



## EDITORIAL



by **Bart Kiewiet**,  
President of the CPVO

*I am proud that the first CPVO newsletter appears today as an additional tool to inform our stakeholders about important events and developments for both the CPVO and the system for which it is responsible. You could of course raise the question why it took more than 15 years for the CPVO to issue a newsletter. To be honest, I am not able to give a convincing answer. We could have done it before, since it was certainly not a lack of "news" or means that prevented us from doing so. But, as the saying goes, "better late than never".*

*As the contents of this newsletter show, it is not meant to replace other CPVO publications, especially the Gazette and the Annual report. Our objective with this newsletter is to provide information in a less formal setting than those publications. As it will be published twice yearly, we will be looking back no more than six months in principle. As a rule, events covered by the Annual report will not be repeated (the 2010 Annual report is already available electronically). For each newsletter, we will identify a subject on which we will give more extensive information. This time, the chosen subject is the recently launched quality audit system for examination offices.*

*I will finish this editorial with some good news. As the statistics show, the Community system is in good shape. Since the drop in 2009, the number of applications is somewhat on the rise. As the number of surrenders is relatively modest, the total number of protected varieties is constantly increasing as well. These developments have resulted in a financially healthy CPVO. For this reason, even though the examination costs have recently gone up, the re-adaptation of the examination fees will not be proposed, at least not for this year.*

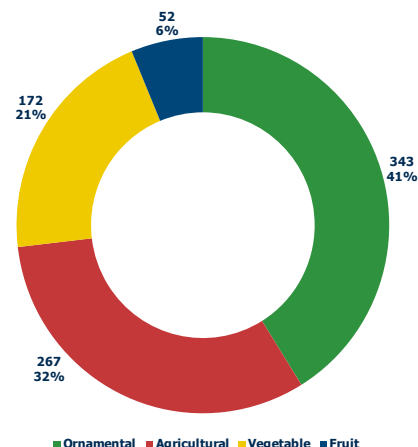
*I wish you a pleasant reading.*

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## General news

### • Application numbers at highest record ever in the 1st quarter 2011

During the first three months of the year 2011, the Office received 834 applications for Community plant variety rights out of which 343 (41%) were filed for varieties of ornamentals, 267 (32%) for agricultural crops, 172 (21%) for vegetables, and 52 (6%) for fruit. The total number of applications for the first quarter is the highest ever received. In 2008, the year the Office received the highest annual number of applications, "only" 700 applications were submitted by the end of March.



Ornamentals, usually counting for at least half of all applications have a lower share than expected; by contrast, applications for agricultural and vegetable varieties are scoring high.

[read more on the CPVO web site](#) >

### • Observers from breeders' organisations attended the AC meeting in February 2011

In order to improve transparency, the Administrative Council of the CPVO (AC) expressed, in October 2009, a favourable opinion on the attendance of observers from non-governmental organisations at its meetings for non-confidential items.

In March 2010, the AC adopted eligibility criteria for observership of non-governmental organisations in its meetings. Two of the key elements to be granted such status are (1) to have breeding companies as members and (2) to have the status of an international non-governmental organisations and deploy activities at the level of the European Union

on behalf of its members having a direct relationship with the Community plant variety protection system.

For the 1st time in February 2011, two representatives of the European Seed Association (ESA) and two representatives of the International Community of Breeders of Asexually Reproduced Ornamental and Fruit Plants (Ciopora) attended the public part of the meeting of the Administrative Council of the CPVO as observers. They will be joined, at the next meeting, by another breeders' organisation, Plantum NL, which has been granted observership in February 2011.

[read more on the CPVO web site](#) >

### • Visit of a high level delegation of DG SANCO on 22 February 2011



On 22 February 2011, a high level delegation of DG SANCO visited the CPVO. The purpose of this visit was to give new staff members of DG SANCO who will be dealing with plant variety protection issues, a clear view of the tasks and challenges of the CPVO. Furthermore, the possibilities of a future delegation of tasks from the Commission to the CPVO were explored. The delegation took the opportunity of this day to visit as well the testing station at Brion of the French examination office, GEVES.

