Въпроси, свързани с имуществения режим между съпрузи

Въпроси, свързани с имуществения режим между съпрузи

Национална информация във връзка с Регламент № 2016/1103

През юни 2016 г. Европейският съюз прие Регламент относно имуществените режими между съпрузи, който има за цел да помогне на двойките при ежедневното управление на тяхното имущество и при разделянето му в случай на развод или смърт на единия от съпрузите. Регламентът беше приет в рамките на процедура за засилено сътрудничество от 18 държави от ЕС: Швеция, Белгия, Гърция, Хърватия, Словения, Испания, Франция, Португалия, Италия, Малта, Люксембург, Германия, Чешката република, Нидерландия, Австрия, България, Кипър и Финландия. Други държави на ЕС могат да се присъединят към регламента по всяко време (в такъв случай държавата ще трябва да се присъедини също и към Регламента относно относно имуществените последици на регистрираните партньорства).

Регламентът предоставя на международните бракове правна сигурност и намалява разходите за съдебни производства, като двойките са запознати с това съдилищата на коя държава от ЕС следва да се занимават с въпросите, свързани с тяхното имущество, и кое национално право следва да се приложи за решаване на тези въпроси. Регламентът също така улеснява признаването и изпълнението на решенията по имуществени въпроси, постановени в друга държава от ЕС. В случаите, когато имуществото на двойката трябва да бъде разделено поради развод или смърт, регламентът улеснява и прилагането на правилата на ЕС относно трансграничните случаи на развод и наследяване. Регламентът е приложим от 29 януари 2019 г.

Последна актуализация: 11/05/2021

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Matters of matrimonial property regimes - Belgium

Article 64(1) (a) - the courts or authorities with competence to deal with applications for a declaration of enforceability in accordance with Article 44(1) and with appeals against decisions on such applications in accordance with Article 49(2)

With competence to deal with applications for a declaration of enforceability: the court of first instance, more specifically the family court (‘tribunal de la famille’).

As regards appeals against decisions on such applications:

to lodge an objection: the court of first instance, more specifically the family court (‘tribunal de la famille’);

to lodge an appeal: the Court of Appeal (‘Cour d'appel’).

Article 64(1) (b) - the procedures to contest the decision given on appeal referred to in Article 50

Decisions delivered on appeal are subject to review by the Court of Cassation (‘Cour de Cassation’) alone.

Article 65 (1) - the list of the other authorities and legal professionals referred to in Article 3(2)

No other authorities according to the criteria laid down in Article 3(2).

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Matters of matrimonial property regimes - Bulgaria

Article 64(1) (a) - the courts or authorities with competence to deal with applications for a declaration of enforceability in accordance with Article 44(1) and with appeals against decisions on such applications in accordance with Article 49(2)

The application for a declaration of enforceability of a judgment or other act issued in another EU Member State is lodged with the provincial court. (Article 623(1) of the Code of Civil Procedure).

Article 64(1) (b) - the procedures to contest the decision given on appeal referred to in Article 50

The decision is subject to appeal before the Sofia Court of Appeal. Further appeals against decisions of the Sofia Court of Appeal are to be lodged with the Supreme Court of Cassation. (Article 623(6) of the Code of Civil Procedure).

Article 65 (1) - the list of the other authorities and legal professionals referred to in Article 3(2)

Not applicable.

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Matters of matrimonial property regimes - Czechia

Article 64(1) (a) - the courts or authorities with competence to deal with applications for a declaration of enforceability in accordance with Article 44(1) and with appeals against decisions on such applications in accordance with Article 49(2)

In the Czech Republic it is the district courts [*okresní soudy*].

Article 64(1) (b) - the procedures to contest the decision given on appeal referred to in Article 50

Only extraordinary remedial measures may be used, namely:

- action for annulment [*zmatečnost*];
- action to re-open proceedings [*žaloba na obnovu řízení*];
- review of an appeal [*dovolání*].

All the extraordinary appeal procedures listed should be lodged with the court which ruled on the case at first instance.

