

European Union Agency for Asylum



Recent case law on TPD 11 April 2024

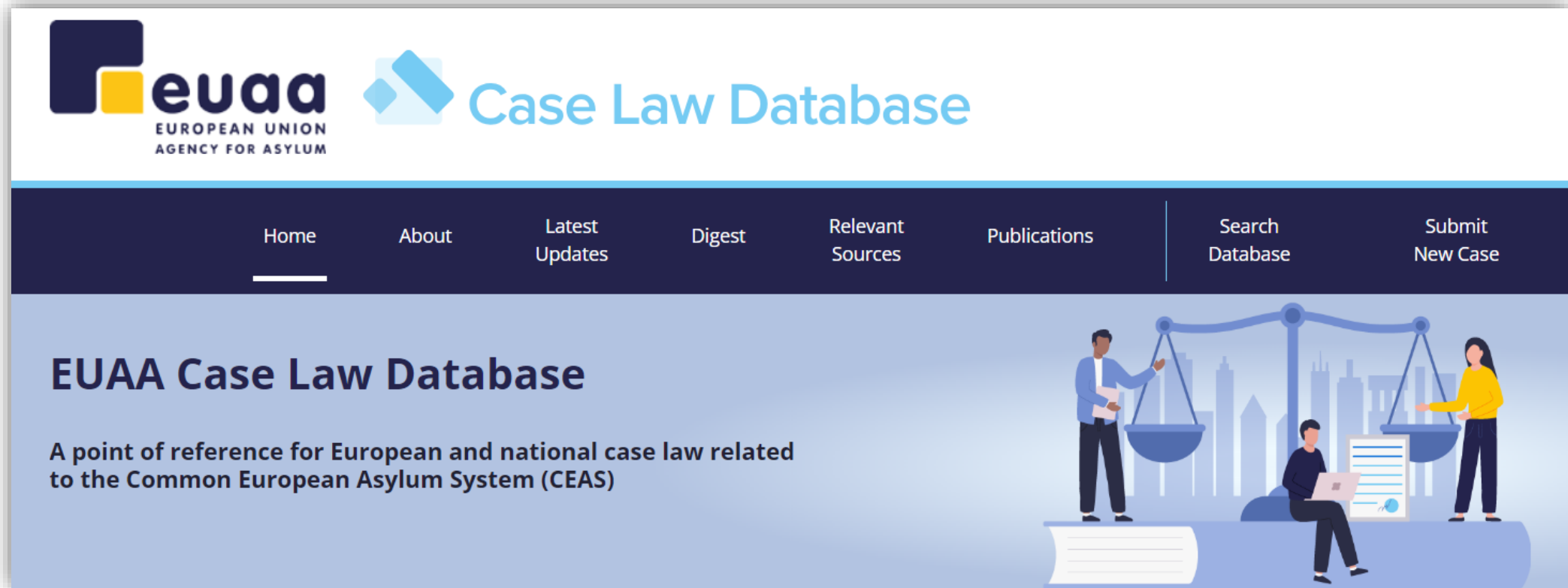
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www.caselaw.euaa.europa

Permanent Link for jurisprudence in temporary protection:

<https://caselaw.euaa.europa.eu/pages/searchresults.aspx?Keywords=Temporary+protection>



The screenshot displays the website's header and main content area. The header features the EUAA logo (European Union Agency for Asylum) and the text 'Case Law Database'. A dark navigation bar contains links for Home, About, Latest Updates, Digest, Relevant Sources, Publications, Search Database, and Submit New Case. The main content area has a light blue background with the title 'EUAA Case Law Database' and a descriptive subtitle: 'A point of reference for European and national case law related to the Common European Asylum System (CEAS)'. An illustration on the right shows three people (two standing, one sitting) interacting with a large scale of justice and a laptop, symbolizing legal research and justice.





