Federal Court Cour fédérale

Date: 20251010

Dockets: IMM-14508-24
IMM-14496-24

Citation: 2025 FC 1680

Montréal, Québec, October 10, 2025

PRESENT: Mr. Justice Gascon

BETWEEN:

LARISSA P. TEGAWENDE ROUAMBA

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The applicant, Larissa Paulette Tegawende Rouamba, is a citizen of Burkina Faso. She seeks judicial review of a decision dated July 24, 2024 [Decision 1] and of the subsequent reconsideration decision dated August 6, 2024 [Decision 2] [together, the Decisions], both rendered by the same immigration officer [Officer] at the Beijing visa office. The Decisions

dismissed Ms. Rouamba's application for a study permit to pursue post-graduate studies in Canada and declared her inadmissible to Canada for misrepresentation pursuant to paragraph 40(1)a) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA].

[2] The Officer found that Ms. Rouamba "purposely withheld" her previous visa refusals for the United States [US] from her initial study permit application, thereby misrepresenting a material fact, and that this could have led to an error in the administration of IRPA. Ms. Rouamba contests the reasonableness of both Decisions. She first submits that the Decisions are based on the false premise that she concealed her US visa refusals, which she claims she did not. In the alternative, she argues that the Officer failed to consider the honest mistake exception and the immateriality of the past US visa refusals in the assessment of her study permit application.

[3] For the following reasons, the application for judicial review will be dismissed. Even though I have sympathy for Ms. Rouamba's situation, I am unable to conclude that the Officer's Decision is unreasonable or that it was not responsive to the evidence before the Officer. There are no reasons justifying the Court's intervention.

II. Background

A. *The factual context*

[4] Ms. Rouamba holds a bachelor in agronomy from the Superior Institute of Agricultural Sciences and Technologies [in French, *Institut Supérieur des Sciences et Technologies Agricoles*]

in Burkina Faso, her country of citizenship, as well as a master degree in business management from Shenyang Aerospace University in China.

[5] In April 2024, she received an acceptance letter to pursue a master degree in economics at the Université de Sherbrooke in Québec for which she received a $2,000 grant.

[6] In June 2024, Ms. Rouamba applied from abroad for a study permit in Canada. In response to question 2b) of the IMM-1294 study permit application form [Form] — which asks, “Have you ever been refused a visa or permit, denied entry or ordered to leave Canada or any other country or territory?” —, she checked “yes.” However, when asked to provide details in the box provided in the Form at question 2d) — which requires applicants to provide details if they answer “yes” to questions 2a), 2b) or 2c) —, Ms. Rouamba only wrote “Refusal of study permit: assets and financial situation, purpose of visit” [in French in the original] in reference to her previous student visa refusals in Canada. She did not disclose that she also had two previous visa refusals for the US.

[7] In July 2024, the Officer issued a procedural fairness letter [PFL] indicating to Ms. Rouamba that her student visa application may be denied for failing to answer truthfully to the questions. The Officer was concerned by her answers related to previous visa or entry refusals in Canada or in any other country, specifically the US. The Officer noted in the Global Case Management System [GCMS] that Ms. Rouamba had five previous Canadian study permit refusals as well as unacknowledged visa refusals from the US.

[8] About a week later, Ms. Rouamba responded to the PFL. She specified that she had duly checked the appropriate box at question 2b) of the Form. She admitted to having had previous refusals for a study permit in Canada and for tourist visas in the US. She did not argue that she had misunderstood question 2b) or the background question requiring details at question 2d). She instead mentioned not having enough space on the Form to answer the question fully and that she had no intention to conceal relevant information for her student visa application for Canada. She attached to her response one US visa refusal.

B. *Decision 1*

[9] On July 24, 2024, the Officer found Ms. Rouamba inadmissible to Canada under paragraph 40(1)(a) of the IRPA and refused her application for a study permit. The Officer noted that pursuant to paragraph 40(2)(a) of the IRPA, her inadmissibility finding stands for a period of five years.

