

## **Accountability For Corruption Of Village Funds By The Head Of Paridanggaran Village Toba Samosir Regency (Study Verdict Number: 55 / Pid.Sus-TPK/2018 / FR.Mdn)**

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### **Abstract**

Cases of abuse that occur in village fund management are carried out with various modus operandi such as drafting a budget above the market price and then paying based on other agreements, borrowing while the village fund by moving funds to a personal account and then not being returned. The formulation of the problem is how the village fund deviation by The Village Head of Paridanggaran, Toba Samosir regency, North Sumatra Province, how the accountability of perpetrators of village fund corruption in the decision of PN. Tipikor Number : 55 / Pid.Sus-TPK/2018 / FR.Mdn, how the basis of consideration of the judge handed down the verdict against the defendant in the decision of PN. Tipikor Number: 55 / Pid.Sus-TPK/2018 / FR.Mdn. The research method used is descriptive analysis that leads to normative juridical law research, namely research conducted by referring to legal norms, namely researching library materials or secondary materials. Secondary Data by processing data from primary legal materials, secondary legal materials and tertiary legal materials. The results showed that the deviation of village funds by the head of Pardinggaran Village related to village funds in 2016 Toba Samosir regency, North Sumatra province is the village fund budget that has been disbursed by the defendant Marhuarar Pangaribuan as the head of Pardinggaran village, but in carrying out activities using village funds not included other village officials, should be used to finance activities in accordance with the draft Paridanggaran village budget. Accountability perpetrators of corruption in the village Fund decision PN. Tipikor Number: 55 / Pid.Sus-TPK/2018 / FR.Mdn is Marhuarar Pangaribuan sentenced to prison for 2 years 6 months and a fine of Rp.50.000.000, - (fifty million rupiah).

**Keywords:** Accountability, Village Funds, Corruption

### **1. INTRODUCTION**

Corruption is a phenomenon that still requires more attention because it is an extraordinary crime whose impact is very detrimental to society. According to Law No. 20 of 2001 concerning amendments to Law No. 31 of 1999 concerning the eradication of corruption, corruption not only harms the state's finances, but also violates the social and economic rights of the community at large. National Development aims to realize the whole Indonesian people and Indonesian society as a whole that is fair, prosperous, prosperous, and orderly based on Pancasila and the 1945 Constitution. To realize a just, prosperous and prosperous Indonesian

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society, it is necessary to continuously improve efforts to prevent and eradicate criminal acts in general and corruption in particular.

The development process can lead to progress in people's lives, but it can also lead to changes in social conditions that have a negative social impact, in the form of criminal acts that unsettle the community. One crime that can be said to be phenomenal is corruption. This criminal act not only harms the finances of the state, but is also a violation of the social and economic rights of people.

Corruption crime in Indonesia still seems to be a trending topic and even a hot issue to be discussed. Corruption never ends. The community continues to be presented with a variety of existing news. Corruption as a phenomenon of deviation in social, cultural, social and state Life has been studied and critically examined by many scientists and philosophers. Aristotle, for example, from the beginning has formulated something called moral corruption.

Corruption cases have occurred in almost all government circles both at the central level to the village. Every effort has been made to prevent the occurrence of corruption but has not shown signs of success. With the government's allocation of village funds, it does not rule out the possibility of misuse of village funds by village government officials. The existence of the village is legally formally recognized in Law No. 23 of 2004 on local government and Law No. 6 of 2014 on the village. Based on these provisions, the village is defined as a village and customary village or referred to by another name, hereinafter referred to as the village is a legal community unit that has territorial boundaries authorized to regulate and manage government affairs, local community interests based on community initiatives, rights of origin, and/or traditional rights that are recognized and respected in the system of government of the unitary state of the Republic of Indonesia.

The understanding of the village above places the village as a government organization that politically has certain authority to manage and regulate citizens or communities. With this position, the village has a very important role in supporting the success of national government and national development at large. The village becomes the forefront in achieving the success of all Affairs and programs of the government The amount of the village fund budget received and managed by the village government must be the concern of various parties in the village to jointly supervise and manage it in accordance with applicable laws and regulations. This was done, due to the increase in village fund corruption cases that occurred in Indonesia since 2015 - 2019.

