

## The Contribution of the Presidential Government System of the Republic with Specific Design To Turkey to Rationalize the Presidential System

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Berat Akıncı\*

\* Assist,Alpraslan Türkes Science and Technology Uni.,Faculty of Political Science, Adana, Turkey.

E-Posta: [bakinci@adanabtu.edu.tr](mailto:bakinci@adanabtu.edu.tr)

ORCID:[0000-0002-5239-5417](https://orcid.org/0000-0002-5239-5417)

### Abstract

*The long-standing government system discussions in Turkey have gained a legal dimension with the AK Party and MHP agreeing on a new government system and have been accepted by the people on 16 April 2017 in a referendum. The system of the presidency of the republic, which was first introduced in the June 24th general elections; although it rises up on the presidential plan fundamentals, it is seen that it aims to remove political and administrative crises which both presidential system and parliamentary system create in practice . With basic features, Presidential Government System produces solutions unique to Turkey to the problems in parliamentary and presidential systems in terms of legislative-executive relations and in this respect it differs between government systems. Therefore, after explaining the basic features of the presidential system and the presidential government system, it is emphasized to what extent new system can produce solutions to the problems seen in the new presidential system that puts a deadlock in the relations between powers.*

**Keywords:** *Government system, Parliamentary system, Presidential system, Presidential government system of the republic*

## Türkiye'ye Özgü Tasarımıyla Cumhurbaşkanlığı Hükümet Sisteminin Başkanlık Sisteminin Rasyonelleştirilmesine Katkısı

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### Öz

*Türkiye'de uzun süredir devam eden hükümet sistemi tartışmaları, Ak Parti ve MHP'nin yeni bir hükümet sistemi üzerinde mutabık kalmasıyla yasal bir boyut kazanmış ve 16 Nisan 2017 tarihindeki referandum ile de halk tarafından kabul edilmiştir. İlk defa 24 Haziran 2018 genel seçimleriyle birlikte uygulamaya geçilen cumhurbaşkanlığı hükümet sistemi; her ne kadar başkanlık sisteminin temelleri üzerinde yükselse de, hem başkanlık sisteminin hem de parlamenter sistemin uygu-lamada yaratmış olduğu yönetsel ve siyasi krizleri ortadan kaldırmayı amaçladığı görülmektedir. Temel özellikleri itibarıyla cumhurbaşkanlığı hükümet sistemi, yasama-yürütme ilişkileri açısından parlamenter ve başkanlık sistemlerinde yaşanan sorunlara Türkiye'ye özgü olarak çözüm üretmekte ve bu yönüyle de hükümet sistemleri arasında farklılaşmaktadır. Dolayısıyla çalışmada başkanlık sistemi ile cumhurbaşkanlığı hükümet sisteminin temel özellikleri açıklandıktan sonra, yeni sistemin başkanlık sisteminde görülen ve yasama-yürütme ilişkilerini çıkmaza sokan sorunlara ne derecede çözüm üretebildiği üzerinde durulmuştur.*

**Anahtar Kelimeler:** *Hükümet sistemi, Parlamenter sistem, Başkanlık sistemi, Cumhurbaşkanlığı hükümet sistemi*

## Introduction

The debate on the government system in Turkey for almost half a century has reached a final conclusion in the April 16 referendum. In this context, although the presidential government system, which is accepted by the votes of the nation, contains the basic features of the presidential system, it should be subjected to a separate evaluation within the government systems with its unique design. On the global scale, it is seen that each country determines the government system by considering its political, cultural, economic, historical and social structure. Therefore, it is necessary to accept the existence of many government systems in advance. For example, while the presidential system is implemented in the United States (USA) in its original form, it is possible to be seen the practices that are not very similar to the presidential system in Latin America and other parts of the world.

In Turkey, the discussions about the change in the government system, which started with Turgut Özal in the aftermath of 1980, reached its peak after the decision of the constitutional court known as the "367 Crisis" in 2007, when Turkey could not elect a president again. In the face of the situation, the AK Party government has made changes to the method of election only without touching the duties and powers of the president and brought to the agenda the constitutional amendment that envisages the election of the president by the people. With the amendment adopted by the referendum, the president has now been accepted to be elected by the public. This time, however, it has opened the door to a new agenda for debate on the fact that the current government system can no longer be a parliamentary system. Many politicians and academics have suggested that with the election of the president by the people, the government system evolved from the parliamentary to the semi-presidential system. With the appointment of Recep Tayyip Erdoğan, the first president elected by the public in 2014, he raised concerns about the existence of legitimate crises between the legislative-executive and executive heads. Therefore, in order to solve all these problems, the proposal of the presidential government system was submitted to the parliament with the suggestion of the AK Party and the Nationalist Movement Party (MHP).

