging the suspect with as many crimes as were committed. Although charge stacking can be carried out intentionally or unknowingly, the most obvious examples are when prosecutors use it as a method to exert pressure on suspects and defendants (Note, 'Stacked: Where Criminal Charge Stacking Happens - And Where It Doesn't' (2023) 136(5) Harvard Law Review 1390, 1392-1393). However, it is necessary to distinguish charge stacking from "duplicitous". Duplicity occurs when multiple distinct offenses are alleged within a single count of an indictment, as each count must refer to a sole offense; in such cases, the remedy is to compel the prosecutor to elect which charge to pursue, rather than quashing the indictment. However, it is not considered duplicitous if a single count specifies different ways a single offense might have been committed. While distinct offenses cannot be joined in a single count, indictments often contain multiple counts for crimes of a similar general nature, and the joinder of such related offenses is typically permissible unless it unduly prejudices the defendant or confuses the jury. Bacigal (n 3) 250.

<sup>23</sup>Note (n 22) 1393-1395

<sup>24</sup>Note (n 22) 1391.

<sup>25</sup>Rogers (n 8) 3.

<sup>26</sup>Note (n 22) 1393.

### III. Derogation to Judicial Discretion: Imposition of Sentences in the Context of §924(c) and §924(j)

Whether a sentence can be served concurrently or consecutively to an existing sentence is a decision usually left to the discretion of the state or federal court, within legal parameters.<sup>27</sup> Here, U.S.C. §3584<sup>28</sup> grants the federal court discretion to impose concurrent or consecutive sentences.<sup>29</sup> Just as §3584 guides federal concurrent and consecutive sentencing, many states have allowed courts to exercise discretion by enacting statutes or developing case law on the application of multiple sentences.<sup>30</sup> Although this is the general rule, there are exceptions to this rule in some specific types of offenses. As stated in the decision, §924(c), which is regulated under the heading of firearms, is within the scope of this exception. §924(c)(1)(D)(ii)<sup>31</sup> provides that no sentence of imprisonment imposed on a person under this subsection may be served concurrently with another sentence of imprisonment.

The provision is regulated in a very clear manner. This provision does not include expressions that may have more than one meaning, so there is no room for hesitation in its application. In this context, the literal interpretation of the provision should be taken as a basis. As a matter of fact, literal interpretation is the first method used to reveal the meaning of the provision.<sup>32</sup> Literal interpretation focuses on the plain meaning of words in the norm that should be used in their ordinary sense.<sup>33</sup> Systematic interpretation may also be used to justify the conclusion reached by literal interpretation. Systematic interpretation, unlike the ways of determining the meaning of the norm by considering the norm outside its legal context, especially in casual use of language, non-legal technical expressions, and non-legal values, reveals the meaning of the provision by considering one or more regulations of the same legal system.<sup>34</sup> A healthy conclusion is reached because of addressing individual situations from a holistic perspective.<sup>35</sup>

In the case of *Lora v. United States* (599 U.S. (2023)), the Supreme Court directly addressed this issue. The United States Supreme Court in *Lora v. United States* evaluated whether the prohibition on concurrent

<sup>27</sup>As sovereign entities, states have independent and separate discretion to define and punish offenses that carry criminal sanctions. In 1922, in deciding how state and federal sentencing should interact, the Supreme Court in *Ponzi v. Fessenden* adopted the fundamental norm of mutual respect and comity between state and federal criminal proceedings. Stephan Sady, 'State Sovereignty and Federal Sentencing: Why de facto Consecutive Sentencing by the Bureau of Prisons Should Not Survive *Bond v. United States*' (2014) 27(1) Federal Sentencing Reporter 56, 56.

<sup>28</sup>18 U.S.C. §3584: "(a) Imposition of Concurrent or Consecutive Terms — If multiple terms of imprisonment are imposed on a defendant at the same time, or if a term of imprisonment is imposed on a defendant who is already subject to an undischarged term of imprisonment, the terms may run concurrently or consecutively, except that the terms may not run consecutively for an attempt and for another offense that was the sole objective of the attempt. Multiple terms of imprisonment imposed at the same time run concurrently unless the court orders or the statute mandates that the terms are to run consecutively. Multiple terms of imprisonment imposed at different times run consecutively unless the court orders that the terms are to run concurrently."

<sup>29</sup>Erin Goffette, 'Sovereignty in Sentencing: Concurrent and Consecutive Sentencing of a Defendant Subject to Simultaneous State and Federal Jurisdiction Federal Jurisdiction' (2003) 37(3) Valparaiso University Law Review 1035, 1041.

<sup>30</sup>Goffette (n 29) 1050.