[10] While the letter issued to Ms. Rouamba is standard, the GCMS notes shed light on the Officer's reasons for refusing her study permit application. After considering all the information available, including Ms. Rouamba's response to the PFL, the Officer found that she had withheld information by failing to declare her US visa refusals at the initial stage of her study permit application. The Officer found that this was "not a single mistake" and that the information was "purposely withheld." The Officer found that, by not fully disclosing her visa refusals, Ms. Rouamba misrepresented a material fact, and that this could have led to an error in the administration of the IRPA had it gone undetected. The Officer noted that the missing information on previous visa refusals is material to the issuance of a visa, notably to assess an

applicant's previous travel experience, admissibility, ties, and ability to travel from and to their country of residence.

C. *Decision 2*

[11] On August 1, 2024, counsel for the applicant filed a request for reconsideration of Decision 1 [Request for reconsideration], supported by an affidavit from Ms. Rouamba.

[12] On August 6, 2024, the Officer refused Ms. Rouamba's Request for reconsideration. They disagreed with Ms. Rouamba's claim that there was insufficient room in the Form to provide details about visa refusals and noted that the Form clearly indicates the following at the beginning: "If you need more space for any section, print out an additional page containing the appropriate section, complete and submit it with your application." The Officer noted that it is expected from applicants to answer the question truthfully since it has an impact on the assessment of an application. While the Officer understood "the disappointment of the applicant," they found that Ms. Rouamba did in fact withhold information as part of her application, thereby misrepresenting a material fact, and that this act of misrepresentation could have induced an error in the administration of the IRPA had it gone undetected. They concluded that Decision 1 must stand.

D. *The standard of review*

[13] While Ms. Rouamba articulates a somewhat vague argument related to procedural fairness, I find that the only issue that arises from this application is whether the Officer's Decisions, and the reasons provided in support, were reasonable.

[14] It is well recognized that misrepresentation involves questions of mixed facts and law and that the standard of review applicable in such cases is reasonableness (*Sikder v Canada (Citizenship and Immigration)*, 2024 FC 362 at para 17 [*Sikder*]; *Yang v Canada (Public Safety and Emergency Preparedness)*, 2019 FC 1484 at para 8; *Kangah v Canada (Public Safety and Emergency Preparedness)*, 2019 FC 814 at para 15; *Kazzi v Canada (Citizenship and Immigration)*, 2017 FC 153 at para 17 [*Kazzi*]). This is confirmed by the Supreme Court of Canada's landmark decision in Canada *(Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*], where the Court established a presumption that the standard of reasonableness is the applicable standard in all judicial reviews of the merits of administrative decisions (*Pepa v Canada (Citizenship and Immigration)*, 2025 SCC 21 at para 35 [*Pepa*]; *Mason v Canada (Citizenship and Immigration)*, 2023 SCC 21 at paras 7, 39 [*Mason*]).

[15] Where the applicable standard of review is reasonableness, the role of a reviewing court is to examine the reasons given by the administrative decision maker and to determine whether the decision is based on "an internally coherent and rational chain of analysis" and is "justified in relation to the facts and law that constrain the decision maker" (*Pepa* at para 46; *Mason* at para 8; *Vavilov* at para 85). The reviewing court must therefore ask whether the "decision bears the hallmarks of reasonableness—justification, transparency and intelligibility" (*Vavilov* at

para 99, citing notably *Dunsmuir v New Brunswick*, 2008 SCC 9 at paras 47, 74). Both the outcome of the decision and its reasoning process must be considered in assessing whether these hallmarks are met (*Vavilov* at paras 15, 99, 136).

[16] Such a review must include a rigorous and robust evaluation of administrative decisions. However, as part of its analysis of the reasonableness of a decision, the reviewing court must take a "reasons first" approach and begin its inquiry by examining the reasons provided with "respectful attention" seeking to understand the reasoning process followed by the decision maker to arrive at its conclusion (*Pepa* at paras 46–47; *Mason* at paras 58, 60; *Vavilov* at para 84). The reviewing court must adopt an attitude of restraint and intervene "only where it is truly necessary to do so in order to safeguard the legality, rationality and fairness of the administrative process" (*Vavilov* at para 13), without "reweighing and reassessing the evidence" before it (*Vavilov* at para 125, citing *Canada (Canadian Human Rights Commission) v Canada (Attorney General)*, 2018 SCC 31 at para 55).