## Focus on...

### Quality audit system for examination offices

*The Quality Audit Service is responsible for providing independent assurance on whether DUS examination work as the basis for the Community plant variety protection meets the expectations of the CPVO and its stakeholders.*

*Since the beginning of 2010, the CPVO runs a quality audit system that involves on-site visits at examination offices by an assessment team.*

*During such quality audits, an office demonstrates its competence in relation to the entrusted DUS work against a set of Entrustment Requirements. These are the criteria established by the CPVO that are used as indicators for a high quality service delivered in the framework of a contractual agreement.*

*The assessments are performed by teams that have a maximum of autonomy and that report directly to the Administrative Council of the CPVO, which ultimately takes the entrustment decision.*

*Audit teams consist of one or two technical experts, mostly from within the network of examination offices, and include the quality audit team leader employed by the CPVO. Arrangements for safeguarding the independence of judgement of these teams are laid down in the Entrustment Procedure Manual.*

*Until April 2011, a total of 13 audits have*

*been conducted. In a triennial cycle, all 27 entrusted examination offices in the EU will have at least one on-site visit. Past visits lasted between one and three days.*

*Depending on the number of trial sites and on the species within an office's scope of work, a sampling approach is adopted, with the aim to consider a representative cross section of the relevant activities. The countries covered so far include BE, CZ, DK, ES, HU, IT, NL, PL, PT and UK.*

*Activities initiated in response to audit observations comprised various measures to enhance the transparency of technical operations, acquisition of equipment, enhancement of cooperation efforts and alike. In some cases, offices chose to discontinue part of their testing work, as collaboration with other offices appeared a more economical option compared to the efforts needed for aligning the work with the entrustment requirements.*

*Objectives throughout the remaining audit activities of this first cycle will be to maintain a diversified team of currently thirty technical experts participating in the audits, to provide evidence of consistent auditing approaches and, ultimately, to achieve noticeable improvements in areas that are subject to concerns expressed by stakeholders.*

**Gerhard Schuon**

### • New contracts and remuneration scales for the DUS tests as from 1 January 2011

In 2008, the CPVO decided, in agreement with the examination offices performing the DUS tests, to reconsider their level of remunerations every two years. The negotiation for these remunerations is based on the real costs involved in the performance of the tests. As the last review dated from 2008, a new cost calculation exercise was launched at the end of April 2010, based on the average costs per group of species in the last three years (2007 to 2009).

The novelty of this 2010 exercise is the change in the structure of the cost group in response to a request from the examination offices that was validated by the Administrative Council of the CPVO. In January 2010, the CPVO convened a working group comprising representatives of examination offices, breeders' associations and CPVO staff. The outcome of this working group is a new list of cost groups to better fit the working methods and cost allocations of the examination offices.

The examination offices sent their cost forms according to this new structure. To certify the reliability of the reported figures, a panel of six examination offices were audited by an independent company. The certified figures then set up a proposal for new scales of remunerations for the examination offices. This proposal shows an average increase of about 9 % compared to current remunerations. Nevertheless, in some instances, the proposed level is considerably under the current costs level.

This proposal was approved by all examination offices in October 2010 and the new designation agreements (contracts) have been signed for two years as from 1 January 2011.

**An important point to be noted:** the level of examination fees invoiced to the applicants to the CPV system will not be increased until further notice. The present examination rates remain unchanged.

### > Participation in international fairs

The CPVO, together with the examination office of the country hosting the fairs (Naktuinbouw in the Netherlands, BSA in Germany and Geves in France), was present at several international trade fairs for plants in late 2010 and beginning of 2011 such as **Horti Fair** in the Netherlands (October 2010), **IPM** in Germany (January 2011) and **Salon du Vegetal** in France (February 2011). These fairs offer an excellent opportunity for the CPVO to promote the Community plant variety rights system, to meet its clients, to be informed on the latest developments in horticultural and plant breeding, and to enhance the close and efficient relationship with the examination offices performing the technical assessment of candidate varieties for Community plant variety rights.

### > The CPVO present at the EP together with 28 other European Agencies

In February 2011, 29 European agencies took the opportunity of a plenary session of the European Parliament in Brussels to explain what they do, why they exist and how they impact on the lives of Europe's 500 million citizens by supporting and implementing EU policies identified by the EU institutions and its Member States.

The exhibition highlighted the value and relevance of the European agencies which provide information and advice, develop know-how and expertise, oversee operations and support policy making to the European Union, its Member States and citizens across a broad range of policy areas such as plant variety rights.

