

Western Balkans towards the EU: the case of Kosovo

Review from Bucharest:
From non-recognition to cooperation

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CRPE Policy Brief 33

June 2014

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1. Introduction

Belgrade progress in negotiations with the EU (2013) and recent strategic re-positioning in the region recalls the need for long-term solutions in the Western Balkans. Russian's aggression on the Eastern Partnership countries has moved the attention eastward through both the dialogue and substantial developments in the Balkans towards EU, especially between Belgrade and Pristina have generated some signals opening the way for a more extensive dialogue and deeper cooperation.

The Romanian Center for European Policies, with the support of the British Council in Pristina, organized a round table discussion on "Kosovo Dialogue - the way forward" on March 17-19, 2014 in Bucharest. The representatives of the major political groups of the Kosovo's Parliament, Romanian representatives of political parties, representatives of various institutions as well as other experts from the civil society participated at the debate.

The discussions have proposed to evaluate the recent reorientation of the geopolitical interests towards Balkans, the EU strategy and approaches within the region, EU cooperation perspectives between Kosovo and non recognizing countries. This policy brief is summarizing the main issues that were discussed during the event.

In addition, we offer an overview of the recent developments, such as the political progress in the relations between Serbia and Kosovo, as well how the cooperation with the EU has gradually advanced. Furthermore, we present the main issues underlying the non recognition stance of the five EU countries that have maintained their original position following Kosovo's declaration of independence in 2008. The political evolution for each country is described, with an emphasis being placed on the enhanced dialogue and institutional cooperation short of recognition. Finally, we build a case for strengthening the cooperation between Romania and Kosovo, considering Romania's strategic interest in the stability and development of the West Balkan region, and the potential to share the transition experience on specific policy areas.

CRPE would like to express its gratitude to all of the politicians, representatives of government institutions or experts of the civil society that brought their contribution to the debate and provided valuable input to this report.

2. Regional context

2.1. Belgrade – Pristina dialogue and the progress on the European Integration process

In the framework of the EU-mediated dialogue between Serbia and Kosovo that started in March 2011, Brussels have asked Belgrade and Pristina to enhance their relation and to implement provisions of a landmark, historic deal (that would be reached 2 years later). This step would substantially contribute to the European Integration process – getting an EU membership perspective - an objective assumed by Serbia and Kosovo alike.

After the new Serbian government was formed in July 2012 and following months of tense negotiations between Serbian Prime Minister Ivica Dacic and Kosovo Prime Minister Hashim Thaci in Brussels, in April 2013, the European Commission announced Serbia and its former province of Kosovo reaching an EU-brokered agreement aimed at normalizing relations between the Balkan neighbors. Both sides also agreed to not block each other's efforts to seek EU membership besides a wide range of other conditionalities aiming towards the normalization of relations between Kosovo and Serbia.

Shortly after the EU's foreign policy Chief Catherine Ashton – the mediator of ten rounds of talks between Serbia's Ivica Dacic and Hashim Thaci of Kosovo - praised the leaders of Serbia and Kosovo for reaching the deal, the European Commission has recommended opening EU membership talks with Serbia¹. Belgrade had officially begun the process of accession to the European Union as agreed during the European Council in June 2013.



„It is very important that now what we are seeing is a step away from the past and for both a step closer to Europe”, EU External Action Service, 19 April 2013

Therefore the Belgrade-Pristina agreement means a crucial time for the restart of the dialogue on the status of Kosovo's independence (still not recognized by five EU member states including Romania). Progress, including with regards to political cooperation with Serbia, has been achieved in Kosovo in the months that followed the signing of the agreement, as mentioned by both Brussels and the Secretary-General on the United Nations Interim Administration Mission in Kosovo in January 2014.

The last UN report² has recently stated that owing to the historic European Union-facilitated agreements reached between Pristina and Belgrade, **2013 was a year of significant changes and substantial political progress with regard to Kosovo**. During the reporting period, the parties continued the implementation of the “First Agreement of Principles Governing the Normalization of Relations”, reached on 19 April 2013. Furthermore, as emphasized by the

¹ 22nd of April 2013 Brussels, JOINT REPORT TO THE EUROPEAN PARLIAMENT AND THE COUNCIL on Serbia's progress in achieving the necessary degree of compliance with the membership criteria and notably the key priority of taking steps towards a visible and sustainable improvement of relations with Kosovo

² 30th of January 2014, UN Security Council Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo

speakers³ in the Security Council during a quarterly debate of the 15-member body on the issue, Serbia and Kosovo should build on the momentum created during 2013 towards the normalization of relations between them.

