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Chapter II National Civil Police

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1. *Establishment of the national civil police*

The National Civil Police shall be established in accordance with the constitutional reform resulting from the Mexico Agreements. The National Civil Police shall be a new force with a new organization, new officers, new education and training mechanisms and a new doctrine.

- A. The National Civil Police shall be the only armed police body with national jurisdiction. Its mission shall be to protect and safeguard the free exercise of the rights and freedoms of individuals, to prevent and combat all types of crimes, and to maintain internal peace, tranquillity, order and public security in both urban and rural areas.
- B. In accordance with the provisions of the New York Agreement, the organization of the National Civil Police and the general outlines of its staff profile shall be determined, on the terms set forth in this Agreement, under close international cooperation and supervision, coordinated by the United Nations. ²

2. *Doctrine*

- A. The legal regime, staff training, organizational lines, operational guidelines and, in general, the institutional definition and operation of the National Civil Police shall accord with democratic principles; the concept of public security as a service provided by the State to its citizens, free from all considerations of politics, ideology or social position or any other discrimination; respect for human rights; the effort to prevent crime; and the subordination of the force to the constitutional authorities. Citizens' exercise of their political rights may not be impaired by police activities.

- B. The National Civil Police shall be a professional body, independent of the armed forces and free from all partisan activity. Without prejudice to the right of its members to make, as citizens, their own political choices, they shall not be able to use their status for partisan purposes.
- C. Members of the National Civil Police shall at all times observe the duties imposed on them by law, serving the community and protecting all persons from illegal acts, in keeping with the high degree of responsibility required by their profession.
- D. In the performance of their tasks, members of the National Civil Police shall respect and protect human dignity and shall preserve and defend the human rights of all persons.
- E. Members of the National Civil Police may use force only when strictly necessary and to the extent required for the fulfilment of their tasks.
- F. Questions of a confidential nature of which members of the National Civil Police have knowledge shall be kept secret, unless compliance with duty or the needs of justice strictly demand otherwise.
- G. No member of the National Civil Police may inflict, instigate or tolerate any act of torture or other cruel, inhuman or degrading treatment or punishment, nor invoke the orders of a superior or special circumstances, such as a state of war or threat of war, threats to national security, internal political instability or any other public emergency to justify torture or other cruel, inhuman or degrading treatment or punishment.
- H. All orders from above shall be in keeping with the laws of the Republic. Obeying the orders of a superior is no justification for committing acts which are clearly punishable.
- I. Members of the National Civil Police shall ensure full protection of the health of persons in their custody and, in particular, shall take immediate steps to provide medical care when necessary.
- J. Members of the National Civil Police shall not commit any act of corruption. They shall also strongly oppose such acts and shall combat them.
- K. Members of the National Civil Police who have reason to believe that a breach of these rules of conduct has occurred or is about to occur shall so inform their superiors and, if necessary, any authority or appropriate agency having powers of control or correction.
- L. In the performance of their functions, members of the National Civil Police shall, as far as possible, utilize non-violent means before resorting to the use of force and firearms. They may use force and firearms only when other means prove ineffective or do not in any way guarantee the achievement of the legitimate anticipated result.
- M. Members of the National Civil Police shall not use firearms against people except in self-defence or in defence of other people, or in case of imminent danger of death or serious injury, or with the intention of preventing the commission of a particularly serious crime involving a serious threat to life, or for the purpose of arresting a person who represents such a threat and resists their authority, and only where less extreme means prove insufficient to achieve such objectives. In any case, lethal weapons may be used intentionally only when strictly unavoidable for the protection of a life.

- N. As part of the performance of their duty to safeguard the exercise of the rights of individuals, members of the National Civil Police shall protect the exercise of the right of assembly and demonstration. When, for legal reasons, they are compelled to break up a demonstration or a meeting, they shall use the least dangerous means and only to the minimum extent necessary. Members of the National Civil Police shall refrain from using firearms in such cases, save where the meetings are violent and other means have been exhausted, and only under the circumstances provided for in the preceding paragraph.