Article 65 (1) - the list of the other authorities and legal professionals referred to in Article 3(2)

This means notarial entities such as court commissioners (Section 162(2) in conjunction with Sections 100(1) and 103(1) of Act No 292/2013 on special judicial procedures).

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Matters of matrimonial property regimes - Germany

Article 64(1) (a) - the courts or authorities with competence to deal with applications for a declaration of enforceability in accordance with Article 44(1) and with appeals against decisions on such applications in accordance with Article 49(2)

Applications for a declaration of enforceability in accordance with Article 44(1) of the two Regulations must be submitted to the competent local court - family court. The court with exclusive territorial jurisdiction is the local court at the seat of the higher regional court in whose district the debtor is resident or in whose district the judgment is to be enforced.

Article 64(1) (b) - the procedures to contest the decision given on appeal referred to in Article 50

Decisions on a declaration of enforceability taken by local courts may be appealed against to the higher regional court, in accordance with Article 49(2) of the Regulations.

Decisions on the appeal may be appealed before the Federal Court of Justice, in accordance with Article 50 of the Regulations.

Article 65 (1) - the list of the other authorities and legal professionals referred to in Article 3(2)

Not applicable

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Matters of matrimonial property regimes - Greece

Article 64(1) (a) - the courts or authorities with competence to deal with applications for a declaration of enforceability in accordance with Article 44(1) and with appeals against decisions on such applications in accordance with Article 49(2)

The competent court for declaring the enforceability of a decision concerning matrimonial property regimes and the property consequences of registered partnerships on the application of the interested party, under Article 44(1) of the Regulations in question, is the SingleMember Court of First Instance (Monomeles Protodikeio) during the non-contentious proceedings (Article 740 et seq. of the Code of Civil Procedure).

Article 64(1) (b) - the procedures to contest the decision given on appeal referred to in Article 50

The competent court for appeals in adversarial proceedings against decisions on applications for a declaration of enforceability in accordance with Article 49 (2) of the Regulations in question, is the Court of Appeal (Efeteio). According to the case-law of the Court of Cassation, this takes the form of an application /appeal tried at first and final instance by the Court of Appeal, by way of exception to the rule of Article 12(2) of the Code of Civil Procedure.

A decision of the Court of Appeal under Article 50 of the Regulations in question, as described under point (b), may be contested by an appeal in cassation.

Article 65 (1) - the list of the other authorities and legal professionals referred to in Article 3(2)

Not applicable

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Matters of matrimonial property regimes - Spain

Article 64(1) (a) - the courts or authorities with competence to deal with applications for a declaration of enforceability in accordance with Article 44(1) and with appeals against decisions on such applications in accordance with Article 49(2)

The court with jurisdiction to deal with applications for a declaration of enforceability is the Court of First Instance (*Juzgado de Primera Instancia*) of the place of domicile of the party against which recognition or enforcement is sought or of the place of enforcement.

Article 64(1) (b) - the procedures to contest the decision given on appeal referred to in Article 50

Appeal against a decision. The court with jurisdiction to deal with appeals is the Provincial Court (*Audiencia Provincial*).

The procedures to contest a decision given on appeal by the Provincial Court may be in the form of an extraordinary appeal for breach of procedure (*recurso extraordinario por infracción procesal*) or an appeal in cassation (*recurso de casación*).

Article 65 (1) - the list of the other authorities and legal professionals referred to in Article 3(2)

In Spain, there are no authorities with the characteristics and scope listed in Article 3(2) falling under this Regulation.

In terms of the application [1] of Regulation (EU) No 650/2012, as declared by Spain in accordance with Article 79, there are only notaries - see below.

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[1] (Article 79 of Regulation (EC) No 650/2012)

Notaries, for declarations of intestate successors; procedures regarding submission, verification, opening and notarisation of sealed, holograph, and special wills; and the drawing up of inventories.

Articles 55 and 56; 57 to 65, and 67 to 68 of the Law on Notaries (Ley del Notariado) in the wording laid down in the Eleventh Final Provision of Law 15/2015 of 2 July 2015 on Non-Contentious Proceedings (Ley de la Jurisdicción Voluntaria).