The presidential government system, which passed through parliament and referendum, was put into practice with the last June 24 elections. When basic features of the new government system are looked, the single executive structure includes the content of the presidential system in terms of the fact that the legislative and executive powers are on the job. However, especially in the case of the United States, some of the problems experienced in the implementation of the system have been collected within the scope of some differentiated regulations in order to avoid the implementation of our country. Therefore, in this study, we made evaluations to the extent to which the presidential government system rationalizes the negative or troubled practices of the presidential system with its unique design.

## **Presidential And Turkish Type Presidential Government System**

In this section, the characteristics of the United States Presidential system and the presidential government system specific to our country are discussed in detail.

### *Presidential System and Features*

The classification of governmental systems is based on legislative-executive relations, and the presidential system is embodied at the point where the relations between the legislative and the executive are firmly and firmly separated. In the implementation of the presidential system, criteria such as whether the president is elected directly by the nation or through elected representatives, the executive structure, the position of the president within the executive structure, the inability to infiltrate the legislative activities, and the inability of the legislative and executive powers to terminate each other's legal existence are different in each country. In this study, evaluations will be made on the system adopted in the American Constitution of 1787, where the first implementation of the presidential system is seen. On a global scale, there are presidential systems implemented in Latin America, Asia and Africa, which are considered as presidential systems due to the nature of legislative-executive relations. However, in these countries, both the political system, electoral

systems and political party structures are quite different from each other. The dual party structure in the US has been able to live as a single party in some other countries and as a multi-party party in others. Of course, this has created advantages and disadvantages in itself. However, since the presidential system is currently the oldest and uninterrupted implementation in the United States, the system must be examined and compared on the basis of the main references in the country (Kuzu, 2013, p.19; Kahraman, 2012, p.431-457).

In the presidential system implemented in the USA, there is an application in the classification of government systems which is subject to the strict separation between the basic powers of the state. The mandate of the legislative and executive powers is clearly classified and no state authority can intervene in the sphere of another. In other words, the distinction between legislative, executive and judicial powers is very sharp and evident. In spite of such a sharp separation between the forces in the US presidential system, the check and balance systems defined between the forces allow for the most democratic application of the presidential system in the global arena. The aim of the brake and balance mechanism is not to provide superiority of forces against each other, but to ensure the healthy operation of the system. While the legislative and executive powers can operate freely in their respective fields of activity, they also have the opportunity to effectively control and supervise each other indirectly through the balance and brake systems. However, the aim here is not to limit the activities of the powers or prevent them from providing services. Ensuring healthy decisions by the public interest is the main component of the legislative-executive relations. The legislature performs the legislative activities needed by the public, while the executive performs public services in line with the legislative laws (Eren ve Akıncı, 2018, p.35-71).

The presidential system, in which the limits of powers are clearly defined by means of check and balance systems, has given the legislature the right to veto the laws adopted by the legislature while it has granted the authority to approve various issues related to the executive. Therefore, these privileges, which are mutually defined among the powers, have enabled some features that characterize the presidential system. If you need to sort these features (Sartori, 1997, p.114-116; Kahraman, 2012,

p.431-457; Parsak, 2012, p.1-23; Beceren ve Kalağan, 2007, p.163-181; Eren ve Akıncı, 2018, p.35-71):

