Reports of Cases

JUDGMENT OF THE COURT (Fourth Chamber)

11 May 2017*

(Appeal — Right of public access to documents — Regulation (EC) No 1049/2001 — third indent of Article 4(2) — Exceptions to the right of access to documents — Incorrect interpretation — Protection of the purpose of inspections, investigations and audits — Overriding public interest justifying the disclosure of documents — General presumption of confidentiality — Documents relating to an EU Pilot procedure)

In Case C-562/14 P,

APPEAL under Article 56 of the Statute of the Court of Justice of the European Union, brought on 5 December 2014,

Kingdom of Sweden, represented by A. Falk, C. Meyer-Seitz, U. Persson, N. Otte Widgren, E. Karlsson and L. Swedenborg, acting as Agents,

applicant,

the other parties to the proceedings being:

Darius Nicolai Spirlea,

Mihaela Spirlea,

residing in Capezzano Pianore (Italy),

applicants at first instance,

European Commission, represented by H. Krämer and P. Costa de Oliveira, acting as Agents,

defendant at first instance,

supported by:

Federal Republic of Germany, represented by T. Henze and A. Lippstreu, acting as Agents,

intervener in the appeal,

Czech Republic, represented by M. Smolek, D. Hadroušek and J. Vláčil, acting as Agents,

Kingdom of Denmark, represented by C. Thorning, acting as Agent,

Kingdom of Spain, represented by M.J. García-Valdecasas Dorrego, acting as Agent,

* Language of the case: German.

Republic of Finland, represented by S. Hartikainen, acting as Agent,

interveners at first instance,

THE COURT (FOURTH CHAMBER),

composed of T. von Danwitz, President of the Chamber, E. Juhász (Rapporteur), C. Vajda, K. Jürimäe and C. Lycourgos, Judges,

Advocate General: E. Sharpston,

Registrar: K. Malacek, Administrator,

having regard to the written procedure and further to the hearing on 21 April 2016,

after hearing the Opinion of the Advocate General at the sitting on 17 November 2016,

gives the following

Judgment

1 By its appeal, the Kingdom of Sweden seeks the setting aside of the judgment of the General Court of the European Union of 25 September 2014, *Spirlea* v *Commission* (T-306/12, 'the judgment under appeal', EU:T:2014:816), by which it dismissed the action brought by Mr Darius Nicolai Spirlea and Ms Mihaela Spirlea seeking the annulment of the decision of the European Commission of 21 June 2012 refusing to grant them access to two requests for information sent by that institution to the Federal Republic of Germany dated 10 May and 10 October 2011 in the EU Pilot procedure 2070/11/SNCO ('the contested decision').

I. Legal context

2 Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ 2001 L 145, p. 43) lays down the principles, conditions and limits of the right of access to documents of those institutions.

3 Under recital 4 of that regulation:

'The purpose of this regulation is to give the fullest possible effect to the right of public access to documents and to lay down the general principles and limits on such access in accordance with Article [15(3) TFEU].'

4 Recital 11 of the regulation states:

'In principle, all documents of the institutions should be accessible to the public. However, certain public and private interests should be protected by way of exceptions. The institutions should be entitled to protect their internal consultations and deliberations where necessary to safeguard their ability to carry out their tasks. In assessing the exceptions, the institutions should take account of the principles in Community legislation concerning the protection of personal data, in all areas of Union activities.'

5 Article 1 of the regulation provides:

‘The purpose of this regulation is:

(a) to define the principles, conditions and limits on grounds of public or private interest governing the right of access to European Parliament, Council and Commission (hereinafter referred to as “the institutions”) documents provided for in Article [15(3) TFEU] in such a way as to ensure the widest possible access to documents,

(b) to establish rules ensuring the easiest possible exercise of this right, and

(c) to promote good administrative practice on access to documents.’

6 Article 2 of Regulation No 1049/2001 provides:

‘1. Any citizen of the Union, and any natural or legal person residing or having its registered office in a Member State, has a right of access to documents of the institutions, subject to the principles, conditions and limits defined in this regulation.

…

3. This regulation shall apply to all documents held by an institution, that is to say, documents drawn up or received by it and in its possession, in all areas of activity of the European Union.

