

Gibraltar and the Brexit referendum

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Abstract: When the British Government decided to hold a referendum on the UK's membership of the European Union (EU), which took place in June 2016, Gibraltarians participated in the vote by virtue of both the inclusion of the territory in the UK's membership when it joined the European Community in 1972 and also its participation in European Parliamentary elections from 2004. Following a united campaign, the residents of Gibraltar voted by nearly 96% to remain in the EU; but, by a small margin, the UK as a whole voted to leave. As a consequence, not only did Spain raise the issue of joint sovereignty over the territory, but more significantly Gibraltar's relationship with the EU had to be renegotiated by the UK and the EU, including cooperation with the Spanish Government. The final deal was agreed almost a decade after the referendum and is due to be signed and ratified by summer 2026. It remains to be seen if Gibraltar's new relationship turns out to be more advantageous than the old one.

Keywords: Brexit, European Union, Gibraltar, Leave, referendum, Remain, Spain, United Kingdom

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Introduction

Unlike the official referendum in Gibraltar in 1967 or the unofficial referendum in 2002, both of which focused on the issue of sovereignty, the referendum in 2016 was called by the UK government regarding its membership of the European Union (EU) and involved Gibraltarians because, when the UK joined the European Community (EC) under the Act of Accession 1972, Gibraltar was included in the UK's membership. This was confirmed in later versions of the EC Treaty, whereby Article 299(4) provides for the inclusion of European territories for whose external relations a member state is responsible (Treaty establishing the European Community). However, under Article 28 of the 1972 Act, Gibraltar was excluded from certain provisions, namely the customs union, the common commercial policy, the common agricultural policy, the common fisheries policy, and the VAT regime.

The UK's accession to the EC included representation in the European Parliament (EP). From 1958, it had been functioning with appointees from the Member States' national assemblies; but in 1976 the members of the EC agreed via the EC Act on Direct Elections that the representatives to the EP would in future be elected by direct universal suffrage (European Community Act on Direct Elections 1976). The Act was first applied to the elections in 1979, with the UK voting for 87 MEPs through 9 regional and 3 national (Scotland, Wales, and Northern Ireland) lists. However, Gibraltar was at that time excluded since Annex I to the Act states that "the United Kingdom will apply the provisions of this Act only in respect of the United Kingdom". This remained the situation until 2001, following the decision in 1997 by the European Court of Human Rights (ECHR) in the case of *Matthews v UK* in which a

Gibraltar resident argued that the exclusion of Gibraltar from EP elections was a breach of human rights. The ECHR upheld the claim, and the UK government accepted the Court's judgement (European Court of Human Rights, Application No. 24833/94, Denise Matthews against the United Kingdom). Spain challenged this decision at the EU Court of Justice, but the Court dismissed the action. Not surprisingly, when the UK sought unanimous acceptance of an amendment to the 1976 EC Act in order to incorporate Gibraltar, Spain objected; and so in November 2001 Gibraltar was enfranchised through legislation in the UK parliament (European Parliament (Representation) Act 2003). This placed Gibraltar in a unique position in Europe, as the only dependent territory of an EU member state in mainland Europe entitled to vote in EP elections. Although Gibraltar had been part of the EU since 1972, it had never sent representatives to the UK parliament in London and had never participated in a UK-wide referendum. If it had not enjoyed participation in European Parliamentary elections from 2004, it is possible (given its exclusion from the 1976 EC Act) that its electorate would not have been included in the 2016 UK EU membership referendum (commonly referred to as Brexit). What happened in the EP elections prior to 2016, therefore, is pertinent to the referendum in question.

Gibraltar and the European Parliament elections

Under the European Parliament (Representation) Act 2003, Gibraltar was to be combined with an existing electoral region in England and Wales to form a new electoral region ("the combined region"). The rationale for creating the combined region lay in the fact that the average electorate in the electoral regions in the UK was 3.7 million, while the electorate in Gibraltar is around only 20,000. Following consultation by the Electoral Commission with the Governor and Chief Minister of Gibraltar, the leader of each political party in Gibraltar's House of Assembly, and more widely through a public consultation paper, a media campaign and a public meeting in Gibraltar, it was decided that Gibraltar would join with the South-West region of the UK for the purposes of elections and representation to the EP. This decision was based on historical and maritime links, plus the feeling that MEPs representing the south-west's diverse communities and interests could be best placed to take on board the distinct concerns of Gibraltar (European Parliament (Representation) Act 2003). As this incorporation of Gibraltar was already established for the EP elections, it was logical when the EU membership referendum was called, therefore, for Gibraltar to participate as part of the combined region with the South-West of the UK.