To get more details on this exhibition, consult the News section on the [CPVO web site](#) or see the [European Agencies web page](#) on the Europa web site.

### > Public opening of the CPVO premises

In March 2011, the CPVO opened its doors for the 7th time to the public in the framework of 'Made in Angers'. The aim of this yearly event, organised since 2000 by the Angers' Tourist Information Center, is to promote the skills of participant businesses and craftsmen. The CPVO welcomed about 50 visitors, who showed a great interest in the activities of the Office as well as in the visit of the building, of which some outside and inner parts are classified by the Historical Monuments.



## • Evaluation of activities and functioning of the CPVO

The CPVO's financial regulation (Article 25(5)) and its implementing rules (Article 13(2)(b)) require a regular ex-post assessment of the activities of the Office, at least every six years.

The Office had already organized assessments of this type in the past: in 2001, the company Deloitte & Touche published the evaluation of the first five years of activities of the Office, and in 2005, a customer satisfaction survey, conducted by the French company IPSOS, showed a very positive feedback from the users of the services provided by the CPVO.

In 2009, a steering group composed of representatives of the major stakeholders of the Community plant variety rights system, designed the scope for a new evaluation.

The purpose of this evaluation was to assess the effectiveness and efficiency of the CPVO activities and its functioning. The evaluation covered three topics:

- core activities involved in the Community Plant Variety Rights granting process;
- CPVO secondary activities which include assistance in the exercise of plant variety rights as well as policy guidance provided;
- CPVO communication and relations with the stakeholders.

After a call for tender, the firm Ernst & Young was selected to perform the evaluation.

In September 2010, the final report of the "Evaluation of activities and functioning of the Community Plant Variety Office" was delivered to the President of the CPVO and is now available to its stakeholders on the CPVO web site.

The Office is pleased with the overall positive tone of the report and is currently studying the actions to be taken following the recommendations of the Evaluator.

[read more on the CPVO web site](#) >

## • Protocol with Naktuinbouw in respect of test reports of *Phalaenopsis* and *Doritaenopsis* varieties tested in Taiwan

Applicants for Community plant variety rights will benefit from closer co-operation between the Dutch examination office "Naktuinbouw" and the Taiwanese examination office.

According to the Protocol concluded between the CPVO and Naktuinbouw in March 2011, a plant variety of *Phalaenopsis* or *Doritaenopsis* already underwent an official technical examination by the Taiwanese examination office, Naktuinbouw will take these examination results on Distinctness, Uniformity and Stability (DUS) into account provided the DUS examination in Taiwan has started after 1 January 2010.

Naktuinbouw will re-grow the variety and produce a variety description under Dutch conditions. This means a substantial reduction in fees for applicants for Community plant variety rights for *Phalaenopsis* and *Doritaenopsis* varieties covered by this agreement: instead of 1 160€ for a complete technical examination, applicants will now only have to pay 750€ for the preparation of the variety description under Dutch conditions.

Likewise, the Taiwanese plant variety rights authorities give consideration to DUS examination results gained at Naktuinbouw.

[read more on the CPVO web site](#) >



## Forthcoming events

### > 25 May 2011 Enforcement seminar Hamburg, Germany

The CPVO is organising a seminar on the enforcement of Plant Variety Rights in Hamburg on 25 May 2011. This regional seminar aims at sharing information and experience relating to the enforcement of PVR in Germany and its neighbouring countries, in particular the Scandinavian and Baltic states.

[read more on the CPVO web site](#) >  
(online registration and programme)

### > 15 June 2011 Fruit open day Avignon, France

GEVES, INRA and CPVO are jointly organising a fruit open day in the INRA GAFL research unit at Avignon on 15 June 2011. This open day is aimed at breeders, their representatives and examination offices in charge of fruit DUS testing in the European Union. It will allow an exchange of views on essential aspects relating to fruit DUS testing.

[read more on the CPVO web site](#) >

### > 23 June 2011 Seminar "The impact of 15 years of CPVO activities" Angers, France

At the occasion of the retirement of its first President, Mr. Bart Kiewiet, the CPVO will organise a seminar on "the impact of 15 years of activities of the CPVO" on 23 June 2011 in Angers. The European Commission, the Hungarian presidency of the EU, the EU Member States and key personalities in the field of plant variety protection and in the field of the creation and use of new varieties as well as regional and local authorities will confirm the performance of the Community plant variety protection system managed by the CPVO since 1995.