- In the presidential system where the separation of powers is clearly defined, legislative and executive cannot end each other's existence in a legal context. Both powers that take their legitimacy from the nation are not responsible to each other, they are responsible to the nation. However, some features that are defined to the men in terms of check and balance systems do not allow this feature to lose its meaning.
- The check and balance systems defined in the system is designed for the basic powers of the state to perform their duties in a healthy way. Thanks to this feature, which enables the powers to control each other effectively, the legislative and executive powers also control the appropriateness of each other's activities.
- The double-headed structure of the executive seen in the parliamentary system has been transformed into a single-headed structure in the presidential system, and the head of the executive is also the head of the state. The chairman, who is responsible for the execution of the activities of the executive power, performs this duty with the ministers (secretaries) composed of expert cadres. The vice-president, who is elected in the same way as the president, is the president's death, illness and so on. in cases where it cannot perform its duties.
- The president, who takes its legitimacy from the nation, is not politically responsible to any power in carrying out its executive activities. However, the president has impeachment for the crimes he has committed against the law during his duties and activities. In the event of a decision by the president of the Federal Constitutional Court, the senate is tried by the senate and dismissed if he is found guilty in the event that the members of the assembly take a decision on the criminal responsibility of the president in line with the check and balance systems (Fisher, 1991, p.166-168).
- The term of office of the executive may in no way be shortened, except when the President is dismissed under his criminal responsibility. Therefore, presidents can easily fulfill all duties and

responsibilities of the executive power for 4 years without worrying about dismissal.

- As in most countries where the presidential system is implemented, the legislative power in the US presidential system has two structures (Congress-House of Representatives), and the ministers (secretaries) that are part of the executive are elected from outside the legislature.

### *Turkish Type Presidential Government System*

In order to find solutions to the administrative problems created by the parliamentary system in Turkey, various changes were made in the constitutions from time to time in order to strengthen the executive, but permanent solutions to the problems created by the government system could not be produced (Yıldırım, 2017, p.141). In this context, current system of government, which was discussed in almost every presidential term after Özal, led to a change in the election process of the president by the AK Party government through the 2007 presidential election process and the judicial decision known as the “367 Crisis” (Özkan, 2017, p.14).

However, the procedure of changing the election of the president by the people, which is incompatible with the spirit of the parliamentary system, has brought criticism that the deviations from the government system have been caused. The fact that the executive structure was double-headed and elected by both sides in the current government system was a harbinger of future legitimacy crises. Although the AK Party thought that the system should be redesigned according to the current conditions of Turkey, it did not have sufficient number of deputies for the constitutional amendment. On 21 January 2016, with the support of the MHP, which was considered to be vitally important, Ak Parti submitted its regulation on system change to the parliament on 21 January 2016 in order to prevent the country from going into an administrative crisis again. He passed through the parliament and ended the debate that lasted for almost half a century on the governmental systems of the “Presidential Government System” adopted in the referendum on 16 April 2017 (Bülbul, 2017, p.1-4).

The presidential system envisaged under the name of “presidential system” or “a Turkish-type presidential system” in the draft texts of the constitutional amendments planned to be made by the Ak Parti in the post-2007 government system discussions was constructed on the constitutional system. In the Presidential Government System, the two-headed executive structure of the current parliamentary system was reduced to one, thus preventing administrative crises on both sides of the executive and various problems that might arise between the legislative-executive. The legitimacy of both the legislative and executive powers of the state from the nation stands as a positive regulation in terms of consolidating democracy and raising the democratic bar. However, although it is known that the name of the new system has never been mentioned before in the global and local context, it will not be wrong to say that although the presidential system is designed on the basis of the content specific to Turkey (Gözler, 2017; Miş ve Duran, 2017, p.7-15).

The Presidential Government System, which is expected to be a solution to the problems created by the past government system in practice, will carry out purely legislative activities since legislators do not have any role in the formation of the executive and thus improve the quality of the legislature. The Presidential Government System, in which the balance and control mechanisms are established, which establishes the legislative and executive relations on a healthy basis and thus ensures effective and effective results in the administrative context, is as follows: (Eren ve Akıncı, 2018, p.35-71; Bülbül, 2017, p.24-27; Yıldırım, 2017, p.147-181):

- In the presidential government system, elections of legislative and executive powers are held on the same day. However, in the future, any of the powers can decide to renew the elections. Therefore, in contrast to the presidential system, the powers prevent the blockage of the system by deciding to renew the elections in the event of a crisis.
- The President may appoint deputy presidents, ministers and senior bureaucrats without the approval of parliament.
- The President's organic connection with his party continues.
- They are united in the person of the president as the head of both the executive and the state.