3. Functional and territorial structure

The functional and territorial structure to be adopted by the National Civil Police is defined in the following general framework. This structure shall be reflected in the organizational chart and in the law on the organization of the National Civil Police.

A. General legal framework

a. National Civil Police authorities

1. The National Civil Police shall be under the control of civilian authorities (art. 168, para. 17, of the Constitution). These shall be: the President of the Republic, the Minister, the Vice-Minister, the Director-General of Police, the Deputy Directors-General, the Inspector General, the division chiefs of each service and the chiefs of departmental delegations.
2. The Director-General of the National Civil Police shall be appointed by the President of the Republic. He may be dismissed by resolution of the Legislative Assembly for serious violations of human rights. The leadership of the National Civil Police shall be civilian.
3. Without prejudice to the provisions of this chapter concerning the transitional regime, the National Civil Police shall be placed under the authority of a new Ministry of the Interior and Public Security. To that end, the existing Ministry of the Interior shall be restructured. A Vice-Ministry of Public Security shall be established and shall be responsible for relations with the National Civil Police. The public security structure shall be entirely new.

b. Nature of the organization

The National Civil Police shall have a centralized organization, in that it will be structured at the national level in such a way as to cover all tasks assigned to the police. Its operation, on the other hand, shall be decentralized, because there shall be departmental police delegations in accordance with the administrative divisions of the country.

Owing to the nature of the functions assigned to certain units which belong organizationally to the National Civil Police, these units may remain under the functional control of other authorities, under the terms set forth in this chapter.

B. Organs reporting to the Director-General

a. *Offices of Deputy Directors-General*

b. *The General Inspectorate*

Under the authority of the Director-General, the General Inspectorate of Police shall be responsible for monitoring and supervising the activities of the operational services of the force.

The Inspector General shall be appointed by the Director-General, in consultation with the Attorney-General of the Republic and the National Counsel for the Defence of Human Rights.

The General Inspectorate shall comprise a Monitoring Division, which shall have the function of monitoring all police services, and a Disciplinary Investigation Division, which shall have the function of investigating breaches of discipline by police officers.

c. *Legal advisory services*

These services shall be staffed by legal experts specialized in police matters. They shall be organized in accordance with the needs of the various functional and territorial police structures.

d. *International legal advisory services*

International legal advisory services shall be staffed by suitable personnel and high-level specialists. They shall be coordinated by the United Nations and are envisaged as a transitional arrangement.

C. *Office of the Deputy Director-General for Operations*

a. *Divisions*

1. *Public Security Division*

The Public Security Division shall be responsible for the maintenance of tranquillity, order and public security. It shall have the following departments: prevention, traffic, public order, control of private security, juveniles³ and general coordination with departmental delegations.

2. *Criminal Investigation Division*

Under the functional control of the Attorney-General of the Republic, the Criminal Investigation Division shall be responsible for investigating criminal acts and gathering evidence to identify the perpetrators of such acts. It shall also carry out investigations and other activities within its field of competence as required by the Attorney-General of the Republic, judges and courts.

The Chief of the Division shall be appointed by the Director-General of the National Police, in consultation with the Attorney-General and the President

of the Supreme Court of Justice.

The spheres of operation of this Division shall be organized on the basis of punishable offences having the greatest social impact. It shall also have technical support departments.

The legal regime applicable to this Division shall be harmonized with the provisions of the Constitution concerning auxiliary organs of the system of justice.

3. *Frontiers Division*

This Division shall be responsible for monitoring and supervising the admission, departure, activities and expulsion of aliens and the migration of nationals and for the monitoring and supervision of public and private civilian airports, without prejudice to the constitutional duty of the armed forces to defend the integrity of the territory of the State.