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Matters of matrimonial property regimes - France

Article 64(1) (a) - the courts or authorities with competence to deal with applications for a declaration of enforceability in accordance with Article 44(1) and with appeals against decisions on such applications in accordance with Article 49(2)

The applications referred to in Article 44 are to be submitted to the chief registrar (*greffier en chef*) of the court (*tribunal judiciaire*) (Articles 509-1 and 509-2 of the Code of Civil Procedure (*Code de procédure civile*)) where they relate to a court decision or court settlement, and to the president of the Association of Notaries (*chambre des notaires*), or his or her replacement in case of absence or incapacity, if they relate to an authentic instrument (Article 509-3 of the Code of Civil Procedure).
The appeals referred to in Article 49(2) are lodged before the president of the court (Article 509-9 of the Code of Civil Procedure).
Where they relate to a court decision or court settlement:
*Applications for a declaration of enforceability of a decision of a French court in view of its recognition and implementation abroad are submitted to the chief registrar of the court issuing the decision or approving the agreement (Article 509-1 of the Code of Civil Procedure).
*Applications for a declaration of enforceability, on French territory, of foreign enforcement orders, are submitted to the chief registrar of the court (Article 509-2 of the Code of Civil Procedure).
Where the application relates to an authentic act:
*Application for the certification of French authenticated notarial acts in view of their recognition and implementation abroad are submitted to the notary or the legal entity owning the notary's office which keeps the original of the document received (Article 509-3 of the Code of Civil Procedure).
*Application for the certification of foreign authenticated notarial acts on French territory are submitted to the president of the Association of Notaries , or his or her replacement in case of absence or incapacity (Article 509-3 of the Code of Civil Procedure).
Appeals referred to in Article 49(2):
Appeals against declarations of enforceability of foreign enforcement orders and acts, on French territory, are submitted to the president of the court (Article 509-9 of the Code of Civil Procedure).

Article 64(1) (b) - the procedures to contest the decision given on appeal referred to in Article 50

A decision handed down by the president of the court on an appeal can be contested only by bringing an appeal on a point of law (*pourvoi en cassation*) before the court of Cassation (*Cour de Cassation*).
The grounds for an appeal on a point of law may differ (ruling contravening the law, misuse of power, lack of jurisdiction, lack of legal basis, lack of legal grounds, conflicting judgments, etc.), but in each case the court limits itself to a review of the application of the law. This means that the Court of Cassation checks that the ruling did not contravene the law or disregard the rule of law but does not examine the facts of the case.
Cour de cassation
5 quai de l'Horloge
75055 Paris

Article 65 (1) - the list of the other authorities and legal professionals referred to in Article 3(2)

Not applicable
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Matters of matrimonial property regimes - Croatia

Article 64(1) (a) - the courts or authorities with competence to deal with applications for a declaration of enforceability in accordance with Article 44(1) and with appeals against decisions on such applications in accordance with Article 49(2)

Applications for a declaration of enforceability in accordance with Article 44(1) and appeals against decisions on such applications in accordance with Article 49(2) are to be lodged with the municipal courts.
The responsible courts are:
All municipal courts under the Territories and Seats of Courts Act (*Narodne novine* (NN; Official Gazette of the Republic of Croatia) No 128/14).

Article 64(1) (b) - the procedures to contest the decision given on appeal referred to in Article 50

Under applicable national law in Croatia, there is no mechanism by which, for the purposes of Article 50, a decision on a legal remedy may be further contested, i.e. there are no courts with which a further appeal may be lodged.