Village government in its implementation requires financial resources and village income. The source of village income is managed through the

village budget (hereinafter referred to as APBDes). Village financial management is carried out by the village head as outlined in the village regulation on the village budget. Village financial management guidelines in its management is guided by the regulation of the Minister of Home Affairs number 37 of 2007 on Village Financial Management Guidelines. Village finance according to government regulation in lieu of Law No. 2 of 2014 on Local Government are all rights and obligations in the framework of village governance that can be assessed with money including all forms of wealth related to the rights and obligations of the village.

The allocation of village funds (hereinafter referred to as ADD), which is now rolled out every year to all villages in its use, must be accountable. Financial accountability is an important dimension in the use of finance including ADD funds. This responsibility is given that the village that used to carry out development only received limited financial assistance and its management was still very simple, but after the village fund allocation policy was implemented today, the village received a considerable budget allocation and its management was carried out independently. Human resources that manage large finances must be prepared by the village head as the executor of village government.

In accordance with the provisions of Article 72 of Law No. 6 of 2014 concerning villages, village income sourced from the state budget or village funds sourced from Central spending is used to carry out programs and activities that have an impact on improving the welfare of the community but in fact not a few village funds are misused by unscrupulous village heads. This abuse is not due to ignorance of the implementation of Law No. 6 of 2014 on villages and regulations pelaksanaanya, but corruption is also related to the problem of moral attitudes, patterns of life and social culture, needs and economic systems, socio-economic environment, political culture, opportunities and family influence.

## **2. RESEARCH METHOD**

The type of research chosen is normative legal research that is research establish the law as a system of norms. The system of norms in question is about the principles, norms, rules and regulations. Peter Mahmud Marzuki that: 'normative legal research is a process of finding a rule of law, principles of law, as well as legal doctrines to answer legal problems faced. Normative legal research conducted to produce argumentation, theory or a new concept as a prescription in solving the problem at hand. research normative law is also called doctrinal legal research, namely research aimed at to provide a detailed systematic explanation of the rule of law governing the field of specific legal rules, analyze the relationship between the rules of law one denhan the other, explaining the elusive parts of a rule of law and it also includes predictions of the future development of a particular rule of law. Doctrinal legal research is library-based research whose focus is analysis of

primary legal materials. This type of research is based on the thought that this study to analyze a system of norms or rules.

### **3. RESULT AND ANALYSIS**

#### **A. Deviation Of Village Funds By The Head Of Pardinggaran Village, Toba Samosir Regency, North Sumatra Province**

Corruption has really become a real threat to the survival of this country because lately it has become more prevalent, especially with the emergence of news related to several individuals who take part in the executive, legislative and judicial accused of abuse of authority, embezzlement and extortion in office and taking bribes. Along with that, there is also the issue of criminalizing the handling of various criminal cases including corruption committed by law enforcement personnel, enlivening news about corruption in various print and electronic media and adding to the blurry face of law enforcement in this country.

Factors that led to the corruption of village funds by the head of Pardinggaran Village, Toba Samosir regency, North Sumatera province in the decision of Corruption Prevention number: 55 / Pid.Sus-TPK/2018 / FR.Mdn is:

- a) Benefit, Marhuarar Pangaribuan as the head of Pardinggaran village has made the disbursement or withdrawal of village funds that should be used to finance activities in accordance with the draft APBDes Pardinggaran village, in fact the funds are not entirely used by the defendant Mahruarar Pangaribuan to finance the activities in question. It is seen that there is no evidence of liability that can be shown by the defendant, among others: a. making fictitious accountability regarding receipts or expenditure bonds in Lumban Simangunsong irrigation canal construction activities , Huta Gurgur irrigation canal construction and Community Empowerment, b. enrich themselves or others or a corporation amounting to Rp 212.107.511, - (two hundred twelve million one hundred seven thousand five hundred and eleven rupiah), c. That the defendant MARHUARAR PANGARIBUAN as the head of Pardinggaran Village and the Village Financial Management Authority Holder did not make a report on the realization of the use of village funds at each stage was not equipped with all village receipts and expenditures supported by complete and valid evidence ; d. Village funds in 2016 amounted to Rp 582,181,000 (five hundred eighty-two million one hundred eighty-one thousand rupiah) , but disbursed Rp 561,931,000 (five hundred sixty-one million nine hundred thirty-one thousand rupiah) where the results of the expenditure made by the defendant MARHUARAR PANGARIBUAN are : • spending on materials/equipment Rp 166,621,000 • wages Rp 135,988,875 • TPK honorarium Rp 3,650,000 • consultant services RP 1,600,000 • BUMDes trainer fee Rp 9,000,000 Posyandu cadre

