



IO1/A4 NATIONAL REPORT (AUSTRIA)

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I INTRODUCTION

a. Objectives of Report and method

The Erasmus+ project "Know your Rights (KYR)" is concerned with raising awareness of legal aspects and rights for immigrant workers in the projects partner countries. The present report wants to first provide an overview of the current situation in Austria and identify prevailing weaknesses and challenges. In addition to a literature-based desk research, the identification of individual best practices and the findings of interviews with experts are components of this report.

II KEY FINDINGS FROM DESK REVIEW

a. National Context

Since 1945, Austria has become the destination of several hundred thousand migrants and can thus look back on a long tradition of immigration.

According to Statista Austria the beginning of 2020, there were around 1.5 million immigrants living in Austria, corresponding to 16.7 percent of the population. Both figures have been rising continuously for years: in 2009, there were approximately 860,000 foreigners and 10.3 percent of the population.¹

The largest groups of foreigners are Germans (about 200,000), Serbs (about 121,000) and Turks (about 117,000). Even higher is the population with a migration background, that is defined as residents and Austrians whose both parents were born abroad. This group can subsequently be subdivided into first-generation migrants (persons who were themselves born abroad) and second-generation migrants (children of migrants who were born in their own country). They are amounted to a good 2 million people in 2018; their share of the population was 23.3 percent. Here, too, a steady increase can be observed. There are, however, major regional differences in the distribution of the

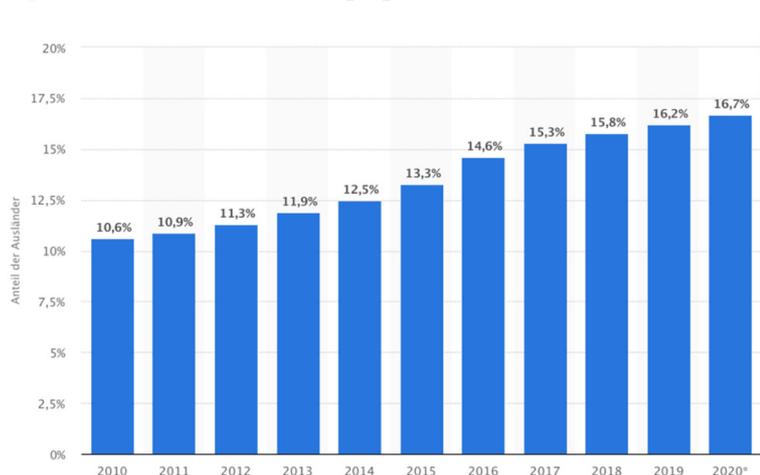
¹ https://de.statista.com/themen/4706/auslaender-und-migration-in-oesterreich/#dossierSummary_chapter1





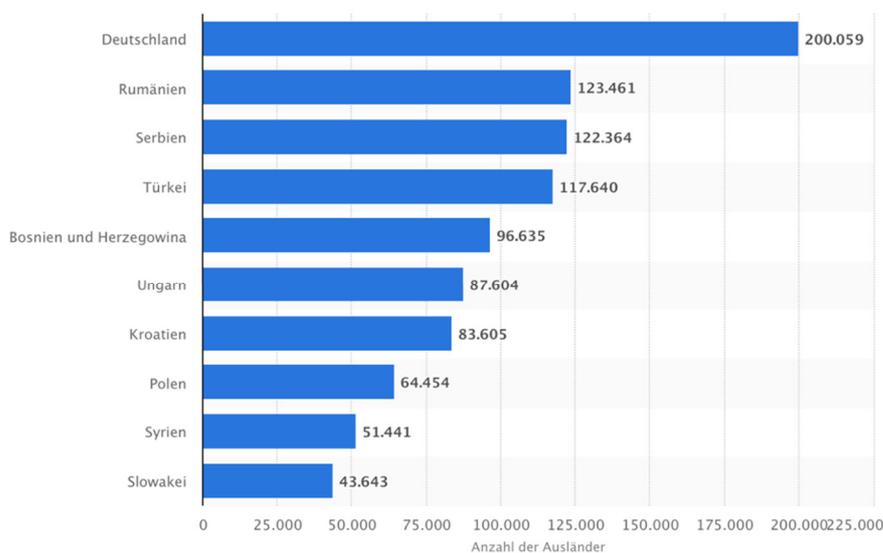
population: the proportion of foreigners and migrants is clearly highest in Vienna (30.2 and 45.3 per cent respectively) and lowest in Burgenland (8.9 and 12.9 per cent respectively).

