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THE DETERMINANTS OF COOPERATION AND THE NEED FOR BETTER COMMUNICATION BETWEEN STAKEHOLDERS IN EU COUNTRIES: THE CASE OF POSTED WORKERS

Dvorak J., Civinskas R.*

Abstract: The article analyses the determinants of cooperation and better communication between stakeholders in EU countries on the issue of policy pertaining to posted workers. The methodology of the current research is based on the data collected through qualitative research. The interview method has been used in order to obtain the data from the stakeholders involved in the policy for posting workers. According to the research findings, information exchange and cooperation are well-developed on a regional level. The broad diversity of information exchange practices has been found in the policy stakeholders' network. However, all the networks are in start-up phases.

Key words: cooperation, communication, industrial relations, posted workers, stakeholders

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Introduction

Cooperation is undoubtedly related to motivation and voluntary participation, a long-term agreement to act for the provision of benefits and distribution of responsibilities between the collaborators (Hill and Lynn, 2010; Conteh, 2013; Cristofoli et al., 2017). The literature on posted workers postulates that cooperation between competence with autonomous institutions (state institutions responsible for policy formation and implementation i.e. labour inspectorates, social insurance boards, tax authorities, responsible ministries) and socio-economic partners is essential for raising public awareness and solving the problems of social dumping, the misuse of PD A1 forms, bogus self-employment and letterbox companies (Cremers, 2013; Kullman, 2015). This emphasises that the role of cooperation is challenging due to different interests, interdependencies in regard to posting and some legal, political limitations.

This research focuses on labour inspectorates and other competent authorities' cooperation with social economic partners. Such cooperative arrangements ensure the reciprocity of exchange and partnerships involving elements of information sharing, as well as the avoidance of pathologies (Hill and Lynn, 2010; Sroka and

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Cygler, 2014). The literature on new modes of information sharing and partnerships has focused on monitoring-control (Benz et al., 2016), coordination (May and Winter, 2007; Galetta et al., 2014; Hartlapp and Heidbreder, 2018; Mastenbroek and Martinsen, 2017; Vifell and Sjögren, 2014) and partnerships as specific policy implementation tools at EU level. These studies analyse the socialisation process, which the national agencies undergo when these instruments are introduced. Indeed, such settings require the capacity of public officials to build inter-organisational ties and contribute to the development of diverse cultures, either internally or externally (Conteh, 2013). Researchers always discuss the benefits and drawbacks of decentralised network models. Some of them compare them to a more centralised agency lead-type model (Boin et al., 2014; Maggetti, 2014). Other scholars focus in practice on variation in the design of regulatory networks (Blauberger and Rittberger, 2015), the performance of actors' arrangements and effects on coordination and monitoring processes (Egeberg and Trondal, 2017; Kullmann, 2015). Information sharing needs to be managed in order to achieve efficient cooperation - that is, the effects of informal networks on their members' activities. The governance of the EU internal market is a particular field, where researchers have emphasised informal instruments (informal partnerships, information sharing) with a combination of legally grounded instruments and different professional and national cultures (Heidbreder, 2017; Thomann and Sager, 2017; Wall, 2016).

The main aim of this article is to examine the main determinants of cooperation and better communication between stakeholders in EU countries on the posted worker policy issue. The following questions guide the research: 1) What is the current state of affairs in terms of the cooperation and information exchange between stakeholders involved in posting policy issues in the Baltic states, Sweden and Poland? 2) How and to what extent does information exchange between stakeholders influence cooperation in the Baltic states, Sweden and Poland in terms of posted workers?. These research questions integrate and consolidate the theoretical and practical evidence in the field of administration, social dialogue, and protection of the rights of posted workers into an explanatory framework that makes it possible to explain the differences and similarities in practice between labour inspectorates, trade unions, and business organisations in selected EU states. Previous research on cooperation and information exchange focuses on coordination, monitoring, enforcement and partnerships. In contrast, little attention has been paid to information exchange and the quality of cooperation between EU member states' administrative bodies, trade unions and business organisations. The research constructively contributes to empirically grounded evidence on cooperation and information exchange in the selected EU member states.

