

A person wearing a blue suit jacket and dark blue jeans is walking, holding a brown leather briefcase with a gold-colored clasp. The person is wearing a watch on their left wrist. The background is a plain, light-colored surface.

ENGLISH VERSION

## **LEGALIZATION OF RESIDENCE AND EMPLOYMENT IN POLAND**







This brochure contains just general tips about permits for foreign nationals' stay or residence in Poland. It is NOT a source of law. The authors have done their best to ensure that it is consistent with the applicable laws and regulations. However, it discusses only typical / frequent cases and cannot exhaust the subject. Types and numbers of documents that authorities may demand as part of various proceedings depend on the individual case.

The information provided herein does not apply to nationals of EU Member States other than Poland, UK, Norway, Iceland, Liechtenstein or Switzerland (or to family members of such foreign nationals) or beneficiaries of the Withdrawal Agreement of the United Kingdom from the European Union.

See the Law on Foreign Nationals of 12/12/2013 for detailed regulations on the entry and stay or residence of such persons in Poland. Other legislative acts governing certain matters, such as requirements for employment, include the Law on the Promotion of Employment and on Labor Market Institutions of 20/04/2004, the Law on the Rules of Participation of Foreign Entrepreneurs and Other Foreign Nationals in the Polish Economy of 06/03/2018 and the Administrative Proceedings Code of 14/06/1960.

If in doubt, contact a department of the Province Governor's Office (the one with jurisdiction over your address of residence in Poland) competent for foreign nationals.

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1

# WORKING IN POLAND – WHEN IS THIS ALLOWED?



## GENERAL INFORMATION

You may seek employment in Poland if:

- You are residing in Poland **legally**
- and
- You are **eligible under a work permit** or as a consequence of circumstances that exempt you from this requirement.

### Examples:

*1. You have a work visa and a work permit: You may work in Poland because your stay or residence is legal and you are allowed to work.*

*2. You have a permit for permanent residence in Poland: You may work in Poland at will because your residence is legal and this type of residence permit exempts you from the obligation to have a work permit.*

*3. You have an invalid visa and a Polish Ethnicity Attestation Card ("the Pole's Card"): You may not work in Poland. The Pole's Card exempts you from the work permit but your stay or residence is illegal.*

## FULL ACCESS TO THE LABOR MARKET

You enjoy full access to the Polish labor market when you may work **without an additional work permit** – an instrument making a person eligible for any employer and on any terms.

### You have such full access if:

- You have a refugee status given in Poland;
- You have been granted subsidiary protection in Poland;
- You have a permit for permanent residence in Poland;
- You have a permit for residence of a long-term EU resident in Poland;
- You have a humanitarian permit for residence in Poland;
- You have a permit for tolerated residence in Poland;
- You benefit from temporary protection in Poland;
- You have a valid certificate issued by the Head of the Office for Foreigners in connection with your application for grant of international protection;
- You have a permit for temporary residence and employment, provided that the permit does not specify your employer, job position, remuneration, working hours and employment contract type;
- You have a permit for temporary residence for part-time studies;
- You have a permit for temporary residence for research;
- You have a permit for temporary residence for long-term mobility of a researcher;
- You have a permit for temporary residence for a member of family of a Polish citizen;
- You have a permit for temporary residence for family reunification;
- You have a permit for temporary residence for a human trafficking victim;
- You have of a permit for temporary residence for a holder of a permit for residence of a long-term EU resident in another EU Member State;
- You have a permit for temporary residence for a member of family of a holder of a permit for residence of a long-term EU resident in another EU Member State;
- You stay or reside in Poland under an Intra-Corporate Transfer short-term employee mobility scheme, a researcher's short-term mobility scheme or a student's mobility scheme;
- You have a Pole's Card and a document that makes your stay or residence in Poland legal;
- You are a full-time student in Poland and you have a document that makes your stay or residence in Poland legal;
- You are a graduate of a Polish upper-secondary school, full-time studies academic studies or full-time postgraduate studies and you have a document that makes your stay or residence in Poland legal.