Share of migrants in the Austrian population from 2010 to 2020²



Source: statista.com

Number of immigrants to Austria by the top ten citizenships in 2018³



Source: statista.com

² <https://de.statista.com/statistik/daten/studie/293102/umfrage/auslaenderanteil-in-oesterreich/>

³ <https://de.statista.com/statistik/daten/studie/294300/umfrage/zuwanderer-nach-oesterreich-nach-staatsangehoerigkeit/>



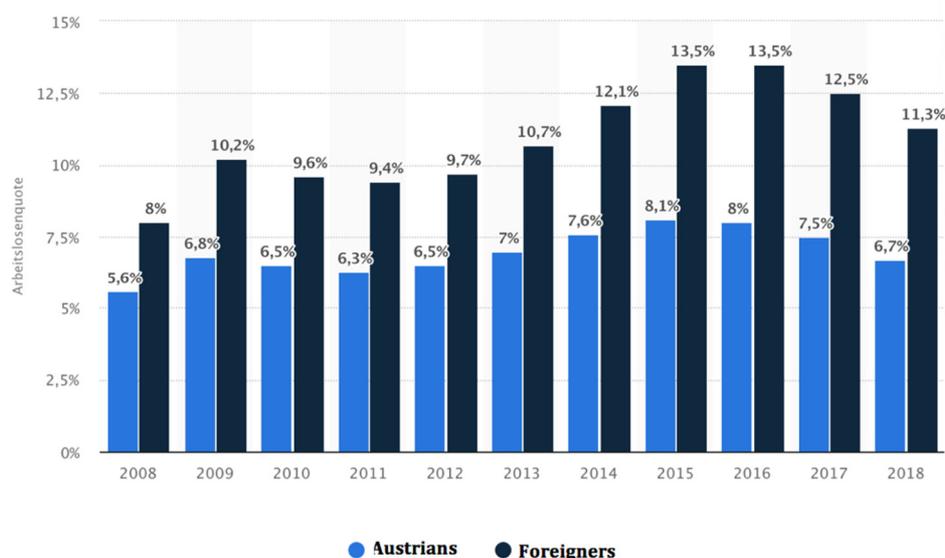


Immigrants on the Austrian Labour market

In an EU comparison, the employment rate of 15- to 64-year-old non-EU nationals in 2017 in Austria was with 54 %, roughly on a level with the EU average (55 %). By contrast, the employment rate of non-EU nationals was much lower in Croatia (37 %), Belgium (40 %) and France (45 %).

Still, persons with a migrant background are less likely to be in employment than Austrians. In 2017, the employment rate of persons aged 15 to 64 with a migrant background was 64 %, while that of the population without a migrant background was 75 %.

Number of unemployed in Austria by nationality from 2008 to 2018⁴



Source: statista.com

⁴ <https://de.statista.com/statistik/daten/studie/819497/umfrage/arbeitslosenzahl-in-oesterreich-nach-nationalitaet/>





Immigrated workers are predominantly blue-collar workers

In 2017, workers with a migrant background were employed almost twice as often (43 %) as those without a migrant background (22 %). Among the latter, salaried employees, civil servants, contract staff and freelancers predominated (together 65 %; vs. 49 % among persons with a migrant background). Particularly high proportions of workers were found in the population from the former Yugoslavia (outside the EU; 56 %) and Turkey (60 %). Occupational status of the second generation is like that of people without a migrant background.

The occupational position of the working population in the second generation of immigrants is clearly different from that of the first generation and more like that of the population without a migration background. For example, the proportion of workers in the population without a migrant background is 22%, 45% for immigrants of the first generation and only 30 % for those of the second generation.

Among the women of the second generation of migrants, the proportion of salaried employees, female civil servants and freelance workers are even like women without a migrant background (74 % vs. 77 %); for women of the first generation of immigrants this proportion is only 58 %.