4. *Finance Division*

Under the functional control of the Ministry of Finance and without prejudice to the fiscal oversight or other functions performed by it, this Division shall be responsible for preventing and combating infringements of tax law. It shall be the police support organ of the Ministry of Finance. It shall have two departments: customs and taxes.

The Finance Division shall be the only police organ with competence in the areas of customs and taxes. Consequently, following its entry into operation, all provisions and structures incompatible with this principle shall cease to exist.

The Chief of the Finance Division shall be appointed by the Director-General of the National Police with the prior approval of the Minister of Finance.

5. *Arms and Explosives Division*

This Division shall be responsible for preventing and combating infringements of the constitutional and legal regime on the manufacture, import, export, trading, possession and bearing of weapons, ammunition, explosives and similar articles.

6. *Division for the Protection of Eminent Persons*

This Division shall be responsible for protecting and escorting senior State officials; foreign dignitaries visiting the country; and other persons on the basis of decisions of the Government or of the courts; and for guarding public buildings and the offices of diplomatic missions or international organizations.

7. *Environment Division*

Under the functional control of the Ministry of Agriculture and Livestock, this Division shall be responsible for preventing and combating crimes and misdemeanours against the environment.

The Chief of the Environment Division shall be appointed by the Director-General of the National Civil Police with the prior approval of the Minister of Agriculture and Livestock.

b. *Territorial distribution*

One police delegation per department and one metropolitan delegation for San Salvador shall be established. The headquarters of delegations shall be located in departmental capitals. Within each delegation, there may also be sub-delegations located in the main urban centres and also police posts in rural areas.

1. *Departmental delegations*

The chiefs of departmental delegations shall have authority over all the units in their department. They shall be appointed by the Director-General of the National Police on the proposal of the Deputy Director-General for Operations, who shall be their direct supervisor. The organizational structure of delegations shall be adapted to the needs of each department.

2. *Sub-delegations and police posts*

Sub-delegations shall be established in urban centres and shall be organized on the basis of local needs. Police posts shall operate in rural areas.

D. *Office of the Deputy Director-General for Management*

The Office of the Deputy Director-General for Management shall be responsible for implementing and coordinating the administrative and logistical support activities of the police. Its initial structure shall consist of the following divisions:

- Infrastructure Division
- Data-Processing Division
- Administration Division
- Logistics Division
- Planning and Budget Division

4. *Personnel of the National Civil Police*

The personnel of the National Civil Police shall be organized on the basis of a hierarchized manning table with three levels: basic, executive and senior. Each level shall consist of the ranks determined by law. The staff profile and general regime shall be in keeping with the terms of this Agreement.

A. *Profile*

- a. Personnel of the National Civil Police must have a vocation of service to the community, a capacity for human relations and emotional maturity, and the conduct and physical condition required to serve as a police officer. They must also be suited to serving in a police force which is designed, structured and operated as a civilian institution with the purpose of protecting and guaranteeing the free exercise of the rights and freedoms of individuals; preventing and combating all types of crimes; and maintaining internal peace, tranquillity, order and public security. They must also be able to adjust their conduct satisfactorily to the doctrine and legal regime of the National Civil Police.

Both admission to the National Public Security Academy and final admission to the police force shall require checking the profile of candidates. Specific evaluation criteria shall be established for this purpose, with rigorous standards set for each level of responsibility.

b. *Educational level*

1. Basic level.
 - a. Police officers must have completed the ninth grade of education.
 - b. Police sergeants must hold a high school diploma.
2. Executive level. The successful completion of three years of university studies or their equivalent is required.
3. Senior level. A university degree or its equivalent is required.

c. *General requirements for admission to the Academy*

In order to enter the National Public Security Academy, applicants are required to:

1. Be Salvadorian by birth.
2. Have reached the age of 18 before submitting the application.
3. Have completed the level of studies required for the category concerned.
4. Be physically fit.
5. Have full exercise of their civic rights.
6. Have no criminal record, i.e. convictions resulting from a final verdict.
7. Pass the entrance examinations, which shall be designed to ensure that candidates fit the profile required to belong to the National Civil Police, according to each of the levels of responsibility defined in this chapter. The entrance examinations shall consist of a test of general knowledge, a physical examination, a medical examination and a psychological examination. These

examinations shall be supplemented by personal interviews with the candidates.

