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# The Effectiveness of Administrative and Procedural Mechanisms for Protecting Business Rights in the Tax Sphere

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**ABSTRACT**

The article examines the peculiarities of the functioning of administrative procedural mechanisms for the protection of the rights of business entities in the tax sphere under the conditions of modern judicial reform and the development of administrative proceedings in Ukraine. The essence and significance of administrative procedural mechanisms as a system of legal instruments aimed at ensuring the realization of the business sector's right to effective protection in relations with supervisory authorities are analyzed. It is determined that the main mechanisms include administrative appeal against decisions of tax authorities, judicial protection within administrative proceedings, procedural guarantees during tax inspections, as well as mechanisms of evidence and enforcement of court decisions. Particular attention is paid to the analysis of the specific features of tax disputes, which are manifested in the high level of procedural formalization, the complexity of legal regulation, the need for specialized knowledge in the field of tax law, and the significant role of evidence in the process of protecting the rights of business entities. It is substantiated that the effectiveness of the protection of business rights largely depends on the accessibility, efficiency, effectiveness, and fairness of administrative procedural mechanisms. The paper identifies the main problems related to the realization of the right of business entities to protection in the tax sphere. Among them are lengthy consideration of tax disputes, excessive formalization of administrative procedures, inequality of procedural opportunities of the parties, overburdening of administrative courts, imperfections in legal regulation, and a low level of business trust in supervisory authorities. It is noted that the existence of such problems negatively affects the level of legal certainty, complicates the realization of the right to effective judicial protection, and creates additional obstacles to business activity. The study separately examines promising directions for improving administrative procedural mechanisms for the protection of business rights in the tax sphere. The necessity of simplifying administrative appeal procedures, reducing the time limits for dispute resolution, strengthening procedural guarantees of the parties, improving the mechanisms for enforcement of court decisions, and introducing digital technologies into the field of administrative proceedings is substantiated. It is established that the development of e-justice, electronic document management, and digital services will contribute to improving access to justice, increasing the transparency of supervisory authorities, and enhancing the effectiveness of judicial protection of the rights of business entities. It is concluded that the improvement of administrative procedural mechanisms for the protection of business rights in the tax sphere should be carried out comprehensively and aimed at ensuring a balance between the interests of the state in the field of tax control and guarantees for the protection of the rights of business entities.

**KEYWORDS**

administrative procedural law, protection of rights, business entities, corporate legal relations, administrative proceedings, economic activity, tax regulation.

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# Ефективність адміністративно-процесуальних механізмів захисту прав бізнесу в податковій сфері

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**СТАТТЯ**

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**АНОТАЦІЯ**

У статті досліджено особливості функціонування адміністративно-процесуальних механізмів захисту прав суб'єктів господарювання у податковій сфері в умовах сучасного реформування судової системи та розвитку адміністративного судочинства в Україні. Проаналізовано сутність і значення адміністративно-процесуальних механізмів як системи правових засобів, спрямованих на забезпечення реалізації права бізнесу на ефективний захист у відносинах із контролюючими органами. Визначено, що до основних механізмів належать адміністративне оскарження рішень податкових органів влади, судовий захист у порядку адміністративного судочинства, процесуальні гарантії під час проведення податкових перевірок, а також механізми доказування та виконання судових рішень. Особливу увагу приділено аналізу специфіки податкових спорів, яка проявляється у високому рівні формалізації процедур, складності нормативно-правового регулювання, необхідності спеціальних знань у сфері податкового права та значній ролі доказової бази у процесі захисту прав суб'єктів господарювання. Обґрунтовано, що ефективність захисту прав бізнесу значною мірою залежить від доступності, оперативності, результативності та справедливості адміністративно-процесуальних механізмів. У роботі визначено основні проблеми реалізації права суб'єктів господарювання на захист у податковій сфері. Серед них виокремлено: тривалі строки розгляду податкових спорів, надмірну формалізацію адміністративних процедур, нерівність процесуальних можливостей сторін, перевантаженість адміністративних судів, недосконалість нормативного регулювання та низький рівень довіри бізнесу до контролюючих органів. Зазначено, що наявність таких проблем негативно впливає на рівень правової визначеності, ускладнює реалізацію права на ефективний судовий захист та створює додаткові перешкоди для здійснення господарської діяльності. Окремо досліджено перспективні напрями удосконалення адміністративно-процесуальних механізмів захисту прав бізнесу у податковій сфері. Обґрунтовано необхідність спрощення процедур адміністративного оскарження, скорочення строків розгляду спорів, посилення процесуальних гарантій сторін, удосконалення механізмів виконання судових рішень та впровадження цифрових технологій у сферу адміністративного судочинства. Встановлено, що розвиток електронного судочинства, електронного документообігу та цифрових сервісів сприятиме підвищенню доступності правосуддя, прозорості діяльності контролюючих органів та ефективності судового захисту прав суб'єктів господарювання. Зроблено висновок, що удосконалення адміністративно-процесуальних механізмів захисту прав бізнесу у податковій сфері має здійснюватися комплексно та бути спрямованим на забезпечення балансу між інтересами держави у сфері податкового контролю та гарантіями захисту прав суб'єктів господарювання.

