Volume: 9 Issue: 3 Month: 9, Year: 2026
P.P 391 - 408
مجلة البحوث القانونية والاقتصادية
JOURNAL OF LEGAL AND ECONOMIC RESEARCH

THE INTEGRATION OF ARTIFICIAL INTELLIGENCE INTO PUBLIC ADMINISTRATION: TOWARDS AN ADAPTATION OF THE TRADITIONAL REGIME OF ADMINISTRATIVE LIABILITY

Kheira AHMANE*
Faculty of Law, University of Algiers 1 Benyoucef Ben Khedda - Algeria
k.ahmane@univ-alger.dz

Send Article Date: 07-06-2026	Date of acceptance of the article: 19-08-2026

Abstract:
The integration of artificial intelligence into administrative action challenges the traditional framework of administrative liability based on the distinction between fault-based and no-fault liability. The opacity, relative autonomy and complexity of algorithmic systems complicate the establishment of causation and accountability. In response, several legal systems advocate strengthening transparency, traceability and human oversight to ensure effective protection of citizens, while others, particularly the United States, favour a more innovation-oriented approach. This study argues that artificial intelligence requires not a radical transformation, but a gradual adaptation of administrative liability to reconcile innovation with legal certainty.
Keywords: Artificial intelligence; Administrative liability; Traceability; Transparency; Algorithmic risk

Introduction:

Like many contemporary administrations, the Algerian public administration is undergoing a gradual transformation of its operating methods as a result of digitalization and the growing integration of artificial intelligence technologies. Algorithmic systems are set to play an increasingly important role in the management of public services, the processing of administrative data, and even their integration into decision-making across several sectors, such as taxation, social security, health, natural resource management and public safety. This development, presented as a driver of efficiency and modernization in

* Kheira AHMANE.

administrative action, is not, however, without significant legal implications.

In Algerian administrative law, the liability of the administration has traditionally been structured around the distinction between fault-based liability and no-fault liability, largely inspired by the French model. Whilst fault-based liability continues to occupy a central place in compensation litigation, case law and legal doctrine have gradually recognized regimes of no-fault liability, based in particular on risk or on the breach of equality before public burdens. However, the introduction of artificial intelligence into administrative action highlights the practical and theoretical limitations of the traditional fault-based regime, due in particular to the opacity of algorithms, the technical complexity of the systems used and the dilution of responsibilities amongst the various actors involved.

In this context, several types of harm may result from the Algerian administration s use of artificial intelligence, such as automated errors, biased decisions, infringements of citizens' rights or collective harm. These harms raise unprecedented difficulties regarding attribution and proof. The traditional requirement to prove administrative fault therefore

Appears particularly onerous for victims, and indeed ill-suited to the very nature of algorithmic risk. Consequently, artificial intelligence serves to highlight the shortcomings of the traditional foundations of administrative liability and calls for a renewed reflection on the effectiveness of judicial protection for citizens.

This article aims to demonstrate the extent to which the use of artificial intelligence by the Algerian administration leads to a rethinking of the traditional foundations of administrative liability, either by strengthening objective liability regimes, in particular no-fault liability, or by reconsidering the legal framework governing fault-based liability.

Such a development would make it possible to better reconcile the protection of citizens, the principle of equality before public burdens, and the requirements of continuity and efficiency in public

service, without hindering technological innovation within the administration.

To answer these questions, it will be necessary, firstly, to analyses the limitations of the traditional foundations of administrative liability, before, secondly, highlighting the prospects for adapting the administrative liability regime to the challenges posed by the use of artificial intelligence.

2. The questioning of the traditional foundations of administrative liability by artificial intelligence

Whilst the integration of artificial intelligence systems is an unavoidable aspect of the modernization of administrative action, it raises major challenges to which the traditional mechanisms of administrative liability, whether based on fault or on the absence of fault, struggle to respond (2.1). Indeed, the emergence of algorithms in the public decision-making process is not merely a technical development; it alters the conditions of accountability, proof and risk management, which traditionally underpin the administration s liability. It is thus that the limitations of the traditional regime of administrative liability become particularly acute in the face of the specific characteristics of intelligent systems (2.2.).