## FULL ACCESS TO THE LABOR MARKET

### Examples:

1. *You have a visa and you have graduated from full-time stationary studies in Poland: You may work in Poland, for any employer and on any terms, because your residence is legal (the visa) and you are exempt from a permit for work (the graduation).*

2. *You have a permit for temporary residence and employment, which does not specify an employer or other terms of employment: You may work for any employer. Your stay or residence is legal (the permit for temporary residence and employment). Your terms of employment are not restricted, so you may change employers at will (no reservations in the permit).*

3. *You are a spouse of a Polish national, so you have a permit for temporary residence: You may work for any employer because you are entitled by the permit.*

### LEGAL BASIS:

Art. 87(1)(1)-(11d) and 87(2) of the Law on the Promotion of Employment and on Labor Market Institutions of 20/04/2004 (Journal of Laws 2019, item 1484, as amended).

Regulation of the Minister of Labor and Social Policy of 21/04/2015 on the waiver of work permits for foreign nationals employed in Poland (JoL 2018, item 2273).



## RESTRICTED ACCESS TO THE LABOR MARKET

Your access to the Polish labor market is “restricted” **when you may work under a work permit** specifying your employer and your terms of employment.

### Your access is restricted if:

- You have a permit for work and you stay or reside in Poland based on:
  - A non-tourist visa;
  - A permit for temporary residence other than granted for a cause, for a short period;
  - A visa issued by another Schengen Area Member State;
  - A residence document issued by another Schengen Area Member State;
  - The visa-exempt system.
- You have a declaration of employment of you, as a foreign national, and any of the foregoing documents legalizing your stay or residence in Poland;
- You have a permit for temporary residence and employment, which specifies your employer, job position, remuneration, working hours and employment contract type;
- You have a permit for temporary residence for employment in a profession requiring high qualifications;
- You have a permit for temporary residence for doing business, which specifies your employer, job position, remuneration, working hours and employment contract type;
- You have a permit for temporary residence under an Intra-Corporate Transfer scheme;
- You have a permit for temporary residence under a scheme for long-term mobility of managers, specialists or apprentices or under an Intra-Corporate Transfer scheme.

### Examples:

1. You have a declaration of employment of you, as a foreign national, providing that you will work for company X as a full-time gardener and you have a Polish work visa (of the “D” series): You may work legally for X, as the gardener, because you have the declaration and because you have the work visa.

2. You have a residence permit issued in Italy, you have been offered a job in Poland as a shift manager at factory XY and your employer has procured a work permit for you: You may work legally only for XY, as the shift manager because you have the work permit and because your residence in Poland is legal under the Italian residence permit. Note, however, that the residence permit is just for 90 days and you should apply for a permit for temporary residence and employment to continue your employment in Poland.

3. You stay in Poland under a permit for temporary residence and employment because you work as an architect for company Z; you have been offered an architect’s job also by company ABC: You



## RESTRICTED ACCESS TO THE LABOR MARKET

*may not work for ABC because your permit for temporary residence and employment names Z as your employer. If you wish to start working for ABC too, you need to apply for a new permit for temporary residence and employment.*

### **LEGAL BASIS:**

Art. 87(1)(12) the Law on the Promotion of Employment and on Labor Market Institutions of 20/04/2004.

## WHEN MAY YOU CHANGE YOUR EMPLOYER?

You may change your job **freely** if you have **full access to the labor market**. This is the case when, for instance, you have a permit for temporary residence and employment, which is **"clean"** or **"blank"** (no indication of an employer, job position, remuneration, working hours and employment contract type) or you have a permit for permanent residence.

If your access is **restricted**, this is not allowed. In addition, if you have a permit for temporary residence for employment in a profession requiring high qualifications, you may take up only a job that requires such skills.

If you stay or reside in Poland **under the visa-exempt traffic system** – or you have a **visa** – and if you have a **work permit**, you may start working for a new employer only if they have procured a work permit for you.

If you stay or reside in Poland **under the visa-exempt traffic system** – or you have a **visa** or a **permit for temporary residence** – and you have a **declaration of employment of you, as a foreign national**, you may start working for a new employer only if they have procured a new declaration for you. Note that you may continue your work up to 6 months over the next 12 months, irrespective of how many employers you had. In addition, employment based on this declaration is available only to nationals of Armenia, Belarus, Georgia, Moldavia, Russia and Ukraine.