[17] The onus is on the party challenging the decision to prove that it is unreasonable. Flaws must be more than superficial for the reviewing court to overturn an administrative decision. The court must be satisfied that there are "sufficiently serious shortcomings" (*Vavilov* at para 100).

III. Analysis

A. *The Decisions are reasonable*

[18] Encompassed in subsection 16(1), the requirement of candour is an overriding principle of the IRPA (*Sidhu v Canada (Citizenship and Immigration)*, 2019 FCA 169 at paras 17, 70). Because applications for study permits and other visas to enter Canada are determined largely on the statements and evidence provided by applicants, there is a public interest in ensuring that applicants are truthful and give clear and straight statements to those charged with assessing these applications (*Adepoju v Canada (Citizenship and Immigration)*, 2022 FC 438 at para 33 [*Adepoju*]; see also *Wang v Canada (Citizenship and Immigration)*, 2023 FC 62 at para 64 [*Wang*]). A non-citizen has no right to enter Canada to study or to obtain a study permit (*Adepoju* at para 34; see also *Pepa* at para 154 [Côté and O'Bonsawin JJ. dissenting]; *Medovarski v Canada (Minister of Citizenship and Immigration)*; *Esteban v Canada (Minister of Citizenship and Immigration)*, 2005 SCC 51 at para 46; *Chiarelli v Canada (Minister of Employment and Immigration)*, [1992] 1 SCR 711 at p 733).

[19] The legal principles regarding misrepresentation under the IRPA were summarized as follows by Justice Strickland in *Goburdhun v Canada (Citizenship and Immigration)*, 2013 FC 971 at para 28 [*Goburdhun*]:

> 1. Section 40 is to be given a broad interpretation in order to promote its underlying purpose;
>
> 2. Section 40 is broadly worded to encompasses misrepresentations even if made by another party, including an immigration consultant, without the knowledge of the applicant;
>
> 3. The exception to this rule is narrow and applies only to truly extraordinary circumstances where an applicant honestly and reasonably believed that they were not misrepresenting a material fact and knowledge of the misrepresentation was beyond the applicant's control;

> 4. The objective of section 40 is to deter misrepresentation and maintain the integrity of the immigration process. To accomplish this, the onus is placed on the applicant to ensure the completeness and accuracy of their application;
>
> 5. An applicant has a duty of candour to provide complete, honest and truthful information in every manner when applying for entry into Canada;
>
> 6. As the applicant is responsible for the content of an application which they sign, the applicant's belief that he or she was not misrepresenting a material fact is not reasonable where they fail to review their application and ensure the completeness and veracity of the document before signing it;
>
> 7. In determining whether a misrepresentation is material, regard must be had for the wording of the provision and its underlying purpose;
>
> 8. A misrepresentation need not be decisive or determinative. It is material if it is important enough to affect the process;
>
> 9. An applicant may not take advantage of the fact that the misrepresentation is caught by the immigration authorities before the final assessment of the application. The materiality analysis is not limited to a particular point in time in the processing of the application;
>
> [Numeration added; citations omitted.]

[20] In sum, misrepresentation can be direct or indirect, can result from actual statements or omissions, and must be material insofar as it could have induced an error in administering the IRPA. These principles are based on *Oloumi v Canada (Citizenship and Immigration)*, 2012 FC 428 at paragraph 12 and were more recently reiterated by this Court, notably in *Sikder* at para 25, *Falsafi v Canada (Citizenship and Immigration)*, 2024 FC 1458 at para 25 and *Afe v Canada (Citizenship and Immigration)*, 2023 FC 105 at para 9.

[21] For the reasons that follow, I am satisfied that the Officer's finding of misrepresentation is reasonable and that their reasons are sufficient, engaged appropriately with the evidence, and bear all the hallmarks of a reasonable decision.

(1) Did the Officer erroneously base their Decisions on the false premise that Ms. Rouamba answered negatively?

[22] Ms. Rouamba first argues that the Officer failed to consider that she answered truthfully to question 2b) by checking the positive box and argues that as such, the Decisions are based on the false premise that she answered "no" while she in fact answered "yes."

[23] I do not agree.