EU-Kosovo cooperation has gradually advanced, benefiting from a consensus among Member States that the issue of state recognition should not hinder the process of implementing key state building reforms in Kosovo.

The EC is in the process of negotiating a Stabilisation and Association Agreement (SAA) [8] with Kosovo, with the goal of signing the document by the summer of 2014. The SAA would gradually establish a free trade area hence guaranteeing long-term predictability for investors. In addition, Kosovo is bound to adopt the EU acquis on several areas, and cooperation will be strengthened on social affairs, education, and environment.

However, there is a lot of work to be done in Kosovo in its European integration journey. In early 2013, the European Commission's progress report on Kosovo's implementation of the Visa liberalization plan stated that "Kosovo's current capacity to fight organised crime and corruption remains limited, with a potentially severe impact on the EU's internal security" [9].

With regards to the cooperation with the non recognizing countries, progress has recently started to emerge. A comprehensive framework for collaboration short of recognition could potentially include agreements on some of the following activities [10]:

- Agreement on allowing participation in a broad spectrum of EU programmes, admission to international organizations that allow non-state equal participation in order to increase the international exposure;
- Facilitate business ties and the freedom of movement of people;
- Enhance political and social dialogue with Kosovo authorities, including through conducting official visits;
- Publicise the constructive stance on Kosovo and all the progress made with Kosovo media and civil society, showing them that non-recognition is not aimed at being against their European perspective.

Among the group of EU non-recognizers, the collaboration between Greece and Kosovo has consistently been the most fruitful one. Recently, progress have been achieved on improving freedom of movement, with Greece accepting Schengen visas in Kosovo passports as of March 2014. In addition, strong business ties between the two countries are reflected in Greek investments in several economic sectors, but there is room for substantial improvement, as not even Greece is among the major trading partners of Kosovo. Furthermore, Greece also offered a positive vote to Kosovo's application to join the European Bank for Reconstruction and Development (EBRD).

Nevertheless, 2014 remains a year of challenges mostly due to the political context and internal political debate – the recent Parliamentary elections in Serbia (March 2014) and the upcoming elections in Kosovo to be held in autumn 2014. The context is complicated even further by the crisis in Ukraine, which is again bringing into question the Kosovo precedent in terms of Russian aggression in Crimea and eastern Ukraine.

³ 10th of February, UN Security Council Meeting

2.2. The old fears and the new threats - Why Kosovo cannot be compared with Crimea

The "Kosovo precedent" was cited as a justification for Russian actions in Crimea. However, as also argued by German Chancellor Angela Merkel and Kosovo's Prime Minister Hashim Thaci, a comparison between the two cannot be made due to fundamental differences.

Neither of the two main justifications for recognizing Kosovo's independence, *remedial secession* and *earned sovereignty* [2] can be applied to Crimea. Rooted in international law, remedial secession refers to the qualified right to unilateral secession in case serious violations of human rights, e.g. an ethnic cleansing process, have taken place. Earned sovereignty refers to the transition period, mediated by the international community, by which a state building process, including supporting the establishment of democratic institutions and rule of law, and a market economy, is undertaken, as well as the associated efforts of the people to fulfil their commitments to the international community with regards to achieving statehood capacities [2].

One interpretation of the internationally mediated process that led to the independence of Kosovo is stressing that it emerged as a result of the dissolution of Yugoslavia, whereas, following the dissolution of the Soviet Union in 1991, the independence of Ukraine, including Crimea within its borders, was internationally recognized.

Furthermore, several other peculiarities make the Crimean situation different: no ethnic cleansing or serious human rights violations to which the international community has manifested its opposition. as well as a more mixed ethnic composition as compared to Kosovo where 95% are Albanians, but no similar guarantees for minority rights and local autonomy. Finally, in opposition to the long process that preceded the 2008 declaration of independence of Kosovo, the actions undertaken in Crimea led to widespread criticism regarding the violation of the international norms.