In the first EP elections involving Gibraltarians in 2004 the turnout was 57.5% in Gibraltar. Although this was nowhere near the figures that the Rock experienced in its referendums, it was considerably higher than the 37.8% for the South-West electoral region as a whole. Over 70% of the Gibraltarian vote went to the Conservative list in the Combined Region, with Labour support at under 10% (House of Commons Research Paper 04/50, 23 June 2004). This was largely due to the voters' reaction to the 2002 Labour government's proposal to share the sovereignty of Gibraltar with Spain, a proposal roundly rejected in an unofficial referendum held in that year (Ballantine Perera, 2026).

Gibraltar was involved in two further sets of EP elections, in 2009 and 2014. In 2009, the turnout was only 34.2%, below the figure of 38.8% for the region as a whole. There was a marked swing away from the Conservatives, with support going in more or less equal measure to Labour and the Liberal Democrats, although the Conservatives still received over 50% of the vote. Significantly, the UK Independence Party (UKIP), which stood for withdrawal from the EU, received only 1.4% of the votes in Gibraltar, the lowest of any council unit involved in the election. This was a clear indication of things to come in the 2016 referendum (House of Commons Library Research Paper 09/53, 17 June 2009). In 2014, the results profile changed significantly, with the Liberal Democrats receiving 67% of the votes in Gibraltar, albeit on a

turnout in the territory of just under 33%. The Liberal Democrat vote rose thanks not only to the inclusion of a Gibraltar resident on their regional list of candidates, Lyana Armstrong-Emery of the Liberal Party of Gibraltar, but also (as the most pro-European of the political parties in Westminster) their opposition to the possibility of the UK's withdrawal from the EU, which was already in the offing. It was clear that, of the main political parties in the UK, the strongest moves towards withdrawal were coming from the Conservatives, and this would explain their loss of support in Gibraltar in 2014. Once again UKIP, which across the UK increased its support and was the largest party with 27.5%, received the smallest percentage of the vote in Gibraltar of any council unit (House of Commons Library Research Paper 14/32, 11 June 2014).

The UK Government plans to hold a referendum on EU membership

Gibraltar's concern about the possibility of withdrawal stemmed from the promise given by the then UK Prime Minister, David Cameron, in January 2013 to hold a referendum on membership of the EU if the Conservative Party won the next general election. This promise stemmed from the perceived need to keep on board the Eurosceptic wing of his party (which he thought would be defeated in the referendum) and to appeal to the wishes of the minority (as he believed) of the electorate who were anti-EU. Cameron's plan was to renegotiate the UK's membership of the EU, convinced that the electorate would find the outcome to their liking. The Conservatives duly won the election in May 2015. The results of the renegotiation (which did not include discussion of the status of Gibraltar) were announced in February 2016 and so the "in/out" referendum, confirmed in Cameron's 2015 victory speech, was set for 23 June 2016 (*The Guardian*, 20 February 2016). This would be the first time that Gibraltar would take part in any UK-wide referendum as it did not participate in either the original 1975 EC Referendum or the 2011 Alternative Vote Referendum on voting reform, since it does not send representatives to the UK Parliament. Following the calling of the referendum in London, Gibraltar's Chief Minister, Fabian Picardo, made a statement in which he said:

There is no reasonable alternative for Gibraltar to the certainty of membership of the EU via our relationship with the UK. Even with all its faults, the EU has been an important driver of the prosperity we enjoy in Gibraltar today" (HM Government of Gibraltar Press Release No. 74/2016, 22 February 2016).