[24] An applicant's answer to the binary question on the Form must be viewed in parallel with the explanations they provide in the corresponding text box, or elsewhere in the application, for example in a separate explanation letter. Here, in her answer to the PFL, Ms. Rouamba asserts that the explanations she provided in the text box referred to both her Canada and US refusals. However, the specific wording of her explanations referred only to previous study permit refusals and therefore could not be reasonably interpreted as including her previous US refusals, which were visitor visas. In her further memorandum, counsel for Ms. Rouamba contends that her client referred only to her Canada visa refusals in the explanation box of the Form and disclosed her US visa refusals solely in her response to the PFL.

[25] As such, and while Ms. Rouamba answered positively to question 2b) on the Form, she made no reference whatsoever to her US visa refusals either in the required explanation box at

question 2d) or elsewhere in her application. The Officer acknowledged that Ms. Rouamba declared that she has been refused visas in the past — by checking the appropriate box — but concluded that she also failed to disclose her previous US visa refusals. I cannot find any shortcomings in this conclusion.

[26] Ms. Rouamba refers to the Court's decision in *Bedisse v Canada (Citizenship and Immigration)*, 2024 FC 1835 [*Bedisse*]. However, the facts of that case are different. In *Bedisse*, the applicant was upfront in his application about his past US visa refusal and specifically mentioned it in the explanation box at question 2d). Here, it is clear that the explanations provided in the Form refer only to Ms. Rouamba's previous study permit refusals in Canada and not her US visitor visa refusals.

[27] Contrary to what Ms. Rouamba argues, the questions on the Form are not "unclear" to the point where she "had to guess what details she needed to provide" in the text box. She argues that the Form should, "at the very least, clearly enumerate the details" an applicant is expected to provide. With respect, this argument is without merit. As already explained, this is not a case where the Officer was not satisfied with the level of detail provided in support of a positive answer to the binary question, like in *Bedisse*. Here, the Officer found that no detail whatsoever was provided in the explanation box regarding Ms. Rouamba's past US visa refusals and as such, that the information was not disclosed. In light of the evidence on the record, I find this conclusion reasonable.

[28] Ms. Rouamba also submits that the Officer failed to consider "the limitations of the online portal questionnaire" which allegedly allows for a "limited number of attachments."

Again, with respect, this argument is without merit. Applicants may submit additional documents during the processing of their application. Moreover, as the Officer noted, the Form explicitly advises applicants to print out an additional page containing the appropriate section should they need more space to provide details. Applicants can also disclose relevant facts in a separate letter attached to their application for the visa officer to consider. It is also obvious that there was enough space in the explanation box itself for Ms. Rouamba to at least mention that had been denied visas in the US. None of that was done by her.

[29] The other case law submitted by Ms. Rouamba also is of no help to her case.

[30] Ms. Rouamba refers to the Court's decision in *Sbayti v Canada (Citizenship and Immigration)*, 2019 FC 1296 [*Sbayti*]. However, the facts are, again, distinguishable. In *Sbayti*, there was a live issue as to whether the applicant had "ever been refused a visa or permit, denied entry or ordered to leave Canada or any other country or territory" since he was issued a voluntary departure order from the US. Here, it is not disputed that Ms. Rouamba was refused a US visa within the meaning of question 2b) of the Form.

[31] Ms. Rouamba also relies on *Singh v Canada (Citizenship and Immigration)*, 2021 FC 828 [*Singh*]. While I appreciate that the facts are similar to the case at hand, the only live issue in *Singh* was whether the visa officer reasonably considered the applicant's response to the procedural fairness letter (*Singh* at para 17). Here, Ms. Rouamba does not pretend that the Officer did not consider her response to the PFL and even if she did, I would have found that the Officer duly engaged with the explanation and evidence provided.

[32] Ms. Rouamba also refers to *Berlin v Canada (Citizenship and Immigration)*, 2011 FC 1117 [*Berlin*]. However, in *Berlin*, the applicant had disclosed the existence of his two adopted children from a previous marriage in his earlier application for refugee status, in his personal information form, and in other documents submitted with his spousal application for permanent residency. Here, Ms. Rouamba does not argue that she disclosed her US visa refusals elsewhere in her study permit application or in earlier applications or so that the information was available to the Minister.

[33] In sum, I find no shortcoming in the Officer's conclusion that Ms. Rouamba concealed her US visa refusals in her application.