"It is not a case of secession, as was mentioned several times, but one of dissolution of a state. I believe that nobody is against the dissolution of the URSS. Crimea is a good opportunity to emphasize the differences between the two cases. Romania has an important task of supporting the European integration of West Balkans region. The declaration of independence was not unilateral; we are together with the European Community; Russia and Serbia helped draft the declaration.

Minority standards are as good as it gets in any other part of the world; The Serbian minority in Kosovo is better represented than the Vlach minority in Serbia." (Member of the Assembly of Kosovo)

2.3. Non recognizing countries: the state of play of their relation and cooperation with Kosovo

Kosovo's declaration of independence from Serbia on February 17th, 2008 divided the international community considerably with regards to the most suitable solution for accommodating the self-determination claims. The EC Council declaration reiterated the commitment of the EC to support the European perspective for the Western Balkans and play a leading role in promoting stability, as well as economic and political development, in the region. However, with regards to recognition, it stated that "Member States will decide, in accordance with national practice and international law, on their relations with Kosovo" [1].

Rooted in international law, the 'remedial argument' was used by the international community for Kosovo's recognition, stressing the historical peculiarities, more specifically Kosovo Albanians' role as victims of ethnic cleansing, in order to hinder a proliferation of secessionist claims in an already volatile region [2]. However, the 'national practice' dimension has, in fact, outweighed the international law one, thereby making the political considerations with regards to the potential effect on stability, peace, and security in the region the most important in explaining the pro recognition stance [3].

In contrast with the modest role played in the recognition of Kosovo as an independent state, the non recognizing countries have placed a larger emphasis on the issue of international law. According to a distinctive reading, the unilateral secession has been interpreted as a breach of international law. However, domestic political considerations, such as minority issues and secessionist claims, have been considered to weigh more in the decision to not recognize the creation of a new state that would set a precedent considered susceptible of affecting international and domestic stability. Consequently, in the absence of a consensus regarding a new normative framework for state recognition, political issues have proved to be the decisive factor for both sides [3].

The five EU non-recognizers have provided broadly similar justifications for the primacy of conserving territorial integrity by considering settlement options other than secession as means of solving the intra-state conflict. The following section provides a more extensive description of country specific issues underlying the non-recognition stance for Spain, Greece, Cyprus, and Slovakia, given that the case of the Romanian position is the core focus of the rest of the paper.

Spain's non recognition decision was originally grounded on the following factors: domestic politics; international law as a core principle of Spanish foreign policy; and the geographical distance and lack of involvement in the Balkans. Spain's acute sensitivity to the secessionist claims of Basque and Catalan nationalists, despite the fact that those issues are definitely not comparable to the Kosovo scenario, weighed heavily on the matter. In addition, the political context of the proximate electoral competition augmented the pressure, thus making the domestic political considerations the essential factor underlying Spain's position. Nevertheless, scarcely any indications exist that a potential change in its position would emerge as a result of either internal dynamics or diplomatic pressure, in the absence of substantial repositioning at the international level [4].

Greek official discourse has mainly revolved around three issues in advocating for a non recognition position: the international law argument, the concern on setting a precedent for, e.g. the breakaway Turkish Cypriot part of the island, currently not internationally recognized, and the potential implications on regional stability [5].

Similarly, the first two arguments gained pre-eminence in the **Slovak** political debates concerning recognition of Kosovo [6]. Nevertheless, the prevailing choice not to recognize Kosovo in the Slovakian mainstream political sphere, further strengthened by an anti-recognition resolution passed by Slovakia's the national Parliament in 2007, did not inhibit collaboration at the parliamentary level. A visit of MPs from Kosovo to Slovakia was organized in cooperation with the Slovak Parliament in order to enhance dialogue through discussions on specific issues between members of Parliamentary Committees from both countries.

Moreover, Andrej Kiska, the newly elected Slovak president that will take office on 15 June 2014 has stated its support for an independent Kosovo: *"I do not understand how Slovakia can be one of few EU member states not recognizing Kosovo. We should change our position and bring it in line with majority of EU member states"*⁴.