…’

7 Article 4(2) and (6) of that regulation provides:

‘2. The institutions shall refuse access to a document where disclosure would undermine the protection of:

…

— the purpose of inspections, investigations and audits,

unless there is an overriding public interest in disclosure.

…

6. If only parts of the requested document are covered by any of the exceptions, the remaining parts of the document shall be released.’

II. Background to the dispute

8 By letter of 8 March 2011, the applicants at first instance, parents of a child who died in August 2010, allegedly as a result of a therapeutic treatment involving the use of autologous stem cells that was administered in a private clinic in Düsseldorf (Germany) (‘the private clinic’), lodged a complaint to the Commission’s Directorate-General (DG) for Health.

9 In that complaint, they claimed, in substance, that the private clinic had been able to provide therapeutic treatment as a result of the inaction of the German authorities, which had thereby infringed the provisions of Regulation (EC) No 1394/2007 of the European Parliament and of the Council of 13 November 2007 on advanced therapy medicinal products and amending Directive 2001/83/EC and Regulation (EC) No 726/2004 (OJ 2007 L 324, p. 121).

10 Following that complaint, the Commission initiated an EU Pilot procedure under the reference 2070/11/SNCO and contacted the German authorities in order to establish to what extent the events described in the complaint, relating to the practices of that private clinic might infringe Regulation No 1394/2007.

11 In particular, on 10 May and 10 October 2011, the Commission sent the Federal Republic of Germany two requests for information ('the documents at issue'), to which the latter replied on 7 July and 4 November 2011 respectively.

12 On 23 February and 5 March 2012, the applicants requested access, under Regulation No 1049/2001, to documents containing information on the processing of the complaint. In particular, they asked to consult, on the one hand, the observations lodged by the Federal Republic of Germany on 4 November 2011 and, on the other, the documents at issue.

13 On 26 March 2012, by two separate letters, the Commission refused their requests for access to those observations and documents.

14 On 30 March 2012, the applicants lodged a confirmatory application with the Commission, in accordance with Article 7(2) of Regulation No 1049/2001.

15 On 30 April 2012, the Commission informed them that, in the light of the information provided in the complaint and the observations submitted by the German authorities following its requests for information, it had not been able to find that the Federal Republic of Germany had infringed EU law, and in particular Regulation No 1394/2007, as alleged. The Commission also informed them that, in the absence of additional evidence from them, it proposed to bring its investigation to a close.

16 On 21 June 2012 by the contested decision, the Commission refused to grant access to the documents at issue on the basis of the third indent of Article 4(2) of Regulation No 1049/2001. In essence, it was of the opinion that disclosure of those documents would be liable to affect the proper conduct of the investigation opened in respect of the Federal Republic of Germany. It also stated that partial access to the documents at issue, under Article 4(6) of Regulation No 1049/2001, was not possible in this case. Finally, it stated that there was no overriding public interest, within the meaning of the last clause of Article 4(2) of Regulation No 1049/2001, in disclosure of those documents.

17 On 27 September 2012, the Commission informed the applicants at first instance that EU Pilot procedure 2070/11/SNCO had been definitively closed.

III. The procedure before the General Court and the judgment under appeal

18 By application lodged at the Registry of the General Court on 6 July 2012, the applicants at first instance brought an action for the annulment of the contested decision. The Commission asked the General Court to reject the action as unfounded.

19 In the proceedings before the General Court, the Kingdom of Denmark, the Republic of Finland and the Kingdom of Sweden intervened in support of the form of order sought by the applicants, while the Czech Republic and the Kingdom of Spain intervened in support of the form of order sought by the Commission.

20 In support of their action at first instance, the applicants put forward, in substance, four pleas in law, alleging infringement of Article 4(2) of Regulation No 1049/2001, infringement of Article 4(6) of that regulation, breach of the duty to state reasons and infringement of the Commission communication to the European Parliament and the European Ombudsman on relations with the complainant in respect of infringements of Community law of 20 March 2002 (COM(2002) 141 final) (OJ 2002 C 244, p. 5).

21 The General Court dismissed each of those pleas in turn and, consequently, the action in its entirety.

IV. Forms of order sought and procedure before the Court of Justice

22 In its appeal, the Kingdom of Sweden asks the Court to set aside the judgment under appeal, annul the contested decision and order the Commission to pay the costs of the proceedings.

