

TERRITORIAL INTEGRITY OF STATES ON THE GEOPOLITICAL, INTERNATIONAL AND LEGAL DIMENSIONS

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Regardless of the form of state structure, government or political regime, states remain legally equal, having the same rights as subjects of international law relations. Taking into account the analysis that was carried out in the present scientific approach, we emphasize that the state structure adopted by each nation can determine and influence the way of exercising sovereignty. It can determine the surrender of some attributes of sovereignty or it can limit the sovereignty to a degree that it would not affect the interests of the state and the people. The integration of the state in international or regional structures does not cancel its sovereign character. In modern conditions, the notion of the principle of territorial integrity is unquestionable which is true and fixed in the Constitutions of most states.

Keywords: state, territorial integrity, international law, international relations, sovereignty, political regime.

DIMENSIUNEA GEOPOLITICĂ, INTERNAȚIONALĂ ȘI JURIDICĂ A INTEGRITĂȚII TERITORIALE A STATELOR

Indiferent de forma structurii statului, a guvernului sau a regimului politic, statele rămân egale din punct de vedere juridic, având aceleași drepturi ca și subiecții relațiilor de drept internațional. Luând în considerare analiza care a fost efectuată în abordarea științifică actuală, subliniem că structura de stat adoptată de fiecare națiune poate determina și influența modul de exercitare a suveranității. Poate determina predarea unor atribute de suveranitate sau poate limita suveranitatea într-o măsură în care nu ar afecta interesele statului și ale poporului. Integrarea statului în structurile internaționale sau regionale nu anulează caracterul suveran al acestuia. În condițiile moderne, noțiunea principiului integrității teritoriale este incontestabilă, ceea ce este fixat și în Constituțiile majorității statelor.

Cuvinte-cheie: stat, integritate teritorială, drept internațional, relații internaționale, suveranitate, regim politic.

LA DIMENSION GÉOPOLITIQUE, INTERNATIONALE ET JURIDIQUE DE L'INTÉGRITÉ TERRITORIALE DES ÉTATS

Indépendamment de la forme de la structure de l'État, du gouvernement ou du régime politique, les États restent juridiquement égaux, ayant les mêmes droits que les sujets des relations de droit international. Compte tenu de l'analyse qui a été menée dans l'approche scientifique actuelle, nous soulignons que la structure étatique adoptée par chaque nation peut également déterminer l'influence de l'exercice de la souveraineté. Elle peut conduire à l'abandon d'attributs de souveraineté ou elle peut limiter la souveraineté dans une mesure qui n'affecterait pas les intérêts de l'État et du peuple.

L'intégration de l'État dans les structures internationales ou régionales n'annule pas son caractère souverain. Dans les conditions modernes, la notion du principe d'intégrité territoriale est incontestable, qui est également fixée dans les Constitutions de la plupart des États.

Mots-clés: État, intégrité territoriale, droit international, relations internationales, souveraineté, régime politique.

ГЕОПОЛИТИЧЕСКОЕ, МЕЖДУНАРОДНОЕ И ПРАВОВОЕ ИЗМЕРЕНИЕ ТЕРРИТОРИАЛЬНОЙ ЦЕЛОСТНОСТИ ГОСУДАРСТВ

Независимо от формы устройства государства, правительства или политического режима, страны остаются юридически равными, имея те же права, что и субъекты международно-правовых отношений. Принимая во внимание анализ, который был проведен в рамках данного научного исследования, мы подчеркиваем, что государственная структура, принятая каждой нацией, также может определять влияние осуществления суверенитета. Это может привести к отказу от атрибутов суверенитета или может ограничить суверенитет до такой степени, которая не затронет интересы государства и народа. Интеграция государства в международные или региональные структуры не отменяет его суверенитет. В современных условиях понятие принципа территориальной целостности является бесспорным, что также закреплено в конституциях большинства государств.

Ключевые слова: государство, территориальная целостность, международное право, международные отношения, суверенитет, политический режим.

Introduction

States intentionally and consciously delegate some of their sovereignty to international organizations, supra-state structures or jointly exercise certain powers within a state, in order to manage jointly certain fields with other states and to harness certain ideas, values, projects through international cooperation [4, p.146]. Thus, the integration of the state in certain international or regional structures does not cancel its sovereign character.