The position of **Cyprus** can be summarized best by a statement of the President of Cyprus, Demitris Christofias: *"It is important to underline once again that the Republic of Cyprus does not recognize and will not recognize Kosovo, a position of principle, which is consistent with international law. The solution should be a product of mutual bilateral consultation, which will lead to an agreed settlement that will respect the territorial integrity of Serbia and will be approved by the United Nations Security Council."* [7]

Furthermore, Cyprus is deeply reluctant to engage in any move that could grant diplomatic legitimacy to the self-declared Turkish Republic of Northern Cyprus. Recent developments that could signal a softening of their position included a meeting between the Cypriot Foreign Minister and the Prime Minister and Foreign Minister of Kosovo held in 2013.

3. Romania's position – from inflexibility to public diplomacy's reconsideration of the Kosovo's independence

Strong non-recognizing position of Romania

In February 2008, when Kosovo declared its independence, Romania had a particularly categorical position, supported by all political parties. Just one day after the official decision of Pristina, the plenum of the two chambers of the Parliament in Bucharest, in agreement with the position of the President and the Government of Romania, notes⁵ with "grave concern" the declaration of the Kosovo's independence, regrets that negotiations "in the right spirit of international law " have failed and does not recognize Kosovo's independence.

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Romanian Parliament stresses that the decision of the authorities in Pristina, and a possible recognition by other states of the unilaterally declared Kosovo's independence could not be interpreted as a precedent for other areas nor in recognition and guarantee of the collective rights of national minorities”.

Reaffirming its support for the EU and NATO commitments assumed by Romania, the Romanian Parliament asks the Supreme Council of National Defense to investigate promptly the status of the

⁴ Newly-elected Slovak President pro Kosovo, Kosovo Today, March 31st, 2014
<http://kosovotoday.info/wordpress/?p=5181>

⁵ DECLARATIE Nr. 1 din 18 februarie 2008 Parlamentului Romaniei privind proclamarea unilaterală a independenței provinciei Kosovo ACT EMIS DE: PARLAMENTUL ROMANIEI ACT PUBLICAT IN: MONITORUL OFICIAL NR. 130 din 19 februarie 2008

Romanian military and civilian presence in Kosovo under international aegis, given the newly created context following the yesterday decision in Pristina.

Romanian Parliament reaffirms its full support for any policy in the South Eastern Europe designed to support regional stability and security and to ensure the manifestation of our country as a responsible member of the United Nations, the European Union and NATO.

Nearly three years later, in November 2011, Romanian President Traian Basescu, was paying a two-day official visit to Serbia meeting the Serbia's President Boris Tadic. Newspapers in Belgrade quoted the words of President Basescu confirming that "Romania remains consistent in its attitude of not recognizing Kosovo's independence", but insist on the European integration process for southeastern Balkans. During that visit, the Romanian President reconfirmed Bucharest official position not to recognize Kosovo's independence holding that there are no developments that would cause a shift in the position of Romania.

Towards a more flexible approach – new government and EU pressure

On March 2012, a resolution of the European Parliament referring to the European integration process of Kosovo received the vote from the 17 Romanian MEPs. Their vote was severely criticized by the national media questioning whether the Romanian representatives are aware of the Romania's official position on Kosovo. The resolution stated that the European Parliament "Acknowledges the declaration of independence of Kosovo has been recognized by 85 countries, including 22 EU Member States" and "would welcome the recognition of this declaration by the other five EU Member States". The resolution received the votes of the socialists and liberals, with the Christian Democrats opposing.



"There is no contradiction with our official foreign policy because the vote doesn't mean the Romania should recognize Kosovo".

Corina Crețu, member of the European Parliament, S&D⁶.

2013 was an important year for Kosovo and Belgrade dialogue but also for the political changes in Bucharest. However, the Romanian President Traian Basescu has continued to take a steadfast stand on Kosovo, accepting a shaded and more flexible position only in agreement with Belgrade. But the new head of the Romanian government, Victor Ponta, leader of the socialists, clearly indicated, on several occasions, that militates rather for a swift recognition of Kosovo than for an inflexible approach. However, in Romania, the constitutional prerogatives of the president are essential to recognition or non-recognition of a state.