## Legal affairs

### Public access to CPVO documents

The Office has always had a policy of transparency, providing breeders and the public with access to documents whilst at the same time, safeguarding interests where confidentiality must be taken into account. In 2010, the Office received 63 requests for documents. In 29 cases, the request was partly refused since the documents requested included confidential technical information or information of commercial interest. All requests received in 2010 related to documents kept in the files concerning applications for Community plant variety rights. Information on these rules and the form to be used when requesting access to a document are available on the [CPVO web site](#).

### • The Board of Appeal of the CPVO: state of affairs



Since 1996, 109 appeals against decisions of the CPVO have been lodged with the Board of Appeal and published in the Official Gazette of the CPVO. 63 % of the appeal cases concern ornamentals.

End March 2011, the CPVO has rectified 40 % of the contested decisions of the CPVO subject to appeal. The Board of Appeal has reached 49 decisions among which seven have been further appealed, in the first instance, to the General Court. Ultimately, two appeals against the decisions of the General Court have been lodged to the Court of Justice. At the moment, nine appeal cases are ongoing before the Board of Appeal.

[read more on the CPVO web site](#) >

### • The CPVO Case Law database

In order to facilitate access to case law from EU Member States and deciding bodies on Plant Variety Right issues, the CPVO created on 1 February 2007 its Plant Variety Rights case law database. This database consists of a compilation of cases combined with a search tool. Those cases are provided to the CPVO by so-called 'contributors' appointed in each Member State.

At the moment, the database contains around 150 cases from Member States but also from the Court of Justice of the European Union (General Court and Court of Justice), from the European Patent Office (EPO) and all the decisions taken by the Board of Appeal of the CPVO.

The database provides summaries of case law exclusively in English. It also provides the full text judgments in their original language. The documents supplied are not the official version of the decisions taken by jurisdictions within the EU (for the official texts, please directly consult the organisation which officially has taken the decision concerned).

This database is a growing system where data have- and will continue to - regularly be added. To access the CPVO database, please go to the [CPVO web site](#).

## Agenda

### Experts meetings

- > **Fruit species**  
16-17 June 2011 - Avignon, France
- > **Ornamental species**  
5-6 October 2011 - Angers, France
- > **Agricultural species**  
13-14 October 2011 - Angers, France
- > **Vegetable species**  
29-30 November 2011 - Angers, France

### > 21 new qualified members of the Board of Appeal of the CPVO have been appointed for the period 2011-2016

In order to deal with appeal cases, the chairman of the Board of Appeal shall select from a list of qualified members adopted every 5 years by the Administrative Council of the CPVO and composed of agronomists and legal advisors, two members who will act as "rapporteur" and as further member for the appeal procedures.

On 22 July 2010, the CPVO published a call for expression of interest to renew the posts of members of its Board of Appeal which were due to expire on 22 February 2011. The Office received 51 applications among which a list of 21 candidates (composed of 10 agronomists and 11 lawyers) was submitted to the Administrative Council of the CPVO which adopted it on 16 February 2011. The list of the qualified members is available on the [CPVO web site](#).

### > Case T-135/08: apple variety "Gala Schnitzer"

On 13 September 2010, the General Court annulled a decision of the Board of Appeal of the CPVO and thereby concurred with the Office's view that the Office has discretion to allow a second sample of plant material in the application procedure. The judgment of the General Court was appealed to the Court of Justice in November 2010 and a final decision can be expected in 2012. A detailed summary and the full text of the judgment can be found on the [CPVO database on PVR case law](#).



## Technical news

### • New technical protocols (TP's) in force

The Administrative Council of the CPVO has recently adopted new or revised technical protocols and associated technical questionnaires in the agricultural and vegetable sectors: Asparagus, Cabbage, Lettuce, Triticale, Wheat (revisions), and Curly Kale and Dill (new technical protocols). This brings the total number of technical protocols to 15 for agricultural, 26 for fruit, 45 for vegetable and 57 for ornamental crops. When filing an application for Community plant variety rights, applicants are requested to always use the latest form of the technical questionnaires which can be downloaded from the [Technical Protocols page](#) or the [Technical Questionnaires page](#) on the CPVO web site.

