

# Formal and Legal Aspects of the Forest Landscape Design in Poland

Emilia JANECZKO<sup>1\*</sup>

<sup>1</sup> Department of Forest Utilization, Faculty of Forestry, Warsaw University of Life Science, Poland

\* Corresponding author, [janeczko.emilia@gmail.com](mailto:janeczko.emilia@gmail.com)

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## Abstract

In the article possibilities of forest designing established on the basis of results of analyses of legal documents (acts and regulations) being in effect in Poland concerning spatial planning, nature conservation and forestry were presented. Achieved results allow to state, that issues concerning landscape approach are becoming more and more important in the realization of principles of the forest management led in Poland. In forests, amongst action associated with the necessity of the landscape protection, management and planning a need of reconstruction of tree stands, keeping all open areas in a natural or near-natural extent, limiting the area of total fellings, increasing the species diversity of ecotones are named. And so the possibilities of landscape design concern mainly culture and management aspects. Simultaneously a lack of many significant references to the scope of applied solutions in the area of forestry engineering was observed.

**Keywords:** *landscape, forest landscape, forest design, forestry*

## Rezumat. Aspecte formale și legale privind peisajul forestier din Polonia

Articolul prezintă posibilitățile privind amenajarea forestieră stabilite în urma analizării documentelor legislative (acte și regulamente) valabile în Polonia cu privire la organizarea spațiului, conservarea naturii și a pădurii. Rezultatele obținute indică faptul că aspectele legate de abordarea peisagistică capătă o importanță tot mai mare în atingerea obiectivelor privind managementul pădurilor în Polonia. În păduri, pe lângă acțiunea asociată protecției peisajului, managementul și planificarea reconstrucției suprafețelor împădurite, păstrând toate zonele deschise într-o stare naturală sau aproape naturală, limitând suprafața copacilor căzuți, crescând diversitatea ecotonurilor. Astfel posibilitățile de proiectare a peisajului se ocupă în special de aspecte culturale și de management. În același timp s-a observat o lipsă a referințelor față de scopul soluțiilor aplicate în silvicultură.

**Cuvinte-cheie:** *peisaj, peisaj forestier, proiectare forestieră, silvicultură*

## Introduction

Searching for a new system of values, new attitudes of the man towards the natural environment and surrounding reality, in the last decades of the 20th century had an influence on the change of attitude towards the principles of the landscape resource management in the countries of the European Union. These principles were presented in numerous documents, such as European Spatial Development Perspective (ESDP) (1999) and the EU Strategy for Sustainable Development (6 June 2006), the Charter of European Regional/Spatial Planning, which was adopted in 1983 in Torremolinos (hence called the Charter of Torremolinos), in the Council Resolution of 12 February 2001 on architectural quality in urban and

rural environment (2001/C73/04), Territorial Agenda of the European Union (2006), Lisbon Declaration (2006), Leipzig Charter (24 V, 2007), as well as in the European Landscape Convention (2000), which may currently be recognized as the most important document influencing the space policy of the members of the EU.

The analysis of records of these documents allows to state that universally adopted guideline in all actions for spatial design is a concept of balanced development. In these documents a necessity of the holistic, systemic approach to the landscape design is emphasized. In planning the landscape of EU states, natural environment is analyzed including social-cultural elements, which altogether contribute to the multifunctionality of the space (Androp 2006). This fundamental change of the view on the landscape finds expression in the definition of the

landscape presented in the European Landscape Convention (OJ No 14, pos. 98 of 29 January 2006), according to which landscape is an area perceived by people, whose character is the result of the action and interaction of natural and / or human factors.

Forest landscape is one of the landscape varieties.

Its most important components in the category of the physical space are: relief, tree stands, no forest enclaves (meadows, blanks, surface water bodies), the arrangement of roads and communications trails, the building development, of objects of small architecture. In the forest landscape, similarly to other types of landscape, it is possible to distinguish both exceptional objects and places due to their natural qualities (legally protected areas), historical values (places of old historical events, tracks of former spatial arrangements), scenic values (viewing sequences, panoramas).

The physiognomy of forest is largely the result of human activities. Mid-forest settlements (forest settlement landscape), recreation infrastructure (forest recreation landscape), after-exploitation excavations (forest landscape after exploitation), etc., indicate a certain direction of research in the studies of forest landscape systematics, which is important due to the fact that the possibilities of shaping landscape are closely related to its character and functions.