- d. The preparation of the examinations referred to in the preceding paragraph and the formation of the boards of examiners responsible for administering them shall be carried out on the basis of exclusively technical criteria.
- e. Special emphasis shall be placed on the training of police personnel, so that they are given the best possible preparation and are trained to perform their duties in strict conformity with the doctrine of the police force, with special emphasis on unrestricted respect for human rights.

B. *General regime*

- a. Members of the National Civil Police shall be career professionals and agents of authority.
- b. The duties, rights, responsibilities and disciplinary regime of the members of the National Civil Police shall be determined by law.
- c. Members of the National Civil Police shall be required to serve in any part of the national territory.
- d. Members of the National Civil Police shall wear the regulation uniform whenever they are on active duty. In exceptional cases, the Minister, or in his absence, the Vice-Minister or the Director-General may give authorization for not wearing uniforms for certain tasks.
- e. Members of the National Civil Police shall bear firearms when warranted by the needs of the service. They shall use only small arms, which are appropriate to police duties and cannot be considered war matériel. Special weapons shall be stored in the arsenal of the National Civil Police, to be used by personnel trained for this purpose when, in the opinion of the Minister concerned or, in his absence, of the Vice-Minister or the Director-General, special circumstances exist which require their use.
- f. Members of the National Civil Police shall respect the Constitution and the law and shall at all times adjust their conduct to the doctrine of the force, as defined in this Agreement.
- g. Members of the National Civil Police shall not normally be required to live in barracks. Such a regime shall be applied only in exceptional circumstances and for the time strictly necessary.
- h. The law shall define the regime of labour rights of members of the National Civil Police, bearing in mind the nature of the function they are required to perform.
- i. Members of the National Civil Police shall enjoy job security. They may not be dismissed except for specific legal reasons.

- j. Members of the National Civil Police shall be entitled to a level of remuneration that ensures a decent standard of living for themselves and their families and also accords with their rank and length of service.
- k. Vehicles, communications systems, uniforms, facilities and, in general, any equipment used by members of the National Civil Police shall be suited to the requirements of a police force of the type defined in this Agreement.

5. National Public Security Academy

- A. The National Public Security Academy shall be responsible for:
 - a. Basic training, training of middle-ranking and senior officers and specialized training of the National Civil Police.
 - b. Selecting personnel for the National Civil Police.
 - c. Investigating, studying and publicizing matters relating to the National Civil Police and public security.
 - d. Making an annual evaluation of all National Civil Police personnel.
- B. The National Public Security Academy shall be an autonomous body placed directly under the authority of the Minister concerned.
- C. The National Public Security Academy shall be run by a Director-General and an Academic Council. The Academic Council shall perform standard-setting and comptrolling functions in its sphere of competence. The Director-General shall be President of the Academic Council and shall exercise the executive and administrative powers of the Academy.
- D. The Director-General shall be appointed by the President of the Republic.
- E. The Academic Council shall consist of civilians prominent in civilian, cultural, legal, technical, police or academic life, appointed by the President of the Republic on the proposal of the Minister concerned and on the basis of criteria of political pluralism.
- F. The admissions system shall be determined by the Academic Council, which shall ensure that it is not discriminatory.
- G. The teaching staff of the Academy shall be appointed by the Academic Council. No political tendency shall predominate among that staff. The law shall establish suitable mechanisms for ensuring this last goal.