23 The Kingdom of Denmark requests the Court to set aside the judgment under appeal.

24 The Republic of Finland requests the Court to set aside the judgment under appeal and annul the contested decision.

25 The Commission and the Kingdom of Spain request the Court to dismiss the appeal and order the Kingdom of Sweden to pay the costs.

26 The Czech Republic requests the Court to dismiss the appeal.

27 By order of the President of the Court of 7 April 2015, the Federal Republic of Germany was granted leave to intervene in support of the form of order sought by the Commission. That Member State requests the Court to dismiss the appeal.

V. The appeal

28 In support of its appeal, the Kingdom of Sweden raises three grounds of appeal, the first alleging an incorrect interpretation of the exception laid down in the third indent of Article 4(2) of Regulation No 1049/2001, which led to the incorrect application of a general presumption of confidentiality of documents in an EU Pilot procedure; the second alleging an incorrect interpretation of the final clause of Article 4(2) of Regulation No 1049/2001 as regards the existence of an overriding public interest and the third alleging an error by the General Court in that it refused to take account of the fact that the EU Pilot procedure was closed after the adoption of the contested decision.

A. The first plea in law

1. Arguments of the parties

29 The Kingdom of Sweden recalls that the principle of the greatest possible openness applies to all the activities of the EU institutions, as is clear from Article 1 TEU, Article 15 TFEU and Article 42 of the Charter of Fundamental Rights of the European Union. It argues that, in accordance with the judgment of 1 July 2008, *Sweden and Turco* v *Council* (C-39/05 P and C-52/05 P, EU:C:2008:374), public scrutiny of the institutions' activities is one of the fundamental pillars of a democratic society and that exceptions to that principle are to be interpreted strictly, as is apparent from recitals 1 to 4 of Regulation No 1049/2001.

30 The Kingdom of Sweden is of the view that the considerations set out in paragraphs 63 and 80 of the judgment under appeal are incorrect in law, since the General Court, firstly, should not have held that the Commission could base its refusal of access to the documents at issue, concerning an EU Pilot procedure, under the exception relating to investigations provided for in the third indent of Article 4(2) of Regulation No 1049/2001, on the existence of a general presumption of confidentiality covering certain categories of documents and, on the other, should have held that the Commission was required in that case to make a specific and individual examination of the documents at issue.

31 That Member State criticises the assessments set out in paragraph 56 of the judgment under appeal and submits that the differences between the EU Pilot procedure and the procedure for failure to fulfil obligations are more numerous than any similarities between them, such that it is unjustified to apply the general presumption of the confidentiality of documents in the pre-litigation stage of the procedure for failure to fulfil obligations to documents under an EU Pilot procedure.

32 In the view of the Kingdom of Sweden, first of all, it cannot validly be claimed, contrary to the assertion in paragraph 62 of the judgment under appeal, that the EU Pilot procedure has the sole purpose of avoiding an action for failure to fulfil obligations, since that procedure is different in nature and purpose in that it seeks, in particular, to allow the Commission to request purely factual information. Next, in the EU Pilot procedures, the Commission communicates with a Member State without, at that stage, alleging that it has infringed EU law. Finally, the documents in EU Pilot procedures rarely contain details of the position adopted by the Commission which could be relied on in any proceedings for failure to fulfil obligations.

33 The Kingdom of Sweden is of the opinion that it is clear from paragraphs 47 to 49 of the judgment of 14 November 2013, *LPN and Finland* v *Commission* (C-514/11 P and C-605/11 P, EU:C:2013:738), that, beyond the qualitative requirements to be met by the procedure to which the document at issue relates, the application of a general presumption of confidentiality also presupposes that the number of those documents is sufficiently great. It argues that, accordingly, the considerations of the General Court set out in paragraphs 74 and 75 of the judgment under appeal are incorrect in law and that, where a request for access relates to only two documents, there can be no interest of efficient administration capable of justifying the application of a general presumption of confidentiality.

34 The Kingdom of Denmark and the Republic of Finland submit that the EU Pilot procedures may cover a wide range of cases from purely factual situations to matters comparable to the pre-litigation stage of procedures for failure to fulfil obligations, so that it is only after a specific assessment of the documents covered by the request for access that it is possible to decide whether they may be disclosed. The Republic of Finland is also of the view that an examination of the manner in which a Member State complies with EU law is not sufficient to justify the application of a general presumption of confidentiality as regards the documents connected with that examination and that it is the decision to open the formal procedure provided for in Article 258 TFEU which constitutes the condition for that general presumption to apply.