Current research is based on the data gathered through qualitative interviews. Consultations with experts began in 2016. Primary information and ideas for research were collected by means of conversations and discussions with the involvement of an international group of experts. The deeper qualitative research

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was conducted as face-to-face, telephonic conversations and e-mail interviews in 2017. In total, this research is based on the data of interviews with 14 individual experts and three focus groups. *Limitation of research*: During the current research, the authors did not attempt to analyse the issues related to posted workers such as social dumping, unequal pay etc. However, the authors did attempt to find out actual, universal, local, and specific determinants of the information exchange and cooperation between stakeholders involved in transnational coordination regarding this issue.

Communication for Effective Information Exchange

Communication is about building better understanding, forcing positive change and minimising negative effects. It is often used by NGOs and labour unions because it is audience-focused, mission-driven, and action-oriented (Patterson and Radtke, 2009). It is not limited to message sending but can cover advocacy, educative projects, and services to members as well as partnership initiatives. Communication experts highlight the importance of focusing on target audiences for releasing missions and sending effective messages.

Communication plans could be for partnership initiatives that drive joint action. From this perspective, the plan can be a reminder to partners or networked organisations and the day-to-day challenge itself (Hudson, 2001; Mandarano, 2009). NGOs, state institutions, and trade unions could strategically focus on public policy problems, implementation activities, and cooperation areas based on the agreed dimensions of cooperation. These networked organisations can achieve positive changes in collaborative planning on a national and even EU level (Kilger et al., 2015). The outcome of such processes could be effective for collective actions. Effective communication starts with a situational analysis of the environment in existing network. It is important for systemising or finding new information about policy problems, policy and economic players/actors, the policy process, and so on. This analysis can cover examining factors, forces that influence networks and target groups. From the perspective of issues with posting, it is vital to analyse demographic and economic factors as well as politico-administrative processes. Identifying gaps in the method of effective communication is one of the analytical tools used in the communication audit (Palttala et al., 2012). This analysis aims to identify the gaps in two dimensions: posted worker policy processes and the partnership network. A communication plan can be successful if its audience is targeted (Patterson and Radtke, 2009). Thus, in planning processes, it is essential to focus on particular groups such as politicians/political institutions, governments, the awareness or otherwise of the public, target groups (posted workers, employers, and so on). By focusing strategically on these groups, the network organisation is much more likely to use its resources effectively. The best practice example demonstrates that it is better to focus on narrow problem-oriented sectors relevant to posted worker problems. For instance, concentration on the

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construction or transport sectors in terms of "sent" or "incoming" workers can be an example.

Cooperation between Stakeholders and the Need for Better Communication

Cooperation Patterns in Baltic States, Sweden and Poland: In the Baltic states and Poland, social partners' involvement in policy making is more diverse. Social dialogue is less institutionalised when compared to some Western countries, such as Sweden. The Swedish system is highly specific in those trade unions, which have significant responsibility for the regulation of the labour market and are responsible for inspections. This system is closely linked to how one regulates the labour market. In the countries, which are the subjects of research, there are very intensive and extensive social partnership regimes and practices. Although the Baltic states and Poland have social dialogue structures (tripartite comities, councils) in place on a national level (Lulle, 2013), Kallaste and Woolfson (2013) revealed that social dialogue has deteriorated, remaining at a low level even during the most recent economic crises (2009-2012). Social dialogue councils have met irregularly and generally lacked substantive influence over policymaking (Auers, 2015).

Employees' Representation by Trade Unions: Trade unions in the Baltic countries have not had enough influence to become important policy actors when it comes to the issue of posting. They also have neither enough trust from elements of society, nor the capacity to act concerning workers' interests (Kahancová, 2015; Korkut et al., 2017; Sippola, 20017; Mrozowicki et al., 2013). In Estonia, trade unions operate in a particularly unfriendly institutional environment according to specific empirical research (Bernaciak and Kahancová, 2017; Mrozowicki et al., 2013). Historical legitimacy is one of the negative factors that determine low associational power. Trade unions in Sweden are highly critical of the liberalisation of the labour market and prefer a strict regulation. Trade unions are common throughout the EU and able to articulate, influence, and dominate the process of labour market regulation. Table 1 shows trade union membership in the Baltic States, Sweden and Poland. Trade union density is very low in Estonia and Lithuania.

