

# RESEARCHING THE EU BORDERLANDS

## Proceedings of the 1<sup>st</sup> FRONTEX-INEX Workshop

### Warsaw, Collegium Civitas

### 25 February 2009

Rapporteur: Massimo Merlino

#### ABSTRACT

This report presents a synthesis of the main proceedings and discussions that took place at the first (of three) FRONTEX-INEX workshops. The event was held at Collegium Civitas in Warsaw (Poland) on the 25th February 2009. The seminar's aim was to facilitate and encourage debate between INEX researchers and the EU agency FRONTEX, whose mission is to strengthen the security of EU external borders. In addition to the proceedings of the workshop, this INEX Meeting Report contains the programme and a list of participants.

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- The workshop was held within the context of INEX, a three-year project on converging and conflicting ethical values in the internal/external security continuum in Europe, funded by the Security Programme of DG Enterprise of the European Commission's Seventh Framework Research Programme. The project is coordinated by PRIO, the International Peace Research Institute, in Oslo. For more information about the project, please visit: [www.inexproject.eu](http://www.inexproject.eu)



International Peace Research Institute, Oslo

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### PROGRAMME

- 09.00-09.15** Welcome & opening remarks by **Burgess, J. Peter (PRIO)**
- 09.15-11.00** Presentation of INEX WP1-WP6 links to FRONTEX  
**Jeandesboz, Julien (CC):** WP 1 (Technology)  
**Gonzalez-Fuster, Gloria (VUB):** WP 2 (Legal dimensions)  
**Merlino, Massimo (CEPS):** WP 8 (Dissimination)  
**Burgess, J. Peter (PRIO):** WP 3 (Policing)  
**Davidshofer, Stephan (PRIO):** WP 4 (CFSP/EDSP)  
**Longhurst, Kerry (Collegium Civitas):** WP 5 (ENP East)  
**Carretero, Maria Hernandez (PRIO):** WP 6 (ENP Mediterranean)
- 11.00-12.00** Discussion
- 12.00-13.00** Lunch
- 13.00-15.00** Presentation of FRONTEX links to INEX  
**Vijande, Julio** (FRONTEX- External relations)  
**Mezquita, Isaac** (FRONTEX - Capacity Building)  
**Matjaz, Jancic** (FRONTEX - Operation Unit)  
**Gariup, Monika** (FRONTEX - (Research and Development)
- 15.00-16.00** Discussion

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Welcome & opening remarks by **Peter Burgess (International Peace Research Institute, PRIO)**.

Peter Burgess welcomed the delegates to this informal meeting aimed at the mutual exchange of information between the INEX Project and FRONTEX. Before opening the floor to the representatives of each of the work packages, Burgess gave an overview of the INEX Project ('Converging and conflicting ethical values in the internal/external security in continuum in Europe'), which is funded by the Seventh Framework Programme (FP7) of DG Enterprise of the European Commission.

Burgess emphasised that in the various processes of European construction, two dimensions have been central: the process of globalisation and the breaking down of borders. While the exchange of goods, services and labour, etc. was part of the original plan, the processes of Europeanisation and globalisation had also led to unexpected consequences, however, such as: the globalisation of crime, insecurity and undocumented migrants, among others. These aspects of globalisation have become even more evident and challenging since the end of the Cold War and following the events of 9/11. Moreover, the processes of globalisation have also generated a shift in the way in which threats are perceived. Burgess underlined that there are a series of 'globalised threats' which link together with the opening of borders. This has generated two main consequences: first, security agencies have become more and more preoccupied with internal security; second, there is a blurring in the division of tasks that were previously treated as matters of internal security or as external security. This has also generated a blurring of laws, of rights, of national and European cultures and a blurring of ethical issues.

The scope of the INEX project is therefore to assess how this blurring of borders has impacted rights, laws and ethical-cultural issues. There are essentially 6 research work packages (WPs) in the project. The first 4 WPs cover the main themes dealt with in the project:

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- WP1 is on the “ethical premises and consequences of security technologies”;
- WP2 is on “cross-border legal dilemmas of the internal/external security continuum”;
- WP3 analyses the value assumptions and ethical challenges involving the rapidly changing role of security professionals in Europe, and the changes and challenges in police culture;
- WP4, on the changes on external security, analyses the ethical consequences of changes in the Common Foreign and Security Policy as a result of the progressive blurring of the internal/external borders whose integrity is conceived to safeguard.