The conduct for the holding of the referendum in Gibraltar was defined by its own European Union (Referendum) Act 2016, which implemented the UK's European Union Referendum Act 2015. According to Section 2 of the 2015 Act: Entitlement to vote in the referendum, in both Acts voting was extended to Irish citizens (following the Common Travel Area agreement of 1923) and resident Commonwealth citizens (a hangover from the British Nationality Act of 1981) (BBC News, 20 May 2016). The result of the referendum would technically be non-binding, as the Westminster parliament exercises sovereignty over all policy decisions, but Cameron had promised to respect the result. There was a ten week campaign (15 April to 23 June 2016) in both the UK and Gibraltar, during which the slogan of the official Remain group in the UK and Gibraltar was 'Britain Stronger in Europe', while 'Vote Leave' was the official slogan of the group calling for withdrawal. A range of other interest groups were also involved in campaigning and, despite the official positions of the two main parties (Labour for Remain and the Conservatives neutral), MPs were free to campaign for either side. The main issues included the economic costs and benefits of membership, sovereignty, freedom of movement, and migration.

The British media understandably focused on the Remain and Leave campaigns in the UK, but there was some coverage in the UK (and more widely) of how the referendum might affect Gibraltar. For example, former British Foreign Secretary William Hague argued that leaving the EU would have a serious impact on Gibraltar's economy and could well embolden Spain to return to its former hostile approach to the territory (*The Telegraph*, 11 May 2016). Before the campaign was fully underway, Gibraltar Chief Minister Fabian Picardo had been interviewed for the BBC Daily Politics Show, Sky News, BBC World Service radio, the Press Association and Agence France-Presse. There was also coverage in *The Times* and the Bloomberg website (HM Government of Gibraltar Press Release, 18 March 2016). Later he took the opportunity through a column in the *Daily Express* to put Gibraltar's case to voters in the UK. He concluded:

I would not dare to tell you how to vote in the coming Referendum. But I would ask that you spare a thought for Gibraltar when you are in the voting booth. Leaving the EU would severely challenge our economy (*Daily Express*, 12 June 2016).

A week before the vote, *The Guardian* published an article headed 'The Rock of remain: why Gibraltar is rejecting Brexit' which concentrated on the effects of withdrawal on Gibraltar's economy but also recognised the pressure that would ensue from Spain on the issue of sovereignty (*The Guardian*, 16 June 2016).

The referendum campaign in Gibraltar

In Gibraltar, the campaigning was heavily in favour of Remain from the outset. The Chief Minister and leader of the Gibraltar Socialist Labour Party (GSLP), Fabian Picardo, confirmed that "the referendum on EU membership had united the Rock's politicians", that "voting to remain is the right choice for Gibraltar" and that "the losses with a leave vote far outweigh any benefits" (*Gibraltar Chronicle*, 12 April 2016). The other main parties also supported remaining in the EU. The Deputy Chief Minister and leader of the Liberal Party of Gibraltar (LPG), Joseph Garcia, stated: "The position that the Liberals and our partners in the GSLP have taken is to campaign for the UK and Gibraltar to remain in the EU" (*Gibraltar Chronicle*, 5 January 2016). The leader of the Gibraltar Social Democrats (GSD), Daniel Feetham, "welcomed the deal negotiated by the UK with other European states and said it would campaign alongside the Gibraltar Government for Britain to remain within the EU" (*Gibraltar Chronicle*, 21 February 2016). The 'Gibraltar Stronger in Europe' campaign, led by the Chair of the Gibraltar Federation of Small Businesses, was officially launched on 12 April 2016, having taken over premises the previous day on Main Street (*Gibraltar Chronicle*, 11 April 2016). Gibraltar politicians also travelled away from the Rock to meet with like-minded UK representatives, such as the excursion by two leading members of the GSD to Brussels in mid-April to meet with a Conservative MEP, Julie Girling (*Gibraltar Chronicle*, 20 April 2016).

The reasons for this united approach to the referendum in Gibraltar were outlined after the referendum had been held by the Chief Minister in supplementary written evidence to the House of Lords EU Committee following their meeting on 13 December 2016 (House of Lords European Union Committee 13th Report of Session 2016–17, 1 March 2017). He argued that Gibraltarians were concerned that a vote to leave would result in Spain pressing its sovereignty claim (which did indeed come to pass), so that the referendum was about sovereignty in addition to other issues. Second, he pointed out that "Gibraltar is in the continental mainland, and our ancestry is very much a blend of European nationalities", such as Malta, Genoa, Spain and Portugal. "Europe is very much part of our history, culture and collective DNA", he wrote. This clearly differentiated Gibraltar's attitude towards Europe from many British voters, who

had frequently been equivocal about seeing themselves as keen Europeans (Ipsos, 22 June 2016). Third, he argued that, since Gibraltar was not part of the Customs Union or Schengen, “the people of Gibraltar have over the years come to see the EU as providing a degree of protection against the excesses of a hostile neighbour through the application of EU law”. This applied in particular to issues relating to the border between Gibraltar and Spain. Finally, he referred to the issue of EU funding, which had amounted to a total of £60m over 16 years, which he described as a significant amount in the context of Gibraltar. All of these factors would require resolution in the negotiations that would follow from the referendum result.

