


Civic Solidarity Platform Working Group on the Fight Against Torture
Civic Solidarity Platform Turkmenistan Working Group
Crude Accountability

ENFORCED DISAPPEARANCES IN THE BALKANS

**Policy paper on the process of searching for forcibly
disappeared persons in relation to the 1991-1999 wars and
providing the victims with the right to truth and justice**



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2023

About the Project

In 2022-2023, Crude Accountability, in cooperation with members of the [Turkmenistan Working Group](#) and the [Working Group on the Fight Against Torture](#) of the [Civic Solidarity Platform](#) (CSP), initiated a project to research the issue of enforced disappearances in the region of the Organization for Security and Cooperation in Europe (OSCE).

With generous funding from [Austausch, e.V.](#), a German human rights NGO, the project focuses on the issue of enforced disappearances within the context of the OSCE December 2020 decision, which was adopted by consensus at the Ministerial Council Meeting in Tirana, Albania in December 2020, for an [expanded OSCE commitment on torture prevention](#). This commitment includes the fight against enforced disappearances and incommunicado detention.

Focusing on the Balkans, Belarus, Chechnya, Nagorno-Karabakh, Tajikistan, Turkmenistan, and Ukraine, the project draws attention to the ongoing horrors of enforced disappearances in the context of conflict and repression. The Balkans, Chechnya, Nagorno-Karabakh, and Ukraine provide examples of enforced disappearances in conflict zones—both as a tool of regimes and armies, and as a product of war. Belarus, Tajikistan, and Turkmenistan are examples of regimes that use enforced disappearance as a tool of repression, even in peacetime. However, the use of enforced disappearances in all seven regions is one that is related to repression, as our policy papers demonstrate.

About Crude Accountability

Crude Accountability is a non-profit organization committed to defending the human rights and environment of communities affected by oil and gas development in the Caspian and the Black Sea regions. Crude Accountability works to hold governments and corporations accountable for their actions and advocate for sustainable and just energy practices. For more information, please visit Crude Accountability's website at <https://crudeaccountability.org>

About Civic Solidarity Platform

Civic Solidarity Platform is a network of human rights NGOs, activists, and experts from across Europe, the Caucasus, and Central Asia. The platform collaborates to promote and protect human rights, democratic principles, and civil society participation within the OSCE region. For more information, visit <https://www.civicsolidarity.org/>

About the Author

Jelena Krstić

Jelena Krstić is a political scientist and active participant in processes that aim to address the causes and consequences of armed conflicts during the 1990s on the territory of Yugoslavia.

From 2007 to 2011, Krstić coordinated the Initiative for the Regional Commission for the establishment of facts about war crimes in the territory of the former Yugoslavia. She led and implemented education and memorialization programs in the field of dealing with the past, and contributed to the development of the first schools of transitional justice that took place in Serbia. Among her most significant successes, she counts the display of the History Museum of Bosnia and Herzegovina's exhibition "Sarajevo under Siege" in 2018 in Belgrade, which enabled citizens of Serbia to comprehend the experience of their relatives, friends and acquaintances in their attempt to survive the multi-year terror during the siege of the city. Since 2019, she has been developing the program of the Helsinki Committee for Human Rights in Serbia (HCHR), with a special emphasis on engaging art in overcoming the legacy of armed conflicts. She was the executive producer of the first theatre play about the genocide in Srebrenica, "Srebrenica. When We, the Killed, Rise" directed by Zlatko Paković.

In addition to her practical work, Krstić conducted academic research on feminist resistance to war, women's activism, securitization of national identity through literature, and protracted impunity for war crimes. Recently, she has been engaged in research aiming to map war victims' groups, collect data on the challenges they face and identify needs in relation to truth, justice and reparations, capacity building, policy-making, advocacy, community building, and participation. The findings were published in the chapter on Serbia in the report [„Dealing with the Past, Surviving the Present“](#). Krstić also authored the chapter „Postconflict Justice“ in the most recent HCHR [report](#) on human rights in Serbia, where she analyzed the dealing with the past efforts in the country in the decade of 2012-2022.