The last two WPs focus on case studies on the European Neighbourhood: WP4, which focus on the Eastern European Neighbourhood, analyses the direct consequences, in terms of value and ethics of the evolution of the internal/external security continuum for three members of the Eastern European Neighbourhood Policy (Belarus, Ukraine and Moldova). WP5, which looks at the Mediterranean dimension, examines the direct consequences, in terms of value and ethics of the evolution of the internal/external security continuum for three members of the Mediterranean part of the European Neighbourhood Policy (Morocco, Algeria, and Egypt).

### **MORNING SESSION: INEX Work Packages Presentations**

**WP1** - Ethical premises and consequences of security technologies.

**Julien Jeandesboz** (Centre d'Etudes sur les Conflits, C&C)

Jeandesboz gave a presentation of the research carried out in WP1 (“Ethical premises and consequences of security technologies”), which examines the question of security technologies with a specific focus on the issue of borders and mobility. His presentation focused on three main points: first, borders (particularly EU borders); second, technology and security; third, the ethical implications and premises of security technologies in use for border management purposes.

On borders, Jeandesboz underlined that the construction of the EU together with the establishment of the ‘four freedoms’ has altered the patterns of mobility both within the Union and in other countries outside the EU. The Europeanisation process has profoundly transformed the ways in which borders are controlled. Jeandesboz stressed that internal border controls have been moved internally and address the alien populations living on, and circulating through, the territory of EU-MS. Moreover, external border controls have also evolved. EU border controls increasingly occur abroad, in third countries, and involve an increasing number of actors. Moreover, Jeandesboz pointed out that border controls are no longer parameterised solely by the territorial dimension of borders, but they focus, increasingly, on the ‘sorting’ of individuals.

On technology, Jeandesboz stressed that security practices at the EU level are being increasingly mediated by a growing range of technological devices. He outlined the key technological systems at stake in border controls and surveillance: firstly, technologies of detection and interception; secondly, technologies of identification and verification of identity; thirdly technologies of data assemblage. He also underlined two main orientations: first, the individualisation of controls (controls are not a matter of where you are, but who you are); second, trends towards the privileging of pro-activity, prevention and profiling.

On the ethical and political stakes of security technologies, Jeandesboz stressed that technology is not value-neutral; on the contrary, it could have important implications in terms of privacy, social justice, discrimination and exclusion. He argued that at the core of European construction is the notion of freedom of circulation, and when this is challenged, the whole process is thrown into question as well.

**WP2 - Cross-border legal dilemmas of the internal/external security continuum.**

**Gloria Gonzalez-Fuster (VUB)**

Gonzalez-Fuster presented WP2 on the “Cross-border legal dilemmas of the internal/external security continuum”. She explained that the main objective of this WP is to analyse the ethical value assumptions that are implicit in the translational legal dilemmas surrounding European security. She explained that this would be substantiated by three sub-objectives: first, identifying the legal dilemmas inherent in European security practice; second, exploring the ethical value assumptions implicit in them; third, providing policy recommendations based on this analysis.

On the first task – to reflect on the relationship between security and law in Europe – Gonzalez-Fuster explained that WP2 will deliver “a state of the art report on the current scholarship on the law-security nexus in Europe”. The report will be based on the premise that security policies can only be developed if they fully respect human rights. In practice, certain policies, measures and laws adopted in the name of security do have a negative impact on the rights and freedom of individuals. Gonzalez-Fuster emphasised that the right to privacy and the right to data protection are those which are more endangered by the discourse about balancing between security and human rights. She cited the examples of some of the most discussed initiatives: the agreement on the transfer of the Passenger Name Record (PNR) to the US; the Data Retention Directive; the European Commission directive to support body scanners.