Table 1. Trade Union Density in the Baltic States, Sweden and Poland, 2015 (Dvorak et al., 2018; OECD Statistics, 2018)

Country	Sweden	Poland	Lithuania	Latvia	Estonia
Density	66.8	12.1	7.4	12.6	7.2

In general, the liberal Baltic States have low levels of labour mobilisation and bargaining institutionalisation. In this regard, the situation has slowly started to change with innovative practices on the part of trade unions (e.g. through mobilisation, initiatives, focus on legislation instead of negotiation), the transformation of industrial relations and new labour law regimes (in the case of Lithuania). It must be noted that Polish labour organisations have more powerful

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resources in comparison to their counterparts in the Baltic states, and are also perceived as much more trustworthy (Mrozowicki, 2014; Bernaciak, 2017). Still, as Bernaciak (2017) concludes, the "resources of Polish labour organisations have been steadily diminishing". Other research demonstrates some specific trade union transitions, with the example of the best-known and most powerful organisation Solidarność having lost more than 1.5 million members since 1991 (around 61 percent). Despite this significant decline, Solidarność is still the largest union "confederation" both in Poland and within all the CEE countries (Gardawski, Mrozowicki, Czarzasty, 2012; Trappmann, 2012).

The Density of Employers' Organisations: Employers' collective interests are represented by business umbrella organisations (Table 2). In the Baltic States, the employers have powerful organised interests that influence policy through interaction with parliaments, government, ministries and political parties. Thus, the meaning and function of the tripartite councils deteriorate (Auers, 2015). Sippola's (2017) analysis of policy documents of employers' associations proves that these organisations are focused on social partnerships with state agencies rather than trade unions.

Table 2. Employers' Associations (Lulle, 2013)

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In Sweden, the major partner in the social dialogue is the Confederation of Swedish Enterprise, which represents 49 member organisations and 60,000 member companies. In fact, business organisations mainly support posted workers and the free movement of labour. In the Baltic States and Poland, informal networks of friends and family contacts are still noticeable in the representation of business interests and lobbying. Sometimes decision-making tends not to be transparent enough. In some countries, informal networks often turn into clientelism and even political corruption.

Information Exchange Gaps Dealing with Posting Issues

Cooperation and Information Exchange between Ministries and Agencies at the National Level: In the Baltic states and Poland, there has been cooperation on the issue of solving posting policy implementation. The labour inspectorates are responsible for information exchange in regard to posting. The information is exchanged via ICT systems or traditional forms (interviews with EE1, LT1, LV1, PL1). The information has been exchanged for the realisation of functions of responsible institutions.

There have been three thematic dimensions for involvement and information exchange in the Baltic States and Poland: 1) labour – labour inspectorates 2) social security – ministries of social affairs, social insurance boards 3) finance – tax authorities. In the Baltic States and Poland, the focus has been on the labour dimension while dealing with posted worker issues. The administrative arrangements and information exchange have been based on this pillar.

Information Exchange between State Authorities and Stakeholders on a National Leve: The area of posted workers is highly complex because of EU public policy in terms of policy problems, obstacles to implementation and conflicting actors' and stakeholders' interests. The actors have cooperative relations in information sharing and consultations. Interactions are determined by means of contract agreements, description of formal responsibilities and trust in each other.

In the Baltic States, Soviet-era legacies, image and stereotypes have continued to have a negative impact, minimising their role as actors in public policy formation and implementation (Sippola, 2017). This is proven by the results of the in-depth interviews. Trade union experts and civil servants have pointed out that low social trust, a negative image, and minimal involvement in consultations minimise their possible role in the posting policy process (Interview with EE1, EE2, EE3, LT1).