Enforced disappearances in the Balkans

A policy paper on the process of searching for forcibly disappeared persons in relation to the 1991-1999 wars and providing the victims with the right to truth and justice

Abstract

After successfully resolving the fate of 75% of persons who went missing as a consequence of the 1990s war in the former Yugoslavia, the region reached a stagnation point. Key challenges hampering the process are the political misuse of the issue, retaining relevant information on possible locations, evading criminal justice and slowing down the war crime trials, and insufficient capacities of specialized institutions. In the majority of countries, the process is also burdened with a lack of recognition of the needs of the families of missing persons. Particularly absent is the notion of the specific position of female family members. A set of bilateral and multilateral cooperation platforms were initiated, with minor progress in recent years. However, the rate at which missing persons are found/identified is slow, with a significant number of victims remaining unidentified due to limitations in early identification processes. This paper presents key challenges in searching for missing persons in Bosnia and Herzegovina, Croatia, Kosovo, Montenegro, and Serbia, and recommends measures for accelerating the process.

Abbreviations

BiH - Bosnia and Herzegovina

Center for War Crimes - Center for Researching War, War Crimes, and Search for Missing Persons

EEAS - European External Action Service

EU – European Union

F-BiH – Federation of Bosnia and Herzegovina

HRC – Human Rights Council

ICMP – International Commission on Missing Persons

ICPPED - [International Convention for the Protection of All Persons from Enforced Disappearance](#)

ICRC - International Committee of the Red Cross

ICTY - International Criminal Tribunal for the former Yugoslavia

MPI – Missing Persons Institute

NGO – Non-governmental organization

OTTMP - Operation Team for Tracing Missing Persons

RS – Republic of Srpska

SFRJ – Socialist Federal Republic of Yugoslavia

UN – United Nations

WGEID – Working Group on Enforced or Involuntary Disappearances

Introduction

The violent dissolution of the Socialist Federal Republic of Yugoslavia resulted in around 40,000 people who went missing as a consequence of war. The 1991-1995 war in Croatia had over 6,000; the 1992-1995 war in BiH an estimated 31,500; and the 1998-1999 war in Kosovo resulted in around 6,060 forcibly disappeared persons.ⁱ Cases of involuntary disappearance were also detected in Serbia and Montenegro, which accounts for their citizens who went missing in Croatia, BiH, and Kosovo during the conflicts.

In the post-war period, specialized institutions were established in each country to resolve the fate of the war-related forcibly disappeared people and to prosecute those responsible for their disappearance. Given the cross-border nature of the armed conflicts, cooperation between countries was initiated in both spheres, on bilateral and multilateral levels. The active involvement of international organizations, such as the ICMP and the ICRC in searching for the missing was among the success factors. In 2023, 11,363 missing persons cases are still pending.ⁱⁱ Among war crimes prosecuted before the ICTY and domestic courts, are a significant number of cases related to forcibly disappeared persons. However, the prosecution of war crimes has reached a standstill in the majority of involved countries, thus preventing the acquisition of information and the prosecution of responsible individuals.

Enforced disappearance “is considered as the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person.”ⁱⁱⁱ Another common term is ‘missing persons,’ which refers to “persons whose families are without news of them as a result of armed conflict or internal violence.”^{iv}

Both acts infringe on a number of rights, including the right to liberty and security of the person, the right not to be subjected to torture and other cruel, inhuman or degrading treatment or punishment, the right to life, the right to a fair trial, and the right to an effective remedy. Since it affects a broader number of people, such as relatives and communities, the enforced disappearance also impacts the right to protection and assistance to the family, the right to an adequate standard of living, the right to health, and the right to education. As such, provisions protecting against enforced disappearances are contained in a number of international legal instruments.

The most prominent instrument is the [International Convention for the Protection of All Persons from Enforced Disappearance](#) as the first universal instrument sanctioning enforced disappearance as a crime under international law. ICPPED obliges states parties to criminalize enforced disappearance, to search for disappeared persons, investigate their disappearance, provide victims with information and access to justice, reparation, and compensation, and to afford the greatest measure of mutual legal assistance and cooperation for the search and investigation. BiH, Croatia, Montenegro, and Serbia are state parties to the Convention; as a non-UN country, Kosovo still remains outside the scope of the ICPPED.