On 17 May 2016, the Gibraltar Government published a 12-page colour brochure entitled ‘Why you should vote to REMAIN in the European Union’. It emphasised the united position of the party leaders, including past Chief Ministers, and argued that “our successful economic model is built on our EU membership”. It warned of the uncharted waters, the “years of uncertainty and potential economic disruption” and the threatening reaction to Gibraltar from Spain that would be caused by its leaving the EU. Other positive aspects of membership were underlined in the pamphlet, including security, peace and stability that were part of the EU’s *raison d’être*; the freedom of movement of people; access to EU institutions and funding; protection of standards, workers’ rights, and the environment; plus the benefit of being able to call on the EU Commission to protect Gibraltar from some of Spain’s more aggressive tactics at the border crossing. It concluded with a mock ballot paper at the end and a cross in the Remain box (HM Government of Gibraltar Press Releases, 17 May 2016).

Pro-Brexit campaigners from a Grassroots Out delegation from the UK, which included a Conservative MP and a UKIP MEP, failed to make much impression when they held a public rally in Gibraltar “with just a smattering of curious onlookers stopping to listen” (*Gibraltar Chronicle*, 12 April 2016).

On a visit to Gibraltar in mid-April, Sir Simon Hughes, former deputy leader of the Liberal Democrats in the UK, urged Gibraltarians to use their contacts on the UK to argue for a remain vote (*Gibraltar Chronicle*, 16 April 2016). The following month, there was a visit from UK Foreign Secretary, Philip Hammond; he saw Brexit as a big threat “to Gibraltar’s future security and Gibraltar’s future sovereignty” (*Gibraltar Chronicle*, 12 May 2016) on the grounds that it would lose the cooperation of EU law enforcement agencies and Spain would press for a change in Gibraltar’s sovereignty status. Not for the first time he, like other ministers, reiterated the UK Government’s commitment to uphold Gibraltar’s right to self-determination and its wish to remain British. In a show of unity, the photocall just before he flew back to the UK showed the Foreign Secretary standing behind a ‘Stronger In’ campaign banner, flanked by Gibraltar’s three political party leaders and representatives from the community (the three largest unions, Federation of Small Businesses and Chamber of Commerce were all Remain advocates). During the visit, the Chief Minister underlined his concern that a vote to leave the EU would result in Spain once again raising the joint sovereignty proposal:

Something upon which those who advocate Brexit should reflect is that they don’t just say in Spain that our rights in Europe would come to an end ... but also that if we want to continue to have access to European Union rights we would have to consider the concept of joint sovereignty, which would be back on the table.

So ironically somebody who believes they are being patriotic and supporting Gibraltar, by voting to leave the European Union, will be bringing about actually Gibraltar having to face, once again, the prospect of joint sovereignty with Spain, something which most of the friends of Gibraltar in the Brexit side of the argument

fought tooth and nail against at the time it was last tabled by a Labour government... (*Gibraltar Chronicle*, 11 May 2016).

The visit of the incumbent Foreign Secretary indicated recognition by the UK government of the importance of the Brexit vote for the future Gibraltar. So too did a flying visit by the UK Prime Minister, David Cameron, a week before the day of the vote, despite the Spanish Prime Minister Mariano Rajoy's objections (BBC News, 16 June 2016). It may well have been built into the PM's schedule in order to counteract noises coming from Madrid about revisiting the idea of the joint-sovereignty proposals that had prompted the unofficial 2002 referendum (*Gibraltar Chronicle*, 17 June 2016). Even leading Leave campaigners like the MP Liam Fox, who also visited Gibraltar during the campaign, was concerned that the UK Government should make it clear "that, whatever the referendum result, the UK will fully back the sovereignty and security of Gibraltar – the message must be completely unequivocal" (BBC News, 16 June 2016).

