

## EXTENDED SUMMARY

*The doctrine of prosecutorial vindictiveness represents a fundamental legal safeguard mechanism within criminal justice systems, designed to prevent prosecutors from retaliating against defendants who exercise their constitutional and legal rights. This doctrine, primarily developed in Anglo-American jurisprudence, addresses the inherent tension between prosecutors' duty to seek justice and their role as the state's primary advocates in criminal proceedings.*

*The doctrinal foundations were established by the United States Supreme Court in the landmark 1969 case *North Carolina v. Pearce*, which initially addressed judicial vindictiveness. The doctrine's expansion to prosecutorial conduct occurred in 1974 with *Blackledge v. Perry*, where the prosecutor increased charges after the defendant filed an appeal for a new trial in a higher court. The Court determined that even without evidence of actual malicious intent, the realistic likelihood of vindictiveness necessitated constitutional protection.*

*American jurisprudence has developed two distinct analytical frameworks for evaluating prosecutorial vindictiveness claims. The "in-fact standard" focuses on preventing actual vindictive behavior, placing the burden of proof on defendants to demonstrate that prosecutors acted with retaliatory motivation. Conversely, the "appearance standard" serves dual purposes: preventing the chilling effect on defendants' constitutional rights and deterring actual vindictive prosecutorial behavior. Under this standard, the burden shifts to prosecutors to demonstrate that their actions were not motivated by vindictiveness when objective circumstances suggest a realistic likelihood of retaliation.*

*The broader context of prosecutorial vindictiveness includes various forms of prosecutorial misconduct, with overcharging serving as a particularly relevant manifestation. Overcharging occurs when prosecutors file more charges than reasonably supported by evidence or necessary to reflect the gravity of the offense, often as a tool to pressure defendants into plea agreements or as punishment for asserting their rights.*

*Selective prosecution represents another significant aspect of prosecutorial vindictiveness, occurring when prosecutors unlawfully subject*

certain individuals to criminal proceedings while failing to prosecute others in similar circumstances. This concept gained constitutional significance through the 1886 *Yick Wo v. Hopkins* case, where the Supreme Court first ruled that facially neutral legislation applied in a discriminatory manner violates the Equal Protection Clause. Modern selective prosecution doctrine, as refined in *United States v. Armstrong* (1996), requires defendants to demonstrate both discriminatory effect and discriminatory intent.

The procedural framework for prosecutorial vindictiveness claims varies depending on which standard applies. Under the appearance standard, defendants must establish facts triggering a presumption of vindictiveness, after which the burden shifts to prosecutors to rebut this presumption by demonstrating independent reasons or intervening circumstances justifying their charging decisions. Courts have developed sophisticated analytical frameworks, such as the Ninth Circuit's "totality of circumstances" approach in *United States v. Griffin*, which examines whether the overall pattern of prosecutorial conduct creates an appearance of vindictiveness.

Turkish criminal procedure law lacks a direct equivalent to the prosecutorial vindictiveness doctrine, though certain provisions provide indirect protections. The Turkish Code of Criminal Procedure requires prosecutors to investigate material truth and collect evidence both favorable and unfavorable to suspects, establishing prosecutors as objective subjects whose duty extends beyond seeking convictions to ensuring justice. However, significant gaps exist in Turkish law's protection against prosecutorial vindictiveness. The absence of systematic oversight mechanisms for prosecutorial discretion creates risks of arbitrary conduct.

The Turkish system also lacks explicit provisions regarding prosecutorial impartiality, unlike the detailed regulations governing judicial impartiality. Additionally, concepts such as selective prosecution and overcharging are not clearly defined or sanctioned in Turkish law, increasing the risk of arbitrary prosecutorial behavior.

The analysis concludes that Turkish law requires significant reforms to address prosecutorial vindictiveness effectively. Key recommendations include establishing explicit provisions in both disciplinary and criminal law clearly prohibiting vindictive prosecutorial conduct, implementing transparent and

*effective oversight mechanisms for prosecutorial discretion, and developing systematic protections against selective prosecution and overcharging.*

*The doctrine of prosecutorial vindictiveness serves as a vital protection for suspects and defendants in terms of fair trial and equality principles. Reforms in this area would contribute both to protecting fundamental rights and strengthening public confidence in the criminal justice system. The importance of this doctrine extends beyond preventing actual vindictive behavior to ensuring that the appearance of such conduct does not deter individuals from exercising their constitutional rights.*