EUAA Case Law Database



Jurisprudence related to international protection

- The Court of Justice of the European Union
- The European Court of Human Rights
- National courts (focus on higher courts)
- The UN bodies

Main sources

- EUAA in house research & collaboration with the EUAA networks

Selection of cases

- Preliminary rulings and landmark cases, referrals for preliminary rulings
- Clarifications of concepts, procedures, legislation regarding CEAS
- New assessments based on country of origin information



Quarterly Overview of Asylum Case Law

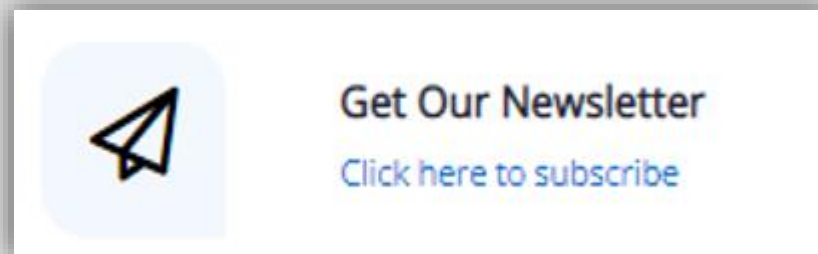


EUAA Quarterly Overview of Asylum Case Law

Published regularly every 3 months – last edition published on 15 March 2024

Covers all asylum topics

Possibility to [subscribe](#) to receive it by email





Eligibility for temporary protection

Switzerland, Federal Administrative Court, *Applicant v State Secretariat for Migration*, 05/09/2023.

- Dual citizenship Ukrainian and Bulgarian – rejection of the request for temporary protection
- A regulatory gap in the wording of the rules on temporary protection => the principle of subsidiarity under asylum law had to apply
- Safe and permanent return to Bulgaria, an EU Member State



Eligibility for temporary protection

Iceland, Immigration Appeals Board, 24/10/2023:

- ❑ ***Applicant 1 v Icelandic Immigration Service, No 632/2023,***
- ❑ ***Applicant (no 2) v Icelandic Immigration Service, No 634/2023,***
- ❑ ***Applicant 3 v Icelandic Immigration Service, No 635/2023.***
- Ukrainian nationals holders of temporary residence permit on the basis of employment in Poland and in Lithuania
- Dublin procedure applied – rejected request for humanitarian considerations
- Immigration Appeals Board clarified application of guidelines
- Vague nature of the decision 2022/382 – insufficient indications of the eligible groups of persons
- Cannot exclude the applicants – humanitarian status granted

Eligibility for temporary protection - family members

Germany, Regional Administrative Court, Applicant v Immigration Office, 1/09/2023

- Armenian national in a durable and long term partnership
- national & EU Law => unmarried partners have no right to protection

Belgium, Council for Alien Law Litigation, Applicant v Belgian State, 28/07/2023

- national of Azerbaijan requested a derived right as spouse of an Ukrainian national
- rejected – no right since the wife still lives in Ukraine & no proof of legal residence in Ukraine before 24/02/2022

Lithuania, Supreme Administrative Court, Migration Department of the Ministry of Interior of the Republic of Lithuania v GD, 14/06/2023

- Cohabitation with an Ukrainian national until 24/02/2022 – unmarried couple
- Application & interpretation of Article 2(4) of the Council Implementation Decision (EU) 2022/382

Temporary protection – procedural aspects

France, Council of State, *M. B. A. v Prefect of Hérault*, 29/01/2024

- Ukrainian national – refusal to renew residence permit based on TPD after 6 months – threat to national security
- Request for interim relief – the emergency condition necessary to suspend the execution of an administrative decision should be regarded as met when the decision concerned the refusal to renew, revoke or withdraw a residence permit

Czech Republic, Supreme Administrative Court, *YN v Czech Ministry of the Interior*, 18/08/2023

- Remedies to be exhausted against decisions on temporary protection prior to submitting an appeal => request for reassessment
- Rules governing international protection apply to temporary protection => access to legal assistance and appeal

Return under safe and durable conditions for

Germany, Higher Administrative Courts, *Applicant v Regional Administration Saxon Switzerland-Eastern Ore Mountains*, 06/09/2023

- Lebanese national – legal residence in Ukraine - studied dental medicine
- Rejection of his request for interim measure against threat for deportation
- Eligible for TPD if they cannot safely & permanently return to their country of origin

Luxembourg, Administrative Tribunal, *Applicant v Ministry of Immigration and Asylum*, 15/06/2023


- national of Comoros – legal residence in Ukraine for studies
- not eligible for protection – no proof that he could not return in safe and durable conditions
- lack of any proof that he would face a serious obstacle or risk in the event of return in the Comoros.