Article 65 (1) - the list of the other authorities and legal professionals referred to in Article 3(2)

In Croatia, the municipal courts are responsible for dealing with non-litigious and enforcement cases under the Courts Act (NN Nos 28/13, 33/15, 82/15, 82/16, 67/18, 126/19, 130/20). Therefore, under applicable national law in Croatia, there are no other competent authorities or legal professionals in accordance with Article 3(2) of the Regulation with competence in matters of matrimonial property regimes which exercise judicial functions or act by delegation of power by a judicial authority or under its control.
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Matters of matrimonial property regimes - Italy

Article 64(1) (a) - the courts or authorities with competence to deal with applications for a declaration of enforceability in accordance with Article 44(1) and with appeals against decisions on such applications in accordance with Article 49(2)

The court with competence to deal with applications for a declaration of enforceability in accordance with Article 44(1) is the Court of Appeal [*Corte di Appello*].
The court with competence to deal with appeals against decisions on applications for a declaration of enforceability in accordance with Article 49(2) is the Supreme Court of Cassation [*Suprema Corte di Cassazione*].

Article 64(1) (b) - the procedures to contest the decision given on appeal referred to in Article 50

The decision given on appeal may be contested through:
1) an application for revision in accordance with Article 391-*bis* and *ter* of the Code of Civil Procedure;
2) an application initiating third-party proceedings in accordance with Article 391-*ter* of the Code of Civil Procedure.
An application for correction may also be brought against the decision if the judgment is affected by clerical mistakes or errors in calculation.

Article 65 (1) - the list of the other authorities and legal professionals referred to in Article 3(2)

For the purposes of Article 3(2) this includes:
lawyers acting under the assisted negotiation [*negoziazione assistita*] procedure in accordance with Article 6 of Decree-Law No 132 of 2014;

civil registrars acting under the assisted negotiation procedure in accordance with Article 12 of Decree-Law No 132 of 2014.

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Matters of matrimonial property regimes - Cyprus

Article 64(1) (a) - the courts or authorities with competence to deal with applications for a declaration of enforceability in accordance with Article 44(1) and with appeals against decisions on such applications in accordance with Article 49(2)

The courts with competence to deal with applications for a declaration of enforceability are the Family Courts. Appeals against decisions on such applications are heard by the Second-Instance Family Court (Defterobáthmio Oikogeneiakó Dikastírio).

Article 64(1) (b) - the procedures to contest the decision given on appeal referred to in Article 50

The procedures to contest the decision given on appeal are the appeal procedure laid down in Article 25 of the Courts of Justice Law, Law 14/60, and the issuing of prerogative writs in accordance with Article 155 of the Constitution.

Article 65 (1) - the list of the other authorities and legal professionals referred to in Article 3(2)

Not applicable

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Matters of matrimonial property regimes - Luxembourg

Article 64(1) (a) - the courts or authorities with competence to deal with applications for a declaration of enforceability in accordance with Article 44(1) and with appeals against decisions on such applications in accordance with Article 49(2)

Courts or authorities with competence to deal with applications for a declaration of enforceability in accordance with Article 44(1):

President of the District Court (*Tribunal d'arrondissement*)

Contact details:

Tribunal d'arrondissement de Luxembourg
Cité judiciaire
L-2080 Luxembourg
Tel.: 00352 475981-1

Tribunal d'arrondissement de Diekirch
Palais de Justice
Place Guillaume
L-9237 Diekirch
Tel.: 00352 803214-1

Courts or authorities with competence to deal with appeals against decisions on such applications in accordance with Article 49(2):

Court of Appeal sitting in civil matters (*Cour d'appel siégeant en matière civile*)

Contact details:

Cour d'appel
Cité judiciaire
L-2080 Luxembourg
Tel.: 00352 475981-1

Article 64(1) (b) - the procedures to contest the decision given on appeal referred to in Article 50

Procedures to contest the decision given on appeal referred to in Article 50:

Court of Cassation

Contact details:

Cour de cassation
Cité judiciaire
L-2080 Luxembourg
Tel.: (+352) 475981-2369 / 2373

Article 65 (1) - the list of the other authorities and legal professionals referred to in Article 3(2)

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Matters of matrimonial property regimes - Netherlands

Article 64(1) (a) - the courts or authorities with competence to deal with applications for a declaration of enforceability in accordance with Article 44(1) and with appeals against decisions on such applications in accordance with Article 49(2)

Application for a declaration of enforceability pursuant to Article 44(1): the judge hearing applications for interim relief (*voorzieningenrechter*) at the district court.