<sup>31</sup>18 U.S.C. §924(c)(1)(D)(ii): "Notwithstanding any other provision of law—no term of imprisonment imposed on a person under this subsection shall run concurrently with any other term of imprisonment imposed on the person, including any term of imprisonment imposed for the crime of violence or drug trafficking crime during which the firearm was used, carried, or possessed."

<sup>32</sup>Abhinav Palsikar, 'Critical Analysis of Literal Rule of Interpretation' (2020) SSRN Electronic Journal 5, <[https://www.researchgate.net/publication/348109146\\_Critical\\_Analysis\\_of\\_Literal\\_Rule\\_of\\_Interpretation#fullTextFileContent](https://www.researchgate.net/publication/348109146_Critical_Analysis_of_Literal_Rule_of_Interpretation#fullTextFileContent)> accessed 1 October 2025

<sup>33</sup>Palsikar (n 32) 5.

<sup>34</sup>Ivan L. Padjen, 'Systematic Interpretation and the Re-systematization of Law: The Problem, Co-requisites, a Solution, Use' (2020) 33 International Journal for the Semiotics of Law - Revue internationale de Sémiotique juridique 189, 192.

<sup>35</sup>By way of example, a literal interpretation of the statutory text shows that the last part of §3584 applies only to the circumstances specified at the beginning (James Sample, 'The Sentences That Bind (The States)' (2003) 103 Columbia Law Review 969, 983). In the case of multiple sentences of imprisonment, the presumption of consecutive sentences, unless the court orders the terms to run concurrently, will only apply if a new sentence is to be imposed on an accused who is already subject to an unreleased sentence (Sample (n 35) 983). By the same reasoning, it follows that the presumption of the concurrent/imposition of sentences applies only if the sentences are to run concurrently (Sample (n 35) 983). By the same reasoning, when the reference between §924(c) and (j) is interpreted literally, it must be concluded that this reference concerns the elements of the offense.



sentences under §924(c) extends to a sentence imposed under a different subsection, §924(j)<sup>36</sup>. The Supreme Court concluded that the prohibition on concurrent sentences contained in §924(c)(1)(D)(ii) does not apply to sentences imposed for convictions under §924(j).<sup>37</sup>

In this case, the Government's suggestion that a court sentencing a defendant charged under subsection (j) must jump to subsection (c), impose the sentences listed there, then return to subsection (j) and add the sentences listed there, then return to subsection (c) and apply the obligation to impose consecutive sentences, taking into account the prohibition of concurrent sentences listed in that subsection, does not fit any type of interpretation. The provision quite clearly provides for a rule of attribution. Therefore, the literal method of interpretation and the systematic method of interpretation will suffice for the interpretation of the provision. According to the Supreme Court, this conclusion is consistent with the systematics of the statute.

A systematic interpretation shows that the reference in the subsection refers to the elements of the offense and not to the sanction of the type of offense. In §924(j), the reference is to the act element of the offense with the phrase "causes the death of a person by using a firearm in violation of subsection (c)."

While the general rule regarding concurrent or consecutive sentences grants discretion to courts, there are exceptions for certain types of offenses. As addressed in the The Supreme Court's decision in *Lora v. United States*, offenses related to firearms under 18 U.S.C. 924(c) are among these exceptions. However, the same decision stated that this exception does not apply to offenses under 924(j). In concluding, the Court relied on the literal and systematic interpretation of the legal provisions. It was emphasised that the reference in §924(j) relates to the elements of the offense, not to its sanction. This approach once again highlights the importance of clarity and predictability principles in the interpretation of criminal law norms. Therefore, decisions regarding concurrent or consecutive sentences require careful interpretation of relevant legal regulations and consideration of the specific characteristics of each case.

Although the Supreme Court rightly pointed out that there was no problem in terms of interpretation, its assessment fell short in terms of double jeopardy. Indeed, the requirement of mandatory consecutive sentencing under §924(c) creates significant difficulties for defendants and courts. This situation may result in defendants receiving very long prison sentences and limits the discretion of judges. Indeed, double jeopardy protection not only provides safeguards against multiple penalties for the same act but also offers broad protection against increases in penalties imposed on the defendant. In *Albernaz v. United States*, the Supreme Court assessed whether the use of consecutive sentences violated double jeopardy. The Court ruled that the discretion to make this determination is subject to the legislative intent. In other words, if criminal law permits such punishment, double jeopardy will not arise.<sup>38</sup> However, when the legislative intent of §924(c) is questioned, it is difficult to reach meaningful conclusions. Since §924(c) was adopted as

<sup>36</sup>18 U.S.C. §924(j): "A person who, in the course of a violation of subsection (c), causes the death of a person through the use of a firearm, shall— (1) if the killing is a murder (as defined in section 1111), be punished by death or by imprisonment for any term of years or for life; and (2) if the killing is manslaughter (as defined in section 1112), be punished as provided in that section."