Finally Gonzalez-Fuster outlined the main legal dilemmas that the WP2 team consider most striking: first, the safeguard of the right to privacy and the right to data protection, based on a clear understanding of their respective nature and function (the right to privacy cannot be limited to data protection, its scope and nature are different); second, the effective protection of individuals in the context of predictive data-mining practices (these practices are sometimes linked to profiling but consist actually of mining large quantities of data to ‘discover’ patterns later used, for instance, to pick out potentially risky individuals from the rest); third, the problems related to large-scale databases,

such as discrimination (judgment of case Heinz Huber v. Germany ECJ 16 Dec 2008), and to biometric data (storing fingerprints, DNA samples and profiles – important judgement of the ECHR in the “Marper” case).

#### **WP8 - Dissemination**

**Massimo Merlino** (Centre for European Policy Studies, CEPS)

Massimo Merlino presented the role that CEPS will play in the research dimension of the project. The CEPS team, in fact, besides the dissemination activities related to WP8, will deliver in October and November 2010 a Working Paper on the “Lifting of the Internal Borders in an Enlarged EU: The Relationship between the Schengen Information System and the EC Rule of Law” and a Policy Brief on “The Intersection between the Schengen Information System and the EC Rule of Law: Legal Guarantees and the EC”. The main objective of CEPS research is to assess the implications of the changing articulation of the European borders along with the processes of enlargement, and the ethical implications of its transformation and dynamics from territoriality to a technology-based rationale. The CEPS team will take the empirical example of the 10 member states that acceded to the EU on 1<sup>st</sup> May 2004 Europe, with particular attention to the lifting of the internal borders between them and the EU-15, and their accession to the Schengen Information System I and II.

The study will focus on the implications of the security continuum, and its relationship with ethical values, in the context of enlargement and the increasing technological nature of European borders. The extent to which the electronic borders of Europe (and their technological instruments) comply with EC paradigms such as those of *proportionality*, *effectiveness*, *legitimacy*, etc. will be evaluated. A mapping will therefore be provided of those legal guarantees at the disposal of the individual (EU citizen and third country national) confronting the borders as embodied by the European Community law, and as interpreted by the European Court of Justice’s jurisprudence.

Finally, the CEPS team will put forward a set of policy recommendations aiming at two objectives: first, giving information on the impacts that the changing architecture of European borders in Europe are having on individuals and their relationship with the EC rule of law; second, at improving current and future practices linked to the functionality of the electronic borders in Europe in relation to enlargement processes.

#### **WP3 - Policing**

**Peter J. Burgess** (PRIO)

WP3, which is under the responsibility of the *Vrije Universiteit Amsterdam*, was presented by Peter Burgess. The aim of this WP is to document and analyse the value assumptions and ethical challenges involving security professionals and their rapidly changing role in Europe of and to produce political recommendations to address them.

Burgess commented on the deliverable (state of the art on policing) presented in the framework of WP3. The research conducted in this state of the art is based on four main themes: first, the notion of police culture; second, national and transnational aspects; third, institutional and managerial issues; fourth the European code of police ethics.

On the first issue – police culture – it was emphasised that the institutional clashes, which take place as a consequence of the shift between internal/external security, also concern the ways in which the police works. Police officers are people working inside ‘organisation cultures’, meaning that they live and work with traditions, values, shared experiences of belonging, loyalty, etc. All those elements would not be relevant at transnational level. On the second point – the transnationalisation of police work – it was evidenced that with the blurring of internal/external borders also comes a shift of national and transnational roles in policing. In this regard, the role of codes (formal and informal) is central that officers and authorities have worked with. Burgess highlighted that when national codes are stretched to European level this entails severe problems. The third point – managerial issues – is related to the role that police officers play with regard to each other and with regard to the managers. Finally, Burgess referred to the European code of police ethics, which was adopted by the Commission in 2001 and intends to standardise ethical codes for police officers. He stressed that “Europeanising” police ethics means putting political pressure on one group to adopt the cultural and social values of another group.

#### **WP4 - CFSP/EDSP**

##### **Stephan Davidshofer (PRIO)**

Davidshofer presented WP4, whose aim is to empirically document and analyse the ethical consequences of changes in the Common Foreign and Security Policy as a result of the progressive blurring of the internal/external borders whose integrity it is conceived to safeguard. The study will examine and try to reconcile two different visions of security that the *security continuum* has created: an inclusive practice of security outside EU borders, in line with the idea that the EU is a normative power and acting as a magnet by promoting its values towards the rest of the world including its neighbours (through, for instance, stabilisation agreements), and the internal exclusive practice of security. The WP4 will go beyond the traditional studies on these issues, normally concerned with technical aspects and will try to find the right formula to talk about ‘cross-pillarisation’, aiming at having a more efficient EU external policy. Central to the analysis conducted by WP4 will be the assessment of the ethical consequences that the security continuum entails.