2.1The challenges posed by the integration of artificial intelligence into administrative action

The integration of artificial intelligence into administrative action is not limited to the introduction of a new technical tool; it affects the very conditions under which administrative liability arises. By altering the processes through which public decisions are made, AI challenges the traditional requirements of transparency, proof and accountability. The difficulties stem, on the one hand, from the opacity of algorithmic systems, which makes it difficult to establish proof (2.1.1), and, on the other hand, from the fragmentation of decision-making processes and the growing autonomy of intelligent systems, which lead to a dilution of administrative accountability (2.1.2.).

2.1.1 Algorithmic opacity and the difficulty of establishing proof

The integration of artificial intelligence into administrative action is not merely a technical modernization. It brings about a profound transformation of the conditions under which liability arises, particularly with regard to the traditional requirements of accountability and proof.

The first obstacle lies in the opacity of algorithmic systems, particularly those based on machine learning. Unlike traditional computer programmes, these systems learn from data and develop decision-making models whose internal logic remains difficult to access, whether for the public or for their designers. This is known as the black box, the effect of which renders algorithmic reasoning largely indecipherable.

This lack of transparency directly undermines the establishment of a causal link between the administrative action and the alleged harm. Under Algerian administrative law, the imposition of liability traditionally requires proof of a direct link between the triggering event and the damage. However, when an automated decision results from complex algorithmic processing, it becomes particularly difficult for the victim to identify

the precise source of the error. Does it stem from bias in the data, incorrect configuration, a learning error or a technical failure, etc.(ROUVOY, 2017).

Added to this difficulty is a structural information asymmetry between the administration and the member of the public. The administration or its technical service providers hold the code, the parameters and the training data, whilst the member of the public has neither the technical expertise nor access to the information necessary to challenge the decision. This situation undermines the effectiveness of the right to appeal (Abdelhamid, 2025).

Algorithmic opacity also affects the obligation to state reasons for administrative acts. When the administration is unable to provide an intelligible explanation of the reasoning behind the automated

decision, the principle of stating reasons is substantially weakened. Transparency, as a condition for the legitimacy of public action, then becomes problematic.(Gerard, 2017).

Thus, artificial intelligence creates a genuine crisis of evidence, calling into question the traditional conditions for establishing fault and causation.

2.1.2 The dilution of administrative accountability in the face of algorithmic autonomy

Beyond the difficulties mentioned above, artificial intelligence further undermines the very foundation of administrative liability, particularly accountability.

Algorithmic administrative decisions are no longer the product of a single department or an identifiable official. They result from a complex chain of stakeholders: system designers, programmers, data providers, maintenance contractors, technical integrators and public officials who use the system. This multiplicity of actors leads to a fragmentation of responsibilities and makes it uncertain who is actually responsible for the malfunction(FERAOUNI and BENTIFOUR, 2025).

Furthermore, we are well aware that the rules of administrative liability are largely modelled on those governing civil liability. For example, the concept of the custodian s liability, as provided for in Article 138 of the Algerian Civil Code. Thus, the question of the public administration's custody of the algorithmic tool is also raised anew. In administrative law, the administration is liable for the things in its custody. However, when the system reaches such a degree of autonomy that its operation exceeds the capacity of public officials to exercise effective control, can the administration still be considered its custodian in the legal sense of the term? Whereas Article 138 exempts the custodian from liability if they prove that they were unable to foresee the cause of the damage.

The unpredictability of self-learning systems exacerbates this difficulty. Liability for fault traditionally rests on the possibility of

anticipating a risk or preventing damage. However, artificial intelligence can produce unexpected results that are not explicitly programmed and are sometimes unforeseen by its designers. This algorithmic autonomy undermines the traditional concept of negligence and complicates the attribution of fault to the administration(JACQUEMIN & HUBIN, 2017).

Finally, the growing use of intelligent systems is transforming the very nature of administrative action, gradually replacing human judgement with automated statistical analysis. This development calls into question the role of liability in an environment where decisions result less from an identifiable human choice than from complex computer processing. Consequently, artificial intelligence does not merely complicate the establishment of administrative liability; it alters its traditional foundations by challenging the conventional framework of administrative liability.

2.2. The inadequacy of traditional administrative liability regimes in the face of algorithmic risks

Algorithmic opacity and the dilution of administrative accountability have revealed the limitations of traditional administrative liability regimes and their unsuitability.