incentive RP 2,150,000 • VAT and income tax RP 30,408,614 • food and drink tax RP. 405.000 ----- the total amount is Rp 349,823,489. Funds that can not be accounted for Rp.212.107.511 ((two hundred twelve million one hundred seven thousand five hundred and eleven rupiah);

- b) The opportunity or means available to him or because of the position or position Marhuarar Pangaribuan as the head of Pardinggaran village has abused the authority, opportunity or means available to him because the position or position contains an alternative meaning, which means that the element of abusing the authority of dialternatifkan by abusing the means of the defendant because of his position or position. The element of abusing the authority of the opportunity or the means available to it because the position or position has a very close relationship with the element of benefiting oneself or another person or a corporation, abuse of authority, opportunity, or means is a way taken by the perpetrators of corruption to achieve the purpose of benefiting themselves or others or a corporation and vice versa the beneficial elements of dir itself or others or a corporation is a desired goal of the perpetrators of corruption committed by abusing the authority, opportunity, or means available to him.

Based on the testimony of witnesses and the defendant revealed the facts that the defendant Marhuarar Pangaribuan as Pardinggaran Village Chief together with Pardinggaran village treasurer has disbursed or withdrawn money from the village Treasury Account. The village fund budget that has been disbursed by the defendant Marhuarar Pangaribuan as the head of Pardinggaran Village together with the Pardinggaran village treasurer, but in carrying out activities using village funds not including other village officials, should be used to finance activities in accordance with the draft Apbdes Pardinggaran Village.

#### **B. Accountability perpetrators of corruption in the Village Fund decision PN. Tipikor Number: 55 / Pid.Sus-TPK/2018 / FR.Mdn**

The perpetrator of a crime, it may be subject to criminal sanctions or penalties. The imposition of the threat of punishment against the person who has committed a criminal offense, its nature is to provide a lesson so as not to repeat the evil deed and can return to a good society, in other words to be a good person.

According to Law No. 31 of 1999 jo. Law No. 20 of 2001 on the eradication of corruption, the form of sanctions that can be imposed on perpetrators of corruption is imprisonment and fines depending on the weight and qualification of the corruption committed. The threat of imprisonment varies imposed on perpetrators of corruption ranging from a minimum of 4 (four) years in prison and a maximum of 20 years in prison to

a maximum of life imprisonment. The threat of criminal fines also varies, ranging from a criminal fine of at least Rp.200.000.000, - (two hundred million rupiah) up to a maximum fine of Rp.1.000.000.000, - (one billion rupiah). (Article 2 Paragraph (2) of Law No. 31 of 1999 jo. Law No. 20 Of 2001 On The Eradication Of Corruption).

The village fund corruption committed by the defendant has fulfilled the elements of Article 2 Paragraph (1) jo. Article 18 of Law No. 31 of 1999 concerning the eradication of corruption as amended by Law No. 20 of 2001 jo. Article 55 paragraph (1) to-1 Criminal Code, namely:

- a) Each person is a natural person or corporation. The formulation of each person is not required certain properties that must be possessed from an actor. The perpetrator is any person (subject of law) as a supporter of rights and obligations, capable of taking responsibility for his actions. The non-criminal subject of corruption is any person who unlawfully commits acts of enriching themselves or other persons or corporations that may harm the finances of the state or the economy of the state Authentic interpretation of each person” in accordance with Article 1 Number 3 of Law No. 31 of 1999 concerning the eradication of corruption as amended by Law No. 20 of 2001 concerning amendments to Law No. 31 of 1999 concerning the eradication of corruption is an individual or including corporations, thus the meaning of each person includes each person or anyone as a legal subject supporting rights and obligations without regard to certain kualifikasi and in this case including corporations which are also included in one of the legal subjects supporting rights and obligations The determination of the element of each person is intended only to determine so that there is no error of the subject of law who is charged and prosecuted (error in persona) which in this case the defendant Muahuarar Pangaribuan as the head of Pardinggaran Village, therefore to determine the provenance of the element of each person, it is sufficient if it has been proven that it is true that the defendant is a legal subject of a person or legal entity as a supporter of rights and obligations. The defendant is a person or subject of law who has committed an act or Crime, guided by the dualistic teachings in the imposition of a crime, it must be further proved the existence of objective conditions of conviction, namely the proof of the elements of the act of the indictment article and subjective conditions related to the criminal responsibility of the defendant (strafbaarheid Based on the understanding of each person mentioned above, the juridical facts are true the defendant is Muahuarar Pangaribuan with identity in accordance with the defendant convey and listed in the minutes of the examination supported by the