In modern conditions, the notion of the principle of territorial integrity is unquestionable which is true and fixed in the Constitutions of most states. For several centuries, the territory is the main criterion of the state. In international law, it has been stipulated that the principle of territorial integrity means full sovereignty of the state throughout its territory [15, p. 103]. This principle is one of the most important in international law and regulates relations between states.

The main ideas of the research

In contemporary interstate relations, the principle of territorial integrity is related to ensuring the security of the state, guaranteeing the protection against

external invasions on its territory and forced changes of its territorial borders. Therefore, according to the UN Statute, the states are obliged to respect the territorial integrity of each Member State and not to take any actions which represent a threat to their territorial integrity.

In international law, the idea was established that the principle of territorial integrity of the state means full sovereignty over its entire territory. This principle is one of the most important in international law and regulates relations between states [14, p.65]. Of course, the principle of territorial integrity serves as a basis for the existing world order. To revise or question it means putting the world into the brink of conflict, which will not only undermine the foundations of international tensions but may also lead to the advent of «chaos in the world».

Unchanged borders and territorial integrity are the guarantors of the stability of both national and international relations. The conquest and independence wars of the twentieth century determined the international community to recognize territorial integrity as a basic principle and its acceptance at the international level and in national laws.

Currently, territorial problems are some of the most acute problems of the system of relations between states, but also within them. They are directly related to the establishment of sovereign power in states in a certain region of the world or to the preservation of a people's independence, a declaration of its geopolitical identity and civilization [5, p. 21]. The unity of the constitutional space and its combination with the territorial and state integrity of the modern states constitute the basis of the activity of all structures and institutions of the state power.

The current state of the legislative norms in the field of sovereignty, territorial integrity and self-determination shows that, as in the past, the geopolitical factor has an influence on one principle or another, and their fulfillment depends on the will and commitment of the states, their essence and not on the use of interpretations exclusively for the benefit of one of the parties [1, p. 113]. At the same time, this means that the attention of the international community and the strict respect by its members of the territorial integrity of the states will depend to a large extent not only on the geopolitical distribution of forces but also on the fate of the new global order formation.

Applying the principle of territorial integrity, first of all, implies the existence of internationally recognized borders. If there is no such basis, then the principle itself ceases to work. Precisely for this reason, in the practice of international relations, there is the rule that the states would refrain from recognizing the new country if it had territorial problems, because it actually involved that the state recognized it during an unresolved conflict.

The territorial integrity of the state is ensured by the unity of the state power system. The unity of the state power is guaranteed by the Constitution, which defines a single territorial, political and legal space of the country, the building principles of the state, central and local power systems, which give the state

the form of an integral unit. Thus, in accordance with Article 3 of the Constitution of the Republic of Moldova [2]. *(1) The territory of the Republic of Moldova is inalienable; (2) The borders of the state of the Republic of Moldova are established by organic law, respecting the unanimously recognized principles and norms of international law.* Also, in Article 11 of the Constitution of the Republic of Moldova it is stipulated that *(1) the Republic of Moldova proclaims its permanent neutrality; (2) The Republic of Moldova does not allow the deployment of military troops of other states on its territory.* Regarding the administrative-territorial status of the localities in the Transnistrian region, in the Constitution of the Republic of Moldova (art. 110 par. (2)), it is regulated that *special forms and conditions of autonomy may be assigned to the localities on the left bank of the Dniester in accordance with the special statute adopted by the organic law.*

Similar regulations are found in the Constitution of Georgia, adopted on August 24, 1995 [22]. Thus, in article 1 of the Constitution it is stipulated that *Georgia shall be an independent, unified and indivisible state, as confirmed by the Referendum of 31 March 1991, held throughout the territory of the country, including the Autonomous Soviet Socialist Republic of Abkhazia and the Former Autonomous Region of South Ossetia.* Also, in Article 2 of the Constitution, it is indicated that *(1) The territory of the state of Georgia shall be determined as of 21 December 1991. The territorial integrity of Georgia and the inviolability of the state frontiers, being recognized by the world community of nations and international organizations, shall be confirmed by the Constitution and laws of Georgia. (2) The alienation of the territory of Georgia shall be prohibited. The state frontiers shall be changed only by a bilateral agreement concluded with the neighbouring State. (3) The territorial state structure of Georgia shall be determined by a Constitutional*

Law on the basis of the principle of circumscription of authorisation after the complete restoration of the jurisdiction of Georgia over the whole territory of the country.