Thus, neither fault-based liability (2.2.1) no-fault liability (2.2.1) appears fully capable of addressing the specific characteristics of artificial intelligence systems. This situation undermines the judicial protection of citizens, who may find themselves powerless in the face of automated decisions that are difficult to understand and challenge. Administrative litigation is therefore faced with a major challenge: adapting traditional liability mechanisms to ensure effective protection in a rapidly changing technological environment.

2.2.1 The limitations of the traditional regime of administrative liability for fault

The regime of administrative liability for fault has been established in French law since the famous Blanco judgment of the "*Tribunal des Conflits*" in 1873 (Tribunal des Conflits, 1873). In

Algeria, Algerian administrative case law adopted the French approaches to administrative liability in its early post-independence rulings. This traditional regime of administrative liability is now obsolete in the face of the challenges we have cited. Thus, the traditional regime of administrative liability based on proof of a breach of duty or the illegality of decisions taken is showing its limitations(Mohamed Karim, 2021).

To this end, the attribution of fault has become a highly complex issue due to the multitude of actors involved in the decision-making process using artificial intelligence. The opacity of algorithms makes it difficult to establish a direct causal link between the algorithmic decision and the harm suffered, which complicates the demonstration of specific fault or malfunction. Liability for fault focuses more on the human user of the tool than on the tool itself, which illustrates the inadequacy of the traditional regime in the face of the specific characteristics of algorithmic systems (PAULIAT, RDP, 2018). Traditional administrative law thus struggles to grasp these new forms of decision-making, which calls for a rethinking of liability mechanisms and the strengthening of certain requirements, such as fairness in administrative relations.

2.2.2 The limitations of the no-fault administrative liability regime

The regime of strict administrative liability (or no-fault liability), whilst allowing victims to be compensated without requiring proof of fault on the part of the administration, reveals certain limitations in the face of the integration of artificial intelligence (AI) into administrative action.

Firstly, this regime is traditionally based on principles such as risk (e.g. dangerous objects) or the breach of equality before public burdens. However, AI systems do not always fit clearly into these traditional categories. The risk associated with AI is diffuse, evolving and often difficult to define in legal terms: it is not a dangerous physical object, but an autonomous, and sometimes unpredictable, algorithmic system.

Furthermore, no-fault liability generally presupposes a relatively

identifiable causal link between the administrative activity and the damage. With AI, this link becomes difficult to establish due to the opacity of algorithms and the "*black box*" effect, machine learning, and the involvement of multiple actors (designer, supplier, user administration). This undermines the attribution of liability for the damage to the administration alone.

Furthermore, this system is not designed to address the increasing decision-making autonomy of certain AI systems. Even if the administration remains legally responsible, in practice, the dilution of the decision-making process makes the traditional logic of "administrative risk" less relevant.

Finally, no-fault liability serves primarily a compensatory function, but has little preventive or regulatory effect. However, AI raises specific issues (algorithmic bias, infringements of fundamental rights, discrimination) that require more appropriate mechanisms for oversight, transparency and upstream regulation, going beyond mere compensation for damages.

Thus, whilst no-fault liability provides a useful basis for compensating certain victims, it appears insufficiently suited to the technical complexity, opacity and multiplicity of actors characterizing artificial intelligence in administrative action, which argues for an evolution or a complement to the existing legal framework.

Finally, this situation undermines the judicial protection of citizens, who may find themselves powerless in the face of automated decisions that are difficult to challenge or understand. Administrative litigation will need to evolve to guarantee effective protection, which constitutes a major challenge for contemporary public law.

In short, the use of AI in administrative action requires in-depth consideration of how to adapt the legal framework, in order to reconcile technological innovation with respect for citizens fundamental rights.

3. Prospects for adapting administrative responsibility arising from the use of AI

Given the limitations of the traditional regime of administrative liability in the face of artificial intelligence, should we reconsider the very foundations of the legal regime governing administrative liability?

In Algeria, artificial intelligence is beginning to be officially recognized and integrated. This is being achieved through the adoption of a National Digital Strategy 2025 2030, which includes the modernization of public administrations via digital technologies, of which AI is an integral part. This strategy aims in particular at the full digitization of public administration s and the development of ICT infrastructure, as well as the training of specialists in digital technologies, which forms the basis for the integration of AI into the public sector (TLIOUA, 2025).