More frequent unemployment of migrants with little education

In 2017, foreign nationals with only compulsory schooling had a significantly higher unemployment rate (31 %) than equally qualified Austrians (27 %). For example, the unemployment rate of persons who completed an apprenticeship or vocational middle school was hardly higher among immigrants (7 %) than among Austrian nationals (6 %). The differences in unemployment were somewhat greater for people with a school-leaving certificate (7 % for foreigners; 5 % for residents) and somewhat smaller for those with a university degree (4 % to 3 %).





Legal and institutional framework for immigrant workers

In the context of labour migration and access to employment, the following settlement and temporary residence permits are most relevant:

- settlement permit: worker- R-W-R card from 2011 onwards
- settlement permit: R-W-R-plus card from 2011 onwards
- temporary residence permit – intercompany transfers (Rotationskraft)
- temporary residence permit – persons on business assignments of third country firms without a registered office in Austria (Betriebsentsandter - GATS)
- temporary residence permit – special cases of paid employment specified in the Foreign Employment Law, the most important being for researchers.

The inflow of economic (labour) migrants of third country origin has been regulated by quotas until July 2011 whereupon it was substituted (only for the case of a third country family migration/reunification a complex quota system remains);

In mid-2011 a point system of immigration came into effect, referred to as “Rot-Weiss-Rot- Karte” (red-white-red card), which replaced the key-skills quota and widened the scope for third country workers to access the Austrian labour market. The system differentiates between 5 types of skills, namely highly skilled persons, persons with scarce occupational skills, persons with other (medium to higher) skills, third country graduates of Austrian universities, since 2017 also start-up founders. Highly skilled third country citizens wanting to work in Austria have to obtain at least 70 points out of 100 possible points. Points are given in four domains: for educational qualifications and honorary recognition of competences, for occupational experience, for language skills and for age. An additional advantage in terms of points offers successful university graduation at bachelor level (since 2017) or above in Austria. In the area of scarce occupational skills 55 of a maximum of 90 points have to be reached, in case of other higher skills 50 points have to be reached and a minimum income level has to be obtained. Third country start-up founders have to have a minimum of 50





points out of a maximum of 85. They have to invest a minimum of €50,000, of which 50% own capital.⁵

Further information about work permits for immigrants can be found on the website of the Ministry of the Interior, the Ministry of Europe, Integration and Foreign Affairs as well as a special website for potential third country immigrants (www.migration.gv.at).

b. Issues/ Problems

Migrants in Austria in general do face various obstacles in terms of employment:

Language and Communication: Language issues are a main problem. Even skilled migrants/TCNs with work experience in the respective field mainly face difficulties with the language used at the workplace or specific terminologies. If the German language level is not well established, the issues becomes even worse. However, in order to overcome this gap for some work fields there are work related courses where migrants can learn the necessary vocabulary.

Cultural issues: Many institutions do not know how to deal with women wearing a headscarf. Sometimes, they are not even invited for an interview for this reason. Some men do not work in the field of facility-management because in their culture it is considered a woman's job. In some cases, fathers and husbands actively hinder the integration of Muslim women. Generally speaking, many enterprises have too little knowledge about how to overcome/ to deal with these differences, intercultural/diversity trainings are missing.

Qualifications: Many TCNs do not have the necessary licences for specific jobs or their qualifications are not recognised in Austria. Third-country nationals must nostrify their academic training in Austria. The process of relicensing is time-consuming and sometimes even expensive. Enterprises prefer hiring people having recognized certificates, diplomas, etc.

⁵ Biffl, Gudrun (2019): Migration and Labour Integration in Austria SOPEMI Report on Labour Migration Austria 2017-18; Danube University Krems.





Lack of Local Experience/Discrimination: Many TCNS find themselves being discriminated against because they lack work experience in Austria.

Conclusion

All these official local labour market access restrictions and the obstacles described above lead to a great pressure for migrants. The hurdle of finding a job at all that will secure one's residence leads to dependency. Another factor is that many migrant workers depend also on work and salary, as they often provide financial support to family members in their home country. Not working in this case means losing face with the family or the community. The result is that as soon as people get the opportunity to work at all, they are forced to make a special effort to also keep this job. This happens partly at the expense of fair working conditions and workers' rights.