Early signs of easing Romania's position on Kosovo have appeared before the European Council in June 2013, extremely important for the EU negotiations in the Western Balkans. Mircea Geoana, Social Democratic Party senator, former Romanian ambassador to the U.S. and former Foreign Minister, currently serving as the High Representative of the Prime Minister for the promotion of economic policy and public diplomacy has advocated for the recognition of Kosovo. He has done so in April 2013, before the European Council in June expecting to give certain date for the beginning of the negotiations for Serbia's accession to the EU.

⁶ 5th of April 2012, 17 eurodeputați români au votat o rezoluție care cere României recunoașterea independenței Kosovo, Alina Matis, Gandul.info

“After Belgrade and Pristina have agreed on the future of northern Kosovo, after the European Commission has given green light for accession of Serbia to the European Union, after German President appealed to Council of Europe members to recognize Kosovo and after the resolution of the European Parliament last week, I think Romania has all the arguments to recalibrate its position”. Bucharest will have to come out of the review era and say a clear “yes” to Kosovo. The first step was already made: Romania has granted visas for the Kosovo passports”.

How do we read all these political messages on Kosovo? The recent developments

Diplomats and experts, consulted by the Romanian Center for European Policies, believe that the Romanian Head of Government tends to take into consideration the international recommendations, especially those coming from the U.S., and prepare the recognition of Kosovo's independence. Other analysts consider that the statements of the Romanian Prime Minister should also be seen in the context of internal political debate in which the president and prime minister have often divergent positions on foreign policy in particular cases because of the political competition. However, some important developments last year have given significant signs of Romania's political leaders re-considering and re-evaluating the current position of Kosovo.

In a key moment, after meeting with Serbian Prime Minister Dačić in June 2013, the Romanian Prime Minister Victor Ponta addressed before the reunited foreign policy committees in Parliament, regarding Romania's position on the status of Kosovo. He clearly stated it is not about making a decision but about „an open discussion with foreign policy committees' lawmakers, on the Kosovo status, the relation between Romania and Serbia in this area”⁷.

“So far, look, there has never be discussed openly this track of Romania and I think it was extremely beneficial to me the discussion with members of the foreign policy committees”.

„In this moment, at European level, there are still five states that have not recognized the independence status of Kosovo, Romania counting among them. I had in Bucharest discussions including on this topic, with Prime Minister of Serbia, Mr. Dacic, next week, in Bratislava, one of the point of discussion with Prime Minister of Slovakia, Mr. Fico will be in the same respect”.

Considering the Kosovo's status and Romania's position important political topic, the prime minister gives the green lights for a political and institutional debate on the topic. „It is exactly to know if Romania goes in a certain direction or if, it remains inflexible on a stance it undertook some years ago”, the Prime Minister indicated mentioning the variety of options on the table: from the opinion of one side of never recognizing Kosovo until that of the other side that of having in Romania, a position coordinated with our European and transatlantic partners and to have in the end, an acceptance of a reality.

The Romanian Prime Minister Victor Ponta stated that a decision in this regard should be taken not only by a Government, nor by the President, but only by the Parliament. Moreover, asked about a timeframe when Romania's position could be shaded or adapted the prime minister said it is more important „to start talking and inform”.

“This is not just about recognition - that is a final and radical decision. There is the question that in many situations the Foreign Ministry, our line ministers have to vote in a certain way, to accept the presence of

⁷ 4th of June 2012 Address by PM Victor Ponta before the reunited foreign policy committees in Parliament, regarding Romania's position on the status of Kosovo, gov.ro/en

Kosovo representatives in a certain formula. And I said in the Committee: Serbian Prime Minister met 11 times with the Prime Minister of Kosovo. I, if we ever meet somewhere at an event, I hope I do not have to get up and run from the room, not to appear as if I recognized Kosovo. So, we have to be flexible and pragmatic”.

One month later, addressing to the Annual Meeting of the Romanian Diplomacy (August 2013) both the Prime Minister and the President have referred to a more flexible position of Romania on Kosovo.

The head of state made public for the first time that Bucharest will not reject Kosovo's participation in regional different formats “while not wearing national insignia”.