### **Purpose and scope of study**

Forest design, like any other form of human activity, must be based on generally accepted, widely applicable provisions of law. Landscape, in accordance with the above definition, is a complex system, and therefore the determination of the possibilities of its shaping involves the need to analyze the legal documents relating to both the natural and cultural environment.

Appropriate landscape design, including forest design should be prospective in nature and must take into account the provisions arising from the documents of a strategic, planning character.

The aim of the article is an attempt to answer the question whether the legal measures included in legal documents being in force in Poland (acts and regulations) concerning spatial planning, conservation of nature, environment and the recommendation for the led forest management are sufficient for ensuring the effective protection of scenic qualities, for managing and planning the

landscape, or if suggesting other solutions in this respect is essential.

### **Methods and Materials**

The primary sources of information on formal and legal conditions of landscape design, including forest landscape in Poland were: the database mentioned above (<http://www.mrr.gov.pl>) and the Internet System of Legal Acts, run by the Office of the Sejm of the Republic of Poland (<http://isap.sejm.gov.pl>).

Amongst documents gathered in the MRR database, the ones which concern the space policy, the policy of development and initiatives and the international cooperation were analyzed. Amongst long-term strategic documents being in effect references to the landscape design appear only in the Concept of policy of spatial development of the country and the State environmental policy.

Next, the analysis of resources of the Internet base of legal documents (<http://isap.sejm.gov.pl>) led with the key words such as environmental protection, the conservation of nature, spatial planning, allowed to state that in Poland legal bases of the landscape design are included in various documents, such as: Act from March 27, 2003r. on spatial planning and development (OJ of 2003, No. 80, pos. 717) with amendments, Act on the conservation and care of monument from July 23, 2003 (OJ of 2003 No. of 162 pos. 1568) with amendments, Act environmental protection laws from April 27, 2001, (OJ of 2008, No. 25, pos. 150), Nature Conservation Act from April 16, 2004 (OJ of 2004 No. of 92 pos. 880), Regulation of the Minister of Environment from May 12, 2005 on organizing the project of protection plan for the national park, a nature reserve and the landscape park, making amendments to this plan and the protection of resources, formations and elements of the nature (OJ No. 94 poz 794), Act from October 3, 2008 on giving access to information about the environment and its protection, participation of the society in the environmental protection and about evaluations of the influence on the environment (OJ of 2008, No. 199, pos. 1227).

The main data source about the formal-legal conditionings of forest design was an information portal by the Lasy Państwowe National Forest Holding (PGL LP) (<http://www.lasy.gov.pl>). There were analyzed orders and decisions of the General

Director from the last ten years, as well as sets of Guidelines for the improvement of forest management based on ecological grounds (1999) such as: Principles of silviculture (2011), Instruction of forest management (2012), Instruction of forest protection (2011).

## Results

### Meaning and directions of the landscape designs in formal-legal documents being in force in Poland

Based on the analysis of long-term strategic documents in force in Poland, it can be stated that appropriate landscape design, including forest landscape, is one of the priorities of the space policy of our state.

It has been noted in the Conception of spatial development policy of the country (KPPZK) that "the established policy of protection and ecologically conditioned shaping of natural space is essential to ensure a high quality of landscape". However, conducive to achieving the high quality of the landscape are also shaping the space based on the analysis of social-cultural conditionings, promoting solutions being in accordance with the spirit of the place, historical and regional tradition, which the authors of the document seem to forget.

The analysis of the provisions of the Conception shows that areas with the highest recreational and landscape values make the development of the tourism economy more dynamic, helping the multifunctional development of rural areas. Moreover, landscape contributes to strengthening the territorial identity.

The Conception states that the escalating natural processes that change the natural structure of the agricultural production area (e.g. land consolidation), as well as further dispersion of rural buildings, etc. have a negative impact on landscape, reducing its diversity.

Amongst threats to landscape functioning, however, there have not been named intensification of the forest production and heightened tourist pressure on the forest environment, even though both factors unquestionably threaten the scenic qualities of the forest. In another document, namely the State Ecological Policy (2008) it was stated that the method of land development and use should ensure that landscape values are preserved as far as possible. One of the aims of nature and landscape

conservation is to ensure that forests and woodlands are important in proper spatial planning, including the shaping of the field-forest border of Poland.