<sup>37</sup>According to the Supreme Court, §924(c) and 924(j) criminalize the use, carrying and possession of firearms in connection with certain offenses. Subsection (c) sets out a series of offenses and corresponding penalties. Furthermore, this subsection mandates that the sentence of imprisonment imposed must run consecutively with other sentences [§924(c)(1)(D)(ii)]. Subsection (j) likewise sets out the elements of the offense and the corresponding penalties. In this context, the Supreme Court concluded that, unlike subsection (c), subsection (j) does not impose consecutive sentences and that the consecutive sentencing mandate of subsection (c) applies only to the terms of imprisonment provided for in subsection (c). According to the Supreme Court, a sentence imposed under subsection (j) does not fall within this scope. Subsection (j) lies outside subsection (c) and does not require any sentence to be imposed under subsection (c); however, the Government seeks to distinguish this conclusion by conflating subsections (c) and (j) and argues that Congress incorporated §924(c) into §924(j) as a whole. The Supreme Court has repeatedly stated that although subsection (j) refers to subsection (c), this reference is limited to the elements of the offense, not the penalties.

<sup>38</sup>Worrall and Moore (n 4) 63.

a base amendment to the Gun Control Act of 1968, it is argued that it is not based on a clear intent.<sup>39</sup> It has also been stated that the purpose of the law is to better control the interstate firearms trade and to encourage criminals to leave their weapons at home when they intend to commit serious crimes. However, it is also evident that this retributive approach takes a simplistic view of ensuring criminal justice.<sup>40</sup> In our opinion, if mandatory consecutive sentencing is to be imposed, limiting the discretion of judges, the rationale for this must be based on solid grounds, and retributive approaches should not be resorted to. However, the example of §924 (c) shows that American federal criminal law has not yet been able to move away from this approach. The trust in judges that we do not see in Turkish law, which limits the powers of judges through legislation and directly defines the limits of their discretion, constitutes the nature of American courts. However, provisions containing mandatory consecutive sentences that are not based on solid foundations, such as §924(c), undermine the autonomous nature of judges in American criminal law. In addition, sentencing that approaches life imprisonment with mandatory consecutive sentences is highly problematic in terms of double jeopardy.<sup>41</sup> While this determination, made solely by legislative will, may resolve the issue of legality, it does not reasonably resolve the issue of double jeopardy.

#### IV. Determination of Concurrent Sentences in the Context of the Merger Doctrine

In U.S. law, there are often instances where perpetrators are charged with more than one offense.<sup>42</sup> This may result from the perpetrators violating two or more norms at the same time.<sup>43</sup> It is argued that a dogmatic approach to the aggregation of sentences ought not to be adopted because of the wide variety of combinations of offenses in specific cases, but that a certain limit ought to be established in this regard without drowning in the search for general principles.<sup>44</sup>

There is a series of offenses of the same or similar type if the offenses arose out of the same event or were committed against the same person.<sup>45</sup> Under U.S. federal criminal law, if the conditions are met, then, under U.S.C. §3584, the sentences are to run concurrently.<sup>46</sup> Under §3584, multiple prison sentences imposed at the same time shall run concurrently, unless the court order or the law provides that the terms must run consecutively; multiple prison sentences imposed at different times shall run consecutively, unless the court orders that the terms run concurrently.<sup>47</sup> Indeed, if the opposite is accepted, when sentences are imposed consecutively for multiple offenses, this will result in judges imposing sentences of up to hundreds

<sup>39</sup>Molly Booth, 'Sentencing Discretion at Gunpoint: How to Think about Convictions Underlying §924(c) Mandatory Minimums' (2010) 77 The University of Chicago Law Review 1739, 1743.

<sup>40</sup>Booth (n 39) 1743-1744.

<sup>41</sup>Booth argues that it is absurd to place judges under this obligation when imposing long prison sentences, see. Booth (n 39) 1769.

<sup>42</sup>James W. Cardwell, 'Criminal Law - Double Punishment - Intent and Objective Test' (1964) 18(2) SMU Law Review 275, 275 ff.

<sup>43</sup>Phillip E Johnson, 'Multiple Punishment and Consecutive Sentences: Reflections on the Neal Doctrine' (1970) 58 California Law Review 357, 357.

<sup>44</sup>Andrew Ashworth, *Sentencing and Criminal Justice* (6th edn, Cambridge University Press 2015) 272.