- The President was authorized to propose a budget law. However, if the parliament did not approve the provisional budget, it allowed the president to use the budget of the previous year by increasing the valuation rate. Thus, crises in the system can be prevented.
- The President has both criminal and political responsibility.
- The quality of legislative activities is enhanced thanks to executive-independent legislative activities.
- The continuity of democracy has been prioritized by combating full capacity with effective and effective execution and tutelage focuses, thus expanding the civil and political sphere.
- 50% + 1 vote for the election of the executive system with the new system envisages a compulsory union that will bring the political fragmentation to the center. The alliance of the Republic is a natural consequence of this situation.
- Opposition-power tension tends to soften due to the fact that there is no limit to the length of the parliamentary system-specific power.
- The election of the president is carried out directly by the nation, not through elected representatives as in the presidential system. Voter is more powerful because it directly selects the legislative and executive organs.

### **Contribution Of The Government System Of The Republic Of Turkey To The Rationalization Of The Presidential System**

The presidential government system, which was put into practice fully by the 24 June 2018 elections, put an end to the search for a system change that has been discussed in our country for a long time. Until now, many public-private organizations have discussed the issue of change in the government system from politicians to academicians, from public to NGO's. While the discussions on the system focused on the fact that the new system should be a semi-presidential system with the change of the presidential election method after 2007, this focus shifted towards the presidential system with the election of the elected president in 2014. Of course, at the beginning of this change, there are possible legitimacy cri-

ses that will be created by the fact that the executive is double-headed in the semi-presidential system as well as in the parliamentary system. Especially considering the political structure of Turkey, it can easily be said that this situation is not a reason to be thrown out. While it is obvious that various tutelage centers such as coup, coup attempt and memorandum in Turkey are trying to take the mortgage of the national will, it is important to show the situation where the political structure has fallen. Therefore, in line with the legitimacy that the AK Party government has taken from the people, the sensitivity of MHP on this subject has enabled the cum-hur state government system, which includes the regulations specific to our country, whose foundations are raised on the presidential system in order to prevent such crises again (Miş ve Duran, 2017, p.20-35).

The demands and expectations that emerged in order to eliminate the problems created by the parliamentary government system in practice have been integrated into the presidential government system which includes regulations specific to our country. With the new system, a lean, organizational structure that decreases the authorities, adapts quickly to innovations, enables the development of human resources, clearly defines its powers and responsibilities, performs digital transformation, makes decision-making and implementation fast, has a high competitive power worldwide and institutionalizes a common mind. understanding. When we look at these principles, it can be stated that the presidential system overlaps with the capacity to bring solutions to the problems. Apart from its overlapping aspects, it is not possible to call the new system the presidential system applied in the USA. Because in the discussions on the applicability of the presidential system in our country, it has been discussed quite a lot about how this system will be implemented in our country. In these debates, it has been shown by many groups that the presidential system has caused some problems as applied in the USA. Therefore, we can say that the new system throws scalpels on some troubled areas observed in the presidential system and thus accommodates the regulations that will enable the legislative and executive powers to breathe in order to make the system work smoothly and easily. These arrangements are as follows:

- In the presidential system, the legislative and executive powers cannot end each other's legal assets. The only exception is that the legislature finds the president guilty (impeachment) in relation to the task. Therefore, there is a strict stiffness regarding the term of office of the powers in the presidential system. This provides the President with an uninterrupted period of service, which means that he remains in office during this time despite very serious failures. Therefore, while the presidential government system adopts a strong separation of powers, any one of the legislative and executive powers can decide to renew the elections. However, the mechanism here does not work like the dissolution mechanism in the presidential system, and if one of the powers decides to renew the elections, it is also considered to have decided to renew its own elections. The aim here is to solve the bottlenecks in the system or to eliminate the negativities that may be caused by the ones who lost their legitimacy during the election period (Linz, 1995, p.147-149; Yıldırım, 2017, p.158).
- In the presidential system, coalitions / alliances are observed in the executive rather than in a coalition. In this context, the presidents spend a lot of effort to maintain their superiority in the 1/3 renewed parliament every two years and can take a populist approach. Otherwise, a president who has lost his superiority in the legislature may become incapable of vital matters such as the budget, from the appointments of senior executives. In the President's government system, the fact that legislative and executive elections are held on the same day, it is more likely that someone who is the president will maintain its superiority in the legislature, given the current election atmosphere. In this framework, legislative and executive elections are planned to be held on the same day, considering legislative and executive harmony.
- In the presidential system, the head of state and government has an executive body composed of secretaries (ministers) in order to provide the public services needed by the country and to increase the effectiveness of the decisions to be taken. As the head of the executive, the president is authorized to appoint ministers and senior public officials to serve the country. However, the senate must also give approval to these officials to be appointed. It is seen that there are