If you have a **permit for temporary residence and employment, which specifies your employer, job position, remuneration, working hours and employment contract type** you may not start working for another employer based on this permit. However, you may apply to the Province Governor with jurisdiction over your current address of residence for a change of the permit if you wish to start working:

- For another employer;
- On another job position;
- For a lower remuneration;
- During other working hours.

If you wish to change the employer, you need to apply for a new permit for temporary residence and employment.

If you have a **permit for temporary residence for employment in a profession requiring high qualifications** and **you have not worked 2 years in Poland on its basis**, you may not use it to start working for another employer or under different terms. You may apply to the Province Governor with jurisdiction over your current address of residence for change of the permit if you wish to:

- Start working for another employer;
- Change your current job position;
- Work for a remuneration lower than specified in the existing permit.

If you have a **permit for temporary residence for employment in a profession requiring high qualifications** and you have worked 2 years in Poland on this basis, you may change the employer, job position and remuneration without a need for changing the permit, but only if you continue to work in a profession requiring high qualifications.

## WHEN MAY YOU CHANGE YOUR EMPLOYER?

### Examples:

1. You have a visa and a work permit and work for company D as a crane operator. Company J has offered you an identical job for more money. Company J has procured a new work permit for you. You may start working for J because you have the visa and the new work permit.

2. You stay in Poland based on a permit for temporary residence and employment. You work as a waiter for restaurant XYZ. The employer has offered you promotion to the restaurant manager. You may apply to the Province Governor for a change of the permit for temporary residence and employment in connection with the change of the job. You may start working on the new job once you receive the Province Governor's approving decision.

3. You stay or reside in Poland based on a permit for temporary residence and employment. You work as a physician in hospital K. You wish to move to hospital R because they offer a better salary. You may not do so because your permit for temporary residence and employment has been issued for employment in hospital K. You should apply to the Province Governor for a new permit naming hospital R as your employer.

### LEGAL BASIS:

Art. 120 and art. 135 of the Law on Foreign Nationals of 12/12/2013 (JoL 2020, item 35, as amended).

# 2

## EVIDENCE OF ELIGIBILITY FOR EMPLOYMENT





## PERMIT FOR WORK

The permit for work is a document that, when **accompanied by a document making your stay or residence legal**, allows you to take employment in Poland. You cannot apply for this permit – **only your prospective employer may do it**.

The permit for work is issued for up to 3 years and may be prolonged.

### LEGAL BASIS:

Art. 88a the Law on the Promotion of Employment and on Labor Market Institutions of 20/04/2004.

## PERMIT FOR TEMPORARY RESIDENCE AND EMPLOYMENT

The permit for temporary residence and employment makes you eligible to **both live and work** in Poland. You may apply for the permit but you will need assistance from your prospective employer.

However, you **cannot** apply if you meet any of the following criteria:

- You are a delegated employee;
- You run a business in Poland;
- You are a seasonal worker in Poland;
- You stay in Poland based on a tourist visa issued by Poland or by another Schengen Area Member State (for any private purpose such as sightseeing or visiting your family or friends);
- You stay or reside outside Poland.

### **Procurement procedure**

You should apply for this permit **in person, during your legal stay or residence** in Poland, to the Province Governor with jurisdiction over the place of your stay or residence, on the **dedicated form**. You may need to prearrange online your visit at the competent department or local office of the Province Governor's Office. Check the applicable local client reception rules.

You should attach the following to the application:

- Enclosure 1 to the form, **completed by your prospective employer**;
- Four valid photographs;
- One photocopy of your valid passport (you will be also required to present the original).

In addition, you may be required to provide:

- A copy of the **labor market report** delivered by the County Executive to your prospective employer. This report is not required in the following cases:
  - Your prospective job is listed as exempt from the reporting;
  - You had a permit for work or a permit for temporary residence and employment issued for your prospective employer and for the job you seek directly before your application;
  - You were employed for at least 3 months by this employer on this job position based on the employer's declaration of employment of you, as a foreign national, directly before your application (in this case you will need to present the declaration, your employment contract and evidence of payment of the ZUS tax);
  - You have been residing in Poland legally and uninterruptedly for at least 3 years;
  - You have graduated from academic or postgraduate studies in Poland, another European Economic Area (EEA) Member State or Switzerland within 3 years before your application;
  - The permit for work has been waived for you (see section 1.1 above).
- A proof that you have a place to live (e.g., certificate of your registration at your address of residence, tenancy agreement or a representation from your landlord);

## PERMIT FOR TEMPORARY RESIDENCE AND EMPLOYMENT

- A certificate of employment from your last employer (if any);
- An evidence that you have a source of regular and stable income sufficient for your and your dependants' subsistence (more than PLN 701 net per month if you are single or more than PLN 528 per each of your family members), such as a personal income tax (PIT) declaration form or a certificate from ZUS (the Polish social security administration);
- An evidence of medical insurance (e.g., a policy from an insurance institution or from ZUS).