<sup>45</sup>In some judicial decisions, the same act or transaction test used to determine this issue considers two crimes arising from the same behavioral process as the same, regardless of how many offenses a prosecutor can allege and the definitional differences between them, as advocated by the U.S. Supreme Court Justice William Brennan in several of his dissenting opinions, see. *State v. Truitt*, 454 U.S. 1047 (1981) (Brennan, J., concurring); *Ashe v. Swenson*, 397 U.S. 436, 453 (1970) (Brennan, J., concurring); *Brooks v. Oklahoma*, 456 U.S. 999, 1000 (1982) (Brennan, J., dissenting); *Snell v. United States*, 450 U.S. 957, 958 (1982) (Brennan, J., dissenting); *Werneth v. Idaho*, 449 U.S. 1129, 1130 (1981) (Brennan, J., dissenting) (joined by Marshall, J.); *Duncan v. Tennessee*, 405 U.S. 127, 131 (1972) (Brennan, J., dissenting) (joined by Douglas, J., Marshall, J.) de la Vega and others (n 8) 39.

<sup>46</sup>Ashworth (n 44) 274-275; Henry J Sadowski, 'Federal Sentence Computation Applied: The Interaction of Federal And State Sentences' (2000) 38 The Champion 39.

<sup>47</sup>Sample (n 35) 970.



of years and criminal justice will not be delivered.<sup>48</sup>

In federal American criminal law, when a defendant is convicted of two or more charges, the judge must decide whether to impose consecutive or concurrent sentences. If the sentences are to run concurrently, the execution is completed when the longest sentence has been served.<sup>49</sup> On the other hand, in consecutive sentencing, after serving the sentence for one offense, the convict starts serving the sentence for the second of multiple offenses.<sup>50</sup> In the computation of consecutive sentences, the periods of imprisonment are first added together, the starting date of the sentence is determined, and then the periods of previous binding sentences or judicial proceedings with binding consequences, such as detention, are deducted.<sup>51</sup> For concurrent sentences, the start date and the total duration of the sentence are calculated for each sentence.<sup>52</sup> Each concurrent sentence begins to be served on the date of its imposition, not on or before the start date of the previous sentence, and the cumulative period is the difference between the earliest start date and the latest end date. Ultimately, previous custodial binding sentences or time spent in judicial proceedings with custodial binding consequences, such as detention, are deducted.<sup>53</sup> In cases of consecutive or concurrent imposition of sentences, the longest sentence becomes the determining sentence.<sup>54</sup> In both cases, on the basis of the longest sentence, the longest sentence will be imposed by adding the longest sentence and the other sentences in the consecutive application, or the longest sentence will be imposed individually in the concurrent application.<sup>55</sup> In this case, the longest sentence will be considered the controlling sentence.<sup>56</sup>

In the American criminal law system, the merger doctrine, which holds a significant place, plays a critical role in ensuring criminal justice as a principle of merging offenses. This doctrine is an important legal principle that determines which offense will be considered primary in situations where a single act constitutes multiple crimes. Although it often comes up in the context of felonies in practice, the merger doctrine is a principle that finds application not only in homicide cases but also in different types of crimes in criminal law.<sup>57</sup>

The merger doctrine is applied when a defendant's single act simultaneously meets the definitions of two or more crimes. In this case, the lesser offense merges into the more serious one, and the defendant is only tried and punished for the more serious crime. Due to the merger doctrine, when a defendant is convicted of a single crime instead of multiple offenses, they may receive a shorter prison sentence or a lower fine. Additionally, having only one conviction on the defendant's criminal record instead of multiple convictions provides an advantage.

The merger doctrine is divided into two main types. "Merger as a matter of law" occurs particularly in situations where the literal expression of the statutory provisions requires the same basic actions.<sup>58</sup> This type of merger is a generally accepted concept across the U.S., but it is specifically codified in the Georgia

<sup>48</sup>Michael Tonry, *Sentencing Fragments: Penal Reform in America, 1975–2025* (Oxford University Press 2016) 28.

<sup>49</sup>Larry Siegel and John Worrall, *Essentials of Criminal Justice* (11th edn, Cengage Learning 2019) 234; Frank Schmalleger, *Criminal Justice Today: An Introductory Text for the 21st Century* (14th edn, Pearson 2016) 20.

<sup>50</sup>Siegel and Worrall (n 49) 234; Bradley Edwards and Lawrence Travis, *Introduction to Criminal Justice* (9th edn, Cengage Learning 2024) 276.

<sup>51</sup>Sadowski (n 46) 39; Edwards and Lawrence Travis (n 50) 276.

<sup>52</sup>Sadowski (n 46) 39.

<sup>53</sup>Sadowski (n 46) 39.

<sup>54</sup>Richard S Frase, *Just Sentencing: Principles and Procedures for a Workable System* (Oxford University Press 2013) 198.

<sup>55</sup>While consecutive sentences are served one after the other, concurrent sentences are served at the same time and the execution is completed [Schmalleger (n 49) 349]. At this point, the presumably longest sentence will be decisive.

<sup>56</sup>Frase (n 54) 198, 199.

