



# Turkey's Istanbul New Airport:

occupational safety and health  
violations and the high cost to  
workers' lives



ITUC CSI IGB International Trade Union Confederation

# Introduction



On 14 September 2018, about 10,000 construction workers working for over 500 subcontractors began a spontaneous and peaceful protest at the Istanbul New Airport (INA). This was not the first time the workers had protested to complain about unhealthy conditions, a dangerous work environment and grossly inadequate welfare facilities.

Construction at the INA started in May 2015 under a consortium of Turkish construction companies called Istanbul Grand Airport (IGA). IGA was formed on 7 October 2013 by Cengiz Construction, Mapa Construction, Limak Construction, Kolin Construction and Kayon Construction (a.k.a. the Cengiz-MAPA-Lemak-Kolin-Kalyon Consortium). Each member of the consortium has a twenty per cent (20%) share in

IGA. The consortium started operation on 3 May 2013 after the General Airport Authority of Turkey (DHMI) awarded them the contract to construct and operate the INA. The agreement between the State (under the authority of GHMI) and the IGA was signed on 19 November 2013. The contract was awarded under a tender bid worth about EUR 22 billion. The IGA will operate the INA after the construction is completed. The award of the construction and operation contract to IGA is said to be the biggest BOT (Build Operate and Transfer) project in Turkey and a legacy project for the Turkish government. The government opened the first phase of the project on 29 October 2018, a record time far exceeding timeline expectations for such a project<sup>1</sup>.

<sup>1</sup> President Recep Tayyip Erdogan is reported to have stated in Parliament on 30 October 2018 a day after the opening that New Istanbul Airport was completed in 42 months while airport construction in Germany, the most developed country in Europe, was still going on. See <https://www.azernews.az/region/140057.html>

The poor working conditions and incessant pressure of work to meet or beat project timelines combined to create a mix of an unsafe and unhealthy work environment and excessive working hours resulting in serious and imminent danger that threatened the lives of workers, especially subcontracted workers, and in some cases resulted in workplace injuries and deaths. The food and accommodation were substandard, leaving workers fatigued and ill prepared for their arduous work. The workers responded with complaints, protests and a spontaneous demonstration.

The IGA, the principal contractor of the construction project and operators of the new airport, had engaged protesting workers and their representatives, Dev Yap Is of the Confederation of Progressive Trade Unions (DISK), whenever the persistent concerns of workers went unaddressed and led to disputes and protests as a result. About six months before the September incident, the workers had protested again and presented demands covering, among others, the illegal two-part payment of workers' salaries split into a visible minimum wage component paid into the bank and a cash-in-hand component paid at the discretion of the employer with implications for wage theft, social security and pension benefits. The workers noted that many of their colleagues who had suffered injuries that have resulted in permanent disabilities are being paid low social security because of this practice. Also, the workers demanded to eat the same food as the foremen to address their concerns of stale, expired and poorly prepared food, and to eat in the same cafeteria as the foremen to address their concerns of long queues and delays during lunch. They demanded an end to increasing workplace deaths due to poor occupational safety and health (OSH) standards and lack of a preventive OSH culture, the payment of all unpaid wages, the resolution of lengthy waits in frequently hostile weather for shuttle buses to take workers from dormitory accommodation to the work site, the regular cleaning of toilets for the workers, that workers housing and dormitories should be rid of bedbugs, other vermin and insanitary conditions and the protection of workers who raise welfare and OSH concerns from victimisation and unfair termination.

These concerns of the workers, many of which had persisted over the three years of the first phase of the project, were not resolved contrary to claims by IGA. Moreover, a raging public debate on the number of workers who had died working on the new Istanbul airport project resulted in the Presidential Communications Centre (CIMER) having to provide the official death record as 52 in December 2018. However, the CIMER figure was about twice the previously admitted official fatality estimate for the site<sup>2</sup>.

This was the context of the events of 13 September 2018. On that day, there was an accident involving the shuttle buses. Workers had complained persistently about the unsafe conditions on the shuttle with workers overcrowded on the buses and having to use the spaces on the back of the bus left for bags. Witnesses claimed that seven workers had been injured and four had died as a result, although the official report said there had been just one death. The serious and imminent daily danger faced by the workers from the dormitory, to the shuttle, to the construction site was so worryingly present that it led to protestations and agitation on the morning of 14 September 2018 when the workers again faced transportation delays without protection from the harsh weather conditions. From about 2,000 workers, the number of protesting workers soon grew to about 10,000 due to the genuine problems conceded by the IGA chief executive Kadri Samsunlu in October 2018 media interviews<sup>3</sup>.

