

J. Y, Interpretation No.68 (November 26, 1956) *

ISSUE: What is the meaning of “participating in a rebellion organization”?

RELEVANT LAWS:

Article 2 of the Criminal Code (刑法第二條); Betrayers Punishment Act (懲治叛亂條例); Decrees for Amnesty and Punishment Reduction of Criminals (罪犯赦免減刑令).

KEYWORDS:

rebel (叛亂).**

HOLDING: Anyone who participated in a rebel organization shall certainly be deemed to be still participating in the organization before he voluntarily submits himself to the authorities, or when there is no evidence to prove that he did withdraw from the organization. Even after the effective date of the Betrayers Punishment Act on June 21, 1949, if a person's act is in the state of continuousness, Article 2 of the Criminal Code shall not apply. Because the law was not

解釋文：凡曾參加叛亂組織者，在未經自首或有其他事實證明其確已脫離組織以前，自應認為係繼續參加。如其於民國三十八年六月二十一日懲治叛亂條例施行後仍在繼續狀態中，則因法律之變更並不在行為之後，自無刑法第二條之適用。至罪犯赦免減刑令原以民國三十五年十二月三十一日以前之犯罪為限，如在以後仍在繼續犯罪中即不能援用。

* Translated by Jaw-Pern Wang.

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amended after the completion of the act. Because the scope of the Decrees for Amnesty and Punishment Reduction of Criminals is limited to the acts committed before December 31, 1946, the Decrees shall not apply to the acts that continue beyond said day.