<sup>57</sup>For detailed information on the constitutional foundations of the merger doctrine, see William W Berry III, 'Capital Felony Merger' (2021) 111 *Journal of Criminal Law and Criminology* 605, 642 ff.

<sup>58</sup>Bixon Law, 'The Merger Doctrine' (Bixon Law, 21st December 2023), <<https://bixonlaw.com/the-merger-doctrine/>> accessed 18 January 2025



State criminal code under O.C.G.A. §16-1-6 and O.C.G.A. §16-1-7. “Merger as a matter of fact” is applied in situations where, even if not explicitly stated in the statutory provisions, the nature of the event necessitates the merging of crimes.<sup>59</sup> *Price v. State*<sup>60</sup> case constitutes an important precedent in terms of the merger as a matter of fact. In this case, Price, who violated the inviolability of the dwelling, committed an armed assault against the homeowners. The use of a weapon against the victim on two separate occasions formed the basis of the offenses of aggravated assault and aggravated wounding. The court rejected the defendant’s claim that these two offences resulted from a single act. The Court ruled that there was a ‘conscious break’ between the two acts and that the second shooting by the defendant in the corridor after the victim had left the room after the first attack constituted separate criminal intent and separate acts. This decision demonstrates that multiple acts committed against the same victim can be considered as separate offences if they are separated in time and place.<sup>61</sup>

Various tests have been developed to determine whether the merger doctrine will be applied: In the “Required Evidence Test” is used to determine whether two convictions will legally merge when the same act or transaction constitutes a violation of two different legal provisions.<sup>62</sup> This test helps to determine when two acts are the same and when they are different in the context of the merger doctrine. For example, in the case of manslaughter, according to the “Redescriptive Test,” a predicate offense merges only when the action that causes the defendant to meet the definition of the predicate offense can be redescribed in terms of the resulting death.<sup>63</sup> This test requires two separate actions for felony murder and a specific relationship for one action to merge with the other.<sup>64</sup> When unusual interventions in the action occur, situations where an event that is not expected to occur in the normal course of events takes place, the redescription chain is broken.<sup>65</sup> For example, the intentional wrongful behavior of the intervening person will break this chain. In this context, merger cannot occur. Whether a person can be punished twice for the same action should depend on whether the actions bear identity.<sup>66</sup> “The Dual Culpability Test” requires either an independent culpable purpose (the purpose of harming an interest other than the victim’s physical integrity) or knowingly accepting or reckless indifference towards an independent harm.<sup>67</sup> These two culpability are indifference to the risk of death and intent towards the crime.<sup>68</sup>

Despite all these provisions, it is not possible to observe legal and practical uniformity regarding the merger doctrine and the consolidation of charges in American criminal law. The courts generally address this uncertainty.

In American federal criminal law, contrary to Turkish and German law, criteria such as “*unity of act in the natural or legal sense*”<sup>69</sup> are not directly adopted in the aggregation of crimes. In the case that two independent offenses are considered together under certain conditions, the doctrine of *merger*, which

<sup>59</sup>Bixon Law (n 58).

<sup>60</sup>398 U.S. 323 (1970).

<sup>61</sup>Bixon Law (n 58).

<sup>62</sup>Bixon Law (n 58).

<sup>63</sup>Claire Finkelstein, ‘Merger and Felony Murder’ in RA Duff and Stuart Green (eds), *Defining Crimes: Essays on The Special Part of the Criminal Law* (Oxford Monographs on Criminal Law and Justice, Oxford University Press 2010) 228-229.

<sup>64</sup>Finkelstein (n 63) 228 ff; Wes Dutcher-Walls, ‘Aggravated Disproportionality: The Merger Doctrine, Contemporaneous Felony Aggravators, and Intuitive Fairness’ (2017) 3(4) *Criminal Law Practitioner* 1, 4.

<sup>65</sup>Finkelstein (n 63) 234-235.

<sup>66</sup>Finkelstein (n 63) 241.

<sup>67</sup>Guyora Binder, ‘Making the Best of Felony Murder’ (2011) 91 *Boston University Law Review* 403, 519, 521ff; Dutcher-Walls (n 64) 4.

<sup>68</sup>Dutcher-Walls (n 64) 5.

<sup>69</sup>See. İzzet Özgenc, *Türk Ceza Hukuku Genel Hükümler* (20th ed. Seçkin Publishing 2024) 702ff; Koca and Üzülmöz (n 13) 515ff.

resembles the aggregation of crimes, comes to the fore (*People v. Burton*).<sup>70</sup> The simultaneous or consecutive execution of sentences in Federal American law is based on the principle of the aggregation of punishments, not of crimes. As a matter of fact, this system is related to the execution of sentences in terms of time after the existence of crimes has been established and sentences have been determined. There are methods for the coexistence and aggregation of punishments that can be executed.