**КЛЮЧОВІ СЛОВА**

адміністративно-процесуальне право, захист прав, суб'єкти господарювання, корпоративні правовідносини, адміністративне судочинство, господарська діяльність, податкове регулювання.

## 1. Introduction

The current state of development of economic relations in Ukraine is characterized by the strengthening of the role of the state in the sphere of regulation of economic activity, in particular through tax control mechanisms [1]. The tax system is one of the key instruments for implementing the state's financial policy aimed at ensuring the budget, maintaining economic stability and fulfilling social functions [2]. At the same time, a significant procedural burden on business entities, the complexity of tax procedures and a significant amount of discretionary powers of controlling authorities lead to violations of the rights and legitimate interests of business entities. In the process of carrying out economic activities, enterprises and other business entities often encounter unlawful decisions, actions or inaction of state tax service bodies. The most common problems include unjustified accrual of tax liabilities, blocking of tax invoices, unjustified application of penalties, violation of inspection procedures, and delaying the process of administrative or judicial appeal. Such actions negatively affect the financial stability of businesses, create obstacles to the development of entrepreneurship and worsen the investment climate of the state.

In the context of reforming the public administration system, ensuring an effective mechanism for protecting the rights of business entities in the field of tax legal relations is of particular importance [3]. One of the main means of such protection is administrative procedural mechanisms, which include procedures for administrative appeals of decisions of regulatory bodies, judicial review of tax disputes, as well as a system of procedural guarantees for participants in administrative proceedings [4].

At the same time, the practice of applying administrative procedural legislation indicates the presence of a number of problems that reduce the effectiveness of protecting business rights [5]. Among them are the excessive duration of tax dispute consideration, the complexity of evidentiary procedures, the overloading of administrative courts, the ambiguity of judicial practice, and the insufficient effectiveness of mechanisms for enforcing court decisions [6]. In addition, the complexity of regulatory regulation of the tax sphere and regular changes in legislation create additional difficulties for business entities in exercising their right to protection.

In modern conditions, the issue of improving administrative and procedural mechanisms to ensure real, timely and effective protection of business rights is of particular relevance, which necessitates a comprehensive scientific study of the effectiveness of administrative and procedural mechanisms in the field of tax regulation, identification of the main problems of their functioning and development of practical proposals for their improvement.

## 2. Literature Review

The issues of administrative and procedural protection of business rights in the tax sphere were studied in the works of such domestic scientists as Yu. Bytyak, V. Averyanov, S. Kivalov, T. Kolomoyets, O. Paseniuk, M. Smokovich, S. Stetsenko and others, who considered both the general principles of administrative justice and the specifics of resolving tax disputes and protecting the rights of business entities in the field of tax legal relations. At the same time, the issue of the effectiveness of administrative and procedural mechanisms for protecting the rights of business entities in the context of modern transformations of the tax system and the digitalization of justice requires further comprehensive scientific analysis.

## 3. Problem Statement

The purpose of the article is to determine the effectiveness of administrative and procedural mechanisms for protecting business rights in the tax sphere and to develop proposals for their improvement.