Information Exchange and Partnership in Poland: Qualitative data reveals that there is intensive administrative cooperation between national authorities and social partners, which start with EC-financed projects. These initiatives to collaborate on issues are closely linked to the information exchange. In Poland, these projects have been focused on mutual understanding, information exchange as well as problem-solving. The respondent shared his experience as follows:

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The National Labour inspection took part in international projects ("Promocja współpracy transgranicznej pomiędzy partnerami oraz popularyzacja najlepszych praktyk w celu skuteczniejszego egzekwowania ustawodawstwa europejskiego w zakresie delegowania pracowników") in 2016-2017. Eight seminars were organised in Poland in which civil servants from the labour inspectorate, academic scholars, employers' representatives and members from the "Solidarność" trade union" took part. (Interview with PL1).

This interview explains that information exchange is essential for problem-solving. In this case, the relevant information is the employment conditions to which posted workers have been sent. Labour union representatives, as well as employers have a vested interest in this information. On the other hand, the interview explains that the need for information exchange may vary depending on the region. The size of Poland as a country, and regional differences in posting issues are a clear distinguishing feature in comparison to small Baltic States. Another important limitation comes from the so-called "projectisation" of information sharing and awareness-raising initiatives. Technically, they are essential from a narrow policy implementation perspective.

The interviews have indicated that opposite positions can be mitigated by consultations and information exchanges. On the other hand, these contradictory positions have been formed on recent EU policy reform issues pertaining to posted workers.

As the current project suggests, cooperation between the national labour inspectorate and a nation-wide representative trade union, NSZZ "Solidarność", helps to establish and enhance links, collectively defining the area of common interest (observance of law, fair treatment of individuals on the supply side – the relatively weaker actor vis-a-vis employers/service recipients – of the labour market, pursuit of values fundamental for the European Social Model), collectively producing and disseminating knowledge on the posting of workers, problems encountered in the course of posting, and possible ways of dealing with them. In the long run, such cooperation contributes to the accumulation of social capital (trust) and the network of social bonds becoming denser. (Interview with PL2).

In this interview, the working platforms for cooperation and information exchange are mentioned. It is possible to discern that activities have commenced only recently. The respondent has also mentioned the need for initialisations for consultations and information exchange. Polish NGOs and trade unions have projects and day-to-day communication activities with union members and other workers. This type of activity is aimed at information sharing, consultations and providing some legal or psychological counselling. Posted workers get help in this form to solve their problems; in addition, NGOs focus directly on assisting people.

Information Exchange and Partnership in Sweden: The information exchange between the stakeholders in Sweden is strongly based on the so-called Swedish model, which argues the importance of collective agreements between trade unions and employers. During qualitative research in Sweden, the respondents have

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strongly argued that the "Swedish system is very specific, where the trading unions have a large degree of responsibility for the regulation of the labour market and are responsible for inspections" (Focus group SWF2). The trade unions provide the Swedish Work Environment Authority with all collective agreements, which are published on the authority's webpage. In this case, the main tasks of the Swedish Work Environment Authority are to check if the employees are posted as registered and whether they have a good work environment. However, the respondent has noted <the quality of this register is not very good<...> (Interview with SW1). The case of salary setting and inspections are in the hands of the trade unions. Indeed, trade unions do not view posting as a big issue. According to the respondent: the biggest problem is we do not know how many there are, nor how long they are staying here, nor if they have the rights, they were supposed to have. <...> we also think that in many cases employers do not pay the social contributions and taxes that they should (Interview with SW3). Such circumstances and trials aimed at changing the situation are confirmed by a respondent employer: *Unfortunately, it is* true that the problem of non-payment of taxes exists. We have done a lot of work to correct this and are trying to make that problem as small as possible (Focus group SWF1). Actually, trade unions see that this is an area where they should try to facilitate close cooperation among all stakeholders. However, fraudulent employers try to avoid cooperating with trade unions.