Examining German law and American legal practice, notable differences and parallels can be observed. In German law, the concept of *Gesetzeseinheit* (legal unity) describes a situation where one legal norm fully encompasses another, which is somewhat comparable to the American doctrine of “lesser included offense.” Similarly, the German notion of *Handlungseinheit* (unity of action) refers to a series of actions that are considered a single act from a natural perspective.<sup>71</sup> This idea partially aligns with the American concepts of “single act” or “continuous act.” While these German legal concepts do not have direct counterparts in American law, related principles are explored within the frameworks of the “merger doctrine” and “continuous offense” theories in the United States. Comparing the concept of *fikri içtima* in the Turkish Penal Code (TPC 44) and the American merger doctrine, several notable similarities and differences emerge. In Turkish law, *fikri içtima* (conceptual aggregation) applies when a single act results in multiple offenses, whereas the American merger doctrine is triggered when a single act gives rise to multiple crimes. Similarly, in German law, if the same act violates more than one law or the same law more than once, only one sentence shall be imposed (StGB §52<sup>72</sup>).

Under Turkish law, the offender is punished for the most severe offense, while in the American system, the lesser offense is absorbed into the more serious one. Although *fikri içtima* is explicitly codified in Turkish law while the American merger doctrine has primarily evolved through case law, both systems ultimately strive to prevent double punishment for the same act.

In some state criminal law practices, the aggregation of offenses is adopted as in Turkish law. According to California Penal Code §654(a): “An act or omission that is punishable in different ways by different provisions of law shall be punished under the provision that provides for the longest potential term of imprisonment, but in no case shall the act or omission be punished under more than one provision.” In determining the singularity of act under this provision, California practice uses the criterion of unity of criminal intent and the objective test.<sup>73</sup> In the unity of criminal intent test, if the crimes were committed with a single criminal purpose, they are considered the same, and this will prevent cumulative punishment in cases where the same behavior violates multiple laws or is difficult to divide into units for prosecution.<sup>74</sup>

It is necessary to mention the relationship between the doctrine of *merger* and the concurrent or consecutive determination of penalties in this system adopted on the basis of the concurrence of penalties. The doctrine of merger is related to the unification of charges to prevent *double jeopardy*.<sup>75</sup> In the case

<sup>70</sup>481 P.2d 407 (1971), see. Paul H Robinson, *The Structure and Limits of Criminal Law* (Oxford University Press 2016) 71.

<sup>71</sup>Neslihan Göktürk, *Fikri İçtima (Suçların İçtimalı)* (Adalet Publishing 2013) 58 ff; Fatih Selami Mahmutoğlu and Serra Karadeniz, *Türk Ceza Kanunu Genel Hükümler Şerhi* (2th Press, Beta Publishing, 2021) 1077ff.

<sup>72</sup>StGB §52: “One act violating multiple laws or the same law more than once—(1) If the same act violates more than one law or the same law more than once, only one sentence shall be imposed. (2) If more than one law has been violated, the sentence shall be determined according to the law that provides for the most severe sentence. The sentence may not be more lenient than the other applicable laws permit.” Bohlander (n 14) 194.

<sup>73</sup>Cardwell (n 42) 275ff.

<sup>74</sup>de la Vega and others (n 8) 39.

<sup>75</sup>The Fifth Amendment guarantee against double jeopardy is one of the basic protections provided by the United States Constitution: “Nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb,” see. Javier Ignacio Escobar Veas, *Ne Bis in Idem and Multiple Sanctioning Systems* (Springer 2023) 11.

of a single act and separate and distinct offenses, one cannot speak of *double jeopardy*.<sup>76</sup> The doctrine of merger arises when a person is found guilty of more than one offense and the court then inquires whether the lawmaker intended to impose only one sentence for multiple convictions.<sup>77</sup>

Merger is based on the principle that if more than one offense is committed as part of a single act, the most severe punishment should be imposed.<sup>78</sup> In this context, concurrent sentences refer to the concurrent serving of sentences for multiple crimes committed at the same time. It is preferred that the most severe and the less severe penalties be served together, rather than being lumped together. In the final analysis, the doctrine of *merger* arises when a person is convicted of two crimes that are indistinguishable from each other and should only serve one sentence (*Bilderback v. State*).<sup>79</sup> Merger refers more to legal consolidation (treating crimes as if they were a single crime), while concurrent sentences refer to the manner in which penalties are imposed.

