

LIGAÇÕES FERROVIÁRIAS DE PORTUGAL À EUROPA

PONTO DE VISTA JURÍDICO

atualização outubro 2024

Ligações ferroviárias de Portugal à EUROPA ponto de vista jurídico

Tratado de funcionamento da União Europeia (TFUE)

Artigo 170: ... a União contribuirá para a criação e o desenvolvimento de redes transeuropeias nos setores das infraestruturas dos transportes, das telecomunicações e da energia.

Artigo 171: ... a União realizará todas as ações que possam revelar-se necessárias para assegurar a interoperabilidade das redes, em especial no domínio da harmonização das normas técnicas

<https://eur-lex.europa.eu/legal-content/PT/TXT/?uri=celex%3A12012E%2FTXT>

Ligações ferroviárias de Portugal à EUROPA ponto de vista jurídico

Artigo 288 do TFUE:

- Os regulamentos comunitários têm caráter geral e são obrigatórios em todos os seus elementos
- Devem ser integralmente respeitados
- São diretamente aplicáveis por todos os Estados-Membros ... sem que devam ser objeto de um ato nacional de transposição.

https://www.europarl.europa.eu/ftu/pdf/pt/FTU_1.2.1.pdf

Ligações ferroviárias de Portugal à EUROPA ponto de vista jurídico

<https://eur-lex.europa.eu/EN/legal-content/glossary/regulation.html> :

- Regulations are legal acts defined by Article [288](#) of the Treaty on the Functioning of the European Union (TFEU). They have general application, are binding in their entirety and are directly applicable in all European Union (EU) Member States. A regulation is part of the EU's secondary law, the body of law that derives from the principles and objectives set out in the EU treaties (primary law).
- A regulation is addressed to abstract categories of persons, not to identified persons. This is what distinguishes it from a decision, defined in Article 288 of the TFEU. It is binding in its entirety.
- A regulation must be complied with fully by those to whom it applies. It is a legal act binding upon:
 - the EU institutions,
 - Member States,
 - the individuals to whom it applies.
- A regulation is directly applicable in all Member States. This means that it:
 - applies immediately as the norm in all Member States, without needing to be transposed into national law;
 - creates rights and obligations for individuals, and they can therefore invoke it directly before national courts;
 - can be used as a reference by individuals in their relationship with other individuals, Member States or EU authorities.

Ligações ferroviárias de Portugal à EUROPA ponto de vista jurídico

Documento de trabalho da Comissão para revisão do regulamento 1315, mai2018:

<https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52018SC0178>

The completion of the core network alone is expected to generate an additional EUR 4 500 billion or 1.8% of Union GDP and account for 13 million job-years until 2030.

However, against those benefits, the TEN-T deployment faces several difficulties that require to be addressed in this revision:

- Capacity bottlenecks, remaining missing links and **insufficient network connectivity hampering multimodality;**
- **Insufficient and incomplete TEN-T infrastructure standards for each mode;**
- Lack of alignment with EU decarbonisation objective, paired with an increasing modalshift and resilience of the infrastructure;
- Operational and administrative barriers, including **lengthy cross-border waiting times;**
- **Inadequate governance instruments and enforcement of the Regulation;**
- Delays threatening the timely completion of the core network, causing stranded assets for Member States which managed to build their section and preventing the full network benefits.

Ligações ferroviárias de Portugal à EUROPA ponto de vista jurídico

14dez2021 :

To support the transition to cleaner, greener, and smarter mobility, in line with the objectives of the [European Green](#) the Commission today adopted four proposals that will modernise the EU's transport system. By increasing connectivity and shifting more passengers and freight to rail and inland waterways :

A smart and sustainable TEN-T
Increasing long-distance and cross-border rail traffic
Intelligent transport services for drivers
Cleaner, greener, easier urban mobility

fonte:

[Efficient and Green Mobility \(europa.eu\)](#)

[Action Plan to boost passenger rail \(europa.eu\)](#)

Ligações ferroviárias de Portugal à EUROPA ponto de vista jurídico

Nas propostas de 14dez2021 e 27jul2022 da CE para um novo regulamento, com revisão dos regulamentos 913 e 1153 (ex 1316 – financiamento CEF) e substituição do regulamento 1315 foram definidos 3 prazos:

2030 rede “core” ou principal

2040 rede “extended core” ou antecipação de anterior prazo 2050

2050 rede “comprehensive” ou complementar

O relatório provisório de 10out2022 do Parlamento Europeu (PE) reforçou as propostas da CE.