The referendum vote

The question put was: "Should the United Kingdom remain a member of the European Union or leave the European Union?". Polling stations in Gibraltar were open from 7am to 10pm, with a steady turnout throughout the day, peaking between 9am and noon (*Gibraltar Chronicle*, 23 June 2016). The number of people registered to vote in Gibraltar was 24,117 (*Gibraltar Chronicle*, 23 June 2016) out of a resident population in the 2012 census of 32,194 (HM Government of Gibraltar: Census of 2012). With a figure of 20,174 people who went to the polls (*Gibraltar Chronicle*, 23 June 2016), it had the highest percentage turnout (83.6) of any of the 382 counting areas (House of Commons Library Briefing Paper Number CBP 7639, 29 June 2016).

When the votes were counted, Gibraltar (as the smallest area) was the first to declare its result, with the highest percentage of Remain voters (95.9) of any area; the next highest Remain figure was 78.6% (Lambeth in London). However, the UK at large, on a 72% turnout, voted 51.9% to 48.1% to leave the EU (House of Commons Library Briefing Paper Number CBP 7639, 29 June 2016). Clearly, given Gibraltar's geopolitical situation, its residents were far keener to retain the status quo and their current relationship with the EU than any part of the UK. There was understandable disappointment and concern in Gibraltar at the result of the vote, with the sense that Gibraltar had been "dragged" into leaving the EU, with its voice "drowned out" in the surge of support for the 'Leave' campaign (*Gibraltar Chronicle*, 25 June 2016). Given the referendum result, the UK Prime Minister, David Cameron, resigned immediately.

On the sovereignty claim, Spain used the opportunity of the Brexit decision to raise the issue of sovereignty soon after the vote, and more formally to table a proposal at the United Nations in October 2016 for joint Spanish-UK sovereignty over Gibraltar. It would provide for joint UK-Spanish nationality for Gibraltarians, the removal of the border between Gibraltar and Spain, and a special status for Gibraltar within the EU (United Nations General Assembly Official Records 25 October 2016; Verdú Baeza, p. 131). Spain argued that, since the Gibraltar economy is based on the financial services sector, tourism and online gaming, these depend in large part on access to the EU's single market. The proposal was swiftly rejected by both the UK and Gibraltar governments (*The Guardian*, 6 October 2016); but it was quite clear that Spain saw the Brexit decision as an opportunity to press on the sovereignty issue, just as it had done during the campaign and just as had been predicted.

Post-referendum issues

In answer to a written parliamentary question in early July 2016, the UK Minister of State for Europe, David Lidington, said that “ensuring a well-functioning Gibraltar-Spain border is one of our top priorities” (UK Parliament, 6 July 2016). In the following month, the new UK Prime Minister, Theresa May, reassured Gibraltar’s Chief Minister to the effect that “there will be no immediate changes in Gibraltar’s circumstances, neither in the way people travel nor how services are sold” (HM Government of Gibraltar Press Release, 25 August 2016). These were important commitments given that, according to a House of Commons research briefing, over ten thousand frontier workers crossed the border into Gibraltar every day (House of Commons Research Briefing, 27 November 2024, p. 15). However, Gibraltar also wanted to retain access to the Single European Market, arguing that in relation to its main economic sectors, the loss of access would be “a severe blow to the Gibraltar economy” (House of Commons Research Briefing, 27 November 2024, p. 15).

One restraining factor as far as Spain’s attitude to post-Brexit Gibraltar was concerned was the economic importance of the Rock to the neighbouring region of Andalusia, the Campo de Gibraltar. Using figures from three years prior to Brexit, Gibraltar’s Chief Minister gave details in written evidence to the House of Lords (House of Lords European Union Committee 13th Report of Session 2016–17, 1 March 2017) regarding Gibraltar’s contribution to the Campo economy, including the level of imports by Gibraltar businesses (€381m); the percentage of jobs in the Campo supported by Gibraltar’s economy (24%); earnings by Spanish and other frontier workers in Gibraltar (€265m); purchases by Gibraltarians in Andalusia (almost €100m), plus a further €90m by Gibraltarians with second homes in the region; Gibraltar is the second largest employer for the whole of Andalusia. Clearly on the basis of this data, the population of the Campo (and of Andalusia more widely) depended on the ready access of Gibraltarians to the neighbouring Spanish territory and of Spaniards to the Rock.