It is a very general record, which from one side accentuate the connection of the landscape with spatial planning, and on the other points to interchangeable use of the concepts landscape and nature. Shaping the field-forest border in practice aims at preventing disadvantageous changes occurring in the stands because of their proximity to open areas, therefore it is supposed to contribute to the improvement in functioning of the natural environment, rather than emphasizing scenic qualities of the forest or creating new aesthetic values.

Connections of the landscape with the spatial planning are also seen in the Act on spatial planning and development (OJ of 2003, No. 80, pos. 717). According to the Act mentioned above (Art. 1, pt 2), for spatial planning and development mostly architectural qualities and the landscape are taken into account followed by requirements of environmental protection and the protection of cultural legacy, monuments and goods of the contemporary culture etc.

It is not without significance that the Legislator put scenic qualities beside architectural ones. Provisions of the act point to the cultural, compositional-aesthetic meaning of the landscape. the act also stipulates that the cultural landscape protection requirements shall be taken into account in the study of conditionings and directions of spatial development of the commune (Act on planning Art. 10, pt 1), as well as in the local spatial development plan (Act on planning Art. 15., pt 2, Act environment protection laws Art. 72, pt 5). The systems of protected areas, including areas of the environment, nature and cultural landscape protection, are also taken into account in the plan of spatial development of the voivodeship and in the strategy for the development of the voivodeship (Act on planning Art. 39, 3.2 pt). The analysis of the records of this act indicates that in the process of spatial planning there is noticed the significance of the landscape shaping the quality of life of the residents. At the same time, however, a definitely more important part in this respect is assigned to the cultural landscape rather than the natural one. A similar impression may be received when analyzing another Act, i.e. the Act on the conservation and the care of monuments (OJ of 2003, No. 162, pos.

1568). Article 6.1 of this Act states that irrespective of the state of preservation, only a cultural landscape is subject to protection and care, and not landscape generally. It is intriguing that the legislation being in effect in Poland does not include such a document, apart from the Landscape convention ratified on the 27th of September 2004, to clearly define the landscape. In the Act on the conservation of monuments, there is only a definition of the cultural landscape, which should be understood as "the space historically formed as a result of activity of the man, containing products of the civilization and natural elements" (Act on the conservation of monuments ... Art. 3 pt 14).

In the Nature Conservation Act (OJ of 2004, No. 92, pos. 880), however, there is a definition of the landscape values, which should be understood as ecological values, aesthetic values and cultural values of land, and associated with it the relief, formations and elements of nature, shaped by natural forces or by human activities (Nature Conservation Act, Article 5, clause.23).

At the same time, however, the landscape is situated amongst resources, formations and elements of the nature (Art. 2, pt 1). In accordance with the Act (Art. 5, pt 20), the landscape along with its natural abiotic formations, natural and transformed habitats, as well as plants, animals and fungi creates the natural environment. This definition implies that the Legislator identifies the concept of landscape above all with the natural environment. And so within one Act we deal with certain inconsistency and lack of distinct articulating the fact that the landscape is a component of not only the natural environment, but also cultural one..

In the analyzed documents protective landscape design is strongly exposed. In the Nature Conservation Act (OJ of 2004 No. 92, pos. 880) as well as in the Environment protection laws (OJ of 2001, No. 62, pos. 627, with amendments), landscape protection is combined with natural habitat protection. According to the latter (Art. 72, pt 5), the protection of scenic qualities is a condition for maintaining the natural balance and the rational management of environmental resources. As defined in the Nature Conservation Act (OJ of 2004 No. 92, pos. 880), landscape protection is maintaining distinctive features of the given landscape (Art. 5, pt 8). However, this record is too general and not very practical. Transformation works conducted these days (e.g. building an

opencast mine) cause far-reaching changes in the physiognomy of the area, granting new features to the surroundings. It is hard to agree that this type of landscape features should be protected.