Proposta de 14dez2021
Proposta de 27jul2022
Relatório de 10out2022

<https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52021PC0812>

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A52022PC0384>

https://www.europarl.europa.eu/doceo/document/TRAN-PR-736593_EN.pdf

Ligações ferroviárias de Portugal à EUROPA ponto de vista jurídico

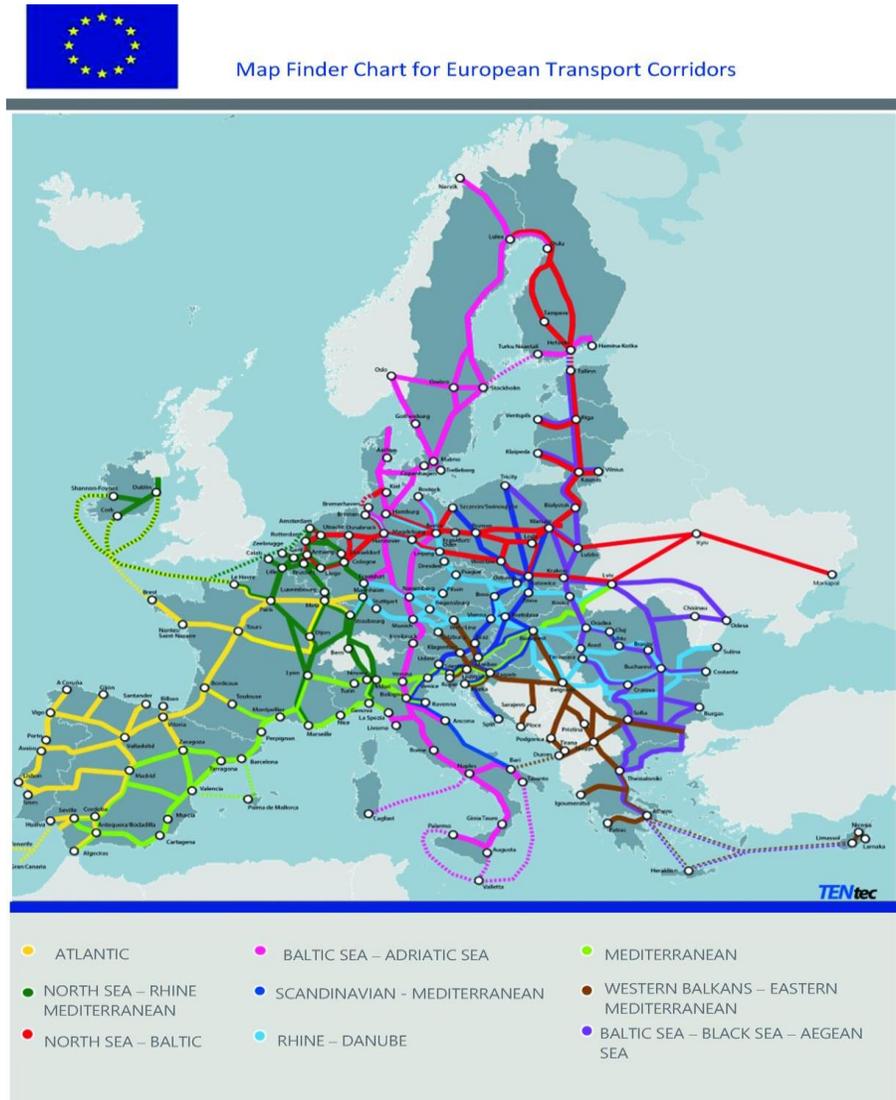
Mapa dos corredores europeus do regulamento 2024/1679 aprovado pelo Parlamento Europeu e o Conselho em 13jun2024 - Anexo III
Corredor Atlântico a amarelo

Texto e mapas do regulamento 1679:

https://publications.europa.eu/resource/ellar/cc3395a5-3516-11ef-b441-01aa75ed71a1.0006.03/DOC_1