Section 5G1.2 of the Federal Sentencing Guidelines also serves as a reference for determining multiple prison sentences. According to the Guidelines, when a defendant is convicted of multiple offenses, a separate sentence is calculated for each offense, and then the total sentence is determined on the basis of the offense level for the most serious crime. According to 5G1.2(c), if the sentence determined for the most serious offense is greater than or equal to the sum of sentences determined for all other offenses, the sentences are served concurrently. However, according to 5G1.2(d), if the sentence determined for the most serious offense is less than the sum of sentences determined for all other offenses, the sentences are served consecutively until the total sentence reaches the offense level determined for the most serious offense. Although these guidelines were made advisory rather than mandatory by the *United States v. Booker*<sup>80</sup> decision, federal judges generally still follow these guidelines.<sup>81</sup>

## V. Does Coterminous Sentence Exist in the Legal System?

The American criminal justice system is filled with complexities arising from the co-existence of state and federal jurisdictions. This situation creates special challenges, particularly when a person is convicted of both state and federal crimes, in the implementation of consecutive and concurrent sentences.

A coterminous sentence is a technical arrangement evaluated within the framework of the fair and proportional punishment principles in criminal law. In American criminal law, a coterminous sentence is a special type of sentence execution that ensures that two or more sentences end at the same time.<sup>82</sup> This

<sup>76</sup>*People v. Allen*, 368 Ill. 368, 14 N.E. (2d) 397 (1938); *Spears v. People*, 220 Ill. 72, 77 N.E. 112, 4 L.R.A. (N.S.) 402 (1906); *Thomas v. Indianapolis*, 195 Ind. 440, 145 N.E. 550, 35 A.L.R. 1194 (1924). William Edward Taay, 'Criminal Law-Double Jeopardy-Single Act as Constituting an Offense Against Two or More Persons' (1938) 23 *Marquette Law Review* 37, 37-38

<sup>77</sup>Judgement of the Washington Supreme Court: *State v. Sweet*, 980 P.2d 1223 (1999). Charles Nemeth, *Criminal Law* (Routledge 2023) 424.

<sup>78</sup>In *Najera v. State*, the jury found Najera guilty of 12 counts of inappropriate sexual contact with his two adopted minor daughters. Six of the charges were for sexual assault; the remaining six were for incest. The District Court, a federal court of first instance, sentenced Najera to consecutive terms for sexual assault and incest. Najera appealed, arguing that his convictions for sexual assault and incest should run concurrently. The Wyoming Supreme Court agreed and reversed, holding that the convictions merged (under the merger doctrine) and that Najera should serve his sentences concurrently. Alexander K. Obrecht, 'Criminal Law - Merger of Sentences: The Legislature Says You Criminal Law - Merger of Sentences: The Legislature Says You Can't Hang 'Em Twice; *Najera v. State*, 214 P.3d 990 (Wyo. 2009)' (2012) 12 *Wyoming Law Review* 141, 141.

<sup>79</sup>Judgement of Wyoming Supreme Court: *Bilderback v. State*, 2000 WY 200 13 P.3d 249. Obrecht (n 78) 141.

<sup>80</sup>543 U.S. 220 (2005).

<sup>81</sup>In this case, the Court ruled that the federal sentencing guidelines were unconstitutional. The decision stated that while judges should consider the ranges provided in the guidelines, they should also have the flexibility to adjust sentences based on other factors. This ruling effectively made the guidelines advisory rather than mandatory. Siegel and Worrall (n 49) 231; Booth (n 39) 1749-1750. For detailed information, see. Schmallegger (n 49) 355 ff.

<sup>82</sup>In *Setser v. United States* [566 U.S. 231 (2012)], the Supreme Court recognized that a federal judge has the authority to decide whether a federal sentence should be served consecutively or concurrently with a state sentence that has not yet been imposed.



concept is especially used in situations where federal and state sentences overlap or to ensure that sentence periods end simultaneously for defendants convicted of multiple crimes. Unlike concurrent sentences, penalties that begin at different times end on the same date. Sentences that start on different dates have the same end date. In concurrent sentencing, sentences run concurrently but end at different times because their start dates are different. In coterminous sentencing, sentences not only run concurrently but also end on the same date.

This concept is directly related to the principles of proportionality of punishment, individualization of execution and legal security, which are among the fundamental principles of criminal law. However, implementation differs markedly between the federal and state systems. This system provides flexibility by considering changing circumstances in the execution process.<sup>83</sup>

However, in Federal criminal law, 18 U.S.C. §3584 regulates only concurrent and consecutive sentences. The term “coterminous sentence” is not explicitly defined in federal law. Although the concept of coterminous is not directly included, judges can achieve similar results by using the “downward adjustment” authority under the United States Sentencing Guidelines Section 5G1.3 (USSG §5G1.3). §5G1.3(c) authorizes courts to synchronize sentence end dates. For example, if a federal sentence is added to an ongoing state sentence, the judge may synchronize the federal sentence with the state sentence end date.<sup>84</sup> In a scenario where the defendant receives a 5-year sentence from the state court and 2 years later receives a 4-year sentence from the federal court, when the coterminous sentence is applied, the judge can reduce the federal sentence to 3 years so that the total sentence ends in the 5th year together with the state sentence.<sup>85</sup>