Contrary to the usual practice, this time the management of IGA and the other subcontracted firms failed to engage the workers' representatives to address the concerns of the workers. Instead, security forces and the gendarmerie were called in to break up the peaceful protest. The security crackdown continued on the night of 14 September 2018 when security forces attacked the dormitory of the workers. The violent action came despite workers, many of whom were in bed and dressed in night clothes, offering no resistance. The forces kicked doors open, harassed workers and arrested about 600 of them, placing about 401 of them in custody. Some

<sup>2</sup> The Ministry of Labour, responsible for labour inspections and records of occupational deaths and injuries, had given a figure of 27 deaths – far underreporting the incidents. There are no known official records for on-site occupational injuries.

<sup>3</sup> See comments of IGA CEO at <https://ahvalnews.com/third-airport/istanbul-3rd-airports-chief-executive-admits-workers-were-right-protesting>.

more workers were arrested at the workplace on 15 September 2018 after the security forces had perused pictures and WhatsApp messages of those arrested colleagues.

The workers were criminally charged with violating the freedom to work of about 32,000 workers, embarking on a demonstration without notifying the authorised union, going on strike contrary to Law No. 2911 on Meetings and Demonstrations, Law No. 6356 on Trade Unions and Collective Labor Agreements and the Constitution of Turkey, resisting the police and damaging property.

On 19 September 2018, 43 of the arrested workers were brought before a court. 24 of the workers were placed under pretrial detention and 19 were bailed under terms including a travel ban and reporting to the police station twice a week.

On 5 October 2018, Ozgur Karabulut, the president of Dev Yapi-Is, the construction workers union of the Confederation of Progressive Trade Unions of Turkey (DISK), a workers' representative recognised by the principal contractor (IGA) to represent the interest of the subcontracted workers<sup>4</sup>, was arrested for making a non-violent address to the workers on 14 September 2018 in performing his duty as a workers' representative. By 5 October 2018, about thirty-one (31) workers and unionists were in pretrial prison at Silivri prison.

The 31 workers were released on bail on 7 December 2018 under strict judicial control pending criminal trial.

The criminalisation and securitisation of labour matters by the Turkish Authorities and the IGA on this matter without consideration for labour standards and human rights of the workers violates the international labour standards and human rights obligations of the government of Turkey. According to the workers, OSH-related protests occur regularly on construction sites and more easily attract the attention of the police to stop them and not to defend the safety of the workers.

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<sup>4</sup> The recognition of Dev Yap Is is permitted under international labour standards. It is applicable to circumstances of subcontracting where the union cannot demonstrate membership among the workers of the principal contractor but has membership among the workers of the subcontracts and has their permission to represent their collective interests. This is done through a voluntary agreement with subcontractors or the principal contractor (see para 1413 and 1414 of the compilation of decisions of the CFA of the ILO).

# Istanbul New Airport construction



## International labour standards and the obligations of the government of Turkey

The government of Turkey has ratified all eight fundamental conventions of the International Labour Organization (ILO) including the Freedom of Association and Protection of the Right to Organize Convention (C. 87) and the Right to Organize and Collective Bargaining Convention (C. 98) which were ratified in 1993 and 1952 respectively. In addition to the fundamental conventions, Turkey has ratified three out of four governance conventions and 48

technical conventions including the Labour Inspection Convention (C. 81) ratified in 1951; Labour Clauses (Public Contracts) Convention (C. 94) ratified in 1961; Protection of Wages Convention (C. 95) ratified in 1961; Termination of Employment Convention (C. 158) ratified in 1995; and Workers Representative Convention (C. 135). With specific reference to occupational safety and health, Turkey has ratified the Occupational Safety and Health Convention (C. 155) ratified in 2005; the Promotional Framework for Occupational Safety and Health Convention (C. 187); and the Safety and Health in Construction Convention (C. 167). Turkey, as a member of the ILO, ought also to be guided by the relevant recommendations of the ILO including the Workers' Housing Recommendation (R115).