### • Cooperation in denomination testing

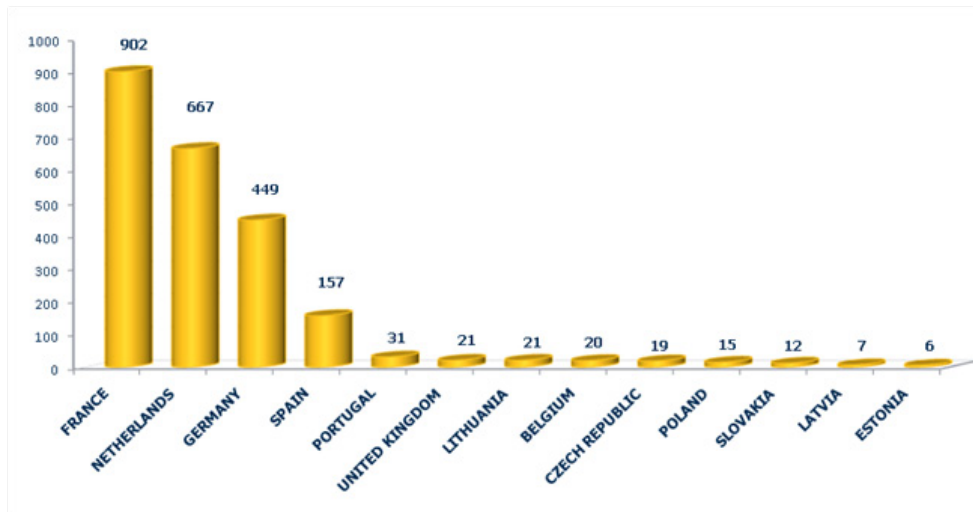
In February 2010, a new project of co-operation on denomination testing between the Member States and the CPVO was launched with the aim to reach a greater harmonisation of decisions as to the suitability of proposals for variety denominations in national plant variety rights, national listing procedures and at the level of the CPVO.

EU national authorities have today the possibility to ask for CPVO advice online as to the acceptability of their new denomination's proposal.

In 2010, more than 2 300 cases of advice were issued and some major EU countries used the system on a regular basis as illustrated in the chart below.

One year following the launch of the project, the CPVO is planning a meeting on 11 May 2011 in Brussels, in order to have a broad exchange of views with all stakeholders on the interpretation of the rules for suitability of variety denominations. Members States, breeders associations and the European Commission have been invited to this meeting.

[read more in the 2010 Annual report](#) >



### • Research & Developments projects update

In 2002, the Administrative Council of the CPVO decided to establish conditions and to adopt rules regarding the contribution from the CPVO to the financing of R&D projects considered to be relevant for the improvement of the quality and performance of DUS tests. At the moment, two projects are in progress and another two are in the follow up phase.

**Management of peach tree reference collections:** This project between the four project partners (ES, FR, HU, IT) began in the spring of 2008. The R&D is due to be concluded in the initial months of 2011 and a final report will be presented to the CPVO by the project coordinator (GEVES) in June 2011.

**A potential UPOV option 2 approach for barley high density SNP genotyping:** This project was presented by NIAB from the UK and the grant agreement was signed by the end of 2010. The project will start at the beginning of 2011 and is expected to take 12 months.

**European collection of rose varieties:** This project was finalised in 2006. As a follow up of this project, the CPVO is analyzing the different options to keep a DNA sample from the original plant material submitted for technical examination as well as the access to such samples, namely for management of reference collections, monitoring and enforcement purposes.

## Good Bye to...



**Ton Kwakkenbos**, one of the 'pioneers' of the Office, who shared his expertise in the ornamental field during more than 13 years and ended his work at the CPVO in March 2010.



**Eugenio Maiorini**, who joined the CPVO staff in 1999 and was one of the pillars of the Registry. He left the Office at the end of 2010.

Both were highly appreciated by all of us in the Office and we wish our colleagues every success in their new life.