(2) Did the Officer err in finding that the withholding of the US visa refusals was material?

[34] Ms. Rouamba submits that the Officer failed to consider the "immateriality" of the past visitor visa refusals in the US in the context of a student visa application in Canada. She argues that the Officer never explained how the refusal of a visitor visa to the US is relevant in the assessment of a student visa application for Canada.

[35] I do not agree.

[36] The wording of paragraph 40(1)(a) of the IRPA is very broad. Misrepresentation can be direct or indirect, can result from actual statements or omissions, and must be material insofar as it could have induced an error in administering the IRPA. To be material, a misrepresentation

need not be decisive or determinative. It will be material if it is important enough to affect the process (*Goburdhun* at para 28).

[37] In the case at hand, and contrary to Ms. Rouamba's submissions, the Officer explicitly stated that the missing information on previous refusals was material to assess Ms. Rouamba's previous travel experience, admissibility, and ties and ability to travel from and to her country of residence. I find that the Officer's materiality finding is reasonable and consistent with established law. The Court has consistently held that a past visa refusal can be relevant —though not invariably — to an inadmissibility determination as it may lead to investigations, interviews and verification that may not take place if the officer is unaware of the visa refusal (*Akinrinlola v Canada (Citizenship and Immigration)*, 2023 FC 1112 at paras 17–18; *Gill v Canada (Citizenship and Immigration)*, 2021 FC 1441 at para 30 [*Gill*]; *Muniz v Canada (Citizenship and Immigration)*, 2020 FC 872 at para 17 [*Muniz*]; *Mohseni v Canada (Citizenship and Immigration)*, 2018 FC 795 at para 41; *Goburdhun* at para 42). This is precisely what the Officer found here.

[38] Ms. Rouamba argues that the reasoning of the Court in *Gill* is applicable here. I do not agree. In *Gill*, Justice McHaffie found that the officer failed to adequately justify their decision as to the materiality of the omission. However, the reasons provided by the officer in *Gill* and by the Officer in the case of Ms. Rouamba are substantively different. I find that in the present case, the Officer adequately justified how the omission was material to the assessment of Ms. Rouamba's study permit application.

[39] As is the case for any applicant seeking to study in Canada, Ms. Rouamba had a duty of candour, but she failed to disclose in her application that she had previous US visa refusals. The omission to mention this fact in her application — even though it may not have been intentional — is important enough to affect the process before the Canadian immigration authorities, and it was open to the Officer to conclude that this amounted to misrepresentation of material facts pursuant to paragraph 40(1)(a) of the IRPA.

[40] The fact that the misrepresentation was caught before the final assessment of her application does not assist Ms. Rouamba. The materiality analysis of a misrepresentation is not limited to a particular point in time in the processing of an application and is not undermined by the fact the Canadian authorities caught the misrepresentation (*Ram v Canada (Minister of Citizenship and Immigration)*, 2022 FC 795 at para 24; *Muniz* at para 17; *Appiah v Canada (Citizenship and Immigration)*, 2018 FC 1043 at para 15 [*Appiah*]; *Kazzi* at para 39; *Goburdhun* at para 43; *Oloumi* at para 26). The omission was made, and the Officer could reasonably find that it was material. Indeed, the Officer reasonably determined that the explanations given by Ms. Rouamba in her response to the PFL and in her Request for reconsideration did not overcome the fact that she withheld information that could have induced an error in the administration of the IRPA.

[41] Ms. Rouamba finally argues that a five-year banishment from Canada is “illogical” since a visitor visa refusal for the US “has no bearing” on a student visa application for Canada. The five-year period of inadmissibility is provided for in paragraph 40(2)(a) of the IRPA. While understanding the consequences of a five-year period of inadmissibility for Ms. Rouamba and her schooling objectives, this is the consequence chosen by Parliament (*Wang* at para 33).

(3) Did the Officer fail to consider or apply the “innocent error” exception applicable to findings of misrepresentation?