## 4. Methods and Materials

The methodological basis of the study is general scientific and special legal methods of cognition. The work uses the formal legal method to analyze the norms of tax and administrative procedural legislation of Ukraine. Using the comparative legal method, European approaches to protecting the rights of business entities in the tax sphere are studied. The system-structural method is used to determine the structure of administrative procedural mechanisms for protecting business rights and their interconnection. The analytical method is used to generalize scientific approaches, judicial practice, and problems of law enforcement in tax disputes.

The materials of the study are the Constitution of Ukraine, the Code of Administrative Procedure of Ukraine, the Tax Code of Ukraine, judicial practice, and scientific works of domestic scientists.

## 5. Results and Discussion

Administrative and procedural mechanisms in the tax sphere cover a system of procedural means that ensure the implementation of the right to protection of business entities [4]. These include: administrative appeal of decisions of regulatory authorities; judicial protection in administrative proceedings; procedural guarantees during inspections; and mechanisms for ensuring evidence and enforcement of court decisions. Thus, the mechanisms operate within the framework of administrative and procedural law and are aimed at ensuring legality in the field of tax regulation. Business entities are active participants in corporate and economic legal relations, whose activities are directly related to the fulfillment of tax obligations established by the legislation of Ukraine. In the process of carrying out economic activities, enterprises, institutions, organizations and individual entrepreneurs constantly interact with regulatory authorities that carry out tax control, administration of taxes and fees, as well as verification of compliance with tax legislation. Such interaction is accompanied by the emergence of conflict situations related to decision-making by government bodies that may violate the rights and legitimate interests of businesses.

The protection of the rights of business entities in the tax sphere has a number of specific features due to the nature of tax legal relations and the features of administrative and procedural regulation [7].

It is worth noting that tax disputes are characterized by an increased level of formalization of procedures. Tax legislation contains a significant number of imperative norms that determine the procedure for submitting reports, conducting inspections, processing documents, deadlines for appealing decisions and other procedural features [2]. Even a minor violation of the established procedural requirements may be grounds for refusing to satisfy a complaint or claim. In this regard, business entities are forced to pay significant attention to the correctness of documentation and compliance with procedural deadlines.

Another important feature is the need for special knowledge in the field of tax law and administrative justice [8]. Tax legal relations are characterized by the complexity of regulatory regulation, a significant number of by-laws and constant changes in legislation. To effectively protect their rights, business entities must know the tax administration procedure, administrative and judicial appeal procedures, as well as the practice of applying legal norms by courts. That is why in most cases, businesses need professional legal assistance, which, in turn, increases financial costs.

The evidentiary basis is of great importance in tax disputes, since the outcome of the case largely depends on the appropriateness, admissibility and sufficiency of the evidence [9]. When considering cases, the court evaluates primary accounting documents, tax reports, inspection results, contracts, electronic documents and other materials that confirm the legality of the actions of the taxpayer or the supervisory authority. Insufficient evidence or improper preparation of it can negatively affect the possibility of restoring the violated rights of a business entity.

A feature of tax disputes is also a significant financial risk for businesses. Appealing tax notices-decisions is often associated with significant amounts of tax liabilities, penalties and fines. In addition to direct financial losses, negative consequences can manifest themselves in blocking business activities, deterioration of business reputation, loss of counterparties, or the threat of bankruptcy of the enterprise. In such conditions, an effective mechanism for protecting business rights is an important guarantee of the stability of business activities.

In the system of ensuring the rights of business entities, a special role is played by administrative justice, which performs the function of monitoring the legality of the activities of state authorities and ensures the restoration of violated rights of taxpayers [10]. Administrative courts verify the legality of decisions, actions, or inaction of authorities, ensure compliance with the principles of legality, equality of parties, the validity of decisions and the rule of law. Through the mechanisms of administrative justice, business entities are given the opportunity to appeal unlawful decisions of regulatory authorities and protect their property interests in the manner established by law.

The effectiveness of administrative procedural mechanisms for protecting business rights in the tax sphere is determined by the level of their ability to ensure real, timely and fair restoration of violated rights of business entities. The effectiveness of such mechanisms is assessed according to several criteria (Figure 1), which characterize the quality of the functioning of the system of administrative protection and administrative justice.