testimony of witnesses and the defendant's testimony and evidence of letters that correspond with each other. Thus this defendant as an individual who has the name of Muahuarar Pangaribuan as the head of Pardinggaran Village is a legal subject supporting rights and obligations, so that it is included in the understanding of each person as referred to in this element so that the element of each person has been fulfilled.

- b) Against the law is the inclusion of the definition of an unlawful act formally or materially. Against the law formally means an act that violates / contradicts the law, while against the law materially means that even though the act is not regulated in legislation, it is against the law if the act is considered reprehensible because it is not in accordance with a sense of justice or the norms of social life in society, such as contrary to existing isitiadat, On the basis of clarification of Article 2 Paragraph (1) of Law No. 31 of 1999, as amended by law No. 20 of 2001, it was stated that what is meant by illegality in this article also includes unlawful acts in a formal and material sense, that is, even if the act is not regulated by law, if the act is considered reprehensible by society, it can be punished. In this provision ,the word" can " for the expression of harming the country's finances or economy indicates that corruption is a formal criminal offense, that is, the existence of corruption is sufficient to comply with the elements of the law formulated, not with the onset of consequences. Further, the general explanation of Law No. 31 of 1999 states: "in order to be able to achieve a different modus operandi from the increasingly sophisticated and complicated financial irregularities of the state or the country's economy, the offenses established in this law are formulated in such a way. to include the act of enriching oneself or another person or company "against the law" in a formal and material sense. Based on the wording, the definition of against the law in corruption can also include heinous acts that, according to the understanding of community law, must be prosecuted and punished. Corruption is defined as a formal crime. With the formal formulation adopted by this law, it is not necessary to prove whether the act has caused harm or not, it is enough if the act has met the elements of a criminal offense and the act has/could cause financial harm to the state. state or economy of the country. According to Umar Senoadji, he explained, the definition of against the law includes acts that are contrary to the norms of general morality or that are contrary to the necessity or decency in social life to act against other people, their goods and rights. As part of a criminal offense, in some cases the word against the law (injustice) is interpreted by jurists as contrary to the decency prevailing in society.

Based on the description of the notion of against the law as mentioned above, it can be concluded that the notion of against the law can be interpreted formally and materially, meaning that the act is said to be against the law when it is contrary to legislation or contrary to the norms of decency, propriety, prevalence or more concretely any act that is seen as reprehensible by the public. The Supreme Court is more inclined towards the application of material lawlessness in its positive function, but in the event that there are factors that can remove the unlawful nature of the act, it also applies its negative function. Based on the understanding against the law above is associated with the actions of the defendant Muahuarar Pangaribuan as the head of Pardinggaran village, as the holder of the Village Financial Management Authority which has the following basic duties: 1) Establish the general plan of procurement and announce the general plan on the notice board. 2) establish an activity Implementation Team (TPK). 3) supervise the implementation of the budget. 4) Submit financial statements in accordance with the provisions. 5) supervise the storage and maintenance of documents. Based on the facts of the trial obtained from the testimony of witnesses, letters, defendant's statement it is known that the defendant Muahuarar Pangaribuan as the head of Pardinggaran village together with having disbursed or withdrawn money from the village Cash Account, since June 20, 2016 s/d. on September 16, 2016, the total amount of money that had been disbursed or withdrawn by the defendant Muahuarar Pangaribuan as the head of Pardinggaran Village together with the Pardinggaran village treasurer from the village Cash Account through bank Sumut Balige Branch amounted to Rp.800.414.000.