Appeal against a decision on this application pursuant to Article 49(2): the district court whose judge hearing applications for interim relief has ruled on the application for recognition or the declaration of enforceability.

Article 64(1) (b) - the procedures to contest the decision given on appeal referred to in Article 50

Appeal in cassation to the Supreme Court.

Article 65 (1) - the list of the other authorities and legal professionals referred to in Article 3(2)

Not applicable to the Netherlands.

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Езиковата версия, която търсите, в момента се подготвя от нашите преводачи.

Моля, имайте предвид, че версиите на следните езици de вече са преведени.

Matters of matrimonial property regimes - Austria

Article 64(1) (a) - the courts or authorities with competence to deal with applications for a declaration of enforceability in accordance with Article 44(1) and with appeals against decisions on such applications in accordance with Article 49(2)

The courts with jurisdiction to deal with applications for a declaration of enforceability under Article 44(1) of the Regulation are the Enforcement Court (*Exekutionsgericht*) or District Court (*Bezirksgericht*) where the defendant is domiciled.

The court with jurisdiction to deal with appeals against decisions on applications for a declaration of enforceability is the higher Regional Court (*Landesgericht*); however, the appeal must be lodged with the court of first instance that issued the decision.

Article 64(1) (b) - the procedures to contest the decision given on appeal referred to in Article 50

Appeals against points of law (*Revisionsrekurs*) are made to the Supreme Court (*Oberster Gerichtshof*) but must be lodged with the court of first instance.

Article 65 (1) - the list of the other authorities and legal professionals referred to in Article 3(2)

In Austria, there are no other authorities or legal professionals with competence within the meaning of Article 3(2) in matters of matrimonial property regimes.

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Matters of matrimonial property regimes - Portugal

Article 64(1) (a) - the courts or authorities with competence to deal with applications for a declaration of enforceability in accordance with Article 44(1) and with appeals against decisions on such applications in accordance with Article 49(2)

The courts or authorities with competence to deal with applications for a declaration of enforceability in accordance with Article 44(1) are as follows:

- the family and minors division (*juízo de família e menores*); or, if there isn't one:
- the local civil division (*juízo local cível*), if one exists; or
- the general division (*juízo de competência genérica*) of the district court (*tribunal de comarca*) with jurisdiction.

In accordance with Article 49(2), appeals against decisions on such applications are heard by the courts of appeal (*Tribunais da Relação*).

Article 64(1) (b) - the procedures to contest the decision given on appeal referred to in Article 50

For the purposes of Article 50, a decision given on appeal can only be contested by bringing an appeal on a point of law (*recurso de revista*) before the Supreme Court of Justice (*Supremo Tribunal de Justiça*).

Article 65 (1) - the list of the other authorities and legal professionals referred to in Article 3(2)

- The courts, specifically the family and minors divisions, local civil divisions, general divisions, the courts of appeal and the Supreme Court of Justice;
- civil registry offices (*Conservatórias do Registo Civil*)(1);
- notaries (*notários*)(2).

(1) Decree-Law No 272/2001 of 13 October 2001, as last amended (consolidated version of Decree-Law No 272/2001 - *Diário da República* No 238/2001, Series I-A,13.10.2001 (dre.pt)), gives civil registry offices competence in proceedings relating to the designation of the family home, legal separation, conversion of a legal separation into a divorce, and divorce, provided that, in all of the cases referred to above, there is agreement/mutual consent between the parties (see Article 16 of the Decree-Law, which gives civil registry offices powers equivalent to courts for that purpose).

(2) Law No 23/2013 of 5 March 2013, as last amended (consolidated version of Law No 23/2013 - *Diário da República* No 45/2013, Series I, 5.3.2013 (dre.pt)), approving the legal framework for inventory proceedings and granting notaries the power to draw up the documents for and terms of inventory proceedings arising from a separation, divorce, a declaration that a marriage is null and void or the annulment of a marriage - see, in particular, Articles 2(3), 3(6) and 3(7).