tough struggles between the legislative and executive in the realization of high level appointments in the USA (Grant, 1994, p.23-25; Polsby, 1986, p.76-78; Beceren ve Kalağan, 2007:163-181). In the new system, the president can directly appoint and dismiss ministers and senior public officials with whom he will work. For this, the parliament does not need further approval. It is a matter of controversy that the approval of another person in the appointment of these persons who will be part of the executive in accordance with the principle of separation of powers. It is obvious that this approval process will create / cause difficulties for the legislative-executive powers especially in countries like Turkey and even in the USA, which are highly affected by the negative effects of the bureaucratic oligarchy. Together with the new system, it is aimed to overcome this problem in US practice. In this way, the high-level bureaucrats who will go with the executive power, to eliminate any excuse in the point of producing service was eliminated (Gergerlioğlu, 2017, p.110-117).

- In the presidential system, the vice president is held together with the presidential elections. A vice-president, whose legitimacy directly comes from the nation, seems more suited to democratic practices (Erim, 2017, p.59-83). However, in the new government system, vice-presidents are appointed by the president directly elected by the nation. The fact that the vice-presidents do not come to the elections in the President's Government System is to prevent the frequent debates on legitimacy in our country. Particularly in our country, the two-headed executive structure arising from the parliamentary system has experienced breaks that stretch the system from time to time. Therefore, it is known that there are differences in the US about the issues that the current president and vice-president do not agree with. It is not even sincere to see that if such a picture persists at the point of legitimacy on both sides, there are unpleasant events that can go on until the system is locked. Therefore, the fact that the president is the only legitimate authority of the executive in order to minimize the risks on the system that may occur if the culture of conciliation is not always captured reflects a more rational understanding (Haniç, 2017, p.94-95).

- In the presidential system, the only exception is the accusation of the president, ie the criminal responsibility of the termination of the powers of each other by the powers of the House of Representatives, with the proposal of 1/3 and 2/3 votes of the members of the Senate (Miş ve Duran, 2017, p.65-67). In the Turkish Type Presidential government system, the president of the general assembly, who passed the commissions related to the proposal by the absolute majority of the parliament, is tried on the high court by adopting the parliament with 2/3 votes. The presidential government requires a stronger consensus on the accusation of the state and the chief executive by raising the ratio of 1/3 to an absolute majority in the presidential system (Türkyılmaz, 2017, p.187-188).
- In the presidential system, the power of the executive to veto laws, which is the most important equilibrium on the legislature, requires approval by the president if the parliament is readmitted with a qualified majority, such as 2/3. Given that it is difficult for the Assembly to provide the qualified majority at all times, it is clear how effective the instrument is on the legislature. In the new system, if the laws passed by the parliament are not accepted by the president, the absolute majority of the total number of members of the parliament should be accepted. In the end, it was aimed to increase the efficiency of the legislature by preventing the legislative activities, which are the most natural duty of the legislature, to be prevented by the executive power (Türkyılmaz, 2017, p.174-175).
- In the presidential system, the president has the authority to make foreign policy and international agreements, but these agreements also need to be ratified by a 2/3 majority of the senate. Given the difficulty of providing a qualified majority of the legislature, it is necessary to recognize that this envisaged majority is a compelling majority against the executive. However, it is necessary for the executive power to implement such treaties in the interest of the country without being forced from the legislature and to achieve the economic and political objectives of the executive power as envisaged. In the newly implemented system in Turkey, the president has a much more decisive role in foreign policy and international agreements than the president in the presidential system. In this context, while

the president can sign some treaties directly in the new system, for some, the agreement can be ratified by the absolute majority of the members attending the meeting. Therefore, the new system is easier for the president to convince the legislature in terms of foreign policy and international agreements than in the presidential system (Gözler, 2017).