## **WP 5 - ENP East**

**Kerry Longhurst** (Collegium Civitas)

Longhurst presented WP5, whose primary objective is to document and analyse the direct consequences in value and ethical terms of the evolution of the internal/external security continuum for three members of the Eastern European Neighbourhood Policy (ENP): Belarus, Ukraine and Moldova. This WP will therefore complement WP6, which focuses on the Mediterranean dimension of ENP. Longhurst presented the European Commission plan for a new Eastern Partnership (EaP) as a specific “Eastern dimension within the ENP.” The EaP aims to intensify the relations with the Eastern neighbours, by bringing Ukraine, Moldova, Belarus, Georgia, Azerbaijan, and Armenia closer to the EU. The three countries upon which WP5 focuses therefore represent the group of the “Eastern neighbours”, even though it has been pointed out that there are also differences between them and in the nature of their relations with the EU (as well as with Russia), and therefore this group cannot be considered as homogenous. Longhurst also highlighted the EU’s interest in assuring stability, good governance, and economic development in the neighbourhood. EaP intends to establish deeper bilateral engagements, aiming at three main priorities: first, the creation of free trade areas with each EaP partner, and eventually the creation of a “Neighbourhood Economic Community”; second, the adoption of “mobility and security pacts” to foster mobility of people within a “secure environment”; third ensuring the security of energy supplies.

## **WP 6 - ENP Mediterranean**

**Maria Hernandez Carretero** (PRIO)

WP6, which falls under the responsibility of the Centro de Investigación de relaciones Internacionales y Desarrollo (CIDOB Foundation) presented by Maria Hernandez Carretero. The primary objective of this WP is to document and analyse the direct consequences in value and ethical terms of the evolution of the internal/external security continuum for three members of the Mediterranean segment of the European Neighbourhood Policy: Morocco, Algeria, and Egypt. It focuses on the European security initiatives in these three countries and on the impacts that the EU security strategies have on these three different contexts. More specifically WP6 will look at non-military security threats, such as illegal immigration, organised crime, smuggling and terrorism. One of the first objectives of this WP was to create a state of the art review looking at what has already been done in this topic. WP 6 will also address the contradictions emerging from the security strategies and the ethical and fundamental values upon which the EU is based. The more empirical aspects will involve field work in these countries (interviews with Ministries of Interiors, of Foreign Affairs, with local authorities dealing with migration, etc.).

## **AFTERNOON SESSION: FRONTEX Presentations**

### **Julio Vijande (FRONTEX - Relex Officer Executive Support)**

Vijande started his presentation by illustrating the concept of 'EU Integrated Border Management' which was adopted during the Council conclusion in December 2004. He highlighted five main elements: Border Control; Concerted Actions; Inter-Agency cooperation; Detection and investigation of cross border crime; the four-tier access control model (including action inland, border control, cooperation with neighbouring countries and activities in country of origin and transit).

Vijande explained the legal framework of FRONTEX External Relations, focusing on Articles 2, 13, 14, of the FRONTEX Regulation. He then outlined the following objectives of the cooperation with non-EU countries: to counter illegal migration and related cross-border crime by means of border control; to strengthen security at the borders between EU member states and non-EU countries; to develop good relations and mutual trust between border guard authorities of the EU member states and the non-EU country in question; to facilitate measures taken by FRONTEX and the border police of the non-EU country in question.

Concerning the current situation of FRONTEX cooperation with non-EU member states, it was shown that Working Arrangements (WA) are already in force with Russia, Ukraine, Moldova, Croatia, Georgia, Former Yugoslav Republic of Macedonia (FYROM), Serbia and Albania; with US, Bosnia Herzegovina and Montenegro the negotiation process is finalised but they are not yet in force; with Brazil, Morocco, Mauritania, Senegal, Cape Verde, W. Balkans, Senegal, Libya, Turkey and Egypt there is the mandate for WA.