One of the key criteria is the availability of protection mechanisms, which consists of the ability of a business entity to exercise the right to administrative or judicial appeal of decisions of regulatory authorities. Accessibility implies the availability of understandable procedures for filing complaints and lawsuits, clarity of legislative regulation, the possibility of obtaining legal aid, as well as the absence of excessive financial or procedural barriers. The development of e-judicial proceedings and digital services that simplify access to mechanisms for protecting rights is also important [11;12].

An equally important criterion is efficiency, i.e., the timeliness of consideration of tax disputes. Effective protection of the rights of business entities is impossible without observing reasonable deadlines for administrative and judicial proceedings. Prolonged resolution of disputes negatively affects the financial condition of enterprises, complicates economic activity and can lead to the accumulation of losses. That is why the efficiency of the consideration of cases is an important guarantee of ensuring the rights and legitimate interests of businesses.

An important indicator of effectiveness is the effectiveness of protection mechanisms, which is manifested in the actual restoration of violated rights of business entities. This includes not only the adoption of a court decision in favor of the taxpayer, but also the actual implementation of such a decision, the cancellation of illegal tax notices, compensation for losses or the elimination of other negative consequences of unlawful actions of regulatory authorities.

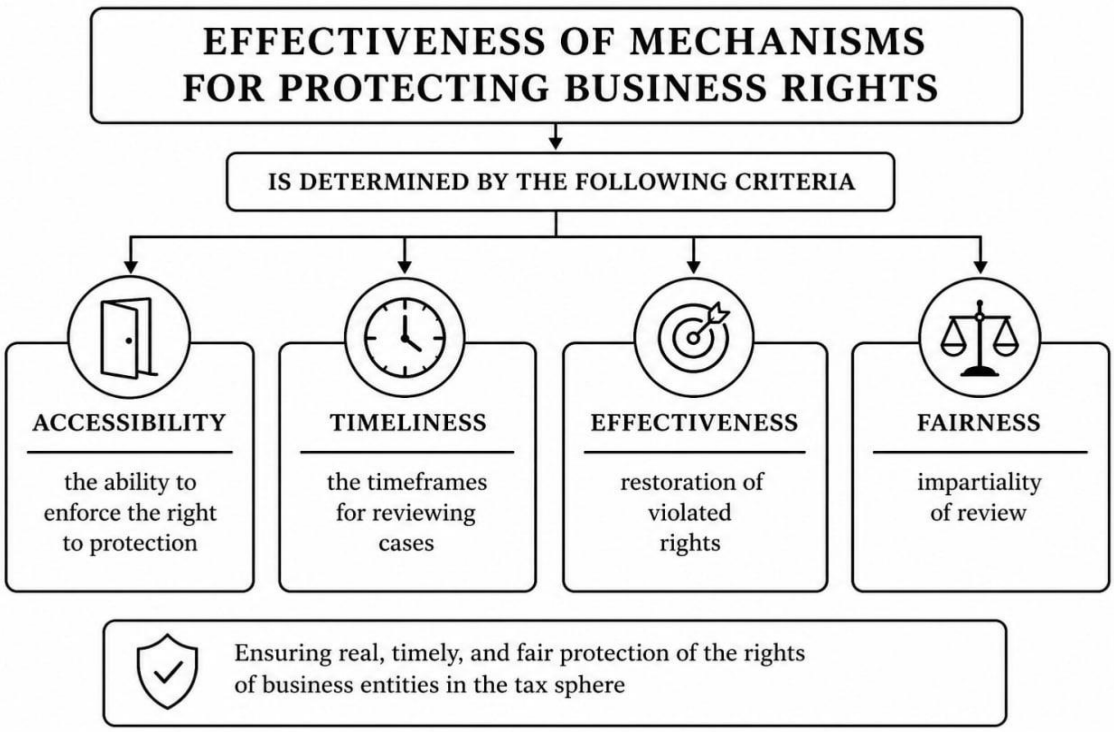


***Figure 1. Criteria for the effectiveness of business rights protection mechanisms***

*Source:* Built by the authors.

Particular attention should be paid to the criterion of fairness, which provides for an impartial and objective consideration of tax disputes. The implementation of this principle is ensured by compliance with the principles of the rule of law, equality of parties before the law and the court, independence of judges and adversarial nature of the parties. Fairness of administrative proceedings is a necessary condition for building business confidence in the judicial system and state institutions in general.