Failure to address the missing persons issue and prosecute perpetrators prolongs the suffering of victims’ families who live in constant uncertainty and anxiety and creates a sense of injustice and mistrust. They

also face multiple legal and socio-economic problems, particularly if the missing person was the main provider in the family. The issue also affects broader society, as the unresolved fate of their co-citizens prevents establishing the whole truth about the past, as a basis for addressing its legacy, while the impunity of those responsible weakens the rule of law. In the case of regional conflicts, such as the one in the SFRJ, it significantly burdens bilateral and multilateral relations, endangering other peace-building and cooperation initiatives.

This paper focuses on the situation in BiH, Croatia, Montenegro, Kosovo, and Serbia as countries that were most affected by war-related enforced disappearances during the 1990s wars. It aligns with both definitions stated above, recognizing the plurality of cases, determinants, and actors. In that sense, both terms will be used interchangeably throughout the text to refer to the issue of resolving the fate of people who went missing as a consequence of the 1990s wars. The goal of the paper is to present the state of play in this area and the main challenges disturbing the search for missing, and to recommend measures for further improvements.

Problem Description

[1] Resolving the fate of missing persons in all five countries has been placed within the national-level specialized agencies, which firmly cooperate with the judiciary and relevant ministries.^v They are mandated to search for persons who involuntarily disappeared during the war, conduct exhumations and identifications, and run the register of cases. However, in BiH, separate dynamics unfolded in the RS entity, firstly through the OTTMP, and later through the Center for War Crimes, with the mandate to locate mass grave sites, participate in exhumations, and run its own register of victims. While RS justified this move as an effort to address the perceived discrimination against Serbian victims, the F-BiH and international actors understood it as an attempt to segregate the search for the missing.

[2] BiH, Croatia, and Kosovo adopted laws on missing persons regulating the process of search and guaranteeing rights to victims' families. Some countries guarantee victims' rights through other legal documents as well. In **BiH**, victims have the rights to know the circumstances of death and the whereabouts of their missing family members, to have a decent burial, to mark the founding site and the grave, to receive financial support, to temporarily manage the property and assets of a missing family member, the priority in employment and education, and medical insurance. **Croatia** also recognizes the rights to know the circumstances of disappearance and death, to be informed on the search process, to receive the mortal remains, support for burial, financial support, and priority lines in some aspects of education and labor. In **Kosovo**, families have the right to an official investigation of the circumstances of disappearance, the right to temporarily manage the property and assets of a missing person, pension, priority line in the educational and labor sphere, financial and material support during university education, housing, medical care, social benefits for low-income families, etc.

Montenegro and Serbia have never adopted a law on missing persons. The process of designing the first law on missing persons in **Serbia** started in 2021 but remains unfinished. In addition, the already modest

reparation options for victims of war regulated by other laws remain unavailable to families of missing persons. **Montenegro** has also not developed a reparation program for missing persons' families. In both countries, the state covers the costs of exhumations, transportation of mortal remains, and burial.

[3] Given the cross-border character of wars in the former Yugoslavia, cooperation in searching for missing persons remains crucial. Bilateral cooperation has been established early on and fluctuated over the years. Serbia remains a key partner for almost all countries, especially Kosovo. This cooperation is facilitated through the Working Group on Missing Persons, which consists of delegations from Serbia and Kosovo, with the ICRC as the mediator. At least one mass grave was found following data received through this platform. As of 2023, the missing person's issue has been included in the dialogue on the normalization of relations between Serbia and Kosovo, which is being facilitated by the EEAS. Within this framework and the *Agreement on the path to normalization between Kosovo and Serbia*, in May 2023 the *Declaration on Missing* was signed. It obliges parties to fully implement their commitments in the field of missing persons, to closely cooperate on identifying burial sites and follow-up on the excavations, to ensure full access to reliable and accurate information, including those having classified status, to use advanced technologies in detecting mass graves, to enable and encourage active engagement of families, and ensure the fulfillment of their rights. The parties committed to agree on the operational details at the next meeting of the EU-facilitated Dialogue on normalization of relations, but a new escalation unfolded instead. Certain progress in bilateral cooperation between Serbia and Croatia was also detected in the recent period, after years of mutual accusations for insufficient commitment to the issue.