These conventions and recommendations, including other international human rights instruments, enjoin the government of Turkey to protect workers in law and practice.

## - Occupational safety and health obligations

Turkey, as a ratifying member of the framework OSH conventions of the ILO and the sectoral OSH instrument on construction, has general and specific obligations in law and practice. The combined effect of these conventions requires the government to adopt a human rights approach to OSH legislation and enforcement, prioritising the protection of the workers before any other consideration. The OSH conventions apply to all workers and employers including the principal contractor, other contractors and subcontractors in the construction sector and enunciates a right to safe and a healthy working environment for all workers including subcontracted workers. The workers are enjoined to remove themselves from serious and imminent danger at work<sup>5</sup> flowing as well from the right to life, health and a safe working environment under the International Covenant for Economic Social and Cultural Rights (ICESCR). To guarantee the right to life, health and a safe work environment through OSH, the combined effect of the conventions oblige the government to develop a preventive culture of occupational safety and health based on a national policy and legislation adopted through tripartite consultations with adequate and appropriate recording, inspections, enforcement and sanctions provisions and review mechanisms.

The government of Turkey has come under the scrutiny of the Committee of Experts of the Application of Conventions and Recommendations (CEACR) of the ILO on the application of Convention 155, for example. One of the key preventive measures for OSH is the establishment of OSH committees. However, under the Occupational Safety and Health (OSH) Act No. 6331, not all enterprises are obliged to set up these committees. The CEACR noted the absence of this obligation in law and practice though the government has pointed out that under section 7 of the notification on the qualifications of worker

representatives concerned with OSH (No. 28750 of 2013), enterprises are obliged, in the absence of OSH committees, to assign a worker representative to play the role of the OSH committee. Additionally, the Regulations on OSH Risk Evaluation (No. 28512 of 2012) gives workers and their representatives the right to participate in OSH risk assessment at the workplace. This is buttressed by sections 16, 18 and 20 of the OSH Act that mandates the provision of information to and consultations with workers and their representatives and a designation of worker representatives in all workplaces. Regrettably, there is no evidence that these obligations were followed in the airport construction project. The failure to comply with these obligations would be evidenced by the injuries and deaths recorded so far on the project.

For instance, one worker noted that he “saw a colleague get an electric shock and was thrown two meters away. The occupational health and safety officer, from a subcontracted company, just asked for him to be checked but he was not taken to the hospital and no report was issued. The safety officers only check attendance of workers and ensure that workers are working. They are controlling workers, not safety. I did not know the rules well. I did not see any inspectors in one month. One colleague got injured with a nail and was then provided with protective equipment. For those working at heights, the safety harnesses were not provided in the right numbers. In fact, when we look at the death rate of the construction workers, we suppose that about 50 per cent lose their lives from falls from height”.

Another worker indicated that “in the beginning I received occupational safety and health training, but it was not satisfactory. For example, we will receive some instruction based on an incident that had happened to a colleague. I recall that one day while it was raining, they asked us to leave the roof site, and they said there was an accident. Our colleague lost his life, so they said you must not do this and that and we were asked to sign a paper saying we had been trained. Whenever they asked us to attend a training, we realised there was a death. The trainings lasted 5 to 10 minutes. On paper we were made to sign that occupational health and safety training had been provided.”

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<sup>5</sup> The right is also recognised under the preamble and article 7(b) of the International Covenant on Economic, Social and Cultural rights.