The stamp duty is **PLN 440** for the processing of your application plus **PLN 50** for the issuance of a residence card.

The permit may be given for a period **from 3 months to 3 years**.

Apart from the period of validity, the permit contains the following information:

- Your employer;
- Your job position;
- Your minimum remuneration;
- Your working hours;
- The type of your employment contract.

If you intend to work for more than one employer, this information will be provided for each of them.

If the work permit requirement has been waived for you (see section 1.1 above), the foregoing information will not be provided in your permit. Instead, there will be an information on the legal basis of the waiver.

If you are **refused** the permit, you may **appeal** against the Province Governor's decision, through his or her office, **to the Head of the Office for Foreigners within 14 days** from the receipt of the decision. If the refusal is sustained, you may challenge it before an administrative court.

### Examples:

1. You wished to work as a bus driver for company XYZ, so you applied for a permit for temporary residence and employment to the Province Governor's Office. You were not required to provide a copy of the County Executive's labor market report because there is a shortage of bus drivers in Poland. You have been granted the permit, which states that you may work only as a bus driver and only for XYZ.

2. You have graduated from full-time English Studies in Poland and you wished to work as a translator for company ABCD. You applied for a permit for temporary residence and employment to the Province Governor's Office. You were not required to provide a copy of the County Executive's labor market report because the work permit requirement has been waived for you. Your permit is "clean" – specifies just the legal basis of the waiver. After one year you were offered a teacher's job by a school. You may start working there because your permit is unrestricted.

3. You wish to work as a baker for company G and your prospective employer provided you with a declaration of employment of you, as a foreign national. You obtained a visa and came to Poland.



## PERMIT FOR TEMPORARY RESIDENCE AND EMPLOYMENT

*Then you were offered a baker's job by company LKJ, so you applied for a permit specific to LKJ. You need to attach the County Executive's report. If you are granted the permit, it will be valid only for LKJ.*

### LEGAL BASIS:

Art. 114-117 of the Law on Foreign Nationals.

## DECLARATION OF ENTRUSTING WORK TO A FOREIGNER

The declaration of entrusting work to a foreigner is a document which, together with the document legalizing the stay, entitles to perform work in Poland. You cannot apply for this document yourself, only your employer can do it.

Remember that work based on the above-mentioned declaration of entrusting work to a foreigner applies only to the citizens of Armenia, Belarus, Georgia, Moldova, Russia and Ukraine.

Based on the declaration, you can work for a total of no more than 6 months in subsequent 12 months, regardless of how many employers you have worked for.

### LEGAL BASIS:

Art. 88z Act of 20 April 2004 on employment promotion and labor market institutions.

Regulation of the Minister of Family, Labor and Social Policy of 8 December 2017 on the countries to which citizens certain provisions on the seasonal work permit and provisions on the declaration on entrusting work to a foreigner apply (Journal of Laws of 2018, item 2349).

## SEASONAL WORK PERMIT

A seasonal work permit is a document which, together with the document legalizing your stay, entitles you to perform seasonal work in Poland. The list of sectors in which seasonal work may be performed is specified in the law. You cannot apply for a seasonal work permit yourself, it is a document issued only at your employer's request.

A seasonal work permit is issued for up to 9 months in a calendar year.

### LEGAL BASIS:

Art. 88a, Act of April 20, 2004 on employment promotion and labor market institutions.