Finally, Vijande pointed out that FRONTEX has relations and cooperates with international organisations and EU Bodies. On 'Migration management', FRONTEX has signed WA with the International Organization for Migration (IOM) and has a mandate for WA with the International Centre for Migration Policy Development (ICMPD). FRONTEX is also establishing cooperation with 'analysis and intelligence organisations': WA were signed with Europol and with Council General Secretariat/Situation Centre (SITCEN); with the International Criminal Police Organization (INTERPOL) WA were formalised, but not finally signed. FRONTEX also cooperates with the following JHA Agencies: European Police Office (EUROPOL), European Anti-Fraud Office (OLAF), Council SG/SITCEN, Customs Co-operation Working Party (CCWP), COM/DG JLS, and European Police College (CEPOL).

Moreover, it has also started cooperation with the Community Crisis capacity management (C3M Group) and established relations with Customs authorities (such as the CCWP). As regards cooperation on training and best practices in the field of asylum and fundamental rights, FRONTEX has signed WA with the Office of the UN High Commissioner for Refugees (UNHCR) and started cooperation with the Fundamental Right Agency (FRA) and EAC. Finally, as far as surveillance of the

external borders is concerned, FRONTEX signed WA with the European Maritime Safety Agency (EMSA) and works in close cooperation with the European Border Surveillance System (EUROSUR), with the Global Monitoring for Environment and Security (GMES), with the Joint Research Centre (JRC), with the European Union Satellite Centre (EUSC), and with the European Defence Agency (EDA).

### **Isaac Mezquita (FRONTEX - Training Unit)**

Mezquita presented the activities of the Training Unit. FRONTEX is organised in three divisions: Operation, Capacity Building and Administration. The Training Unit operates within Capacity Building. The development of training standards is based on three objectives: first, to develop common curricula for general Border Guard (BG) education; second, to reach a specific training and specialisation for border guard officers; third, to continue and maintain training networks.

Isaac Mezquita focused on the projects based on the second objective – Training and specialisation. These are very diversified and include: first, ‘air crew training’, which is addressed to pilots (who are deployed during joint operation) and has implied the adoption of a common manual in order to have common key commands on the same language; second, ‘detection of stolen cars’, which is addressed to the first line officers; third, ‘3rd countries training’, in which UNHCR has been invited to work with FRONTEX in order to have an input into the human rights protection; fourth, ‘false documents training’; fifth, ‘risk analysis training’, which is still in its initial phase (the data concerning risk analysis vary quite considerably among MS because there is not a common definition of risk analysis yet); sixth, language training; seventh, ‘joint operation’ training; eighth, ‘focal point office’ training; ninth, ‘Criminalistics’ for BG; tenth, Rapid Border Intervention Teams (RABIT) training and Schengen Evaluation Working Party (SchEval) training; eleventh, ‘joint returns’ training. As far as the third objective: Continuation and maintenance of training networks, is concerned, several actors are involved: for instance, Universities’ network offers the places to carry out the training courses and MS provide experts and trainers to FRONTEX.

Finally, Mezquita outlined the topics and contents related to FRONTEX training activities: sea border; land border; air border; detection of false documents; detection of stolen cars; coercive measures; human rights; integrated border management; pedagogical methods; applied psychology; English language; international and community law; asylum seekers; ethics; leadership; cross border crime.

### **Jancic Matjaz (FRONTEX - Operation Unit)**

Matjaz presented the activities of the Operation Unit of FRONTEX. The main role of this unit is to coordinate co-operation along the external borders of the member states of the European Union and of the external Schengen borders. The Operation Unit has a land border sector, an air border sector and a sea border sector. He focused his presentation on Eastern European Borders. Focusing on land borders, he presented

the Eastern Balkan, Western Balkan and Eastern European routes of immigration and the joint operations which will be launched this year on those areas. Some of the joint operations will be implemented in the EU external land borders. In the Joint operations around 250 officers from member states will be deployed in particular areas, and there will be also observers from third countries (there will be officers from Ukraine and there are negotiations to have Russian police officers). In border crossing points more than 6,000 officers will be deployed in total. Matjaz then focused on the joint operation Jupiter, whose general objective is to focus on borders. Host countries will be Poland, Slovakia, Hungary and Romania. Other member states will deploy their officers in particular areas and there will also be involved officers from Ukraine and Moldova. There will be five operational bases of 15 days each. He also explained the horizontal joint operations, which take place in border crossing points. He emphasised that the main objective of these operations is to arrest immigrants who are trying to enter the EU.