The United States Court of Appeals for the Tenth Circuit issued a decision in *Brown v. Parker*<sup>86</sup> that led to questioning the existence of coterminous sentences. The case in question was filed in the state of Oklahoma under 42 U.S.C. 1983 and examines the distinction between concurrent and coterminous sentences in the penal system. Brown believed that concurrent sentences would end at the same time, but because the sentences began at different times, they ended at different times. In the case, Brown was sentenced to two separate penalties, one in Tulsa County and the other in Muskogee County. Both sentences were for two years, and it was decided that the Muskogee sentence would be served concurrently with the Tulsa sentence.

The 10th Circuit responded to Brown’s claim that his Muskogee sentence should have ended when his Tulsa sentence ended by explaining the difference between concurrent and coterminous sentences as follows: Concurrent sentences are served at the same time but may not end at the same time; coterminous sentences are sentences that end at the same time. In the Tenth Circuit’s decision, it was emphasized that federal law (18 U.S.C. 3584) regulates consecutive and concurrent sentences, but coterminous sentences are not explicitly defined. In this context, the sentence reduction mechanism under the Federal Sentencing Guidelines (USSG) 5G1.3 serves a function similar to the application of coterminous sentences. However, ultimately, the court ruled, with reference to the Alabama Court of Criminal Appeals precedent, that local courts did not have the authority to impose coterminous sentences under Oklahoma law. The Tenth Circuit included a footnote suggesting that a judge could modify a sentence downward, similar to 5G1.3 in the federal system, to make a coterminous sentence effective. The court ruled that the subsequent decision by the Muskogee judge, which provided for Brown’s release when his Tulsa sentence was completed, was

<sup>83</sup>Dan Hansmeier, ‘Concurrent v Coterminous Sentences’ (Casetext, 14 November 2014) <<https://casetext.com/analysis/concurrent-v-coterminous-sentences>> accessed 30 December 2024.

<sup>84</sup>Hansmeier (n 83).

<sup>85</sup>Hansmeier (n 83).

<sup>86</sup>No. 14-7023 (10th Cir. 2014)

legally invalid, stating that Oklahoma laws do not authorize judges to impose coterminous sentences.<sup>87</sup>

As a result, there is no uniformity in the application of coterminous sentences. 18 U.S.C. §3584 does not regulate coterminous sentences, federal judges can achieve similar outcomes using the sentence reduction mechanism under USSG §5G1.3.

## Conclusion

In American criminal law, the issue of aggregation is not systematically regulated. In American federal criminal law, if the offenses arise out of the same incident or are committed against the same person and the conditions are met, it is the rule to impose concurrent sentences under U.S.C. §3584. Under §3584, multiple sentences imposed at the same time run concurrently, unless the court order or statute provides that the terms must run consecutively; multiple sentences imposed at different times run consecutively, unless the court orders the terms to run concurrently. In American federal criminal law, the issue of concurrency is based on the execution of sentences. At this point, the doctrine of merger creates a legal basis for the concurrent imposition of sentences with similar criteria to the application of the intellectual cumulation of sentences in Turkish law.

It is observed that the American system does not adopt a distinct principle of the joinder of offenses, unlike Türkiye and Germany, where offenses are combined. The merger doctrine, which plays a crucial role in preventing double jeopardy for crimes committed with the same act, resembles the institution of the joinder of offenses in Turkish and German law. Sentencing outside this generally constitutes the consecutive application of penalties, which can essentially be considered within the scope of the joinder of penalties. In conclusion, the American federal criminal law system needs to clarify the legal framework for consecutive or concurrent application of sentences, ensure uniformity in practice, and particularly elucidate the legal status of concepts such as the merger doctrine and coterminous sentences. These steps will contribute to a more effective and consistent application of criminal justice.

Adopting Turkish-style statutory prohibitions against multi-count prosecutions for unified criminal acts to prevent overcharging; amending 18 U.S.C. §3584 to formally recognize coterminous sentences, aligning federal practice with state-level innovations; implementing German-inspired proportionality reviews requiring cumulative sentences to remain below arithmetic sums of individual terms; and establishing federal oversight mechanisms to standardize merger doctrine application and consecutive sentencing criteria across jurisdictions will ensure more consistent and fair application of criminal justice, prevent excessive punishment, and reduce regional disparities in the judicial system.

Ultimately, the path towards equitable sentencing lies in reconciling America's common law traditions with systematization, ensuring doctrinal coherence across concurrent, consecutive, and coterminous sentencing paradigms. Only through such synthesis can the dual aims of justice and rehabilitation be fully realized.



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<sup>87</sup>Hansmeier (n 83).



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