The area that stands out for the special landscape values can be covered by such forms of wildlife conservation as reserve (Art 13, paragraph 1) or landscape park (Art 16, paragraph 1), the area of protected landscape (Art 23, paragraph 1). Single products of nature animate and inanimate, or their clusters of special landscape value, characterized by individual characteristics, distinguishing them among other creations, in turn, may be regarded as monuments of nature (Art 40, paragraph 1) and fragments of natural and cultural landscapes, which are worthy of protection because of their scenic or aesthetic values, can be protected as a nature and landscape units (Art 43).

Apart from the national park, where "the entire nature and scenic qualities" are subject to protection (Art. 8., pt 1), the legal protection includes therefore special, distinctive landscapes. At the same time the Legislator didn't determine the way of delimitation and establishing the rank of scenic qualities of these landscapes. In the act mentioned above, as well as in accompanying regulations, there is no key allowing to assess the landscape value, an information about the scope, landscape analyses for landscape valorization is missing. Therefore, it can be thought that including the landscape in one of those forms of nature conservation mentioned above is of a discretionary character.

In the act on the conservation of monuments (OJ 2003, No. 162, pos. 1568), landscape protection is combined only with the protection of cultural qualities. In accordance with the Act on the conservation of monuments (Art. 7), we can distinguish the following forms of protection of cultural landscape: the entry in the register of monuments, history monument, cultural park and establishing the protection in the local development plan. Surrounding of the monument, already entered in a register can be listed in a register of monuments (Art. 9, pt 2), as well as historical urban planning arrangement, rural or historical building complex (Art. 9, pt 3). Cultural park is a form of cultural landscape protection and maintenance of distinguishing in respect of landscape areas with the immovable monuments characteristic of the local building and settlement tradition (Art. 16, pt 1). Cultural parks, as well as immovable monuments



enlisted in the register of monuments, with the special value for the culture or can be recognized as the history monument (Art. 15, pt 1). Forest design only seemingly has a slight connection with records of the Nature Conservation Act. After all, objects enlisted in the register of monuments (e.g. old forester's lodges, burial mounds, graveyards, places commemorating historical events etc.) are located on forest grounds, moreover some cultural parks cover big fragments of forest complexes (e.g. Cultural Park "Dolina Trzech Młynów").

Establishing some of legal forms of landscape protection mentioned above results in the need to organize the plan of protection.

This Act (Article 20) implies that the landscape values are taken into account in compilation of security plans for a national park, nature reserve and nature park. For the purpose of the compilation of conservation plan draft, the landscape values together with their characteristics, evaluation of conditions and forecast of future changes to the extent necessary to plan conservation, are carried out (Minister of the Environment Regulation § 8.1 clause 4 and § 14.1. clause 3). Within these works, associated with the above-mentioned inventory, the three types of landscapes, points, axis and scenic foreground, including roads and hiking trails, are defined (§9 clause 11 and § 15 clause 9).

Therefore inventorying of types of landscapes, points, axis and scenic foregrounds is an essential component of plans of landscape and cultural reserve protection, yet not necessarily of forest, water, steppe reserves etc.

Protective treatments in areas of active protection in national park and nature reserve, in relation to the landscape values, may particularly include: removing or overriding of disharmonious anthropogenic elements in landscape and removal of vegetation which hides the lines, viewpoints and also panoramas (Minister of Environment Regulation § 30, clauses 1 – 2).

In the landscape parks, in accordance with the above regulation, (§ 34 paragraph 3) one way to protect natural, cultural and landscape values is to shape the spatial development, in particular by protecting open space from over-building development, development of afforestation in an optimal manner for the protection of biodiversity and landscape values, protection of points, axis and scenic foreground. The so-called environmental decisions, i.e. decisions on environmental conditions

of the realization of the project which may always or potentially affect the environment, are supposed to help protect the landscape. These decisions are issued on the basis of environmental impact assessments (disclosure of environmental information Act ... Art 82), one of the components being a report on the impact of projects on the environment (Art 67).

Those decisions take into account the type and nature of the project, and also (Art 63, Section 2) conditions of the project location, possible threats to the landscape areas having historical, cultural or archaeological importance.

Natural compensation, defined in the Environmental Protection Act (Art.3, point 8) as a set of measures, including in particular the construction works, earthworks, soil reclamation, afforestation, foliage or formation of clusters of vegetation, leading to restoration of natural balance in the area, promotes the preservation of cultural values and compensation for damage which was done to the environment through the implementation of the project.