[42] The innocent misrepresentation exception was explained as follows by Justice Luc Martineau in *Appiah* at paragraph 18:

> The innocent misrepresentation exception is narrow and shall only excuse withholding material information in extraordinary circumstances in which the applicant honestly and reasonably believed he was not misrepresenting a material fact, knowledge of the misrepresentation was beyond the applicant’s control, and the applicant was unaware of the misrepresentation. Some cases have applied the exception if the information given in error could be corrected by reviewing other documents submitted as part of the application, suggesting that there was no intention to mislead. Courts have not allowed this exception where the applicant knew about the information, but contended that he honestly and reasonably did not know it was material to the application; such information is within the applicant’s control and it is the applicant’s duty to accurately complete the application.
>
> [Citations omitted.]

[43] The circumstances at hand here fall in none of the categories recognized by the case law to apply the narrow “innocent representation” exception. There are no extraordinary circumstances. In this case, Ms. Rouamba knew about her past US refusals and admitted them in her response to the PFL. She had the means to be upfront and disclose that information initially with her application. The information was within her control.

[44] In her response to the PFL, Ms. Rouamba argues hat she did not have the intention to conceal relevant information for her visa application for Canada and that the omission was

unintentional on her part. I do not dispute that, but the Officer cannot be faulted for not having taken this element into consideration. There is simply no requirement that a misrepresentation be intentional, deliberate, or negligent, neither within section 40 of the IRPA nor in the jurisprudence on the matter (*Liu v Canada (Citizenship and Immigration)*, 2025 FC 1253 at para 10; *Del Pilar Capetillo Mendez v Canada (Citizenship and Immigration)*, 2022 FC 559 at para 20; *Bains v Canada (Citizenship and Immigration)*, 2020 FC 57 at para 63).

[45] It is true that in certain circumstances the failure of an officer to consider the innocent error exception can be a reviewable error. However, it is only where an error has been deemed unintentional that the decision maker must consider whether or not the error was not only honest but reasonable in order to determine if the innocent error exception applies (*Falsafi v Canada (Citizenship and Immigration)*, 2024 FC 1458 at paras 33–34; *Pal v Canada (Citizenship and Immigration)*, 2023 FC 502 at para 26; *Malik v Canada (Citizenship and Immigration)*, 2021 FC 1004 at paras 35–36; *Takhar v Canada (Citizenship and Immigration)*, 2022 FC 420 at para 21; *Alalami v Canada (Citizenship and Immigration)*, 2018 FC 328 at para 16 [*Alalami*]).

[46] In the case at hand, the Officer found that Ms. Rouamba "purposely withheld" her past US refusals. As such, the reasoning of the Court in *Alalami* at paragraph 16, applies *mutadis mutandis*:

> I accept all these propositions as a matter of law. The difficulty facing Mr. Alalami in advancing his position arises from the fact that the Officer did not accept his explanation that the omission of the US visa refusal was an unintentional oversight. If this explanation had been accepted, it may have been incumbent upon the Officer to consider the innocent error exception, to assess whether Mr. Alalami's belief that he was not withholding material information was not only honest but also reasonable, in light of the wording of the relevant question in the application form. However,

> the exception has no potential application in the absence of a conclusion that the error was indeed innocent. I cannot find that the Officer erred in failing to expressly consider the application of the exception when he or she concluded that Mr. Alalami had intentionally failed to disclose the US visa refusal.
>
> [Emphasis added.]

[47] Given their conclusion, I cannot find that the Officer erred in failing to consider the application of the "innocent misrepresentation" exception. In any event, I am of the view that the exception does not apply to Ms. Rouamba in the present circumstances.

IV. Conclusion

[48] For all these reasons, this application for judicial review is dismissed, as Ms. Rouamba has not demonstrated that the Officer's Decisions were unreasonable.

[49] There are no questions of general importance to be certified.

JUDGMENT in IMM-14508-24 & IMM-14496-24

THIS COURT'S JUDGMENT is that:

1. This application for judicial review is dismissed, without costs.

2. There is no question of general importance to be certified.

"Denis Gascon"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-14508-24 IMM-14496-24
STYLE OF CAUSE:	LARISSA P TEGAWENDE ROUAMBA v THE MINISTER OF CITIZENSHIP AND IMMIGRATION
PLACE OF HEARING:	MONTRÉAL, QUÉBEC
DATE OF HEARING:	AUGUST 20, 2025
JUDGMENT AND REASONS:	GASCON J.
DATED:	OCTOBER 10, 2025

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