The question was how best to resolve the border issue to the satisfaction of all parties. Brexit meant withdrawal from the Single European Market, and however much Gibraltar would have liked a special arrangement that would have enable it to remain within it, Spain would never have agreed. Indeed, the European Council (Art. 50) guidelines for Brexit negotiations made it clear that: “After the United Kingdom leaves the Union, no agreement between the EU and the United Kingdom may apply to the territory of Gibraltar without the agreement between the Kingdom of Spain and the United Kingdom” (European Council of the European Union Press release, 29 April 2017, para. 24)

The final version of the protocol on Gibraltar as part of the UK withdrawal agreement was implemented when the UK left the EU at the end of January 2020 (House of Commons Research Briefing, 27 November 2024, p. 17). It covered issues relating to the guaranteeing of citizens’ rights, maintaining the status quo in relation to the airport, cooperation on taxation, environmental issues, and coordination on police and customs matters, particularly on tobacco. Certain additional matters required bridging arrangements agreed in December 2020 until a new Gibraltar-EU agreement was reached, covering healthcare, driving licences and road haulage (House of Commons Research Briefing, 27 November 2024, p. 20). Negotiations for a UK-EU agreement on Gibraltar-EU relations began in October 2021 and owing to delays caused by – amongst other things – general elections in both Spain and the UK – it was not until June 2025 that an agreement was reached relating to the core aspects of a future formal treaty on Gibraltar between the EU and the UK.

The agreement, once ratified, would remove all checks and controls on people and goods circulating between Spain and Gibraltar and work towards a customs union between Gibraltar and the EU. However, passenger arrivals in Gibraltar would be checked by both Gibraltar authorities and Spanish authorities on behalf of the EU, as Gibraltar would not join the

Schengen area. This meant that immigration, policing, and justice would remain Gibraltar's responsibility (House of Commons Library Insight, 19 June 2025). One other important area that required clarification was the UK's military facilities in Gibraltar and the agreement confirmed that there would be no change in the operation of the military base, with the UK retaining full operational autonomy (*Hansard*, 12 June 2025). From June 2025, negotiating teams from the EU, UK and Gibraltar worked to finalise the full legal text of the agreement (House of Commons Library Insight, 19 June 2025), which was achieved in December (*Gibraltar Chronicle*, 17 December 2025). The final signature and ratification of the treaty will happen by summer 2026.

Conclusion

Given that the Brexit referendum resulted in the UK's withdrawal from the EU, the first involvement of Gibraltarians in a UK-wide referendum ended in initial disappointment, since the outcome was the opposite of what the overwhelming majority of its residents had voted for. That said, whatever the overall outcome across the UK was likely to be, the vote in Gibraltar was highly unlikely to affect the decision to remain or leave. The votes cast in Gibraltar represented 0.06% of the total votes cast, and even in the South-West region the Gibraltar votes constituted only 0.6% of the total. Referendums confined to the territory itself in 1967 and 2002 had a more decisive influence on determining Gibraltar's future. However, it is possible that the almost unanimous wishes of the Gibraltarians to remain in the EU had some influence on the UK-EU negotiations that followed the 2016 result.

The final outcome for Gibraltar of the vote on leaving the EU 10 years after the referendum is, at the time of writing, almost complete. Gibraltar has had to adapt to a new relationship with the EU, when clearly its residents would have preferred to stick to the status quo. Ironically, as an article in the Spanish national newspaper *El País* commented on 31 December 2020:

[Gibraltar] could be more integrated in the EU now that it is out of it than when the UK was part of the bloc, given that it was not part of Schengen, nor the customs union or the common market.

With important safeguards in place, particularly in relation to sovereignty, its relationship with the UK, and the military facilities, only time will tell as to whether, given its geographical location, the new relationship with the EU suits Gibraltar better or worse than the old one. But it is certainly the case that, despite the strong reservations held in the territory before and during the referendum campaign, as a consequence of the outcome of the referendum, Gibraltar now finds itself economically closer to the EU than ever before in its history.

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