III RESEARCH RESULTS I: GOOD PRACTICES

a. Good Practice 1: The Center for Migrants in Tyrol (ZeMiT)

The **Center for Migrants in Tyrol (ZeMiT)** offers information, counselling and support for migrants and their families, for naturalized citizens and recognized refugees. The ZeMiT counseling applies to women and men of all ages, from adolescents right up to pensioners.

Counselling regarding the labour market is supported by the AMS Tyrol (Public Employment Service Austria). Further consulting services are the **AST- Counseling Center for recognition of qualifications** held in foreign countries. Besides German, we offer counselling in **seven additional languages** (Bosnian, English, Croatian, Russian, Serbian and Turkish) and offer a variety of services:

- Translation and interpretation services
- Support and accompaniment in dealing with public authorities





- Initiatives to find and secure a workplace
- Multilingual information, counselling and support i.e. on:
 - Legal situation of foreigners (residence permits)
 - Law on employment and work of foreigners (work permit)
 - Questions related to social law and labour legislation
 - Legislation of unemployment benefits

Additionally, the **AST - Counselling Center for recognition of qualifications** held in foreign countries offers individual, multilingual and free of charge counselling in matters of acknowledgement to people with qualifications acquired abroad.

→ <https://www.zemit.at/en/home.html>

b. Good Practice 2: Austrian Chamber of Labour

In principle, the Chamber of Labour, as the official representative of all registered workers in AT, is the first point of contact for all workers. However, there are already initial counselling and information services specifically for migrants.

- Facilitation of recognition for vocational training abroad

Around 30 percent of the workers who come to AT to work cannot fully utilise their actual skills. They are often rated and paid well below their actual knowledge and skills.

- Four contact points for migrants

Four contact points for migrants throughout Austria are supposed to accompany people through the official procedures, inform them and help them to get to their caller identification faster and easier. The AK estimates that in this way about 3,000 migrants in Austria per year will be able to use the professional expertise they bring with them from their countries of origin more quickly.



- Free consultation

The advice provided by the contact points is aimed at all people who have acquired knowledge and skills abroad for which there is no certificate or for which there is a foreign certificate, but which is not automatically recognised in Austria. The counselling is free of charge and will initially take place at four contact points throughout Austria.

Labour market policy support and advice for migrants and migrant women on other topics such as:

- Working with red-white-red card
- Extend right of residence
- Counselling for migrants
- Employment in Austria
- Employment Permit

→ <https://tirol.arbeiterkammer.at/index.html>

Further information is available at www.migrant.at or migrant@migrant.at.

c. Good Practice 3: Ombud for Equal Treatment

The Ombud for Equal Treatment Ombudsman is a state institution for the enforcement of the right to equal treatment and equality and for protection against discrimination. In exercising this activity, we are self-employed and independent.

The Office of the Ombud for Equal Treatment is responsible for the equal treatment and equality of women and men and for equal treatment without distinction of ethnicity, religion, ideology, age and sexual orientation. Its work is based on the Equal Treatment Act.

Area of Competences:

- Equal treatment and equality between women and men in employment and occupation





- Equal treatment irrespective of ethnicity, religion or belief, age or sexual orientation in employment and occupation
- Equal treatment irrespective of sex or ethnicity in other areas

The Ombud for Equal Treatment has the following tasks:

- to provide advice, information and support to persons affected
- to obtain comments and information from the employer's side
- to negotiate out-of-court settlement
- to initiate proceedings before the Equal Treatment Commission on request of the person discriminated against
- to prepare comments and recommendations on specific equal treatment issues
- to provide information and to exchange experience in the framework of workshops, lectures, training programmes, panel discussions, etc.

→ <https://www.gleichbehandlungsanwaltschaft.gv.at/ombud-for-equal-treatment>

IV. FIELD-BASED RESEARCH RESULTS: INTERVIEWS WITH STAKEHOLDERS

3 qualified representatives from different service areas in the field of integration were interviewed for this research to explore more concrete experiences of migrant workers and their access to labour rights. Due to the given scope of the research, only some extracts from the interviews can be reproduced.

Interview 1: Legal adviser and consultant at ZeMiT/ AST (description see Good Practice 1) - (21.02.20)

Could you tell me a few words about how you and your organisation relate to the subject of migrant workers' rights?





We often have this case of people coming to us with questions about prevailing labour rights because we offer advice in many mother tongues. However, we also have only limited legal staff and have to refer clients to other competent bodies such as the Chamber of Labour.