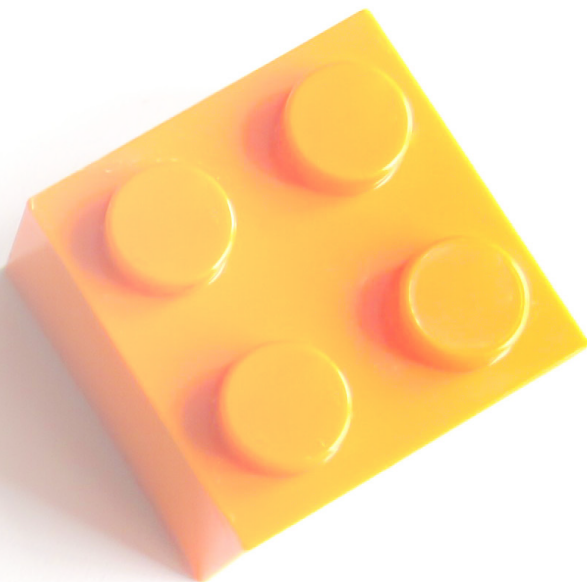


PLACE FOR NOTES

PLACE FOR NOTES

# 3

## POSSIBILITY TO WORK DURING THE STAY LEGALISATION PROCEDURE





## LEGAL STAY

It is important that the application for a temporary residence permit, permanent residence permit or long-term resident's EU residence permit **is submitted during legal stay in the territory of Poland**. If you abide by the above-mentioned when submitting your application, an employee of the voivodeship office will place a special stamp in your passport. Your stay in Poland will be legal until the end of the procedure for legalizing your stay. Remember, however, that the right applies to stay in Poland - the stamp does not allow you to freely cross the Polish border and move around the Schengen area countries. If you leave Poland, your re-entry will be subject to certain conditions (e.g. having the appropriate visa).

### LEGAL BASIS:

Art. 108 of the Act of 12 December 2013 on foreigners.

**During the stay legalisation procedure, you can legally stay and work in Poland.** However, you must meet the conditions described below.

If you are in Poland based on a stamp in your travel document confirming the submission of an application for your stay legalisation, you can work in Poland if:

- You have a work permit, and you were entitled to work in Poland before submitting the application;
- You are exempt from the obligation to have a work permit;
- Before submitting your application, you were released from the obligation to have a work permit due to the fact that you had a temporary residence permit for the purpose of studying, a temporary residence permit for the purpose of conducting scientific research, a temporary residence permit for a family member of a citizen of the Republic of Poland, a temporary residence permit for the purpose of family reunification, a temporary residence permit for a victim of trafficking in human beings, a temporary residence permit for the holder of a long-term resident's EU residence permit or their family member;
- You have submitted an application for a temporary residence and work permit, a temporary residence permit for the purpose of performing work in a profession requiring high qualifications or a temporary residence permit for the purpose of conducting business activity and you continue to work in accordance with the temporary residence permit or work permit you previously had;
- You have performed work in Poland on the basis of a declaration of entrusting work to a foreigner and you are applying for a temporary residence and work permit due to the continuation of work for the same employer and at the same position as in the declaration.

### Examples:

*1. A foreign man had a temporary residence permit due to being married to a Polish citizen, valid until July 3, 2019. The foreigner works in Poland as a cook in restaurant X. On May 30, 2019, the foreigner applied for granting another temporary residence permit. When submitting the application, an employee of the voivodeship office placed a stamp in the foreigner's passport confirming the submission of the application. In the meantime, the foreigner was offered a job and started work at restaurant Y. The foreigner can legally work during the entire procedure on his stay legalisation in restaurant Y, as he applied for a temporary residence permit on time and, prior to its submission, had had a temporary residence permit, which released him from the obligation to have a work permit.*

*2. A foreign woman came to Poland based on a visa with a validity until December 20, 2018 in order to start work as an IT specialist in company X based on a work permit. On November 10, 2018, she applied for a temporary residence and work permit, as she continues to work as an IT specialist in company X. When submitting the application, an employee of the voivodeship office placed a stamp in her passport confirming the submission of the application. She may legally perform work in Poland during the procedure of her stay legalisation in Poland, as she has submitted the application on time and continues employment with the same employer, at the same position.*

*3. A foreign man has a temporary residence and work permit due to the performance of work in Poland as a sanitary engineer in company X. The permit expires on May 23, 2019. On May 16, 2019, the foreigner left the company X and was offered a job at XYZ also as a sanitary engineer.*