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Matters of matrimonial property regimes - Finland

Article 64(1) (a) - the courts or authorities with competence to deal with applications for a declaration of enforceability in accordance with Article 44(1) and with appeals against decisions on such applications in accordance with Article 49(2)

Declaration of enforceability:

District Court

Appeal against a decision of the District Court:

Court of Appeal

Article 64(1) (b) - the procedures to contest the decision given on appeal referred to in Article 50

An appeal against a decision of the Court of Appeal is an appeal to the Supreme Court, if the Supreme Court grants leave to appeal (Chapter 30, Sections 1-3 of the Code of Judicial Procedure).

Article 65 (1) - the list of the other authorities and legal professionals referred to in Article 3(2)

Executor appointed by the court

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Matters of matrimonial property regimes - Sweden

Article 64(1) (a) - the courts or authorities with competence to deal with applications for a declaration of enforceability in accordance with Article 44(1) and with appeals against decisions on such applications in accordance with Article 49(2)

District court	Territorial jurisdiction
Nacka district court (*Nacka tingsrätt*)	Stockholm County (*Stockholms län*)
Uppsala district court	Uppsala County
Eskilstuna district court	Södermanland County
Linköping district court	Östergötland County
Jönköping district court	Jönköping County
Växjö district court	Kronoberg County
Kalmar district court	Kalmar County
Gotland district court	Gotland County
Blekinge district court	Blekinge County
Kristianstad district court	Municipalities (*kommuner*) of Bromölla, Båstad, Hässleholm, Klippan, Kristianstad, Osby, Perstorp, Simrishamn, Tomelilla, Åstorp, Ängelholm, Örkelljunga and Östra Göinge
Malmö district court	Municipalities of Bjuv, Burlöv, Eslöv, Helsingborg, Höganäs, Hörby, Höör, Kävlinge, Landskrona, Lomma, Lund, Malmö, Sjöbo, Skurup, Staffanstorp, Svalöv, Svedala, Trelleborg, Vellinge and Ystad
Halmstad district court	Halland County
Göteborg district court	Municipalities of Göteborg, Härryda, Kungälv, Lysekil, Munkedal, Mölndal, Orust, Partille, Sotenäs, Stenungsund, Strömstad, Tanum, Tjörn, Uddevalla and Öckerö
Vänersborg district court	Municipalities of Ale, Alingsås, Bengtsfors, Bollebygd, Borås, Dals-Ed, Färgelanda, Herrljunga, Lerum, Lilla Edet, Mark, Mellerud, Svenljunga, Tranemo, Trollhättan, Ulricehamn, Vårgårda, Vänersborg and Åmål
Skaraborg district court	Municipalities of Essunga, Falköping, Grästorp, Gullspång, Götene, Habo, Hjo, Karlsborg, Lidköping, Mariestad, Mullsjö, Skara, Skövde, Tibro, Tidaholm, Töreboda and Vara
Värmland district court	Värmland County
Örebro district court	Örebro County
Västmanland district court	Västmanland County
Falu district court	Dalarna County
Gävle district court	Gävleborg County
Ångermanland district court	Västernorrland County
Östersund district court	Jämtland County
Umeå district court	Västerbotten County
Luleå district court	Norrbotten County

Article 64(1) (b) - the procedures to contest the decision given on appeal referred to in Article 50

An appeal (*överklagande*) to the Court of Appeal (*hövrätt*) or to the Supreme Court (*Högsta domstolen*). The appeal has to be lodged at the court that has given judgment. The appeal will be heard only if the Court of Appeal or the Supreme Court grants leave to appeal (*prövningstillstånd*).

Article 65 (1) - the list of the other authorities and legal professionals referred to in Article 3(2)

Executor (*bodelningsförrättare*)

Estate administrator (*boutredningsman*)

In summary proceedings concerning payment orders or assistance, the Enforcement Authority (*Kronofogdemyndigheten*)

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