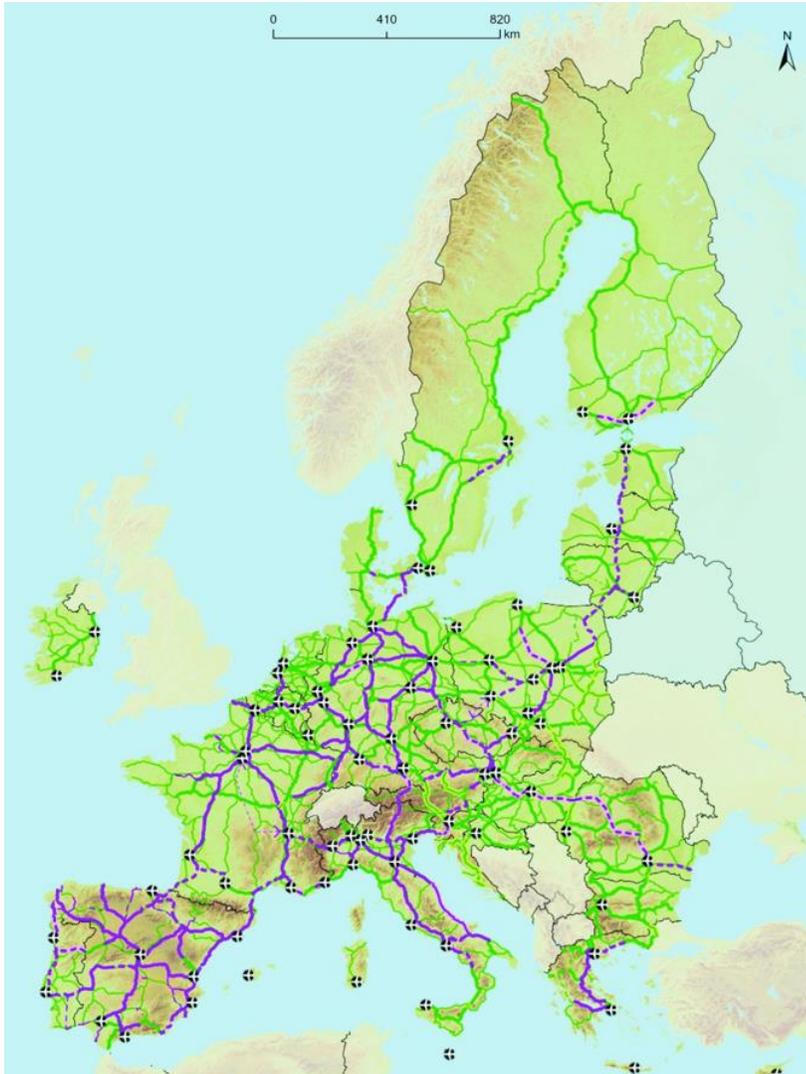
requisitos da interoperabilidade arts 12 a 18:

ERTMS
1435mm
740m
22,5 ton/eixo
25 kVAC
250 km/h passageiros
100 km/h mercadorias



The parts of the map pertaining to corridor alignment in third countries are indicative.

Ligações ferroviárias de Portugal à EUROPA ponto de vista jurídico



Rede de passageiros

regulamento 2024/1679, mapas EU do anexo I



Core, Extended Core & Comprehensive Networks:

Rail passengers and core airports

EU Member States

Ligações ferroviárias de Portugal à EUROPA ponto de vista jurídico

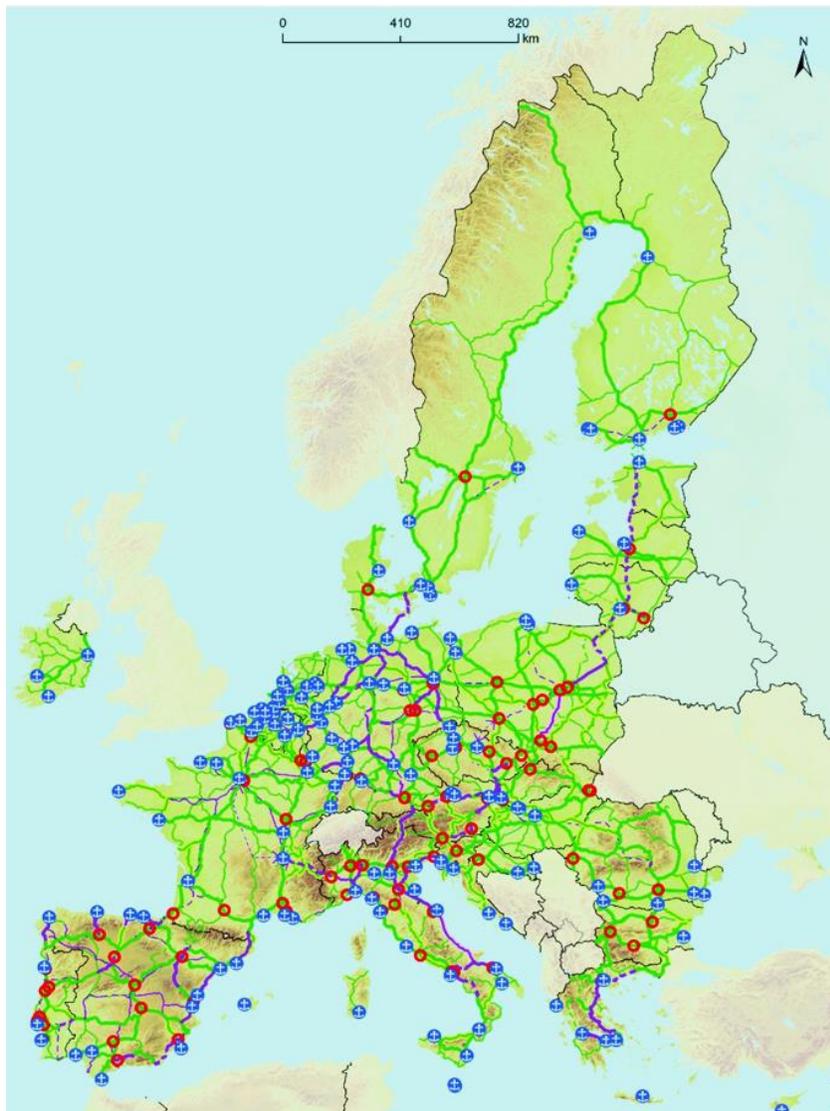


Rede de passageiros

regulamento 2024/1679, mapas 7 do corredor atlântico do anexo I

Railways Core	Railways Extended Core	Railways Comprehensive	Compr Core	Urban Nodes
<ul style="list-style-type: none"> Conventional Conventional / New Constr. ≥ 200 km/h ≥ 200 km/h / New Constr. Projected 	<ul style="list-style-type: none"> Conventional Conventional / New Constr. ≥ 200 km/h ≥ 200 km/h / New Constr. 	<ul style="list-style-type: none"> Conventional Conventional / New Constr. ≥ 200 km/h ≥ 200 km/h / New Constr. Projected 	<ul style="list-style-type: none"> Airports 	<ul style="list-style-type: none"> Capitals Urban Nodes

Ligações ferroviárias de Portugal à EUROPA ponto de vista jurídico



Rede de mercadorias

regulamento 2024/1679, mapas EU do anexo I



Core, Extended Core & Comprehensive Networks:
Rail freight, core ports and rail-road terminals (RRT)
EU Member States

Ligações ferroviárias de Portugal à EUROPA ponto de vista jurídico

Rede de mercadorias

regulamento 2024/1679, mapas 7 do corredor atlântico do anexo I



Railways Core		Railways Extended Core		Railways Comprehensive		Compr	Core	Urban Nodes
	Conventional		Conventional		Conventional			
	Conventional / New Constr.		Conventional / New Constr.		Conventional / New Constr.			
	≥ 200 km/h		≥ 200 km/h		≥ 200 km/h			
	≥ 200 km/h / New Constr.		≥ 200 km/h / New Constr.		≥ 200 km/h / New Constr.			
	Projected				Projected			

Ligações ferroviárias de Portugal à EUROPA ponto de vista jurídico

Objetivos e requisitos da infraestrutura das redes TEN-T (*in* sítio da DG MOVE, visto em out2024):

https://transport.ec.europa.eu/transport-themes/infrastructure-and-investment/trans-european-transport-network-ten-t_en

The infrastructure requirements for the TEN-T network ensure that transport infrastructure users can count on an efficient, reliable and high-performing infrastructure wherever they are in the EU. This is important for our economic development and competitiveness and the cohesion of the EU.