Despite this gradual integration of AI into public policy, particularly through national digital strategies, the Algerian legal framework remains in its infancy and is insufficiently adapted to fully regulate these changes, particularly with regard to algorithmic bias, information security and the risk of dehumanization of public services, which necessitates the maintenance of human oversight and the development of a specific legal framework guaranteeing the legitimacy and accountability of administrative action. Algerian positive law is based primarily on laws relating to the protection of personal data, but does not yet fully cover the issues associated with algorithmic administrative decisions, as highlighted by the analysis of legal frameworks currently being developed in other comparable contexts. Thus, the formalization of AI in Algerian law currently relies more on strategic plans and digital public policies than on specific legal texts dedicated to AI.

Consequently, the traditional regime of administrative liability remains applicable under Algerian law, as it does under its French counterpart.

However, some legal systems are tending to adapt the traditional

regime of administrative liability to make it compatible with the digitalization of public administration (3.1). This is the case in the European Union with the AI Act of 2024, it's also the case in Canada, and more recently in the USA with the AI Executive Order of 2023. However, the latter was repealed by the Trump administration in favour of a strategy aimed at deregulating AI systems in the US to encourage innovation (3.2).

3.1 Adapting the traditional framework of administrative liability arising from the use of AI

Certain authors and comparative legal systems have quickly recognized the potential risks inherent in the growing autonomy of AI systems, particularly regarding users' rights. Consequently, a legal framework should be established to protect citizens from these risks. This is the case, for example, with the European Union s Artificial Intelligence Act (EU AI Act) of 2024 (Union, European Parliament and Council of European, 2024).

With regard to our study, which focuses on administrative liability, these standards aim to establish a legal framework that enhances transparency to assist members of the public and the courts in establishing proof, thereby strengthening the regime of administrative liability based on fault. (3.1.1). They also aim to strengthen strict administrative liability, in order to circumvent the black box effect and the difficulty of proving fault. (3.1.2).

3.1.1The review of administrative liability for fault: towards greater transparency and traceability of automated administrative decisions

To address the opacity of AI systems and the black box effect, some authors suggest establishing a legal framework based on the transparency and traceability of decision-making processes. They also propose introducing the user's right to an explanation and Meaningful Human Oversight to shift the burden of proof in favour of citizens (NEMITZ, 2018).

Recent case law demonstrates a gradual adaptation of the

traditional framework of administrative liability to the specificities of artificial intelligence, without, however, undermining its foundations. Indeed, in French law, the courts maintain that the administration remains accountable for automated decisions, rejecting the notion that the use of an algorithm constitutes grounds for exemption from liability. The Council of State s ruling on the "*Parcoursupplatform (2020)"* thus enshrines the requirement for algorithmic transparency as an extension of the principle of legality, recognizing citizen's right to know the criteria on which decisions are based(d'Etat, 2020).

These doctrinal contributions are explicitly enshrined, in particular, in the provisions of Regulation (EU) 2024/1689 of 13 June 2024. In response to the difficulties inherent in algorithmic opacity, this text establishes a set of legal obligations on public authorities using AI systems, designed to objectify administrative fault and facilitate its demonstration by the citizen(2024/1689, 2024).

Firstly, we may cite the requirement of the principles of algorithmic legality and transparency. The administration must be subject to a duty of proactive transparency (PAULIAT, 2018).This entails systematically informing the member of the public of the automated nature of the decision. Transparency must not be a mere formality, but must enable an understanding of the criteria and standards applied by the system. This principle has been established as a cardinal principle, resulting in the obligation for high-risk AI systems to be designed and operated in such a way as to ensure sufficient intelligibility of their functioning (Article 13 of the EU AI Act). This obligation implies that the administration must have technical documentation and a detailed user manual enabling it to understand the system's capabilities and limitations, as a prerequisite for any use in accordance with the principle of legality. Consequently, the public has a right to relevant information regarding the use of algorithmic processing in decision-making, which contributes to the establishment of algorithmic legality, a failure to recognize which may constitute a breach of duty.