After the adoption of the Statute of the United Nations (UN) [17] on June 26, 1945, the legal protection of territorial integrity, the inviolability of states and the self-determination of the peoples intensified substantially. The fixation in a series of UN resolutions and their subsequent approval in the international treaties and agreements of the states made the law on territorial integrity and the right to self-determination to have much greater authority contributed to their strengthening and to wider recognition.

Under modern conditions, the principle of territorial integrity and the inviolability of borders must be respected in order to ensure global peace and security of states. But in practice, the realization of these principles is closely linked to the political interests of the states, which, after reaching their goals, violate these principles [14, p. 126]. There should be mentioned that the current international community does not have effective tools - legal norms and mechanisms for their implementation by which the resolution of the separatist conflicts could be directed and accompanied by a system of sanctions against offenders.

Attempts to change the borders of states without their consent have always been an expression of aggression, which has often led to war. But even today, it is not possible to avoid armed conflicts between states about territorial disputes. In this context, a threat to the security of states and their territorial integrity represents ethnic, regional and local conflicts, which violate stability not only in a particular country but also can, cause a conflict situation in the region and throughout the world.

An important right that contributes to ensuring the territorial integrity of states on the international, legal and geopolitical levels is the right of the

people to self-determination until separation. The right of peoples to self-determination means the right of ethnic communities recognized by the international community to determine their status until the formation of an independent sovereign state if their existence is threatened by the incumbent nation [19, p. 22].

In the specialized literature there are two approaches to the right of the people to self-determination, namely: the right of the people to independence and the right to internal self-determination [8, p. 19]. The choice of approach depends on each situation, but today, in most cases, the right to self-determination with declaring independence is blocked by the obligation to maintain the territorial integrity of the states. The right of peoples to self-determination until the separation has given rise to a special type of conflict, which is based on the desire of ethnic minorities to realize their right to self-determination in the form of an independent state formation.

Analyzing the current state of the norms of law in the field of sovereignty, territorial integrity and self-determination, it is necessary to conclude that, as in the past, the geopolitical factor exerted its influence in favor of one or another principle, and its realization depended on the will and the commitment of the subjects in regard to the essence of international law [5, p. 19]. At the same time, under the conditions of globalization and the emergence of a new type of threats to national and international security, international law as a civilized landmark in relations between states becomes much more necessary than before.

In order to gain the international recognition of Transnistria's independence, Russian doctrines employ the right of the people to self-determination, emphasizing that in the case of Transnistria the right of the people to independence and the right to internal self-determination should be respected. In the same context, insisting on the principle of

equality of subjects within a “common state”, the Tiraspol authorities are trying to “institutionalize” the regional identity of Transnistria as a distinctive one.

As an argument for Transnistria’s regional identity is used the historical fact of the creation of the Moldavian Autonomous Soviet Socialist Republic (MASSR) on October 12, 1924 by the Central Ukrainian Executive Committee, as an “autonomous” territorial entity on the left bank of the Dniester River in the composition of the Ukrainian SSR [18, p. 141]. The establishment of the respective Moldovan unit was initiated by military leader Grigore Kotovsky and included the Transnistrian rayons of today’s Republic of Moldova, plus the Ananiev, Balta, Bârzula, Codâma, Cruteni, Ocna Roșie and Pesceana rayons in the current Odessa region of Ukraine [21, p. 8]. Initially, the official capital of the autonomous republic was proclaimed “the temporary occupied city of Chisinau”, and from 1929 until the abolition of the autonomous republic (1940), the capital was in the city of Balta.

By the creation in 1990 of the “Dniester Moldovan Republic”, the revival of this social-political project took place, this time it was called “the Transnistrian people”. Analyzing more deeply the nature of this “new regional community”, it can be understood that there is no difference between the pseudo-idea of the regional identity of “Transnistrians” and the old idea about the “Soviet people” which also claimed a supranational status.