## LEGAL WORK

*On May 21, 2019, the foreigner applied for another temporary residence and work permit, as he intended to work at XYZ. The foreigner may legally stay in Poland during the proceedings on legalisation of stay, but he cannot work legally because he does not continue to work for the same employer.*

*4. A foreign woman has a declaration of entrusting work to a foreigner issued by the FRT company in order to work as a saleswoman. The foreigner came to Poland based on a visa valid until January 15, 2019. In the meantime, the foreign woman received an offer to work as a housekeeper in the Y home. On January 10, 2019, the foreigner applied for a temporary residence and work permit due to work as domestic help in the house of Mr. and Mrs. Y. The foreign woman may legally stay in Poland, as the application was submitted on time. The foreign woman cannot legally work because she wants to start work for another employer and on conditions other than those provided for in the declaration of entrusting work to a foreigner.*

### LEGAL BASIS:

Art. 87 par. 1 point 12 letter b, art. 87 par. 2 point 5, art. 88g par. 1b and art. 88z of the Act on employment promotion and labor market institutions.



# 4

## TEMPORARY RESIDENCE AND WORK PERMIT - WHAT NEXT?



## TEMPORARY RESIDENCE AND WORK PERMIT - WHAT NEXT?

Having granted a temporary residence and work permit, the voivodeship office will issue you a residence card ex officio. The residence card entitles you to multiplied border crossings without the need for a visa. The residence card will include the annotation "Access to the labor market", but it does not mean that you have the right to work for any employer and under any conditions. Whether you are free to change jobs is determined by whether you have full access to the labor market (see part I point 1) or limited access to the labor market (see part I point 2).

If you want to **change your employer or working conditions**, you should follow the instructions described in part I point 3.

You have a **general obligation to notify the voivode who granted the temporary residence permit within 15 working days of the cessation of the reason for granting the permit**. If you fail to meet this obligation, the voivode will have the right to refuse to grant you another temporary residence permit.

**If you lose your job**, you should notify the voivode who granted the **permit** in writing within 15 working days for any of the employers listed in the permit for temporary residence and work. If no employer has been entered in your temporary residence and work permit, this obligation does not apply to you. If you fulfill this obligation, you have 30 days to look for a new job, during this time the voivode will not withdraw your temporary residence and work permit.

In the **case of a temporary residence permit in order to perform work in a profession requiring high qualifications**, you are obliged to notify the voivode in writing within 15 working days about the loss of job, but also about the change of the employer or working conditions.

### Examples:

1. A foreign woman works as a seamstress in the X company and in the Z company, and therefore has a temporary residence and work permit. The foreigner graduated from a post-secondary school in Poland and is therefore ex-empt from the obligation to have a work permit, therefore the voivode did not enter her employers X and Z in the decision on granting a temporary residence and work permit. The foreign woman has finished work in company Z, but she is not obliged to inform the voivode about it, as there are no employers entered in the permit and the purpose of her stay in Poland has not completely ceased - she still works in company X. After six months, the foreigner also stopped her work in company X. Now she must notify the voivode who granted her the permit within 15 working days, because the reason for granting her temporary residence and work permit has ceased to exist.

2. A foreign man works as an electrician at the XYZ manufacturing plant. The voivode granted him a temporary residence and work permit in which the XYZ employer and the electrician's position are indicated. The foreign man lost his job in the above-mentioned plant and is now obliged to notify the voivode who granted the permit of this fact within 15 working days. The foreign man found a new employer within 30 days and may apply for a temporary residence and work permit for a new employer.

3. A foreign woman is the wife of a Polish citizen and has a temporary residence permit on this account. Additionally, the foreigner works as a beautician at the W beauty salon. The foreign woman lost her job at the W beauty salon, and then after a month she started working at the G

## TEMPORARY RESIDENCE AND WORK PERMIT - WHAT NEXT?

*beauty salon. The foreign woman was not obliged to notify the voivode of the end of work in the G company or of the change of employer, because she is exempt from the obligation to have a work permit, as she has a permit for a temporary stay granted due to being married to a Pole.*

### LEGAL BASIS:

Art. 122, art. 123 and art. 134 of the Act on Foreigners.



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Sole responsibility for the opinions expressed in this publication rests upon the author. The European Commission and the Ministry of Interior and Administration shall bear no responsibility for any use of the provided information.



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