Secondly, the right to an explanation, which extends the requirements set out in the General Data Protection Regulation

(Règlement UE, 2016/697), is specifically enshrined in Article 86 of Regulation (EU) 2024/1689. This provision grants any data subject affected by a decision based on a high-risk AI system, which produces legal effects or significant effects, the right to obtain clear and relevant explanations regarding the role of the AI system in the decision-making process, as well as the main factors that led to the decision. Such a requirement strengthens the procedural safeguards for the data subject by enabling them to obtain an intelligible description of the logic of the processing, and thus allows the administrative court to exercise effective review of legality, particularly with regard to the absence of bias, factual errors or misuse of purpose(KHADER, 2025).

Thirdly, the traceability of algorithmic operations is a key tool. Under Articles 12 and 26(6) of Regulation (EU) 2024/1689, high-risk AI systems must be designed to enable the automatic recording of events (logs), which must be retained for an appropriate period. This logging obligation, which applies to the public administration, makes it possible to reconstruct the decision-making process retrospectively and to identify any malfunctions, whether resulting from a design flaw, inappropriate configuration or non-compliant use. It thus provides the court with essential technical evidence for attributing professional negligence.

Fourthly, Article 14 of the Regulation establishes the requirement for effective human oversight of AI systems, which must be organized in such a way as to prevent or address risks to fundamental rights. This meaningful human oversight implies that the administrative authority cannot simply rubber-stamp the results produced by an algorithmic system without exercising critical scrutiny. A lack of vigilance, blind trust in the tool, or failure in the organization of human oversight are, in this regard, likely to constitute a fault of imprudence or negligence attributable to the service. California case law has addressed, through a case reported by the California Superior Court (Smith v. Department of Social Services, 2019), the issue of administrative liability arising from the use of an algorithmic system for determining eligibility for social benefits, which led to erroneous exclusions in the absence of effective human oversight. According to the US court, this constitutes an administrative fault(California

Superior Court, 2019). This decision reflects a shift in case law that does not seek to replace the existing liability regime, but rather to adapt traditional categories (fault, control, justification) to the requirements of transparency, explainability and human oversight, thereby strengthening the protection of citizens against algorithmic risks (Abdelhamid, 2025).

Thus, the legal framework established by Regulation (EU) 2024/1689 is not limited to the technical regulation of artificial intelligence systems, but contributes to a redefinition of the conditions for the application of administrative liability for fault. By imposing substantial obligations regarding transparency, traceability and supervision, it helps to reduce information asymmetry and facilitate the presentation of evidence, thereby restoring the effectiveness of judicial review in a technological environment characterized by complexity and opacity.

Furthermore, the Canadian experience illustrates a regulation of artificial intelligence based more on preventive governance than on traditional liability regimes. In Canada, the Automated Decision-Making Directive establishes a structured approach based on risk assessment and increased requirements for transparency and explainability (Secrétariat du Conseil du Trésor Canada, 2019).

In the United States, Executive Order 14110 of 2023 (2024/1689, 2024)(The White House executif order, 2023)favoured a more flexible and strategic approach, centered on security and the accountability of stakeholders, without a unified binding framework. These two models thus confirm a common trend towards ex ante regulation of AI, based on risk management and the strengthening of procedural safeguards such as the right to explanation and transparency(El Ayni, 2025). However, this executive order was repealed by the Trump administration, which adopted an approach centered on the deregulation of AI to encourage innovation.

3.1.2. Strengthening the presumption of no-fault liability based on risk

Given the unpredictability of AI systems and their growing autonomy,

some authors suggest strengthening the no-fault liability regime as the most protective safeguard for citizens (3.1.2.1). However, strengthening administrative no-fault liability could lead to an excessive burden of liability on the public administration (3.1.2.2).

3.1.2.1 The arguments of proponents of enhanced no-fault liability

Proponents of the school of thought advocating for strengthened no-fault liability base their case on the following arguments:

- The theory of technological risk: Since AI is a complex tool whose functioning may elude even its own designers, the administration must assume liability for damages on the basis of the risk created by its deployment in the public sector. Compensation is then awarded once a causal link is established, without the victim having to prove human error.

- The introduction of a presumption of algorithmic liability: Establishing a presumption of no-fault administrative liability, borne by the State, could be a powerful way to circumvent information asymmetry and algorithmic opacity. The administration could only rebut this presumption by proving that it had complied with extremely strict obligations of vigilance and security(El Ayni, 2025).

Finally, they suggest a division and sharing of liability. Under this framework, the administration first compensates the victim but retains a right of recourse (joint liability) against private developers or service providers if the damage stems from a manufacturing defect or biased training data (KHADER, 2025).