35 The Commission, the Federal Republic of Germany, the Czech Republic and the Kingdom of Spain take issue with those arguments.

2. Findings of the Court

36 The essential nature and characteristics of the EU Pilot procedures are set out in paragraphs 10 and 11 of the judgment under appeal and are not contested by any of the parties to the appeal.

37 Those findings are corroborated by the Commission EU Pilot Evaluation Report of 3 March 2010 (COM(2010) 70 final) and the Second Commission EU Pilot Evaluation Report of 21 December 2011 (COM(2011) 930 final). In particular, on page 3 of the latter report, the Commission provided a description of the EU Pilot procedure:

'EU Pilot is the main tool for the Commission to communicate with the participating Member States on issues raising a question concerning the correct application of EU law or the conformity of the law in a Member State with EU law at an early stage (i.e. before an infringement procedure is launched under Article 258 TFEU). Wherever there might be recourse to the infringement proceeding, as a general rule, EU Pilot is used before the first step in such a proceeding under Article 258 TFEU is taken by the Commission. This replaces the previous regular practice whereby the Commission sent administrative letters for this purpose.'

38 It is apparent from those findings and those reports that the EU Pilot procedure constitutes a cooperation procedure between the Commission and the Member States which makes it possible to ascertain whether EU law has been complied with and correctly applied within those States. That type of procedure seeks efficiently to resolve any infringements of EU law by avoiding, so far as possible, the formal opening of an infringement procedure under Article 258 TFEU.

39 The function of the EU Pilot procedure is therefore to prepare or avoid a procedure for failure to fulfil obligations against a Member State.

40 The Court has held, in the judgment of 14 November 2013, *LPN and Finland* v *Commission* (C-514/11 P and C-605/11 P, EU:C:2013:738), that documents relating to an infringement procedure during the pre-litigation stage may be covered by the general presumption of confidentiality. The Court held, in paragraph 65 of that judgment, that 'it can be presumed that the disclosure of the documents concerning an infringement procedure during its pre-litigation stage risks altering the nature of that procedure and changing the way it proceeds and, accordingly, that disclosure would in principle undermine the protection of the purpose of investigations, within the meaning of the third indent of Article 4(2) of Regulation No 1049/2001'.

41 Consequently, in the case which gave rise to the judgment referred to in the previous paragraph, all the documents, irrespective of whether they had been drawn up during the informal stage of that procedure, that is to say before the Commission sent the letter of formal notice to the Member State concerned, or during the formal stage thereof, that is to say after that letter was sent, were regarded as being covered by that presumption.

42 Indeed, in that case the EU Pilot procedure was not applied, since it was introduced only from 2008.

43 Nevertheless, as the General Court noted in paragraph 66 of the judgment under appeal, without erring in law, the EU Pilot procedure merely formalised or structured the exchanges of information which traditionally occurred between the Commission and the Member States during the informal stage of an inquiry into possible infringements of EU law.

44 Although, in paragraph 78 of the judgment of 16 July 2015, *ClientEarth* v *Commission* (C-612/13 P, EU:C:2015:486), the Court stated that the general presumption of confidentiality does not apply to documents which, at the time of the decision refusing access, had not been placed in a file concerning an ongoing administrative or court procedure, that reasoning does not preclude the application of that presumption to documents relating to an EU Pilot procedure, which are clearly restricted by their connection with an ongoing administrative procedure.

45 Thus, so long as, during the pre-litigation stage of an inquiry carried out as part of an EU Pilot procedure, there is a risk of affecting the nature of the infringement procedure, altering its progress or undermining the objectives of that procedure, the application of the general presumption of

confidentiality of the documents exchanged between the Commission and the Member State concerned is justified, in accordance with the solution adopted by the Court in the judgment of 14 November 2013, *LPN and Finland* v *Commission* (C-514/11 P and C-605/11 P, EU:C:2013:738). That risk exists until the EU Pilot procedure is closed and there is a definitive decision not to open a formal infringement procedure against the Member State.