[4] Regional cooperation intensified in 2014 when the *Declaration on the Role of the State in Addressing the Issue of persons missing as a Consequence of Armed Conflict and Human Rights Abuses*^{vi} was signed between BiH, Croatia, Montenegro, and Serbia. The *Joint Declaration on Missing Persons in the Framework of the Berlin Process*,^{vii} adopted in 2018, included Kosovo as well and produced the operational plan for the implementation of agreed measures. States agreed to effectively investigate missing person cases, explore all possible avenues to obtain new information, ensure adequate capacities for specialized institutions working on the issue, include victims' families in the process and guarantee their rights according to international standards, ensure punctual public information about the developments in searching for missing people, and refrain from politicizing the process. The dedicated Missing Persons Group started working on the 4,000 unidentified cases in the region, launched the regional Database on Active Missing Persons Cases, and occasionally jointly commemorated relevant anniversaries or events. Victims associations actively engage in cross-border cooperation. Since 2011, these associations have been gathered in the Regional Coordination of Families of Missing Persons from the Former Yugoslavia which advocates for genuine political commitment and to speed up the search for missing persons.

[5] In recent years, efforts to resolve the fate of missing persons have stalled throughout the region. The process in all countries suffers from insufficient information about possible locations of gravesites due to a stalemate in bilateral cooperation, internal political dynamics, biological factors, slow pace or delays in criminal investigations and prosecution of war crimes that could help in revealing relevant information, and the reluctance to make available relevant archives that could provide important information. All countries would benefit from a more explicit political commitment to tracing all missing persons, as well

as from the financial support that could strengthen the capacities of specialized institutions. No country has adopted a gender-sensitive approach to searching for missing persons and supporting families.

In **BiH**, around 7,600 persons still remain missing in relation to the 1992-1995 war. Key challenges hampering the process include the lack of human, financial, and technical capacities to speed up the search, exhumations, and identifications; a number of misidentifications stemming from early non-DNA identification processes that were not as accurate as the ones relying on DNA samples, failure to establish a Victims Support Fund envisaged in the Law on Missing Persons, reduced access to direct sources of information and witness testimonies due to the passage of time, the 'silence conspiracy' due to the fear of prosecution, topographic changes in the sites of potential graves, and body fragmentation and commingling due to multiple relocations of remains to secondary and tertiary mass graves.

Croatia still searches for around 1,800 Croatian citizens or persons with residence in Croatia who went missing during the 1991-1995 war. Challenges are connected to the stalemate in cooperation with other relevant countries, especially Serbia, and failure to provide victims with all relevant support, particularly the issuance of a certificate of absence or similar document that could enable families to manage the property and assets of their missing member.

Kosovo accounts for around 1,600 persons who went missing between January 1, 1998 and December 31, 2000, in relation to the 1998-1999 war. Some families remain excluded from the otherwise very developed reparation scheme. Namely, the law regulating the rights of war veterans and civilian victims of war does not recognize the missing person status for victims who disappeared after June 20, 1999. That excludes from legal support all victims who were killed or went missing in the postwar period when a significant number of violent incidents happened. Other challenges relate to around 300 unidentified bodies in Pristina Mortuary, and the non-existent cooperation with Serbia in war crimes prosecutions that could facilitate collection of information.

Montenegro searches for around 50 persons who had citizenship or residence in this country at the time of disappearance. Key challenges relate to the absence of a law on missing persons and other regulations to provide support to families and ensure their rights.

Serbia expressed interest in revealing the fate of around 1,900 missing persons, including its citizens who went missing in the wars in Croatia and BiH, citizens of Croatia and BiH of Serbian ethnicity or whose relatives found refuge in Serbia, and Serbs and non-Albanians who went missing in relation to the 1998-1999 Kosovo war. Key challenges in its approach to enforced disappearances include the failure to adopt a law on missing persons, lack of reparations for missing persons' families, retaining information crucial for locating the gravesites that may be in possession of security forces, particularly in relation to crimes committed in Kosovo, and avoidance to prosecute crimes committed by its forces during the war in Kosovo. Families of people who were killed or went missing after June 20, 1999 in relation to the Kosovo war are in a particularly difficult position, as they are not entitled to reparations in neither Kosovo nor Serbia.

