

## **The Reconstruction of Attribution Elements in Accessory**

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### **Abstract**

This article examines the concept of general and neutral assistance. At present, both the objective and subjective criteria for liability of general assistance elicit ambiguity. For objective criteria, both legal practice and literature encounter challenges in establishing efficient criteria not only for objectively identifying the unlawful nature of aiding acts but also for establishing the causation between aiding acts and the principal offense. The determinations appear to be arbitrary, regardless of whether they focus on facilitating elements in legal practices or increased risk associated with a causal relationship. And for the subjective criteria, the inappropriate combination of the object of intention leads to a logical problem.

Regarding the concept of neutral assistance, there is no unified definition or comprehensive criteria for determining liability in Taiwan. On the contrary, the legal practices in Germany exhibit a relatively stable opinion; however, concerns arise due to the absence of precise objective criteria, leading to the consequence, that the judgement of liability relies solely on subjective criteria. Furthermore, the prevailing theory also fails to propose logical interpretations for neutral assistance. The challenges raised by neutral assistance require a critical review of the liability discussion of general assistance. This is because neutral assistance only exposes the problems within the criteria for attributing liability in cases of general assistance. Therefore, for a proper assessment of neutral assistance, it is important to address the issues related to the attributive liability discussion of general assistance.

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Consequently, this article presents new attributive perspectives and criteria that result from an examination of the liability of general assistance theory. Criminally punishable liability involves aiding actions that unilaterally provide the possibilities of modifying the criminal plan of the principal offender, thereby increasing the overall criminal risk. If the aiding actions merely fulfill the initial criminal plan conditions, they do not qualify as criminally punishable aiding actions and remain within the legally permitted realm of acceptable risk.

**Keywords:** General assistance, neutral assistance, causation, increased risk, intention of accessory, criminal plan