6. Legal regime

The National Civil Police and the National Public Security Academy shall each be regulated by special laws. To that end, the Parties express their general agreement with the proposed preliminary legislative drafts included as annexes to this Agreement (annexes II and III), provided that the proposed drafts do not depart from the Agreement. Consequently, in implementation of the New

York Agreement, they hereby refer those proposals to COPAZ, along with this Agreement, for it to prepare the corresponding preliminary drafts.

7. Transitional regime

A. Organization

- a. During the transition, the National Civil Police shall not be attached to any Ministry. The Director-General shall be under the direct authority of the President of the Republic.
- b. The National Civil Police shall be run by the Director-General, under the terms laid down in this Agreement and in the New York Agreement. Until the establishment of the National Civil Police has been legally formalized, the organizational work shall be done by a Coordinator chosen for his ability to receive wide acceptance.
- c. During the transition, the Director-General of the National Civil Police shall be appointed by the President of the Republic from a list of three candidates proposed by the National Commission for the Consolidation of Peace (COPAZ).
- d. The Coordinator and, subsequently, the Director-General, shall establish appropriate machinery for information and communication with COPAZ or, before the latter's final formalization, with its transitional body, so that the Commission can perform its function of supervising the organization of the National Civil Police. As part of the normal exercise of its functions, COPAZ shall designate a subcommission to carry out this task, which shall serve as an advisory commission to the Coordinator or to the Director-General for the adoption of relevant decisions or measures concerning the organization of the National Civil Police, the assumption of its functions and, in general, matters relating to the transitional regime which have not been expressly resolved in this chapter.
- e. In accordance with the provisions of the New York Agreement, the organization of the National Civil Police shall be determined, on the terms set forth in this Agreement, under close international cooperation and supervision, coordinated by the United Nations.

B. Assumption of functions

- a. The National Civil Police shall take up its functions gradually, as contingents graduating from the National Public Security Academy make it possible to staff fully each of the functional and territorial structures provided for in this chapter. The Director-General shall determine the priorities and order according to which this assumption of functions shall take place.
- b. The process of replacing the former security forces shall be carried out by geographical department, making sure that there are no gaps in authority. Within 21 months of the launching of this process, all departments must be covered by contingents of the National Civil Police.

- c. During the first two years of the formation of the new force, the goal of 5,700 officers at the basic level and 240 at the executive and senior levels must be achieved. Over the following five years, the final figures for the National Civil Police, estimated tentatively at some 10,000 officers at the basic level and about 500 at the executive and senior levels, shall be attained.
- d. While the first senior and executive officers of the National Police Force are being trained, the Director-General may order the creation of provisional commands, exclusively for the National Civil Police, which shall act during a predetermined period and shall be supported by experts and advisers, under a programme of close international cooperation and supervision, coordinated by the United Nations, on the terms laid down in this Agreement.
- e. While the progressive deployment of the new force is taking place under the terms laid down in this Agreement, the existing National Police shall continue to perform its current public security functions, with the exception laid down in the next paragraph. The National Police shall be the only one of the current public security forces to retain functions of this nature during the transitional period. The international verification of agreements to be undertaken by the United Nations through ONUSAL shall include the activities of a group of specialists from countries with experience in the organization and operation of civilian police forces. The tasks of those specialists shall include, in addition to cooperating in ensuring a smooth transition and assisting police authorities, that of accompanying officers and members of the National Police in the performance of their duties.
- f. During the progressive deployment of the new force to zones which were traditionally conflict zones during the armed conflict, public security in those zones shall be subject to a special regime to be determined by the Director-General of the National Civil Police. That regime shall, in any case, envisage activities by the group of specialists referred to in the preceding paragraph.
- g. Personnel of the National Civil Police graduating from the National Public Security Academy shall be subject to the general rule laid down in this chapter that police shall not be required to live in barracks. During the initial period, however, exceptions may be made where this is justified by lack of personnel in the early phases of the deployment of the new force. This exceptional regime may not be extended under any circumstances beyond 31 December 1993.
- h. In any case, during the preparatory phase and, in general, during the transitional period until the National Police is completely replaced by the National Civil Police, the role of international advisory services and verification shall be strengthened.