During the qualitative research, we found that the trade unions may come across another problem, which arose during cooperation with the Swedish Work Environment Authority. It was mentioned that the authority has a lack of resources and time with which to work with trade unions in cases where trade unions find something wrong at workplaces. However, this does not mean that there is no cooperation. As mentioned by a respondent: <...> authority undertakes some health and safety measures and they have started to speak with us about a posted workers' register<...> (Interview with SW3). However, this lack of stronger cooperation can be explained by the institutionalised functions of different authorities. Respondents from the focus group explained: Our task is only to inspect the work environment. If there are problems with visas, work permits and so on, it is a task for the immigration authority or police (Focus group SWF2). Here, we can see that there is a strict separation of tasks, and authorities are operating within the boundaries of their competencies.

The qualitative research found that it is difficult to enforce EU regulation for better cooperation. The respondent pointed out: <...> we do not have a central enforcement agency in the EU. We have no labour inspectorate in the EU to control whether member states are following the rules. <...> we need at the very least a central body to organise control among countries (Interview with SW1).

Information Exchange in Estonia: The information exchange between stakeholders at the policy process level requires initialised platforms and concrete issues, which can be placed on the agenda. In Estonia, social dialogue platforms have been used in the transport sector, as qualitative data proves:

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When we started with the posting issue, it was more or less in the same state in terms of employee financial participation, which we discussed at today's conference. <...> At the beginning, we were alone in communicating with partners in other Baltic states. Western European countries have a very different view of posting. For example, the Nordic countries have very specific policies on posted workers. And we did not have good solutions as well. But we just have a good network. We cooperate with ITF, YTF and with the Baltic network. We have a much better mutual understanding with Nordic countries. We have undertaken some actions at the EU level. (Interview with EE3).

One problem mentioned by Estonian respondents is the lack of deeper and intensive cooperation concerning information exchange on posting issues. As interview data suggests, cooperation between the labour union (Estonian Transport and Road Workers' Trade Union) and the labour inspectorate started with the projects. The information exchange and consultations are permanently based on project activities. For instance, National Labour Inspectorates and the Ministry of Social Affairs were involved through ETTA in the discussion on PWD implementation in 2016 (Interview with EE3). The practices of information exchange and consultation have been ingenuously observed by a respondent from the Estonian Labour inspectorate. In Estonia, trade unions are not so big and important as in Finland, Denmark or Sweden. In Estonia, they play a less important role and have a really liberal stance. <...> Of course, we cooperate with them when we have questions, but we do not have active communication or consultations on the topic of posting (Interview with EE1)

The interview indicates that gaps in the information exchange could be related to mistrust between social partners and the labour inspectorate. Another reason behind it is determined by the project as an organisational model for information exchange, consultations and further cooperation. In Estonia, the project aimed at posted workers' issues has not fully solved problems with the information exchange. An analysis of qualitative data reveals that there has been some cooperation in the form of consultations and information exchange, although it is not sustainable.

Information Exchange Gaps in Lithuania and Latvia: Gaps in the information exchange were discussed in the Vilnius focus group. Expert group members from NGOs, trade unions and business associations pointed out that information exchange, in terms of accessibility and effectiveness depends on 1) historical legacies and public attitudes 2) interests and capacities and organisational cultures of social partners 3) the practical need for information exchange 4) features of industrial relations of specific economy sectors (Interview with LT1).

It is worth mentioning that a number of stakeholders have taken part in the networks on the national level. A significant number of representatives of NGOs, ministries, and the labour inspectorate have participated in the dialogue. This participation has not been limited to a formal presence in conferences or roundtable discussions but has been enhanced by making informal contacts, participating in

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discussions and sharing information. Later, the information exchange has been institutionalised in national social dialogue institutions and special platforms. Indeed, the EU posting policy reform process has been an important incentive for meetings and discussions. The respondents have given evidence of the relatively developed cooperation in terms of information exchange. The participating actors mainly exchange information on EU posted worker policy issues, focused on national interests' representation in EU institutions as well on social dialogue platforms. In the understanding of trade unions, only steps towards social dialogue on the posted workers' issues have been taken. Interestingly, these steps can be seen as somewhat ineffective due to low interest in partnerships from businesses, which provide cross-border services. One proposal is that it is necessary to exchange information and discuss posted workers' problems with the most prominent road transport companies.