- c) Enriching oneself means that by doing against the law the perpetrator enjoys increasing his own wealth or property. Enriching others means that as a result of the unlawful act of the perpetrator, there are other people who enjoy increasing their wealth or increasing their property and here the one who benefits is not the direct perpetrator. Enriching Corporation or who benefit from unlawful acts committed by the perpetrator is a corporation that is a collection of people or a collection of wealth organized either a legal entity or non-legal entity. The emphasis on enriching oneself or another person or a corporation within the scope of Article 2 Paragraph (1) of Law No. 31 of 1999 concerning the eradication of corruption lies in the significance or size of the material/object (state money) that is misappropriated. The more significant or the greater the state money that is misappropriated will be classified as an act of enriching themselves or other people or a corporation. According to the circular of the Supreme Court of the Republic of Indonesia number 3 of 2018 concerning the formulation of the results of the Plenary Meeting of the Supreme Court chamber as a



guideline for the implementation of tasks for the court to determine the threshold for enriching oneself, other people or corporations in Article 2 is a minimum of Rp.200,000,000.00 (Two Hundred Million rupiah).

**C. Basis For Consideration The Judge Handed Down The Verdict Against The Defendant In The Decision Number: 55 / Pid.Sus-TPK/2018 / FR.Mdn**

The public prosecutor's indictment is: indictment Primair:

- a) The defendant's actions are regulated and punishable by criminal penalties in Article 2 Paragraph (1) Jo. Article 18 paragraph (1) letter b Law No. 31 of 1999 on the eradication of corruption as amended by Law No. 20 of 2001 on the amendment to Law No. 31 of 1999 on the eradication of corruption Jo. Article 55 Paragraph (1) 1 Criminal Code
- b) Sub-Indictment. The defendant's actions are regulated and punishable by criminal penalties in Article 3 of Jo Article 18 paragraph (1) letter b of Law No. 31 of 1999 concerning the eradication of corruption as amended by Law No. 20 of 2001 concerning amendments to Law No. 31 of 1999 concerning the eradication of criminal acts of Jo. Article 55 Paragraph (1) 1 of the Criminal Code.

Criminal prosecution of the public prosecutor at the State Prosecutor's Office Pangkalan Kerinci as follows :

- a) Stating the defendant MARHUARAR PANGARIBUAN proven legally and convincingly guilty of corruption", who committed, ordered to commit or participate in committing, acts unlawfully enrich themselves or others or a corporation that harms state finances or the state economy, as in the indictment Primair we violate Article 2 Paragraph 1 (one) joint article 18 of the law no. 31 of 1999 as amended by law no. 20 of 2001 on the eradication of corruption
- b) Impose a criminal against the defendant MARHUARAR PANGARIBUAN with imprisonment for 4 (four) years, deductible as long as the defendant is in custody while the defendant's orders remain in custody and impose a fine of RP. 200.000.000, - (two hundred million rupiah) Subsidiar 6 (six) months imprisonment
- c) Charge the defendant MARHUARAR PANGARIBUAN to pay a replacement fee of Rp. 212.107.511 ((two hundred twelve million one hundred seven thousand five hundred and eleven rupiah), if within 1 (month) after the court decision that has obtained permanent force then his property must be seized for the state and if the defendant does not have sufficient property to pay the replacement money then the crime with imprisonment 4 (four) months.
- d) State the evidence enclosed in the case file.

- e) Charge the defendant to pay a case fee of Rp. 5.000, - (five thousand rupiah).

Based on the testimony of witnesses, testimony of the accused, letters and other evidence connected with each other have been obtained the following facts :