#### **Possibilities of landscape design resulting from the analysis of recommendations for the forest management**

Until recently, documents applying to the National Forest Holding hardly dealt with the issue of forest design. At present, references to the design of landscape, understood as the physiognomic space are included in: Guidelines on improving the forest management on environmental bases (order No. 11A DGLP May 11, 1999), Principles of silviculture (2011), Instruction of forest protection (2011), Instruction of forest management (2012). According to Principles of silviculture (2011), forest is a multispatial and permanent element of the landscape, and also the most compound land nature complex (& 67 of pt 1).

In Guidelines (1999) there was demand for the reduction of the surface of clear fellings and for the flexible leading of felling lines in a way that ensures the forest landscape protection (of 3.3 pt). According to this document,, it is obligatorily to leave groups and clumps of admixture and biocoenotic trees on the fellings, not only for the improvement of the age structure and biodiversity, but also for aesthetic reasons. Total fellings located along the main communications trails (motorways, expressways and of the first and second class), bodies of water (rivers, lakes, small ponds) and buffer zones of reserves are also prohibited (of 4.1.3 pt). In the

Principles of silviculture (2011), however, a regulation on the ban on total fellings along roads was omitted. Making reference to the location and design of logging areas, it stipulates that keeping protective functions of forest may require alteration of principles adopted for farm forests, e.g. ceasing to employ total fellings, extending the period of renovating in partial fellings, leaving clumps of trees after the remove cuts, reconstruction of species composition and the structure of the tree stand, employing the selection of direction of promoting not only the lifespan and adaptability of trees but also aesthetic-scenic qualities (§ 11, of pt 2).

In the documents mentioned above, a great significance in shaping physiognomic qualities of forest is assigned to ecotones, i.e. coastal forest region. In the Instruction of forest protection (2011), there is a regulation stipulating that one of the basic functions of ecotone zones is a social function. This forces the need for appropriate landscaping through the multilayer structure and the strip arrangement of these zones resulting in break up the monotony and soften the economic stands "aesthetic tensions" in the landscape. According to the new Principles of silviculture (2011), creating of transitional zones (ecotones) by fellings (including clear fellings) is recommended by major roads (national and provincial) and rail routes (& 27 of pt 1). Ecotones should also be shaped or saved in the course of nursing cuts on the border between forest and outside open areas (such as fields, waters) (& 69 of pt 1).

In all documents concerning conducting the forest management in Poland, there could be found a regulation saying that increasing biodiversity is conducive to the forest landscape enrichment. According to the Instruction on forest management (2012), the criterion of maintenance, protection and proper enhancement of biological diversity in forest ecosystems relates to the necessity of such management which favors: diversity, within both the surface and vertical structure and species diversity in the forest economic activity, and where it is possible, also maintenance and reconstruction of the landscape diversity (Art. 79 pt 4). According to the Instruction on forest protection (2011), a diversity of ecosystems and their arrangements determines the diversity of natural landscapes. According to the Guidelines (1999) diversifying according to natural conditions: species, age, layer and spatial structure of tree stands, must be conducive to landscape enhancement (pt 3.5).

However, in the Principles of silviculture, it is emphasized that diversity of the forest landscape is affected by open areas in forests (& 68 pt 2), in particular ecological grounds, no forested marsh inside forest complexes... and areas of outstanding view qualities (& 68 pt 4). In order to preserve scenic qualities in forests it is striving to keep the state close to natural or reproduce mid-forest ponds, flows, marshes, swamps, peatmosses, bogs, moors, sand dunes, screes, rock outcrops, forest clearings, mountain pastures and other no forest grounds not subjected to afforestation (& 66 of pt 5). Within compact forest complexes, open areas serve not only the protection of many kinds of the native flora and fauna, but also exposing scenic qualities (& 68 of pt 5). Leaving the so-called biocoenotic trees, e.g. trees of native kinds, naturally appearing or implemented such as apple tree, pear tree, cherry tree, cherry plum tree and others is conducive for enhancement and variety of forest landscape (Instruction of forest protection 2011).

The analysis of documents mentioned above show that the afforestation of post-agricultural and post-industrial grounds is an important issue associated with forest design. According to the Guidelines (the specific principles part), with respect to the afforestation of these areas, it is recommended to leave permanent and temporary small ponds, bogs, marshes, trees, mid-field refuges etc. as important landscape elements (pt 2.4). On the other hand, in the Principles of silviculture (2011), there is a record saying that the reconstruction of tree stands in industrial areas aims at the protection of the forest landscape, taking into account the needs of tourism (59 pt 2).