In Latvia, networking which targets posting issues has been less developed. There are two reasons for this. Firstly, the network has been fully functional with the involvement of the LCA. For instance, the questions of information exchange and international cooperation have been raised in Latvian roundtable discussions with concrete proposals of how stakeholders could be involved. The participants have concluded the following: <...> In order to solve the problems of posted workers, there is a need for close cooperation between countries, institutions and organisations. For example, one of the solutions could be to implement an information network among countries and trade unions, to provide and share information about labour rights, wages and standards and procedures in each country (Interview with LV1; LV2).

The individual interviews proved that focusing on practical cases i.e. identifying practices of abusive posting conditions, social dumping or counselling posted workers, is the primary preference of trade unions and labour inspectorates (Interview with LV1; LV2).

Conclusions

To sum up, formal cooperation networks have been set up in the Baltic States, Sweden and Poland for the provision of projects financed by EC activities. Cooperation has taken place at the appropriate level for exchanging information, sharing best practices, and consulting on common national positions/strategies. International and national conferences and roundtables have been used as tools for information exchange. Furthermore, these networks have been enabled on the following levels: 1) EU level 2) Regional, on EU posted workers policy reform (Common memorandums, etc.) 3) National, on administrative issues (cooperation on information exchange with labour inspectorates) and social dialogue (the transport sector, in the case of Lithuania) 4) A sub-network formed for the road transport sector. The main aim of cooperation networks has been the exchange of information on posted worker policy matters as well as discussing problems and good practices pertaining to the issue of posted workers. All the networks are in the

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start-up phase. A diverse range of information exchange practices has been found in these networks. At the national level, cooperation seems to be concentrated on the development of policy positions in the transport sector, information exchange on problems faced by posted workers and abusive practices, etc.

The information exchange and cooperation are well developed at the regional level. Cooperation is based on two networking platforms: 1) Partnerships between the labour inspectorates of the Baltic states and Poland respectively have been based on bilateral and multilateral agreements, annual meetings, and personal contacts between civil servants. The information exchange on cases pertaining to posted workers has been provided via IMI systems. Sweden and Poland have been relatively new actors in this cross-border administrative network. 2) The social partner network has been based on various actors (NGO, trade unions, business associations, and the Lithuanian labour inspectorate) relevant to posting and cross-border service provision. This network has been based on EC-financed projects and aims to facilitate information exchange, sharing best practice and building a common position on EU posted worker policy proposals.

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DETERMINANTY WSPÓŁPRACY I POTRZEBY LEPSZEJ KOMUNIKACJI POMIĘDZY ZAINTERESOWANYMI STRONAMI W KRAJACH UE: PRZYPADEK PRACOWNIKÓW DELEGOWANYCH

Streszczenie: Artykuł analizuje uwarunkowania współpracy oraz lepszą komunikację między interesariuszami w krajach UE w zakresie polityki dotyczącej pracowników delegowanych. Metodologia obecnych badań opiera się na danych zebranych w badaniach jakościowych. Metoda wywiadów została wykorzystana w celu uzyskania danych od zainteresowanych stron zaangażowanych w politykę delegowania pracowników. Zgodnie z wynikami badań wymiana informacji i współpraca są dobrze rozwinięte na poziomie regionalnym. Szeroka różnorodność praktyk w zakresie wymiany informacji została odkryta w sieci zainteresowanych stron. Jednak wszystkie sieci są w fazie rozruchu.

Słowa kluczowe: współpraca, komunikacja, stosunki przemysłowe, pracownicy delegowani, interesariusze

合作的决定因素和欧盟国家利益攸关方之间更好的沟通需求:发布工人的案例

摘要:本文分析了欧盟国家利益相关者之间在职工政策问题上的合作和更好沟通的决定因素。当前研究的方法是基于通过定性研究收集的数据。采用访谈方法是为了从参与发布工作人员政策的利益相关者那里获取数据。根据研究结果,信息交流与合作在区域层面得到了很好的发展。在政策利益相关者的网络中发现了广泛的信息交换实践但是,所有网络都处于启动阶段。

关键词:合作,沟通,劳资关系,工人,利益相关者。

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