- a) The defendant as the head of Pardinggaran village who was appointed based on Toba Samosir Regent Decree Number 15 of 2016 dated January 8, 2016 concerning the ratification of the appointment of elected village heads in Tampahan Balige, Laguboti, sigumpar, Silaen, Habinsaran, Borbor, Uluan, Siantar Narumonda, Ajibata, Lumban Julu, Bonatua Lunasi, Porsea and Parmaksian districts.
- b) The duties and responsibilities of the village head are to organize the wheels of village government, assist or solve citizen problems and legal problems, carry out development in the village.
- c) The source of funds received by Pardinggaran village from 2016 from APBN for village funds, APBD for village funds allocation, tax and levy revenue sharing and Village original income.
- d) Pardinggaran village funds are accommodated on the account of the Balige branch of the Pardinggaran village government
- e) In 2016 the realized budget of Rp.800.414.000,-. Special budget of Rp. 582,181,000 for the implementation of autumn huta Irrigation Development and lumban simangunsong Irrigation Development.
- f) The defendant as the head of Pardinggaran village and the holder of the Village Financial Management Authority did not make a report on the realization of the use of village funds supported by complete and valid evidence with the following details : village funds in 2016 amounted to Rp. 582,181,000 but disbursed Rp.561.931.000. The results of expenditure made by terdakawa form Purchase of Rs.166.621.000 The work of Rp.135.988.875 Honor TPK Rp. 3.650.000 Consultant Services Rp.1.600.000 Bumdes coach costs Rp. 9.000.000 Posyandu cadre incentive Rp.2.150.000 VAT and Income Tax Rp.30.408.614 Food and drink tax Rp. 405.000 The total amount is Rp. 394.823.489 Funds that can not be accounted for Rp. 212.107.511.

Based on the demands of the Public Prosecutor, The Corruption Court at the Medan District Court Number: 55 / Pid.Sus-TPK/2018 / FR.Mdn which amar verdict as follows :

- a) States marhuarar PANGARIBUAN defendant mentioned above is not proven legally and convincingly guilty of committing a criminal offense charged in the indictment Primair
- b) Free the accused from the Primair charge ;

- c) Stated The defendant MARHUARAR PANGARIBUAN proven legally and convincingly guilty of " corruption" as in the indictment Subsidair;
- d) Impose a criminal to the defendant MARHUARAR PANGARIBUAN with imprisonment for 2 (two) years 6 (six) months and a fine of Rp. 50,000,000. 00 (fifty million rupiah) provided that if the fine is not paid, it must be replaced by imprisonment for 1 (one) month ;
- e) Charge the defendant MARHUARAR PANGARIBUAN to pay a replacement fee of Rp. 212.107.511.00 (two hundred twelve million one hundred seven thousand five hundred and eleven rupiah), if within 1 (month) after the decision of the court which has obtained permanent force then the property must be seized for the state and if the defendant does not have sufficient property to pay the replacement money then the crime with imprisonment 4 (four) months.
- f) Establish that the period of detention that the defendant has served is deducted in full from the crime imposed ;
- g) Ordered the defendants to remain in custody ;
- h) Establish the evidence enclosed in the case file.
- i) Charge the defendant to pay a case fee of Rp.5.000, - (five thousand rupiah).

#### **4. CONCLUSION**

Deviation of village funds by the head of Pardinggaran Village related to village funds in 2016 Toba Samosir regency, North Sumatra province is the village fund budget that has been disbursed by the defendant Marhuarar Pangaribuan as the head of Pardinggaran village, but in carrying out activities using village funds not included other village officials, should be used to finance activities in accordance with the draft Apbdes Pardinggaran Village. Accountability perpetrators of corruption in the village Fund decision PN. Tipikor Number: 55 / Pid.Sus-TPK/2018 / FR.Mdn is Marhuarar Pangaribuan sentenced to prison for 2 years 6 months and a fine of Rp.50.000.000, - (fifty million rupiah) provided that if the fine is not paid, it is replaced by imprisonment with the provision that if the fine is not paid, it must be replaced by imprisonment for 1 (one) month ; charging the defendant MARHUARAR PANGARIBUAN to pay a replacement fee of Rp. 212.107.511.00 (two hundred twelve million one hundred seven thousand five hundred and eleven rupiah), if within 1 (month) after the decision of the court which has obtained permanent force then the property must be seized for the state and if the defendant does not have sufficient property to pay the replacement money then the crime with imprisonment 4 (four) months.Basis of consideration the judge handed down the verdict against the defendant in the decision of PN. Tipikor Number: 55 / Pid.Sus-TPK/2018 / FR.Mdn is the defendant's actions have been in accordance with the legal facts revealed at the trial and all the elements in Article 2

Paragraph (1) jo. Article 18 of Law No. 31 of 1999 concerning the eradication of corruption as amended by Law No. 20 of 2001 jo. Article 55 paragraph (1) to-1 of the Criminal Code and there is no reason justifying and forgiving.

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