## Welcome to...

**Laetitia Denécheau**, who followed in Ton's footsteps in September 2010.



*"I joined the CPVO as technical expert in the ornamental section, after working for 5½ years in the DUS department of the French examination office.*

*For me, this professional opportunity is the occasion to put my technical knowledge to the service of the European Union, to answer and to help our clients daily as best I can and to participate actively in the harmonization of the methods and the protocols between the examination offices and within the UPOV world, keeping in mind the reality of the field...*

*I also appreciate the hospitality of my colleagues in this multicultural atmosphere and I will make the most of all the contacts and the meetings I will have in my new activities. In a nutshell, I am very happy to be a new member of the CPVO staff!"*

**Construction of an integrated microsatellite and key morphological characteristic database of potato varieties in the EU common catalogue:** This project started in April 2006. The final report was received in spring 2008. Several conference calls were organized in 2010 with the project partners and ESA in order to agree upon the follow up of the project results and their implementation in the DUS test.

[read more in the 2010 Annual report](#) >

## IT developments

### • E-publications

Since February 2010 (Gazette 1.2010), the Official Gazette of the CPVO has been published electronically in PDF format, and is available free of charge on the [CPVO web site](#) of the Office. The S2 Gazette (annex to the Official Gazette

and listing the requirements for submission of plant material) has also been published in electronic format every two months together with the Official Gazette since October 2010.

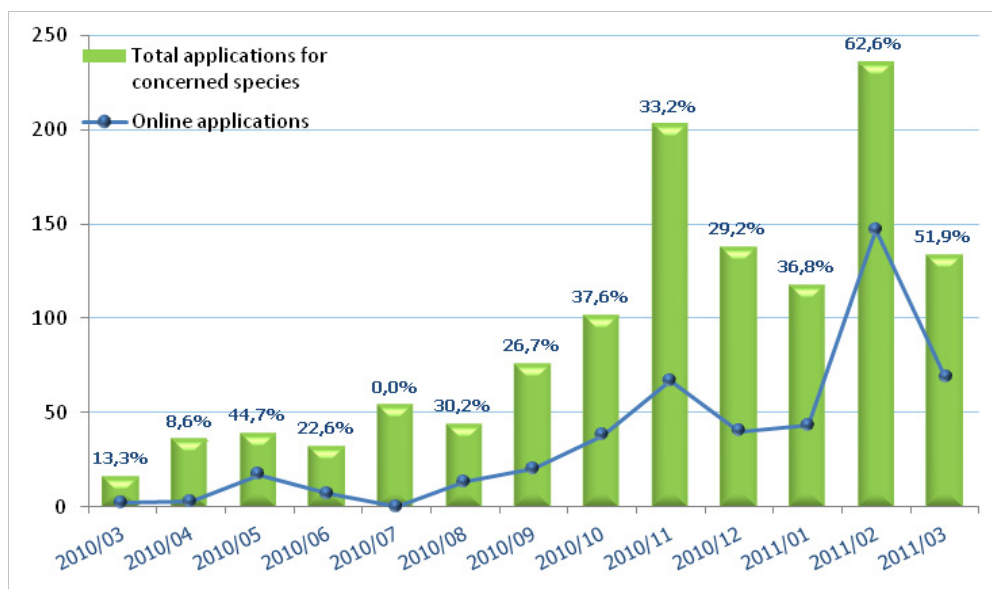
### • Online applications

In March 2010, the CPVO launched its online application system that allows applicants and procedural representatives to fill out electronic forms and send applications to the CPVO via its web site.

As of 1 April 2011, 52 technical questionnaires (TQs) are available for online applications, and the CPVO has received over 270 electronic

applications since 1 January 2011. Please check the [CPVO web site](#) for species which are eligible for online applications.

The following chart highlights the ratio of online applications compared to the total applications received for species eligible for online applications:



### • Official variety descriptions online

Since December 2010, all official variety descriptions for titles of protection granted after 1 January 2009 are downloadable for free from the [CPVO web site](#).



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## Publications

The English version of the 2010 CPVO Annual report is now available on the [CPVO web site](#). The French version will be released in June. To get a printed version of CPVO annual reports free of charge, please go to the [EU Bookshop](#).



*Special thanks to Martin Ekvad , Jean Maison, Gerhard Schuon and Laetitia Denécheau for their contribution to this Newsletter.*

**English proofreading**  
Deirdre Killeen

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