But as far as we can, we can educate people about their rights here, because we have information from the Chamber of Labour available and also receive training on basic legal issues.

How would you shortly describe the situation in your country – do you think migrant workers are aware of their rights as workers?

Well, this is a complex situation. There are highly qualified migrants who are already protected by the law, as they are the so-called key workers who have to be guaranteed a minimum salary even when applying for the red-white-red card.

Many others often come from great financial need. They are in a hopeless situation, because they are usually happy to have a job at all, to have a roof over their heads, and in this situation, they cannot afford to think about whether the salary is fair, what alternatives there are etc...

Would you say that there are groups within the migrant population that are more vulnerable than others in being exploited or manipulated by employers?

In my opinion, these are acutely new immigrants, especially from Bulgaria, not only women but also young men who are employed in a company. They are registered as marginally employed, so they cost the company little money. These people often still work full-time (= undeclared work), but then receive their wages unofficially in cash, which is contrary to all legal regulations. Nevertheless, these people are at the mercy of the employer because they do not speak the language and are happy to have at least a roof over their heads.

In your opinion, what are the labour market challenges and obstacles that migrant workers most often face?

I recently had an interesting case where the classification according to the collective agreement was at stake. And it turned out that the employer always told this employee that he could not pay him more because of the collective agreement. Here I had to explain that the collective agreement only





states a minimum wage, which means that the employer cannot pay less than that but can for sure pay more. That is ultimately a matter for negotiation. In the end, the employer has, in this case, pretended, as if it were forbidden by law to pay more than the minimum wage stated in the collective agreement.

Another example is double payments, such as Christmas bonuses or holiday pay. Only a few people know that such a thing exists. This applies especially to immigrants from Eastern European countries. It is also often unknown that one is also entitled to these payments in the case of marginal employment. There they are often simply spat off.

Marginal employment is a big issue anyway. Many companies hire employees in this way because it is simply cheap. No social security contributions have to be paid here, only accident insurance. People, especially women, need to be made aware that this form of employment restricts their pension rights, or that if they become unemployed, they are not entitled to unemployment benefits. There are always women who would actually be of pensionable age but who cannot retire because they are not credited for these periods of work. In such cases, therefore, we advise them to accept part-time work, in which they would be fully insured.

Dismissal while on sick leave is often an issue. Or it is often the case that employers falsely claim that their employees have given notice of their own accord when they are dismissed. This means that the employee loses many rights or is given a blocking period until he or she is allowed to register as unemployed with the AMS.

These are of course very serious legal points. In such cases we can only guide our clients what they should do, but we do not have the possibility to file a lawsuit or anything like that ourselves. So I send them to the Chamber of Labour, as that is their task as the workers' representative of their interests.

If you were responsible for raising awareness among relevant bodies about the existence, nature, and features of labour exploitation and also the need to ensure the rights of migrant workers – what would you do?

In Austria there is a fundamental principle (on which the principle of collective agreements is based): every person admitted to the labour market must not be placed in a disadvantaged position. This





means that legally, everything is actually well regulated. Nevertheless, people must be encouraged and informed about their rights so that they do not nevertheless come into the danger of exploitation. That takes time. Perhaps it would be a good idea to offer this content in integration courses, for example (*corresponding courses are partly obligatory offered by the Austrian Integration Fund*), where people are introduced to labour rights and backgrounds.

Interview 2: Team leader Jobservice Tirol / itworks - (28.02.20)

Could you tell me a few words about how you and your organisation relate to the subject of migrant workers' rights?

For us, as an official partner of the AMS, work is of course the main topic. This includes the legal aspects of work. We therefore offer group coaching on this topic done by a colleague who is a lawyer who does it. Our clients are often new to Austria and have not yet worked here, so you simply have to do a lot of awareness raising in advance.

Especially with a first employment relationship there are often misunderstandings. For example, the rule of the first month as a "trial month", where people often think they have to work for free during this time.

How would you shortly describe the situation in your country – do you think migrant workers are aware of their rights as workers?

In the phase in which they come to us there is not much knowledge there yet. Also, because many have not yet worked here at all. There are also few offers in Innsbruck where the people are really educated or where the education is really understandable, because these people often have only an A1 German level.