- Whether in the presidential or presidential government, the budget is crucial for executive power. The executive needs a budget in order to provide the public services it has planned during its mandate. The executive collects taxes for the expenditures to be made in this context and can continuously provide public services with these taxes. However, as it is seen in the USA, every state of the budget negotiations has reached the point where the door of the state is locked and the executive power is almost unable to do business. This situation is often reflected in the press and the images that may damage the country's reputation are shared with the world (Fendoğlu, 2012, p.39-60). The fact that the budget authority is in the legislature necessitates the president to be in a compulsory consensus with the congress. In the new system, the president was given the task of preparing the budget and presenting it to the parliament. It shall submit the budget prepared by the President to the Parliament, and after a series of transactions in the Parliament, approve the budget until the beginning of the new fiscal year. If the budget does not reach the new fiscal year, the parliament should issue an interim budget. If the provisional budget law is also not adopted, the budget of the previous year is envisaged to be increased by the revaluation rate until the new budget is adopted. This arrangement is seen as a very rational arrangement especially in terms of eliminating the budget crisis that caused the system to be locked in the US presidential system. In the meantime, the Assembly will be able to accept the budget that it cannot raise during the year (Miş ve Duran, 2017, p.71-72).

## Conclusion

In the determination of the governmental systems, the historical accumulation, social and political structures of the countries, the existing admin-

istrative needs and the necessities created by the conditions affect the basic powers of the state (Haniç, 2017, p.159). In this context, the Turkish-type presidential government system, adopted in the referendum in April 2016, shows the attitude of the executive power of our country, which wants to be able to respond effectively and effectively to the problems posed by the parliamentary system in practice for many years and to the new paradigms formed globally. Because the necessity of adapting the legislative and executive powers to the current conditions, where both internal dynamics and regional and global dynamics can change frequently, is not controversial.

With the new system adopted by the referendum on April 16, 2017 and put into practice with the June 24 elections, it is lean, diminishing in the number of authorities, adapting to innovations rapidly, enabling the development of human resources, clearly identifying the authorities and responsibilities, realizing digital transformation, making rapid decision-making and implementation, a highly competitive and institutionalized organizational structure and understanding of the world. Although the new system, which is based on the presidential system, reflects the same understanding of the rigorous application of the separation of powers, it differs in terms of its rearrangement in some of the issues that are seen in the presidential system from time to time and which prevent the system from functioning properly. It is a more rational difference that the budget crises, which cause serious conflicts especially between the legislative and executive and which create weaknesses in the provision of public services, will not be experienced in the new government system. It is also important to give the president the authority to appoint an executive without the approval of the legislature in order to appoint the senior public administrators who have become a crisis in the presidential system with the new system, since it paves the way for the executive power to work with its own team. Moreover, the application of reciprocal renewal of the elections brought by the presidential government system in order to solve the legitimacy crises arising from the rigidity of the term of office in the presidential system is a proper arrangement in terms of having a windpipe in order to make the clogged system operational again.

The fact that the elections of the legislative and executive powers will be held on the same day in the Turkish-type presidential government system reflects the political atmosphere of the period in a similar way to the legislative and executive powers. Therefore, it is aimed to prevent the picture seen in the presidential system which may occur against the executive power due to the change of 1/3 of the members of the council every two years. Otherwise, when considering Turkey's fragmented political structure, the harmonious operation of the system would not be possible. In such a picture, it is likely that political and administrative crises will happen again.

In order to prevent future legitimacy crises in the presidential system where the president and vice-president of the executive power are elected, the appointment of the vice presidents in the presidential government system by the president is expected to create a very beneficial result in an environment like Turkey where the crises of legitimacy are very frequent. (Erat, 2015, p.326-355).

As a result, the Turkish-type presidential government system; the main features of the presidential system include similar arrangements in terms of the unity of the executive power, the election of the legislative and executive powers and the clear definition of duties and powers between the powers. However, on the other hand, it is seen that the aim of eliminating the problems encountered in the implementation of the presidential system in the USA example in terms of the adoption of the new system for Turkey. With these differences, the new system should be considered as a unique practice in Turkey, but considering the interaction of legislative and executive powers with respect to the presidential system, it would be appropriate to say that the presidential government system has made the presidential system rational for a healthier operation (Rationalized Presidential System).

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