Under sections 7, 8, 9 and 10 of C. 167 on OSH in the construction sector, the employer is under a direct obligation to ensure, in practice, that the work environment is safe and without risk to workers with sections 13 to 17 dealing with specific reference to scaffolding, lifting, gear and transportation among others which appear not to have been enforced, monitored and inspected in any rigorous manner under this project. It is worth noting that the work environment goes beyond the direct execution of work tasks to cover “just and favourable conditions of work”<sup>6</sup> including the “right and duty of workers to participate in ensuring safe working conditions and to express views on the working procedures affecting health and safety”. For the workers, their persistent complaints went unheeded and hence unaddressed ongoing serious and imminent danger. Workers report complaining about unreasonable and unsafe working hours exacted by their supervisors in breach of working hours rules to meet the deadline for the launch of the first phase of the airport construction such that they were pushed to work for 15 days continuously before earning the right to a day's rest. They worked daily from 8 a.m. to 10 p.m., in most cases, at the insistence of the supervisors. Workers were incentivised to even work on their day off for additional payments. Workers who were eye witnesses or contemporaneously witnessed work site injuries and deaths note that overwork resulting in tiredness, lack of sleep as a result of late closures and bad sleeping and dormitory conditions and lack of safety awareness and inspections lead to death and injury of their colleagues. Workers also complained about the shuttle bus system, the unhygienic, insanitary conditions at the workers' dormitories contrary to the conditions set under ILO Recommendation 155 on workers' housing with a number of workers severely affected by infected bedbug bites. Workers' wages were in arrears, and it is believed that about 150 workers have their salaries outstanding since the protests. In other cases, the illegal cash-in-hand component of the wages was withheld, so workers only received the minimum wage, meaning they lost out on both pay and related social security rights.

The first hearing of the criminal prosecutions commenced on 5 December 2018 at the Gaziosmanpasa's Criminal Court of First Instance under heavy security presence despite the fact that this is a labour and not a criminal case.<sup>7</sup>

## - Workers' representatives

The IGA and the authorities allege that the workers did not notify the representative union before the protest. However, this does not reflect the situation at the new airport project. Under Turkish law, for unions to gain the right to bargain on behalf of their members, unions must meet the representativity threshold of one per cent (1%) of the workers in the relevant economic sector and in addition occupy the majority status at the particular workplace. Workers can only strike pursuant to an industrial dispute arising in a collective bargaining relationship. Hence, the union density is low especially in the private sector where most of the subcontracting constructions firms fall.

At the new airport construction site, therefore, the IGA, the principal contractor, has workers represented by YOL-IS Union of Turk-IS. The overwhelming majority of workers, who are subcontracted workers working for over 500 different subcontracting firms, fall outside collective bargaining and other trade union rights of representation. Dev Yap-IS of DISK, a legitimate trade union organising in the private small scale and subcontracting sector of the construction industry, offered to represent the workers, and, with the consent and support of the workers, was recognised by the subcontracting firms and IGA.

As already indicated, the president of Dev Yap-IS, Ozgur Karabulut, represented the workers on matters of concern to them while organising them into the union. Dev Yap-IS therefore provided very important solidarity support to the workers pending the completion of the unionisation process.

<sup>6</sup> See para 274 to 279 of 2017 General Survey of the ILO on Occupational Safety and Health.

<sup>7</sup> Whenever workers have provided labour related justification for their actions, the criminal court justices have relied on a legal fiction of separation between criminal and labour legal actions to deny them a hearing.<sup>w</sup>

Meanwhile, the CEACR have raised the negative impact of the double threshold requirement on the ability of unions to carry out their duties and exercise their rights and have called on the government to ensure that where at the enterprise level unions meet the threshold, they must negotiate at least for their members. Many of the subcontracted workers, as a practical matter, trust Dev Yap-IS to legitimately represent their interests, and this right of the workers must be respected. To arrest Ozgur Karabulut, the president of Dev Yap-IS, for representing the interest of the workers or engaging with them during the protest, is contrary to the freedom of association rights of the workers in practice.

### **- Right to expression, protests, assembly and removal from serious and imminent danger at the workplace**

The protest and demonstration of the workers on 14 September 2018 have come under the security focus of the government, criminal prosecution and deliberate public denunciation and stigmatization. This is, however, contrary to the government's obligations under international labour standards. The Committee on Freedom of Association (CFA) of the ILO has affirmed workers' right to exercise civil liberties including freedom of assembly and freedom of opinion and expression and has noted it as "a sine qua non for the exercise of freedom of association"<sup>8</sup>. In that light, workers are protected when they organise a peaceful demonstration to defend their occupational interests<sup>9</sup> more so if the demonstration is in pursuit of legitimate workers objectives<sup>10</sup> as the case at the new airport. The CFA has advised that the public authorities should only resort to the use of force where law and order is seriously threatened and that such intervention must be proportional to the danger to law and order so as not to undermine, disturb or threaten the very peace it seeks to restore.<sup>11</sup> Turkey has ratified the covenant on civil and political rights (ICCPR) and the covenant on economic, social and cultural rights which both