Despite the fact that the Russian-speaking groups, initiated by Transdnistria’s leadership, are considered to be an independent supranational community, this is to the detriment of the majority ethnic group, that of the Moldovans, as well as other ethnic and cultural minorities living on the shore of the left bank of the Dniester. This is the reason why the leadership of these Russian-speaking groups in Transnistria supports the actions of the Russian Federation

in Georgia and considers that the former metropolis must carry a similar policy to the eastern borders of the former USSR, as regards the self-proclaimed “Transnistrian republic” [19, p. 23]. In context, the ideologies of anti-Moldovan separatism in Transnistria are increasingly insisting on the recognition of the right of the “Transnistrian people” to establish their own political status in the form of independent and sovereign state or a state with a special status within the Republic of Moldova [16, 106].

Taken as a whole, the phenomenon of separatism was determined by the process of the USSR dissolution. The disintegration of the USSR and the emergence on its territory of 15 new independent states created for Russia an absolutely new geopolitical and geostrategic situation. Thus, Russia found itself “pushed into the depths of Eurasia”, a fact perceived as inadmissible for the country that for centuries played a major role both in international and European politics.

The borders of Russia are now restricted to what they were at the beginning of the 19th century in the Caucasus, in the middle of the same century, in Central Asia, and what was around in 1600 to the West, immediately after the reign of Ivan the Great. At the same time, the Russian Federation aspires to regain the status of superpower. The Russian influence is currently growing in three directions - towards Central Asia, the Caucasus and the West, respectively to the Baltic States and Eastern Europe.

According to the researcher E.Pain, until 2020 the priority for Russian strategy will be the reconstruction of the Russian state and the reimposition of Russian power on the international arena [13, p. 14]. In order to achieve its goal, Russia uses in its relations with the former Union republics various pressures of political, economic and military character. From this perspective, the Republic of Moldova, Georgia, Ukraine, Armenia are the key to the most sensitive regions for Russia’s security aspirations. Thus, the Russian Federation puts pressure on its borders for

geostrategic, geopolitical and geoeconomy reasons [10, p. 23].

On the other hand, the interest of the US, NATO and the EU for the Republic of Moldova, Georgia, Ukraine and other post-Soviet states resides in the fact that they serve as a tool to constrain and stop Russia's interests and influence. The intention of the European Union to integrate into its sphere of influence the Republic of Moldova is determined, first of all, by the formation of a stable economic and political area, which would ensure the stability at the EU's eastern borders. Adherence to the European and Euro-Atlantic structures of Georgia and Ukraine would mean reducing the influence of the Russian Federation in the area and, respectively, extending the influence of the EU and NATO (which is already not accepted by the Russian Federation) in the East-European and South-Caucasian areas.

The collapse of the USSR was accompanied by a series of ethnical and ideological local armed conflicts. These consequences stem from historical facts (in particular, the national policy of the USSR) and the gradual disintegration of the political, social and economic spheres [11, p. 55]. Among the many conflicts of that time, those in Chechnya, Transnistria, South Ossetia, Abkhazia, Nagorno-Karabakh and Tajikistan reached the largest dimensions and had the deepest impact over the changes made to the initial situation [20, p.133].

Each of the conflicts has its own unique characteristics that make it different from the others, and there are quite significant differences between the situations present in the individual conflict zones. Despite these differences, there is a striking similarity between the origins and development of conflicts (starting from the "hot" phase to the normalization and stabilization of the process), the positions they occupy in the regional policy, as well as their short and long term consequences for the affected areas and their surroundings. In connection with this, the

doctrine affirmed that the Russian Federation took part in the creation of these conflicts and used them as tools in the fight for influence and control outside its borders [6, p. 102].

Methods and means of operation of the secessionists in the Republic of Moldova and Georgia.

One of the means of operation of the secessionists in the Republic of Moldova and Georgia is *misinformation*. The right to information is a fundamental one, because the exercise of the freedoms of thought, opinion, belief, implies also the need to ensure the possibilities of receiving data and information on the social, political, economic, scientific and cultural life of the state [6, p. 106].

The media are prone to misinformation by their very function. Often, there is disseminated selectively only information that interests, frightens or shocks the public [3, p. 19]. Clearly violating the right of the population to be informed, misinformation became the most powerful weapon of separatist regimes [6, p. 111]. All the media are controlled by repressive structures in the territory of the separatist regions. Every attempt to reveal the truth is harshly punished by separatist forces.