- **Rail travel speed:** By 2040, passenger railway lines on the core and extended core network must support trains traveling at speeds of 160 km/h or faster.
- **European Rail Traffic Management System (ERTMS):** The single European signalling system will be deployed across the entire TEN-T network, enhancing rail safety and efficiency. National systems will be phased out.
- **Airport connectivity:** Major airports with over 12 million passengers annually must be connected by long-distance rail, making rail a competitive alternative to domestic feeder flights.
- **Freight terminals:** The number and capacity of transshipment terminals will be expanded to meet traffic demands. This includes accommodating 740-meter long trains, promoting the shift to sustainable transport modes, and boosting Europe's combined transport sector.
- **Urban mobility:** All major cities along the TEN-T network will develop sustainable urban mobility plans to promote zero and low-emission mobility.
- **Alternative fuels:** The TEN-T is the basis for the deployment of recharging points and refuelling points for alternative fuels, such as hydrogen. It complements the requirements of the Alternative Fuels Infrastructure Regulation for urban nodes and terminals.

Ligações ferroviárias de Portugal à EUROPA ponto de vista jurídico

Considerandos do regulamento 2024/1679 (1) :

(24) The core network has been identified on the basis of an objective planning methodology. That methodology has identified the most important urban nodes, ports and airports, as well as border crossing points. Wherever possible, **those nodes are to be connected by rail or road, or both, to the trans-European transport network** as long as they are economically viable and feasible. The methodology has ensured the interconnection of all Member States and the integration of the main islands into the core network

(26) Certain existing standards of the core network should be extended to the extended core network and comprehensive network in order to reap full network benefits, to increase interoperability between network types and to enable more activity by more sustainable forms of transport, including through **higher digitalization** and other technological solutions.

(31) As stated in the Commission Communication on the Sustainable and Smart Mobility Strategy, **an integration of the Core Network Corridors and of the Rail Freight Corridors into ‘European Transport Corridors’ is needed** to increase synergies between infrastructure planning and the operation of transport.

(36) Member States **concerned should ensure that appropriate measures are taken to finalize the projects of common interest of the core network, the extended core network and the comprehensive network by the set deadlines 2030, 2040 and 2050** respectively, unless otherwise specified in this Regulation. To this end, Member States should ensure that **there is coherence of the national transport and investment plans with the priorities set out in this Regulation**. Member States should also take into account, inter alia, the priorities set out in the **work plans of the European Coordinators** and in the implementing acts adopted in accordance with this Regulation.

Ligações ferroviárias de Portugal à EUROPA ponto de vista jurídico

Considerandos do regulamento 2024/1679 (2) :

(45) **A railway track gauge different from that of the European standard nominal track gauge of 1 435 mm severely hampers the interoperability of the railway networks across the Union** and even impacts the competitiveness of those isolated railway networks. **New railway lines of the core network or extended core network should therefore be built in European standard nominal track gauge of 1 435 mm.** In addition, Member States with a network with a track gauge different from that of the European standard nominal track gauge of 1 435 mm should assess the migration of existing lines of the European Transport Corridors to the European standard nominal track gauge of 1 435 mm.

(51) **Decommissioning of class B systems brings significant maintenance savings** for infrastructure managers considering the costs and the complexity of deploying ERTMS and keeping additional trackside systems for a prolonged period.

(64) **Urban nodes play an important role on the trans-European transport network as starting point or final destination ('last mile') for passengers and freight moving on the trans-European transport network and are points of transfer within or between different transport modes.** It should be ensured that capacity bottlenecks and an insufficient network connectivity within urban nodes no longer hamper multimodality along the trans-European transport network ... **The local connectivity within urban nodes should be addressed by the competent local, regional or national authorities, in particular through relevant measures of their sustainable urban mobility plans (SUMP).**

(101) **it is necessary to amend Regulation (EU) No 913/2010** in order to adapt its provisions with the view **to integrating the Rail Freight Corridors into European Transport Corridors.**