Selected Cases

Paradigmatic to the stated challenges are the following cases:

[6] In August 2020, the remains of at least one person were found in the locality of Kacelj, Foča municipality in BiH.^{viii} The terrain had first to be de-mined, which was conducted only one year later, in September 2021. One more year passed for exhumations to start, in August 2022. Despite the urgency due to the environmental exposure of the remains which could jeopardize their condition, it took two years to collect and protect the remains for the following process of identification and burial. The main reason for such a delay was the lack of forensic experts.

[7] The majority of people still missing in BiH are from the territory of Srebrenica (1,600), which experienced genocide with over 8,000 victims.^{ix} This case of genocide is highly contested within the country, with the political representatives of Bosniak Serbs denying the qualification of the crime and disputing the number of victims. Genocide denial is widespread in the public arena of the Republic of Srpska, which creates an atmosphere inconducive to revealing information about the locations of mass graves.

[8] The largest part of the people still unaccounted for in Croatia are from the Vukovar region (around 500). In the last several years, more than 120 locations were searched, yielding the remains of less than 40 persons.^x The area was the location of the largest mass grave in Croatia, Ovčara, where the remains of 200 prisoners of war, killed in a mass war crime committed in Vukovar in 1991, were found. Croatia is still searching for around 60 victims of this crime. For the final resolution of this case, Croatia insists upon receiving archival documentation from Serbia. Another example connecting Serbia and Croatia relates to the Sotin Case when the trial held before Serbian courts revealed information about the location of a mass grave near the place of Sotin in Croatia. By disclosing the location, the accused helped authorities find and clarify the fate of 13 missing persons.^{xi}

[9] Five mass graves were found in Serbia with around 950 bodies of Kosovo-Albanians.^{xii} These were secondary mass graves, created within a secret operation aiming to hide war crimes committed during the war in Kosovo. The largest one was found after opening the police archives containing information about the location. It is highly possible that more mass graves can be found in Serbia.

[10] Likewise, non-Albanian victims still await information about their loved ones who went missing during the war. Ivan Majstorović was still a high school student when he disappeared in August 1999. His body was never found nor was his fate revealed.^{xiii} Nataša Šćepanović's parents disappeared in Istok in 1999. Some mortal remains of her father were found and buried, while she still searches for her mother.^{xiv}

[11] Six persons, who Montenegro is searching for, disappeared in the area of Štrpci, BiH, in February 1993, when members of the Army of the Republika Srpska took 20 passengers from a train on the Belgrade-Bar route and killed them. To date, the remains of only four victims of this crime have been found.^{xv}

[12] During the Kosovo War, more than 200 men involuntarily disappeared from the village of Velika Kruša, including the husband of Fahrije Hoti. After several years of living in extreme deprivation and with no income, Fahrije decided to start a small business. That decision faced severe resistance among her male co-villagers, for whom the traditional roles for men and women remained unquestionable. She and other single moms from the village whose husbands were in the group of men who went missing struggled with threats, intimidations, and attacks.^{xvi}

Conclusions and Recommendations

With around 75% of cases resolved, the Balkans presents the most successful effort to account for persons who went missing as a consequence of an armed conflict.^{xvii} However, for families of those 11,363 persons who are still unaccounted for, the search and trauma continue. As is the case with the post-war stabilization and democratization of their societies, which suffers from incomplete judicial processes and the lack of factual knowledge about the past. Continuous politicization and trade around the missing person's issue prevents the normalization of relations and stabilization of the region as a security community with clear EU accession prospects.

The existing regional cooperation framework already sets a solid ground for improving the search for missing persons. Key challenges ahead of the full implementation of agreed measures lay in the political will and sincere commitment of all involved states. This is a rather old challenge, hampering the process from the very beginning. As such, significant efforts were made by international and domestic non-governmental actors to push the states to fulfill their duties under national and international law. In that sense, the first recommendation would be **to continue providing support and incentives for states to participate in regional and bilateral cooperation platforms, monitor the process, and respond in a timely way to the weak implementation of agreed measures.** This particularly applies to bilateral agreements between Serbia and Kosovo, and Serbia and Croatia, as well as the implementation of the 2018 *Joint Declaration on Missing Persons*.^{xviii}