Do you know if migrant workers have the capacity to report any potential violation of their rights as workers?

This is usually the Chamber of Labour. We also refer there if there are points where we can no longer assist. For example, if a counselor from our side discovers that a company has not behaved correctly and then there is soon the point where it's statement against statement. For example, if the holiday





pay is not paid out etc. There again the problem is that there is often no low-threshold offer, especially in an area where technical vocabulary is quickly acquired. There it would need offers, which somehow easily prepare the topic.

Would you say that there are groups within the migrant population that are more vulnerable than others in being exploited or manipulated by employers?

I take a more sector-specific view. Then that is more of a problem that the economy has. Something like courier services, suppliers or delivery companies, also in tourism, nursing care where the situation for the employees is not optimal.

In your opinion, what are the labour market challenges and obstacles that migrant workers most often face?

Language skills, lack of qualifications. The two are actually mutually dependent. Also lack of work experience. Many of them even have degrees that are either not recognized here or that they cannot work with due to a lack of German language skills.

Interview 3: Trainer of the basic education program / (self-employed) - (04.03.20)

How would you shortly describe the situation in your country – do you think migrant workers are aware of their rights as workers?

My experience with regard to the labour market in general is that immigrants have little knowledge about their opportunities. A lot depends on the extent to which people inform themselves. But it is also my experience that they are not always well advised by the AMS (public labour market service). This means that there are, for example, clerks who do not really have a good understanding of a specific sector. I have spoken with clients who have partly been misinformed. And the employers themselves, who could be the ones to do so (at least in the case of legal aspects), usually don't really do so.

In your opinion, what are the labour market challenges and obstacles that migrant workers most often face?





Most of them are really just happy about the possibility to get a job somewhere they desperately need. This means that they are often aware that they are working with different standards or are treated unfairly, but they hardly dare to do anything about it.

For example, these people are often placed in the roster in such a way that they are always at a disadvantage. The local colleagues choose certain shifts and days off, while certain migrants often do not even dare to indicate when they urgently need a day off. The same applies to care leave for close relatives, or the reduction of overtime.

There is simply still much latent or less latent racism. Third-country nationals are certainly more exposed to this than workers who have immigrated from EU areas. Unfortunately, this is about things like appearances. A Spaniard will not face similar problems to someone from Somalia.

Do you know if migrant workers have the capacity to report any potential violation of their rights as workers?

I do not believe that migrants know who to turn to in the event of such violations. In our experience, the best way to reach out to migrants is through the Communities directly. So, if a known person has already been in the same situation and has received help from a certain institution. The word gets around and more people get the necessary information about the responsible authorities.

Are you aware of any initiatives of promoting information on the rights of foreign workers?

I do not know of any specific contact points and offers specifically for migrants. The Chamber of Labour is the contact partner for all employees. In any case, I think it makes sense to develop a format especially for migrants. At least an initial basic information would be useful, in connection with which reference could then be made to other offices and service providers. This should best be designed visually, as many clients with low reading skills are quickly overwhelmed by too much written text. Visual descriptions are therefore usually better understood.





V. CONCLUSIONS AND RECOMMENDATIONS

a. Key results of research (short summary)

During the course of this research, it became clear that in Austria, and especially in Innsbruck and Tyrol, there is a very large offer of general career guidance especially for migrants and refugees. Providers are available both publicly through the Public Employment Service AMS

(<https://www.ams.at/#tirol>) or through private initiatives such as ZeMit (<https://www.zemit.at/en/>), Innovia (<https://www.innovia.at>) or through Verein Multikulturell itself. However, as soon as information on labour laws was actually required in addition to help in finding a job, it was found that a low-threshold offer tailored to the needs of the target group is hardly existing... Very few places offer the possibility to get information in other languages besides German. In addition, the vocabulary on the subject of labour rights quickly becomes very specialized, which is particularly difficult for beginners.

b. Recommendations for future action

The research shows that counselling services and information material specifically tailored to migrants' needs are to be provided in Austria. The following information is particularly in demand:

- Possibilities of residence in combination with a work permit
- Overview of employment relationships
Collective agreements
- Rights and duties as an employee
- Insurance system in AT (social insurance, health insurance, pension insurance, accident insurance)
- Rights and obligations in case of unemployment
- Offer of consultation and contact points in case of violations of labour law





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