The issues associated with the forest design are most widely presented in the Principles of silviculture (2011). In the project of the Principles (as of Aug 31, 2011), a definition of the landscape appeared, analogous to the one presented in the European Landscape Convention, yet, in the final, published version of the Principles, it was omitted. However, already in the introduction of this document (§ of 1 pt 3) it was stated that for shaping the future image (reference to the perceived landscape!), the trends of the social-economic development of the country, which will influence the natural environment and expectations of the society, should be considered. This issue is becoming unusually important on account of the increase in the significance of non-productive

functions of forest and the growing social expectations of the forest. At the same time Ruiz and Domon (2006) point out that the main, though often omitted, contraindication to socially acceptable environmental resource management, including forest management, is the fact that the parties concerned can interpret the management suggestions quite differently from one another. This multitude of prospects, in combination with the tendency on the part of different entities to the unerringness of their views can lead to innumerable problems and impediments in the decision-making processes. Hence when setting the scope of action for keeping existing natural and scenic qualities and landscape should take into account the existing needs and possibilities of their realization, which was written in the Principles (& 66 pt 6).

The basis for regulation on forest design is the spatial planning and territorial development (& 66 pt 2). The document entitled Instruction on forest landscape pays attention to the interactions between the forest management and assumptions of the policy of spatial development of the region (pt 2.2 &9). There is a need to analyze the influence of aims of development plans on leading the permanently balanced forest management, including not only the environmental protection, but also the health care of the population, durability of the forest, as well as defense of the country and landscape protection. According to it, the concept of forest landscape design appears in context of the forest infrastructure (general and road construction, water drainage, building development of mountain streams and recreational development) Particularly important is the case with recreational development in the forests classified as protective, located within the administrative boundaries of cities and in the distance to 10 km from the administrative boundaries of cities with a population of over 50 thousand residents and in protective zones around sanatoriums and health resorts (& 46 pt 18). Amongst the documents mentioned above, a reference to the engineering possibilities of forest design appears only in the project of the Instruction of forest management (2012).

## Conclusion

Following the analysis of the documents mentioned above, it can be said that the landscape is an important issue both in nationwide legislative

documents and documents concerning the way of leading the forest management. At the same time in the Polish legislation the landscape is understood either as the natural or cultural value, and its design is identified with the protection of either natural or cultural qualities. Yet the landscape protection must be understood much more widely, it should combine the natural and cultural landscape protection. Such understanding of landscape is clearly pointed out by the European Landscape Convention. This means that, according to the Polish legislation, the protection of landscape, especially its physiognomical qualities becomes very difficult. Statutory instruments that would allow for the proper management and planning of landscape are missing. Moreover, the Convention emphasizes the meaning of the social perception in defining the landscape (area perceived by people); however, none of the acts takes into account the role of the society in the landscape approach. Therefore, there is a need of a separate act on the landscape approach, which would harmoniously connect the natural and cultural landscape protection and would accentuate the participation of society in both the protection and management and planning of the landscape.

That the research conducted shows that the issues concerning the landscape approach are becoming more and more important in the realization of principles of the forest management led in Poland. However, there is a need of taking up work for the comprehensive and consistent codification of issues concerning forest design. Forest design cannot be reduced to taking action, concerning single components of the landscape (e.g. forest wall, biocoenotic trees, mid-forest bodies of water), conservation actions (protection of some, most valuable fragments of forest, increase in the species diversity). In formulating future guidelines and recommendations concerning the way of leading the forest management, one should take into account the need of drawing up prospective action concerning protective design and planning of the forest landscape. It seems advisable that landscape protection plans are made along with the forest management plans.

The achieved results allow for the following conclusions:

- the possibilities of landscape design resulting from the analysis of documents mentioned above are associated mainly with culture and management

aspect of the forest management. However, there are missing a lot of significant references to the scope of applied solutions in forest engineering field, especially to communicative provision of the forest and forest design.

- there is a need of establishing modern principles of engineering landscape design, being in accordance with the concept of balanced and multifunctional forest management.

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