However, chronic insufficient political support requires new forms of pressure or motivation. This may be the time to re-start relying on broader society in pushing the governments to be more active and cooperative. The main partners in this process should be victims' groups who have been actively involved since the end of the war. The focus on them should move from the usual support they are receiving for small-scale activities, towards strengthening their capacities for a more impactful civic engagement. As one recent research has shown, the majority of members of these groups belong to missing-person families, with no developed skills for managing the civil society organization, but who may also be tired or, due to their age, less able to actively contribute.^{xix} Thus, it is highly recommended **to invest in victims' groups with the purpose to help them transform into dynamic and skilled social change agents** that will be powerful enough to keep the issue on the socio-political agenda, as well as to raise some new or sidelined ones. Besides victims' groups, non-governmental organizations and media are also important. NGOs already have a significant track record in facilitating unofficial transitional justice processes, including truth-seeking, victims support, and memorialization, as well as in providing

evidence for the ICTY and domestic war crimes trials. Moreover, they were the only social actors who managed to revive connections between warring communities, including victims and former fighters. The role of media in shaping public opinion is unquestionable, and they may be the determining factor in putting the missing person's issue back on the societal agenda. Given their crucial role in pushing the governments to fulfill their duties, inform international policies and approaches, and engage citizens, **NGOs and media should be considered as inevitable and important stakeholders in resolving the fate of missing persons and prosecuting perpetrators and sufficiently supported by financial means and politically.**

State-level recommendations include:

- Provide clear and unambiguous political support to searching for missing persons;
- Provide information from relevant archives that could lead to the clarification of the fate and whereabouts of missing persons (by opening the archives to domestic or counterpart or neutral institutions; or, by sharing information relevant to locating the gravesites);
- Improve communication and information exchange between different institutions operative at the national, entity, and local levels;
- Engage all relevant civil society actors, religious communities included, in motivating individuals to share information about possible gravesites;
- Ensure full anonymity for information providers, under the condition they are not criminally responsible for committing the crime in question;
- Widely promote the ICMP online tool "Report a Missing Person," that enables anonymous reporting on the location of a gravesite;
- Ensure sufficient human, financial, expert, and technological capacities for specialized institutions engaged in searching for the missing;
- Ensure proactive outreach to inform the public of the developments in searching for missing persons and engage citizens in indiscriminately supporting victims;
- Legally guarantee the rights of families of missing persons to reparations in line with the international standards in the field;
- Ensure that the victim support programs are gender-sensitive, to recognize the unique position of female family members and their specific needs;
- Fully implement all domestic legal regulations in relation to the search for missing people and support for families;

- Consider the missing person's issue as socially relevant and important for recovering communities from the war-related trauma and rebuilding connections between those divided across ethnic or religious lines;
- Support civil society initiatives, victims' associations included, in designing and implementing approaches that could speed up the searching process, support families, engage broader society, and nurture regional cooperation;
- Support cross-ethnic cooperation and joint activities of victims' groups;
- Intensify impartial and efficient prosecution of war crimes, as a means to obtain information about possible gravesites, as well as a means to provide justice to victims.

Endnotes

ⁱ A total sum of the number of cases per country may be higher than the overall number of missing people in the region, due to the cases of mutual interest, that is the missing persons who are accounted for by more than one country.

ⁱⁱ Database of active missing persons cases from conflicts on the territory of former Yugoslavia, ICMP.

ⁱⁱⁱ UN General Assembly, *International Convention for the Protection of All Persons from Enforced Disappearance*, 20,12.2006.

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^v Missing Persons Institute (BiH); Commission for Detainees and Missing Persons, the Directorate for Detained and Missing Persons within the Ministry of Croatian Veteran's Affairs (Croatia), Commission on Missing Persons (Kosovo); Commission on Missing Persons with the professional-administrative support of the Department for Missing Persons of the Commissariat for Refugees and Migration (Serbia); Commission for Missing Persons (Montenegro).

^{vi} Declaration on the Role of the State in Addressing the Issue of Persons Missing as a Consequence of Armed Conflict and Human Rights Abuses, International Commission on Missing Persons, August 29, 2014.

^{vii} Joint Declaration on Missing Persons in the Framework of the Berlin Process, Western Balkans Summit London. July 10, 2018.

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