3.1.2.2 The limitations of the theory of enhanced no-fault liability

In addition to the limitations of the traditional no-fault administrative liability regime that we cited in the first part of our study, we will here refute the arguments of those who advocate for the objectification of administrative liability arising from the use of AI.

Firstly, the theory of technological risk, whilst seemingly appealing, tends to generalize the concept of risk. The traditional no-fault liability regime targets specific and abnormal risks such as

explosives and dangerous structures. In fact, to claim that any use of AI is comparable to such risks is an exaggeration.

However, this can be put into perspective by looking to the European Union s AI Act, which has categorized high-risk AI systems in order to preserve their exceptional nature. Thus, this regulation has identified sensitive areas of public authority in Article 6 and Annex III. This includes the provision of social benefits, the management of education, the justice system and border control. Article 27 has introduced stricter regulation for these areas concerning public bodies using AI. Consequently, they must describe the processes and categories of individuals affected, as well as the measures for human oversight, in order to mitigate these risks.

Furthermore, the presumption of algorithmic liability is legally fragile, as it leads to excessive and systematic accountability on the part of the public administration. The latter cannot demonstrate extremely strict compliance in the face of evolving systems. Moreover, it challenges the principle of equality before public burdens or the right to good administration.

Finally, general and systematic administrative liability brings us closer to a principle of universal guarantee, which is difficult to reconcile with the restrictive legal s derived from traditional case law. Such reasoning may deter the administration from innovating, particularly in the case of low-criticality AI.

3.2 Towards relative deregulation of AI systems in the name of innovation in the United States

A second trend, particularly pronounced in the United States, is based on a deregulation approach aimed at promoting innovation and economic competitiveness in the field of artificial intelligence. This direction is clearly illustrated by the Executive Order of 11 December 2025 aimed at ensuring a national policy framework for artificial intelligence(The White House Executif Order 14365 , 2025).

Thus, unlike its predecessor, the Trump administration explicitly affirmed in this text the need to establish a minimally prescriptive

national standard, replacing the diversity of state regulations with a uniform federal framework. It is based on a mechanism to pre-empt state legislation deemed excessive or likely to hinder the development of innovation. To this end, the Executive Order provides, in particular, for the creation of an AI Litigation Task Force tasked with challenging state laws incompatible with federal policy, as well as the possibility of making the granting of federal funding conditional upon compliance with this policy(Withers, TENE, & Kohler, 2025).

This approach is part of a clearly pro-innovation philosophy, based on the idea that excessive regulation constitutes an obstacle to the United States international competitiveness in the AI race. It thus seeks to limit the legal constraints weighing on public and private actors by reducing the regulatory requirements that could give rise to their liability. In this context, administrative liability or more, largely public liability risks being sidelined in favour of an approach prioritizing flexibility, experimentation and technological freedom.

However, this approach has drawn sharp criticism, particularly as it could weaken the protection of fundamental rights and reduce the safeguards available to citizens against harm caused by AI systems. It thus reveals a structural tension between two imperatives: legal certainty and the promotion of innovation(HUO Jingnan, 2025).

Conclusion

The integration of artificial intelligence into administrative action constitutes a profound transformation that challenges the traditional foundations of administrative liability law. By revealing the limitations of traditional regimes based on fault and, to a lesser extent, on no-fault liability, algorithmic systems raise unprecedented difficulties regarding accountability, evidence and risk management.

In the face of these challenges, two main approaches are emerging. The first relies on adapting the existing framework by strengthening requirements for transparency, traceability and human oversight, thereby restoring the effectiveness of judicial review and ensuring better protection for citizens. The second, illustrated in particular by certain recent developments in the United States, favours a

deregulatory approach, aimed at promoting innovation, but which risks weakening the safeguards offered to citizens.

In this context, Algerian administrative law finds itself at a pivotal juncture. Whilst the traditional liability regime retains its relevance, it appears necessary to adapt it to the specificities of artificial intelligence systems, without upsetting its fundamental balance.

Thus, artificial intelligence does not require a radical overhaul of administrative liability law, but calls for a gradual adaptation of its mechanisms, in order to reconcile technological innovation, legal certainty and the effective protection of citizens' rights.

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