Misinformation served as a decisive means in triggering the armed conflict in the Transnistrian region of the Republic of Moldova. Starting with 1992, the misinformation process that took place on the two banks of the Dniester River was a major one. The premeditated secessionists were spreading the information about the possible reunification of the Republic of Moldova with Romania or about Chisinau's intention to force the foreign nationals from the country to speak and write only in Romanian [7, p. 88], which presents only a few examples from the misinformation arsenal widely used by to the perpetrators for stirring up spirits among the population.

Another form of misinformation in Transnistria was actively promoting the idea that Romania itself

intends to aggressively attack the region, which reveals the desire to maintain the active phase of the conflict and to inspire a sense of danger from outside [16, p. 107]. Thus, with the beginning of the first military confrontations on the left bank of the Dniester, most of the sources of mass information in Transnistria (television, radio, press, etc.) began to disseminate actively erroneous information about the fact that the armed forces from Chisinau, being equipped with weapons from Romania, will attack the region.

Another means of the secessionists' actions in the viewed regions is the referendum or rather the pseudoreferendum. The participation of the population in the decision-making process is an essential feature of a democracy. For these reasons, referendums are widely applied nowadays.

Following the evolution of several separatist movements in the post-Soviet space, it is seen that pseudoreferendum is a systematic method applied by secessionists to justify its intentions. Such a practice has also been used in Transnistria, since from 1989 until now, the numerous pseudoreferendums have taken place in the Transnistrian region.

The culminating moment is that the idea of achieving a territorial secession on the left bank of the Dniester was conceived in Tiraspol much earlier than the alleged proclamation of the region's independence on September 2, 1990. This fact transforms the pseudoreferendum into a means of separatists in order to achieve their intentions [9, p. 409].

Next, it will be referred only to some of the pseudoreferendums, which, in our opinion, have been the basis of the secession of the districts on the left bank of the Dniester. The first referendum in this regard was aimed at forming the "Dniester Soviet Socialist Republic of Moldova", being held in 1989. According to the data presented by the separatist leaders in the region, 95.8% of the participants voted in favor of forming such an entity.

On July 1, 1990, a "local referendum" was held in Bender, where two topics were addressed: "1) On the national flag of the Moldovan Soviet Socialist Republic in Bender; 2) Regarding the entry of Bender city in the composition of Transnistria (in case of its separation from the rest of the territory of the Republic of Moldova)".

The third election in Transnistria took place on December 1, 1991, considered the first "referendum" on the alleged independence of the "The Pridnestrovian Moldovan Republic". According to the data published by the event organizers, 97.7% of the participants supported the proposed objective.

The presence of Russian armed forces in the region is another sensitive and decisive issue for the Tiraspol regime. This issue was submitted to a referendum on the left bank of the Dniester on March 26, 1995.

The fifth referendum in the Transnistrian region was held on September 17, 2006, and two issues were put to the vote: the region's independence abroad and the region's accession to the Russian Federation. 97.2% of the participants voted "pro" the proposed objective.

In the doctrine, there can be met the opinion that the issue addressed by Transnistria through the referendum of September 17, 2006 is confused and a priori does not meet the legal conditions for holding a referendum [12, p. 424]. It is confusing because the population has been called to vote for the independence that presumes the possibility to decide their own fate without the involvement from outside and, at the same time, to join a state.

Taking into account the fact that the international territorial conflict implies the situation of maximum aggravation of the contradictions in the sphere of international relations, expressed in the form of active confrontations and clashes (armed or unarmed) of parties of the conflict, we conclude that its solution is much more difficult and complex

in comparison with the settlement of international disputes.

Due to its severity, the international territorial conflict needs to be finalized both by political-diplomatic means and, in some cases, by the use of force (another criterion that differentiates it from the international dispute). Despite the fact that an effective conflict resolution is possible only if both parties analyze their contradictions and decide on mutually acceptable solutions, however, the special role of third parties in the conflict resolution process cannot be denied, which only has to contribute to the proximity of the parties and their determination to sit at the negotiating table.