Third country nationals with a temporary residence

Netherlands, Court of the Hague seated in:

- **Utretch**, [Applicant v State Secretary for Justice and Security](#), 31/08/2023
- **Rotterdam**, [Applicant v State Secretary for Justice and Security](#), 09/08/2023
- the State Secretary correctly ended protection on 4 September 2023
- the State Secretary duly informed the Parliament by letters of July 2022 & February 2023 on the extension of protection
- no conflict with the EU law principles of legal certainty and confidence
- risk of burden on the asylum system after 04/09/2023 (Rotterdam)
- individual circumstances do not justify a different conclusion





Third country nationals with a temporary residence

Netherlands, Court of the Hague seated in Utrecht, [Applicant v State Secretary for Justice and Security](#), 30/08/2023

- State Secretary correctly applied the optional provision & the applicant was brought under temporary protection
- State Secretary obligations & powers governed by EU law for the applicant as beneficiary of the temporary protection scheme

Council of State, [Applicant v State Secretary for Justice and Security](#), 17/01/2024

- State Secretary cannot decide on end of protection => governed by EU Law
- Duration in line with the EU Temporary Protection Directive => 04/03/2024
- The applicants cannot benefit of the extension of temporary protection





Third country nationals with a temporary residence




Netherlands, Court of the Hague seated in Roermond, 19/03/2024

- Applicant v State Secretary for Justice and Security*, NL23.24696 and NL24.7930
- Applicant v State Secretary for Justice and Security*, NL23.24995 and NL24.7928

- Nationals of Algeria and Ghana – holders of temporary residence in Ukraine
- They were granted temporary protection in the Netherlands => are covered by the Council's Implementing Decision of October 2023 & cannot be returned.





Third country nationals with a temporary residence

Netherlands, Courts of the Hague seated in Amsterdam, [Applicant v State Secretary for Justice and Security](#), 29/03/2024

Referral for a preliminary ruling before the CJEU:

- Nigerian applicant who was informed by decision of 7 February 2024 that his temporary protection ends on 4 March 2024, jointly with return decision
- Questions for interpretation of the Return Directive, of the Temporary Protection Directive and on the applicability of the Council Implementing Decision (EU) 2023/2409 extending temporary protection until 4 March 2025



Third country nationals with a temporary residence

Netherlands, Council of State judgements:

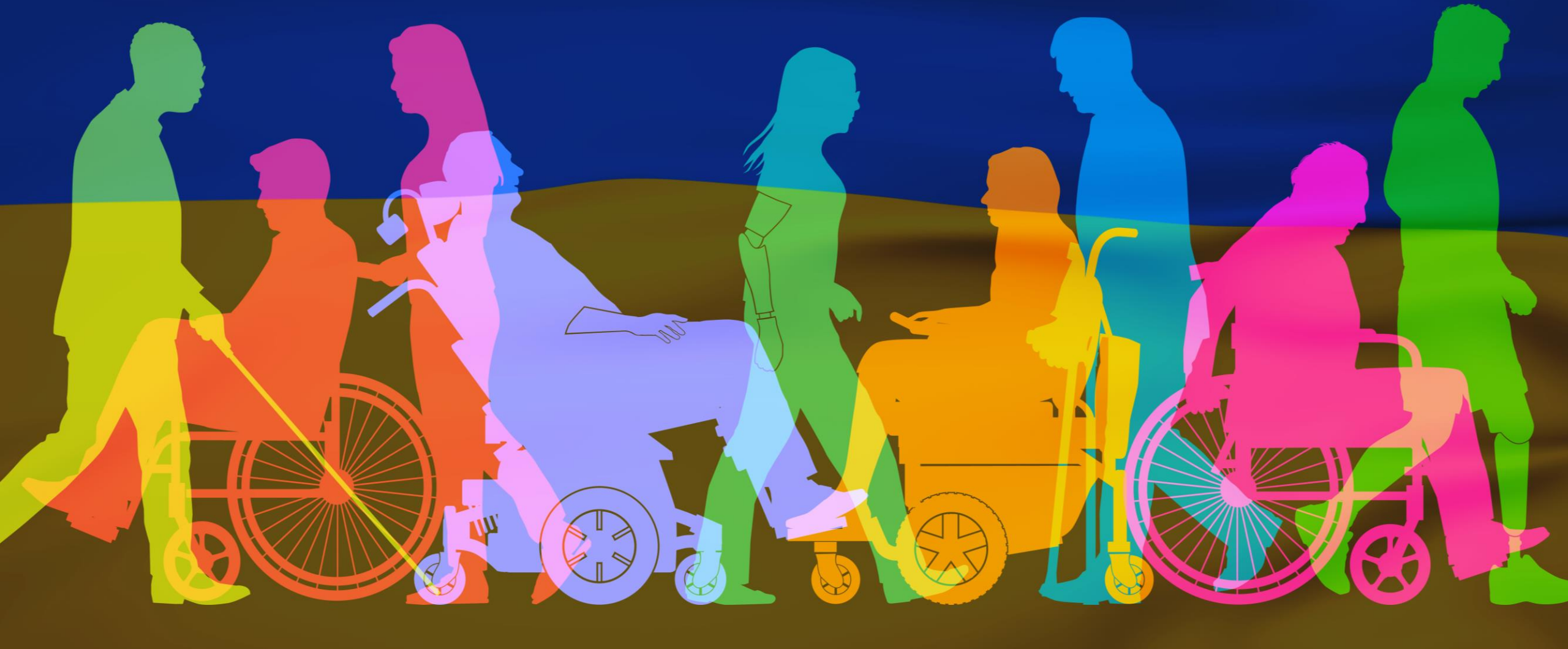
☐ [Applicant v State Secretary for Justice and Security](#), 29/03/2024