Do relatório do ECA (European Court of Auditors - Tribunal de Contas Europeu) de ago2023 "Intermodal freight transport EU still far from getting freight off the road" : "***Member states' delays in ensuring the compliance of linear infrastructure with technical requirements hampers the competitiveness of intermodality***"

Ligações ferroviárias de Portugal à EUROPA ponto de vista jurídico

Do Regulamento 2024/1679 :

Art.3.7 - ‘isolated network’ means a rail network of a Member State, or part thereof, with a track gauge different from that of the European standard nominal track gauge of 1 435 mm

Art.16.8 - Member States shall ensure that, by 31 December 2040, lines for freight transport that are part of the railway infrastructure of the core network or extended core network ... allow for the **circulation of freight trains carrying standard semi-trailers up to 4 m high**, loaded at a height of at least 27 cm above the top of the rail track on the European Transport Corridors on their territories.

Art.17 - European standard nominal track gauge for rail

17.1 - bitola UIC até 31dez2030 se construção de nova linha da rede “core” iniciada depois de jul2024 17.2 – permitida a não construção em bitola UIC de uma nova linha que não esteja planeada em jul2024 mediante uma ACB (análise socioeconómica de custos benefícios) negativa a realizar até jul2026; não aplicável em Portugal por já estarem planeadas todas as ligações a Espanha

17.3 - aplicável ao troço Évora-Caia por estar integrado num corredor europeu e não ter bitola UIC; avaliação coordenada com Espanha até jul2026 para migração da bitola ibérica para UIC incluindo ACB e avaliação do impacto na interoperabilidade; elaboração do plano de migração até jul2027

17.5 – possível isenção de cumprimento da bitola UIC, mas sempre temporária, dependente de ACB negativa e coordenada com Espanha

Art.18 – ERTMS operativo na rede “core” até 31dez2030 e desinstalação de sistemas de classe B até 31dez2040.

Ligações ferroviárias de Portugal à EUROPA ponto de vista jurídico

Destaque das razões para o urgente desenvolvimento em Portugal da rede UIC:

- Transferência de passageiros da ligação aérea Lisboa-Madrid (ca. 20 aviões diários por sentido) para a Alta Velocidade ferroviária
- Transferência progressiva da carga rodoviária de médio e longo curso para a ferrovia, com recurso ao transporte de semirreboques por comboio
- Estímulo das exportações e fixação de investimento produtivo estrangeiro

Ligações ferroviárias de Portugal à EUROPA ponto de vista jurídico

exportações de bens modo ferro e modo rodo em 2023			
	soma dos 2 modos	ferro	rodo
	em Mton		
UE	16,81	0,121	16,684
Espanha	11,16	0,095	11,063
UE-Espanha	5,65	0,026	5,621
	em M€		
UE	44416	439	43977
Espanha	17419	163	17256
UE-Espanha	26997	276	26721

fonte:

[Portal do INE](#)

Ligações ferroviárias de Portugal à EUROPA ponto de vista jurídico
valor e peso das exportações de bens por todos os modos, de
janeiro a agosto de 2024:

para Espanha	13505 milhões de euros	9,685 milhões de toneladas
para resto da UE	24162 milhões de euros	8,198 milhões de toneladas

https://www.ine.pt/xportal/xmain?xpid=INE&xpgid=ine_indicadores&indOcorrCod=0008151&contexto=bd&selTab=tab2

Ligações ferroviárias de Portugal à EUROPA ponto de vista jurídico

Propostas de solução:

- Alteração da estratégia da IP e agrupamentos AEIE (agrupamento europeu de interesse económico) para cumprimento dos regulamentos comunitários
- Modelo de dois órgãos de gestão independentes, rede existente ibérica e nova rede UIC/ERTMS
- Desenvolvimento dos projetos da rede TEN-T para obtenção do cofinanciamento comunitário, se necessário invocando o princípio da subsidiariedade para apoio técnico, concurso internacional para o planeamento e projeto, e reforço do cofinanciamento
- Coordenação com a CE/DG MOVE/coordenador do corredor atlântico e outros órgãos da EU, governo espanhol/MITMA/comisionado del corredor atlantico, governo francês
- Sessões públicas periódicas de acompanhamento do progresso

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muito obrigado

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