The intervention of the third parties in the resolution of the conflict is a necessary, as well as complicated moment, because, depending on the interests pursued, the third party can contribute to both the resolution of the conflict and its aggravation or, at least, its maintenance. The intervention can take place both in the context of the negotiations and through the use of force in order to stabilize the situation and bring it under control, so that the diplomatic negotiations can be initiated. In both cases, the intervention of third parties entails certain risks, that is to say, it can generate certain political and legal problems. In this respect, the most serious problem lies in the distorted role that the third party can play in the negotiation process. By its vicious conduct, the third party can pursue the realization of their own interests to the detriment of the interests of the parties of the conflict, thus seriously violating the norms of international law.

Regarding the Transnistrian conflict, we emphasize that, essentially, the cause of the failure to resolve this conflict does not lie in the impossibility of the parties (of the Republic of Moldova and Transnistria) to agree on mutually advantageous solutions, but in the implication of Russia as a “third party” and its efforts to implement its own interests in the region.

Respectively, the solution of the conflict may consist either of removing Russia from the negotiation process and the peacekeeping mission (at the moment practically unrealistic and impossible), or accepting the model proposed by this country for conflict resolution, which is known to contravene all aspects of interests of The Republic of Moldova as a sovereign and independent state (also unattainable solution).

Taken as a whole, the Transnistrian conflict eloquently demonstrates that the process of managing international conflicts is only apparently carried out according to the unanimous legal framework established and recognized by the international community. *De facto*, this process is dominated by the stronger states, which seek to satisfy their own interests. This fact also denotes the inefficiency of international structures to apply the international legal framework to the great powers of the world, being unable to influence them and even more to sanction them.

Speaking of peaceful measures to resolve international conflicts using such coercive measures as retaliation, repression (embargo and boycott), break of diplomatic relations, it should be mentioned that despite their priority over the use of force in resolving conflicts, they are likely to exacerbate the relationships between the parties of the conflict, which are already in tension. That is why, it is preferable to apply these measures only in the form of sanctions imposed by the international community (the relevant organizations in the field).

Following the analysis of the facts related to the Transnistrian conflict and the international legal framework in this field, it can be concluded that this conflict is an international one. The central point in this determination is that the role of the Russian Federation comes to the involvement of a third party in conflict, leading to internationalization. This implies that the whole corpus of international humanitarian law should be applicable to the conflict, thus offering

a more expansive protection regime to those involved in and affected by the conflict.

The evolutions related to the Transnistrian settlement process clearly show the support of separatism by the Russian Federation, which has, in fact, a triple status: a state that encouraged the outbreak of separatism and which, in fact, controls the Transnistrian region of the Republic of Moldova in military, economic, financial aspects etc.; as mediator in the process of negotiations and guarantor of the agreements reached; a party directly interested in conflict resolution. These moments prove persuasively that the Transnistrian conflict is an international conflict, all the more since all decisions are taken by Russia on behalf of Transnistria.

The fact that an international legal regime, especially an expansive legal regime, can be considered to be applicable in the Transnistrian region is all the more significant, given the region's status as a *de facto* state that has no obligations and the possibility to apply the international standards and norms, leaving the population of the region without any international legal protection. The regime of international humanitarian law would provide a certain level of protection for the population, prescribing war crimes, such as rape, murder and torture, protecting civilian goods, and providing an option for criminal prosecution of alleged offenders.

The confrontation between the state of the Republic of Moldova and the separatist region of Transnistria is essentially a political-territorial conflict and is the result of unconstitutional actions to usurp power in the territory on the left bank of the Dniester. Regarding the nature of the conflict, it is not only a political and territorial one, but also an international one, by virtue of the active involvement from the beginning of the Russian Federation and of the geopolitical interests of other states, which are now participating in the process of solving it. The final aim of the initiators of the political-territorial conflict are the resources, the

state power, the position of the governmental institutions, the political status of the big social groups, the territories, the regions, the values and symbols that underlie the political power in the social structure.

Conclusions

Generalizing, we argue that the main problems that face the settlement of contemporary conflicts often prove to be of the nature of those mentioned above. This can be explained by the fact that, in essence, the conflict triggering and resolution in most cases is confined to the conflict management policy promoted by the great powers of this world, which recognize and adhere to international legal norms, but *de facto* act according to their own interests. In our view, the only solution that can destroy the effect of such a policy is the optimization of the international legal framework and the strengthening of the capacities of the main international structures, which will not admit in any case fighting and preventing any unilateral and unauthorized reactions that represent the possible challenges of the contemporary world.

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