

論共犯之合併審判

張 明 偉*

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關鍵詞：管轄、法院、訴訟經濟、法定法官、公平審判

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* 輔仁大學法律學院教授、美國舊金山金門大學法學博士。

摘 要

刑事訴訟法第 6 條：「（第 1 項）數同級法院管轄之案件相牽連者，得合併由其中一法院管轄。（第 2 項）前項情形，如各案件已繫屬於數法院者，經各該法院之同意，得以裁定將其案件移送於一法院合併審判之。有不同意者，由共同之直接上級法院裁定之。」中之「法院」所指為何，非無爭議。大法官釋字第 665 號解釋：「臺灣臺北地方法院刑事庭分案要點第十點及第四十三點規定，與憲法第十六條保障人民訴訟權之意旨，尚無違背。」之內容是否妥適，亦有待釐清。本文認為刑事訴訟法第 6 條應指狹義法院，故大法官釋字第 665 號解釋並不正確。

On Joint Trial of the Joint-Offenders

Chang, Ming-Woei

Abstract

What the "court" means in Article 6 of the ROC Criminal Procedure: "(Paragraph One) If related cases are subject to the jurisdiction of several courts of the same level, one of such courts may combine them and take jurisdiction over the cases; (Paragraph Two) The cases specified in the preceding paragraph which are pending in several courts may, by mutual consent of such courts, be transferred by a ruling to one of such courts to be tried together; if there are disagreements, a ruling by the court immediate superior to all such courts shall determine jurisdiction;" is questionable. In addition, if the Judicial Yuan Interpretation of No. 665, providing: "Articles 10 and 43 of the Case Assignment Directions of Criminal Divisions of the Taiwan Taipei District Court is not in contravention of the constitutional guarantee of people's right to institute legal proceedings," is correct is another question. This paper claims that the court in Article 6 should be understood in the narrow meaning, and therefore the aforementioned Judicial Yuan Interpretation of No. 665 is not correct.