At the same time, the practice of applying administrative procedural mechanisms indicates the presence of a number of problems that negatively affect the effectiveness of protecting the rights of business entities in the tax sphere.

One of the most common problems remains the long-term consideration of tax disputes. Despite the procedural terms established by law, consideration of cases in courts is often delayed due to the complexity of disputes, the need to study a significant amount of evidence, postponement of court hearings and overloading of the judicial system. This creates an additional financial and organizational burden on businesses.

Another significant problem is the complexity of the procedures for administrative appeals of decisions of regulatory authorities. The procedures for filing complaints, preparing documents, and complying with procedural requirements are often overly formalized and complicated for business entities. The presence of a significant number of bureaucratic procedures complicates the exercise of the right to effective protection and requires the involvement of specialists in the field of tax law.

In practice, there is also inequality in the procedural capabilities of the parties in tax disputes. Supervisory authorities have significant administrative resources, access to information databases, and a professional staff of employees, while business entities do not always have sufficient financial and organizational capabilities to properly protect their interests. This situation may negatively affect the implementation of the principle of equality of parties in litigation.

A separate problem remains the overloading of administrative courts, which directly affects the timing and quality of case consideration. A significant number of tax disputes, an insufficient number of judges, and the complexity of certain categories of cases create additional difficulties in ensuring effective judicial protection.

At the same time, administrative justice in Ukraine demonstrates a positive trend in strengthening the protection of the rights of business entities. An important role in this process is played by the formation of a consistent judicial practice of the Supreme Court in tax disputes, which ensures the unity of law enforcement and increases the level of legal certainty. In addition, the development of electronic justice, the improvement of procedural legislation and the strengthening of the orientation of courts to the principle of the rule of law contribute to increasing the efficiency of administrative and procedural mechanisms for protecting business rights in the tax sphere.

The implementation of the right of business entities to effective protection in the tax sphere is accompanied by several problems of both a regulatory and practical nature. The presence of such problems negatively affects the stability of economic activity, complicates the interaction of businesses with state bodies and reduces the level of trust in the mechanisms of administrative and judicial protection.

One of the key problems is the imperfection of regulatory regulation, which is manifested in the presence of gaps, conflicts and ambiguity of legal norms in the field of tax legislation. The tax legislation of Ukraine is characterized by a significant number of regulatory legal acts, frequent changes and complexity of law enforcement. In many cases, individual norms of the Tax Code of Ukraine may be interpreted differently by regulatory authorities and courts, which creates legal uncertainty for business entities. In addition, the lack of clear mechanisms for implementing individual procedures or insufficient detailing of procedural aspects complicates the effective use of the right to protection.

A significant problem remains the formalism of administrative procedures, which is manifested in the complexity and excessive bureaucracy of the procedures for administrative appeals of decisions of regulatory authorities. Tax legal relations are characterized by a significant number of formal requirements for the execution of documents, compliance with procedural deadlines, submission of evidence and performance of other procedural actions. Even minor errors in documents or violations of procedural requirements can lead to a refusal to satisfy a complaint or claim. This level of formalization significantly complicates the exercise of the right to protection, especially for small and medium-sized businesses, which do not always have the opportunity to attract qualified lawyers or tax consultants.

An important problem is also limited access to effective protection of the rights of business entities. The exercise of the right to administrative or judicial appeal requires high financial and time costs. Business entities are forced to spend money on paying for professional legal assistance, court fees, conducting examinations, preparing evidence and participating in court hearings. In addition to the financial burden, a significant problem is the long-term consideration of tax disputes, which can negatively affect the financial condition of enterprises, lead to the blocking of economic activity and create risks of loss of business reputation.

The problem of the low level of trust in regulatory authorities and the tax administration system requires special attention. In practice, business entities often perceive tax authorities not as partners in ensuring the proper fulfillment of tax obligations, but as bodies whose activities are mainly aimed at applying penalties and fiscal pressure. The presence of cases of unfounded inspections, blocking of tax invoices, uneven application of legislation and delaying appeal procedures negatively affects the level of business trust in state institutions.