- preliminary relief judge - no implementation of the return decision for third country nationals who were granted temporary protection until 4 March 2024

☐ [Applicant v State Secretary for Justice and Security](#), 02/04/ 2024

- Preliminary relief judge - no return pending the CJEU judgment on the preliminary ruling
- The applicants will be treated as benefiting of temporary protection pending the outcome in the appeal

Displaced Ukrainians with Disabilities Seeking Temporary Protection in Europe



EUAA support to asylum applicants with disabilities



EUAA developed a range of training modules, tools and Guidance materials to improve and harmonise practices at national level



Practical cooperation and Information sharing among EU+ countries



EUAA developed SOPs, indicators, guidances, best practices and practical support tools to assist MS



Vulnerability Experts Network aims to foster convergence with EU standards related to identification, assessment and support provided



EUAA training curriculum supports the practical implementation of CEAS



EUAA launched new tool on its website for accessible information to persons with visual or hearing impairments, making it one of the most inclusive in EU institutional ecosystem



Situational Update No 20 serves as an additional resource to the comprehensive report on "Persons with Disabilities in Asylum and Reception Systems: A Comprehensive Overview".

This update is based on the same methodology used in the main report by including desk research and summarising the findings of two surveys which were disseminated by the EUAA in August and September 2023. The surveys were completed by national authorities and other stakeholders, including civil society and non-governmental organisations, academia and international organisations.

The Russian invasion of Ukraine led to one of the largest displacements of people since World War II. Most people travelling from Ukraine towards EU+ countries were particularly vulnerable throughout their journey, including women, children, the elderly and persons with disabilities or serious medical conditions.

Based on a survey of families in neighbouring countries of Ukraine (including Hungary, Moldova, Poland, Romania and Slovakia), UNHCR found that one in five families interviewed (22%) had a family member with a specific need, disability or serious medical condition and they generally faced greater difficulties to meet their basic needs.



UNHCR (April 2023). Acute needs of older Ukrainian refugees and those with disabilities must not be overlooked. <https://www.unhcr.org/news/feature/2023/04/01/older-ukrainian-refugees-and-those-with-disabilities-must-not-be-overlooked>

Persons with Disabilities in Asylum and Reception Systems



Methodology

EUAA collects information from diverse sources and produces overviews and analyses of developments in legislation, policies, practices and jurisprudence related to the CEAS

To further address information gap on disability in asylum and reception, EUAA launched 2 surveys to collect information from EU+ countries, international organisations and civil society organisations

Findings published in 2 reports (January 2024) based on same methodology:

- Situational Analysis: [Persons with Disabilities in Asylum and Reception Systems](#)
- Situational Update: [Displaced Ukrainians with Disabilities Seeking Temporary Protection in Europe](#)

The reports refer to Article 1 for the definition of disabilities from the UN Convention on the Rights of Persons with Disabilities

Situational Update delves into the special procedural guarantees for displaced Ukrainians with disabilities who registered for temporary protection

Key findings

- ✓ **Significant share of displaced families had 1 member with disability serious/medical conditions**
- ✓ **Registration process/medical assessment were key times in the process to identify disabilities**
- ✓ **No data collection on persons with disabilities who registered for temporary protection**
- ✓ **Close cooperation to help with identification & referral of beneficiaries of temporary protection with disabilities**



Key findings



- ✓ **4 EU+ countries received children with disabilities evacuated from facilities in Ukraine**
- ✓ **Important to put in place longer-term planning to ensure that special needs are sufficiently addressed, and essential care is provided to disabled persons**



Thank you for you attention

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