protect freedom of assembly including protests and demonstration. The United Nations Special Rapporteur on Freedom of Assembly and Association has on another occasion noted that criminalising freedom of assembly and association is not available to States as a legitimate response to peaceful demonstrations and protests<sup>12</sup>. In this regard, it is important to recall that the spontaneous demonstration and protests of the workers were peaceful and confined to the work environment. We note that the charges against some of the workers include raising of their fists and chanting or raising of their work tool and chanting in unison with their colleagues. There is no evidence that any worker was injured, harmed or threatened by protesting workers. The presence of these adverse and hazardous working conditions is not in dispute.

<sup>8</sup> See para 205 of digest 2018 Compilation of decisions of the Committee on Freedom of Association.

<sup>9</sup> See para 208 of digest 2018 Compilation of decisions of the Committee on Freedom of Association.

<sup>10</sup> See para 209 and 210 of digest 2018 Compilation of decisions of the Committee on Freedom of Association.

<sup>11</sup> See para 217 of the digest 2018 Compilation of decisions of the Committee on Freedom of Association.

<sup>12</sup> See the amicus brief of the UNSR for FoAA in the South African case of Phumeza Mhlungwa and others v The state and The Minister of Police CCT NO. 32/18 High court case No: A431/15 Magistrates' Court Case No: 14/985/2013.

The deadly risks and poor working conditions have been admitted by both the President's Office (CIMER) and the IGA chief executive.

Moreover, the CEACR has noted that “the right of workers to remove themselves from situations when there is a reasonable justification to believe that there is a serious and imminent danger remains an essential foundation for the prevention of occupational accidents and diseases and must not be undermined by any action by the employer”<sup>13</sup>. The experts have advised the government of Turkey that this right is not pre-conditioned as is the case under Turkish law. Under section 18 (3) and 20 (4) of the OSH Act, workers and their representatives are protected from victimisation and disadvantageous treatment due to their OSH-related activities. However, Turkish law qualifies this protection in section 13 of the OSH Act on the determination that the serious and imminent danger was deemed unavoidable in the opinion of the workers. The experts have indicated that this precondition of unavoidability was contrary to Convention 155 on occupational safety and health. Under Convention 155, it is enough that after informing the employer of the danger and nothing having been done to address the danger, workers can remove themselves and “the employer cannot require workers to return to a work situation where there is continuing imminent and serious danger to life or health.”

The combined effect of the right to free expression of workers regarding OSH situations at the workplace, and the right of workers to remove themselves from situations which in their view pose serious and imminent danger to their lives, work to protect workers from retaliatory and disadvantageous government and employer treatment when they engage in OSH-related protests. In these circumstances, the government should institute OSH inspections and undertake necessary investigations, and sanction employers for any breaches of labour and health and safety law. Under no circumstance should workers suffer criminal prosecution because they have taken part in OSH-related peaceful and legitimate protest. Using criminal prosecution and a security approach

to respond to workers OSH-related protest activity will intimidate workers and leave them more likely to refrain and self-censor in serious situations of OSH risks leading to more accidents and deaths at work. As noted, it has taken workers at the Istanbul New Airport over three (3) years to engage in this protest over conditions that have been complained about but have gone unheeded and unaddressed. Further, workers on the ground are best placed, through both their skills and proximity to work practices, to identify risks and draw these risks to the attention of the employer. Victimising workers for raising safety concerns limits the intelligence available to employers on potential risks and their opportunities to institute remedies. The measures to suppress or discourage reporting is a bad business and safety practice.

OSH-related deaths in the construction sector in Turkey are on the rise as the country is awashed with construction projects. It was reported by the ISIG council that about 2,006 workers were killed at work in 2017 with a large proportion being construction workers. The council report that in the first three months of 2018 about 394 workers had died at work. This could improve with the support of the government and their agencies including security forces. According to Ozgur Karabulut, the president of the construction union of DISK: “... the workers in this third airport are representative of conditions across the country. Eliminating the conditions is a problem, they face pressure from the employers and the government, it is the same on any other construction site.”