46 That general presumption does not exclude the possibility of demonstrating that a given document, disclosure of which has been requested, is not covered by that presumption, or that there is an overriding public interest justifying disclosure of the document concerned by virtue of the last clause of Article 4(2) of Regulation No 1049/2001 (judgment of 14 November 2013, *LPN and Finland* v *Commission*, C-514/11 P and C-605/11 P, EU:C:2013:738, paragraph 66).

47 With regard to the alleged obligation of the Commission to examine specifically and individually documents to which access is requested which relate to an EU Pilot procedure, the General Court rightly noted, referring to paragraph 68 of the judgment of 14 November 2013, *LPN and Finland* v *Commission* (C-514/11 P and C-605/11 P, EU:C:2013:738), in paragraph 83 of the judgment under appeal, that such an obligation would render the general presumption of confidentiality ineffective.

48 In the present case, the General Court noted, in paragraph 45 of the judgment under appeal, which is not disputed in this appeal, that the EU Pilot procedure at issue was an 'investigation' within the meaning of the third indent of Article 4(2) of Regulation No 1049/2001.

49 Next, the General Court considered whether the Commission could rely on a general presumption of harm to the objectives pursued by the exception laid down in the third indent of Article 4(2) of Regulation No 1049/2001 in order to refuse access to documents concerning the EU Pilot procedure, and held, in paragraphs 63 and 80 of the judgment under appeal, that it could.

50 As regards the possible effect of the Commission's letter of 30 April 2012, referred to in paragraph 15 of this judgment, on the obligation to disclose the documents at issue, it must be noted that that letter does not constitute the Commission's definitive decision not to commence a formal infringement procedure against the Federal Republic of Germany, but merely states its preliminary intention to close the investigation. The Commission's definitive decision not to commence a formal infringement procedure against the Federal Republic of Germany was not taken until 27 September 2012, with the closure of the EU Pilot procedure at issue. In consequence, although the contested decision, dated 21 June 2012, was adopted after the letter of 30 April 2012, the fact remains that that decision was adopted before the rejection of the commencement of a formal infringement procedure on 27 September 2012. Accordingly, the letter of 30 April 2012 is irrelevant to the Commission's ability to take as its basis the general presumption of confidentiality referred to in the preceding paragraph of this judgment.

51 Having regard to the foregoing considerations, the General Court did not err in law in holding that the Commission is able to take as its basis, when relying on the exception concerning investigations laid down in the third indent of Article 4(2) of Regulation No 1049/2001, a general presumption of confidentiality applying to certain categories of documents to refuse access to documents relating to an EU Pilot procedure, without making a specific and individual examination of the documents requested.

52 In those circumstances, the first ground of appeal must be rejected as unfounded.

B. The second plea in law

1. Arguments of the parties

53 The Kingdom of Sweden, supported by the Republic of Finland, argues that the decision of the General Court in paragraphs 94 and 95 of the judgment under appeal is incorrect in law, the General Court having wrongly held that the Commission had not erred in its assessment in finding, in the present case, that there was no overriding public interest justifying disclosure of the documents at issue under the final clause of Article 4(2) of Regulation No 1049/2001, on the ground that the best way of serving public interest was to complete the EU Pilot procedure with the Federal Republic of Germany. Referring to paragraph 44 of the judgment of 1 July 2008, *Sweden and Turco* v *Council* (C-39/05 P and C-52/05 P, EU:C:2008:374), the Kingdom of Sweden argues that it is not for the Commission to decide upon the best way of serving the public interest, but to ascertain that there is no overriding public interest justifying the disclosure of documents.

54 The Commission and the Federal Republic of Germany dispute that line of argument.

2. Findings of the Court

55 The General Court found, in paragraph 97 of the judgment under appeal, that, in support of their request for access to the documents at issue, the applicants at first instance merely relied on general assertions that the disclosure of the documents is necessary for the protection of human health and failed to state specific grounds showing to what extent such disclosure would serve that general interest. As the General Court rightly recalled in the same paragraph of the judgment under appeal, to establish the fact that, in the present case, disclosure of the documents at issue met such a need, the applicants ought to have shown that there was an overriding public interest, within the meaning of the final clause of Article 4(2) of Regulation No 1049/2001, to justify such disclosure.