These problems negatively affect the effectiveness of administrative and procedural mechanisms for protecting business rights in the tax sphere. They create additional obstacles to economic activity, reduce the level of legal certainty and inhibit the development of entrepreneurship in Ukraine. In this regard, the need to improve regulatory regulation, simplify administrative procedures, ensure real access to justice and increase the level of transparency of the activities of regulatory authorities is of particular importance.

One of the main areas of improvement is the simplification of procedures for administrative appeals of decisions of regulatory authorities. Today, the administrative appeal procedure is characterized by a significant level of formalization, the complexity of drawing up procedural documents and the need to comply with a large number of procedural requirements. To ensure effective protection of the rights of business entities, it is advisable to reduce the number of bureaucratic procedures, simplify the procedure for filing complaints and unify the requirements for procedural documents. An important step can be the introduction of clear and understandable administrative appeal procedures that would ensure equality of parties and minimize the risks of refusal to consider a complaint on formal grounds.

An important direction of reform is ensuring the digitalization of administrative processes in the tax sphere. The use of modern information technologies allows for increasing the efficiency of interaction between business entities and regulatory authorities, to simplify access to administrative services, and to reduce the time spent on procedural actions [13]. Digitalization involves the introduction of electronic document management, the possibility of submitting complaints and procedural documents in electronic form, the automation of certain administrative procedures, and the development of electronic services for taxpayers. The use of digital technologies contributes to increasing the transparency of the activities of regulatory authorities and reducing corruption risks in the field of tax administration. The need to reduce the terms of consideration of tax disputes is of particular importance. The duration of administrative and judicial proceedings negatively affects the financial condition of business entities, creates additional risks for entrepreneurial activity and complicates the implementation of the right to timely protection. To solve this problem, it is advisable to improve the procedural mechanisms for considering cases, ensure the proper level of staffing of courts, and expand the possibilities of applying simplified procedures for considering certain categories of tax disputes. Reducing the terms of considering cases will contribute to increasing the efficiency of administrative proceedings and ensuring the prompt restoration of violated rights.

An important area for improvement is to strengthen procedural guarantees for the parties in tax disputes. Ensuring equality of the parties, adversarial nature of the process and a real opportunity to defend one's rights is a necessary condition for a fair trial. In this context, it is important to improve the mechanisms for securing evidence, guarantee the right to access case materials, ensure transparency of decision-making procedures by regulatory authorities and increase the level of justification of such decisions. In addition, it is important to strengthen the responsibility of officials of regulatory authorities for making unlawful decisions or violating the procedural rights of business entities.

An equally important area is to improve the mechanisms for enforcing court decisions in tax disputes. Even in the case of a decision in favor of a business entity, its actual implementation may be complicated or lengthy. Problems with the implementation of court decisions negatively affect the level of trust in the judicial system and reduce the effectiveness of judicial protection in general. In this regard, it is necessary to improve the procedures for the forced enforcement of court decisions, strengthen responsibility for their non-implementation and ensure effective control over the implementation of decisions by state authorities.

A special role in the process of improving administrative procedural mechanisms is played by the introduction of electronic justice. The use of electronic systems for submitting and reviewing documents, conducting court hearings in the videoconference mode, electronic access to case materials and automation of individual procedural actions contribute to increasing the accessibility and transparency of the judicial process. Electronic justice allows reducing the time and financial costs of the participants in the process, ensures the efficiency of communication between the court and the parties to the dispute and increases the efficiency of the functioning of administrative justice [11]. Thus, the improvement of administrative procedural mechanisms for protecting business rights in the tax sphere should be carried out comprehensively and include both the reform of regulatory regulation and the modernization of practical procedures for exercising the right to protection. The implementation of these areas will contribute to ensuring effective judicial control over the activities of regulatory bodies, increasing the level of legal certainty and creating favorable conditions for the development of economic activity in Ukraine.

## 6. Conclusions

Administrative and procedural mechanisms are a key tool for protecting business rights in the tax sphere. Despite the positive changes, their effectiveness remains limited due to a number of systemic problems. These mechanisms should be improved by reforming procedures, digitalization, and increasing the level of guarantees for business entities. Ensuring effective protection of business rights will contribute to the development of economic activity, strengthening trust in state institutions, and creating a favorable investment climate.

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