**Monica Gariup** (Research and Development Unit).

Monica Gariup presented the activities of the 'Research and Development Unit', which operates within the Capacity Building division. She highlighted the role of the Capacity Building division: to support the member states and the Commission in developing and building capacities for control and surveillance of the external borders. The Capacity Building division provides training at European level for national instructors of border guards and for national officers, follows developments in relevant research, disseminates information to the Commission and to the member states, and manages and develops human and material resources provided by the member states.

Gariup then outlined the Research and Development (RD) fields of interest: maritime surveillance; land surveillance; sensors for detecting humans and objects inside closed compartments; biometrics and electronic ID documents; command, control, communications, computers and intelligence (C4I); interoperability; assessment methods, including social issues. In particular, the mandate of the RD unit is to "follow up on developments in research relevant for the control and surveillance of external borders and disseminate this information to the Commission and the member states." The RD Unit represents the link between researcher community (academia, research centres) and users (border guards, member states authorities, and the Commission).

As far as the Research and Technology Providers are concerned, the RD unit mainly works in Joint projects with Joint Research Centre (JRC) of the EC, with EU Agencies (such as the European Defence Agency, EDA) and DG ENTR FP7 Security Research. On EU research on security, the RD unit is also involved in the Seventh Framework Programme (FP7) run by DG Enterprise and Industry for Research and Technological Development. Gariup highlighted that FRONTEX is not a partner in FP7 projects, but plays a role in the evaluation of project proposals (in the first call June/July 2007 and in the second call, which was closed in Dec. 2008). In the execution of projects (2008-2013) FRONTEX supports DG Enterprise in entering in contact with relevant projects

and it is also FRONTEX end-user in relevant projects. Around €200 million per year are allocated to security. However, the RD unit is involved in projects not only dealing with security but also in other areas such as IT or environment, where the aim is to develop certain technologies for the benefit of border security.

## **DISCUSSION**

Among other issues, the establishment of the European Border Surveillance System (EUROSUR) was central to the debate. The discussion focused in particular on the ethical implications raised by the new project and on the role that FRONTEX will play within it. The Research and Development Unit of FRONTEX is involved in the working group examining the creation of EUROSUR (Commission Communication of 2008 – include full reference in footnote and another reference to our CEPS policy brief analyzing the Border package). According to Gariup, the idea is to implement a ‘System of systems’ to provide situational awareness and reaction capability of border areas. She outlined three main objectives: first, to reduce the number of illegal immigrants entering undetected; second, to reduce death toll; third, to increase EU security. Those objectives will be achieved mainly through three phases: first, interlink and streamlining existing surveillance at MS level; second, developing common EU tools; third, developing common monitoring and info-sharing for sea borders.

The existing systems used in border management in the European Union are the Schengen Information System (SIS) and Visa Information System (VIS). The next steps are represented by the Entry/Exit system. FRONTEX is working on this system as regard the development of technology means based on biometrics (fingerprints, face). Probably the RD unit of FRONTEX will also be involved in the initiative of the Commission named ‘Registered Travelers Program’ (for bona fide third country nationals). According to FRONTEX officials this system aims at increasing security, convenience, cost-effectiveness, and also freedom of movement.

Finally, it was also underlined that as far as the EU develops an integrated border management, EUROSUR and the Entry/exit system will represent the main focus of activities of FRONTEX. Gariup also stressed that FRONTEX tries to play a major role in the development of future European capacities through the analyses of capacity needs and need for standards, through influence on EU security research, the support to the development of security and research policy and by providing technical support to member states.

## LIST OF PARTICIPANTS

- 1 Burgess, J. Peter (PRIO)
- 2 Carretero, Maria Hernandez (PRIO)
- 3 Davidshofer, Stephan (PRIO)
- 4 Gariup, Monika (FRONTEX)
- 5 Gonzalez-Fuster, Gloria (VUB)
- 6 Jeandesboz, Julien (CC)
- 7 Longhurst, Kerry (Collegium Civitas)
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