56 The Court has previously held that the onus is on the party arguing for the existence of an overriding public interest to rely on specific circumstances to justify the disclosure of the documents concerned and that setting out purely general considerations cannot provide an appropriate basis for establishing that an overriding public interest prevails over the reasons justifying the refusal to disclose the documents in question (see, to that effect, judgment of 14 November 2013, *LPN and Finland* v *Commission*, C-514/11 P and C-605/11 P, EU:C:2013:738, paragraphs 93 and 94 and the case-law cited).

57 In that regard, it must be noted that nothing which has been adduced in the present case is such as to establish that the considerations of the General Court, in paragraph 97 of the judgment under appeal, regarding both the burden of proof on the applicants at first instance and the fact that those applicants merely alleged, in general, that the protection of human health required that they have access to the documents at issue, without putting forward specific grounds showing that that protection was an overriding public interest, were incorrect in law.

58 In those circumstances, the Kingdom of Sweden has no grounds on which to claim that the General Court erred in law by holding that the Commission was entitled to take the view that, in the present case, there was no overriding public interest justifying disclosure of the documents under the final clause of Article 4(2) of Regulation No 1049/2001.

59 Accordingly, the second ground of appeal must be rejected.

C. The third plea in law

1. Arguments of the parties

60 The Kingdom of Sweden, criticising paragraphs 100 and 101 of the judgment under appeal, submits that the General Court erred in law by refusing to accept that the circumstances arising subsequent to a decision to refuse access to a document under Regulation No 1049/2001 should also be taken into consideration by the EU Courts as part of the review of the lawfulness of such a decision which they exercise on the basis of Article 263 TFEU. That Member State is of the view that, in the present case, although the EU Pilot procedure was closed after the adoption of the contested decision, that fact ought to have been taken into account by the General Court, in the light of Regulation No 1049/2001.

61 That Member State argues that if new facts could be examined only in a new request for access to the documents sent to the institution concerned, such a system would lead to parallel procedures and the prolongation of procedures as well as increased administrative burdens on the applicants. Moreover, in support of its decision, the General Court took as its basis case-law of the Court of Justice concerning State aid proceedings, which is not transferable to decisions adopted under Regulation No 1049/2001. In the submission of the Kingdom of Sweden, the General Court should rather have had regard to paragraphs 37 to 41 of the judgment of 15 September 2011, *Koninklijke Grolsch* v *Commission* (T-234/07, EU:T:2011:476).

62 The Commission, the Czech Republic and the Federal Republic of Germany dispute that line of argument.

2. Findings of the Court

63 As the General Court correctly noted in paragraph 100 of the judgment under appeal, it is settled case-law of the Court of Justice that the legality of an EU measure must be assessed on the basis of the facts and the law as they stood at the time when the measure was adopted (judgment of 3 September 2015, *Inuit Tapiriit Kanatami and Others* v *Commission*, C-398/13 P, EU:C:2015:535, paragraph 22 and the case-law cited).

64 In those circumstances, the third ground of appeal, alleging that the General Court ought to have taken account of the closing of the EU Pilot procedure at issue, which occurred after the adoption of the contested decision, must be rejected as unfounded.

65 Consequently, the appeal must be dismissed in its entirety.

VI. Costs

66 In accordance with Article 184(2) of the Rules of Procedure of the Court of Justice, where the appeal is unfounded, the Court is to make a decision as to costs.

67 Under Article 138(1) of those Rules, which apply to the procedure on appeal by virtue of Article 184(1) thereof, the unsuccessful party must be ordered to pay the costs if they have been applied for in the successful party's pleadings. Article 140(1) of those Rules provides that the Member States which have intervened in the proceedings are to bear their own costs.

68 Since the Kingdom of Sweden has been unsuccessful and the Commission applied for costs against it, that Member State must be ordered to pay the costs incurred by the Commission.

69 The Czech Republic, the Kingdom of Denmark, the Federal Republic of Germany, the Kingdom of Spain and the Republic of Finland must bear their own costs.

On those grounds, the Court (Fourth Chamber) hereby:

1. **Dismisses the appeal;**

2. **Orders the Kingdom of Sweden to pay the costs incurred by the European Commission;**

3. **Orders the Czech Republic, the Kingdom of Denmark, the Federal Republic of Germany, the Kingdom of Spain and the Republic of Finland to bear their own costs.**

[Signatures]