## **The application of the obligations of Turkey under international labour standards to the ongoing prosecutions of affected workers**

The workers were criminally charged with violating the freedom to work of about 32,000 workers, embarking on a demonstration without notifying the authorised union, going on strike contrary to Law No. 2911 on Meetings and Demonstrations, Law No. 6356 on Trade Unions and Collective Labor Agreements

<sup>13</sup> See para 298 of ILO General Survey on Occupational Safety and Health and section 13 and 19(f) of C. 155 and section 12 of C. 167.

and the Constitution of Turkey, resisting the police and damaging property.

When workers protest and take other steps towards removing themselves from a serious and imminently dangerous work environment, the freedom of others to work in such a dangerous working environment does not arise. No worker has a duty or right to work under an unsatisfactory, unsafe and unhealthy working environment. In fact, workers have a duty to protect themselves from danger. The criminal charge alleging the violation of the right of 32,000 workers must therefore be withdrawn as contrary to the international labour standards obligations of the government of Turkey.

According to the IGA, they took immediate action to address the concerns of the workers after the protest including providing shelters for shuttle waiting zones, increasing the number of shuttle vehicles, diversifying the food quality tests, procuring an additional mess tent to prevent queues in cafeterias, changing the old beds and increasing the number of disinfection days per week from three to seven at the living spaces. They claim that they also held negotiations with subcontractors to relieve the salary problems of the workers. These claims by IGA have not been verified by credible workers' representatives. But the claims in themselves vindicate the workers' protest. 52 workers lost their lives as a result of company and state failure to comply with their obligations under national and international labour standards.

Under the right to a safe and healthy working environment, workers facing serious and imminent danger are entitled to the protection of the police and authorities therefore cannot at the same time be accused of resisting the police. Ordinarily, the police will be under an obligation to protect the workers as an extension of the obligations of the government of Turkey. An international tripartite mission of workers, employers and experts will be required to investigate the actions of the police and the circumstances under which the charge of resisting the police is being made. It must be recalled that the police fired tear gas with water cannons and brandished weapons at peacefully protesting workers making responsible and legitimate OSH demands, in recognition of their legal duties to draw the attention of the employer to dangers in the workplace and to take action to protect themselves.

# ITUC conclusion and recommendations

The number of deaths and injuries at the Istanbul New Airport reveal systematic failures on the enforcement, review and inspection of occupational safety and health policy and practice at the national and enterprise level. The victimisation of workers raising legitimate health and safety concerns and taking the legally required action to protect themselves not only breaches the law, but it also perpetuates risks at the worksite and inevitably leads to continuing and possibly fatal harm.

We call for an immediate dialogue between DISK and the Ministry of Labour to address the issues facing construction workers operating especially as day-to-day informal economy workers. These workers mostly work for subcontractors in the construction sector and are not covered by unions, thus leaving them heavily vulnerable. Dev Yap Is of DISK organises workers in the area.

We recommend that:-

## **The IGA, as the principal contractor,**

1. must ensure that the terminated workers are reinstated, paid their outstanding salaries in full and paid a compensation for the unfair termination of their employment.
2. must immediately commence dialogue with the representatives of the subcontracted workers including Dev-Yapi-Is of DISK.
3. must conduct an independent occupational safety and health audit of its operations so far and share the report with the relevant unions and representatives of the workers and the Turkish authorities.

4. must report all injuries and deaths on the construction site of the Istanbul New Airport to the Turkish authorities and the relevant unions and representatives of the workers.

## **The Government,**

5. must immediately and unconditionally end the ongoing criminal prosecutions of the workers who protested and withdraw all criminal charges.
6. must ensure the wages of all the workers involved in the protest are fully paid.
7. must compensate the affected workers for malicious prosecution.
8. must work with the ILO to conduct an independent investigation into the workers' protest at the airport and into IGA's compliance with international labour standards on OSH.
9. must immediately initiate a tripartite process to review national OSH policy and legislation including enforcement, inspection and worker participation mechanisms and a preventive OSH culture.
10. must ensure that public procurements and contracts have specific requirements that protect workers' rights including freedom of association, collective bargaining and OSH in line with its obligations under international labour standards.
11. must ensure that freedom of association and collective bargaining are guaranteed, in law and practice, for all workers including subcontracted workers in the construction sector and in that light ensure that the double threshold requirement for collective bargaining is removed in accordance with the recommendations of the ILO supervisory bodies.

## Acknowledgement

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