“Our position is a more flexible, but will have to be always in accordance with both Belgrade and the other four European countries that have not recognized Kosovo, Cyprus, Slovakia, Spain, Greece. We will not singularize ourselves within the five’s group. I noticed that the other four countries have been harmonized their foreign policy with Belgrade’s position, so we have to keep up the pace at which Belgrade gradually reach agreements with Pristina. I am safe to say that Romania should finally recognize Kosovo and shall be alongside with our European allies and trans-Atlantic”, Victor Ponta, Prime Minister.

However, among the political party leaders and members of the Parliament in Bucharest as well as alongside the members of the civil society, the Kosovo’s independence issue is not high on their agenda. Little is known about the specificities of the Kosovo context and we still miss strong expertise and organized debate on Balkans. Kosovo remains a controversial issue and requires an extensive and in-depth further dialogue.

To substantiate the sensitivity of the issue we present below some of the positions taken during the round table in Bucharest:

“The views on recognition are divergent. On the one hand, the PM said one year ago that Romania should recognize Kosovo rather sooner than later. A couple of international events made the issue more complicated, and they weigh a lot on the public opinion on the issue. When the PM expressed this opinion, I spoke about caution. When the matter regards national security, caution is not useless”. **(former Romanian high level official)**

“Saying OK, recognize us now, this is not a good approach. On both sides it is necessary to accept that although the background issue is the recognition, we need to understand that there are other issues that need to be treated in a civilized manner. You would have a large majority of people in Ro that say that the Kosovo issue is a precedent we don’t like but I assure that there is no feeling of rejection of the Kosovar people, definitely not”. **(former Romanian high level official)**

“Should we use the Kosovo precedent issue in negotiations for collateral objectives? The national interest of countries should prevail. Romania’s prevailing interest is to wait in terms of recognizing Kosovo due to the complicated security issue we have in the region.” **(Parliamentary adviser)**

“There is a lack of interest in Romania regarding Kosovo and wider Balkans region as well as a lack of expertise in the public sphere and academia. We were so much concentrated on the EU. Once EU-related issues we will probably be more open to issue related to the Balkans”. (Member of the political party)

4. Mutual understanding and cooperation: towards sharing Romania’s experience and expertise within the EU

Romania is located in the geographical proximity of the neighbouring West Balkan region and should have a strategic interest in the stability and development of the region, and, considering its recent experience, it can share its relevant expertise in managing transition processes.

Despite its position on the independence of Kosovo, Greece has managed to establish ties with the Kosovar society and collaborate with the authorities in Pristina. Similarly, considering its strategic interest in the stability of the region, hence of a functional democracy with clear European Integration perspectives in Kosovo, Romania should correspondingly manifest a higher degree of involvement in cooperation programmes with Kosovo. Given Romania’s strategic interest on the matter, it ought to be emphasized that there is a need to focus on potential areas of cooperation, both at the civil society level and between Parliamentary committees on relevant public policy issues. Possibilities for a more in-depth cooperation between the two countries using these mechanisms could be further explored, irrespective of whether a change on the recognition issue is to be expected.

The roundtable discussions at the event held in Bucharest have confirmed the existence of converging views regarding the potential cooperation and transfer of expertise on specific areas where Romania has recently had a track record of success. Such activities include cooperation programmes between experts in Government and NGOs, as well as dialogue between Parliamentary Committees on specific policy areas. However, considering the current political context, mediation of the process by civil society organizations would guarantee the predictability and feasibility of the implementation process, as well as an opportunity to foster dialogue and mutual understanding between the two countries.

Importantly, activities that engage actors from both countries are not contingent on the recognition issue. Strengthening institutional cooperation and boosting investment, trade and economic cooperation would certainly be beneficial for both Romania and Kosovo. Sharing the Romanian transition expertise on specific areas can support the development of Kosovo, and, also considering the areas where implementing reforms has proven to be less successful in Kosovo (e.g. organised crime and corruption were highlighted by the European Commission as key areas where capacity in Kosovo is deficient), the fields of cooperation could include the following:

- ❖ Supporting the judicial system reform process and anticorruption institutions;
- ❖ Good governance and rule of law
- ❖ Integrity measures at political and administrative levels - in contrast with Kosovo, Romania has established a specialized anti corruption institution, the National Integrity Agency, for preventing and detecting corruption in the public sector.
- ❖ Organised crime, where Romania does not have a Mechanism for Cooperation and Verification benchmark
- ❖ Antidiscrimination policies

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