C. National Public Security Academy

- a. During the transition, the National Public Security Academy shall not be attached to any Ministry. Its Director shall be under the direct authority of the President of the Republic.

- b. During the transition, the Director-General of the National Public Security Academy shall be appointed by the President of the Republic from a list of three candidates proposed by COPAZ.
- c. COPAZ shall determine how many members the Academic Council of the National Public Security Academy should have during the transition. In this same period, those members shall be appointed by the President of the Republic from lists of three candidates proposed by COPAZ. In any case, the Council shall consist of civilians prominent in civilian, cultural, legal, police or academic life, in accordance with this chapter. The lists proposed by COPAZ and the final appointments made by the President of the Republic must ensure pluralism of the Academic Council.
- d. The admissions system shall be determined by the Academic Council, which shall ensure that it is not discriminatory.
- e. Admission shall be contingent on passing the entrance examinations provided for in section 4 of this chapter, adapted to the criteria and procedures referred to in the New York Agreement. The examinations shall be prepared on the basis of exclusively technical criteria and the formation of the boards of examiners responsible for administering them must be such as to ensure the juries' absolute impartiality. To that end, where it is necessary to obtain additional technical resources because there are not enough suitable resources in the country, the support of experts shall be sought through the United Nations under the terms laid down in this Agreement, as indicated in the next paragraph of this section. COPAZ shall pay special attention to monitoring the fulfilment of this provision.
- f. In selecting the initial academic personnel, every effort shall be made to find the best human resources available in Salvadorian society so as to provide a group of teachers which is sufficiently broad and pluralistic and of sufficiently high quality to give the new police force a cultural identity in keeping with its nature and doctrine. To that end, assistance shall be sought from university lecturers, expert jurists, doctors and other professionals involved in police matters. COPAZ shall establish appropriate mechanisms to ensure that no political tendency predominates in that academic body. Such mechanisms must be included in the preliminary bill on the National Public Security Academy.
- g. In those areas of study where there are not sufficient teachers in the country to meet the initial needs of the Academy, the support of experts shall be sought through the United Nations under the terms laid down in this Agreement, as indicated in the following paragraph.
- h. For the purposes of the recruitment, selection, preparation and training of new personnel, the support of experts from countries which are able to provide the assistance required for the needs of this process shall be sought through the United Nations, under the terms laid down in this Agreement.

D. Personnel

- a. The criteria and mechanisms for the selection and training of personnel shall accord with the concept of the National Civil Police as a new force, with a new organization,

new officers, new education and training mechanisms and a new doctrine. In this context, personnel who did not participate directly in the armed conflict shall be encouraged to join the force, without prejudice to the right of former members of the National Police and former FMLN combatants not to be discriminated against in the selection of such personnel and their right to join the National Civil Police under the terms of the New York Agreement and of this Agreement.

- b. A publicity campaign to promote the recruitment of new personnel for the National Civil Police shall be designed and implemented as soon as possible. Special consideration shall be given to the recruitment of women.
- c. Former members of the National Police may join the National Civil Police under the terms of this Agreement, after an evaluation of their conduct, provided that they meet the admission requirements and go through the new National Public Security Academy. This evaluation shall be made by the Director-General of the National Civil Police, under the supervision of COPAZ, and shall be subject to verification by the United Nations.
- d. Former FMLN combatants may join the National Civil Police provided that they fulfil the admission criteria and procedures established for them by COPAZ and go through the new National Public Security Academy. As part of the verification of the cessation of the armed conflict, ONUSAL shall check that applicants who identify themselves in this category have actually and irrevocably abandoned the armed struggle. All this shall be supervised and guaranteed by COPAZ.
- e. For the recruitment of personnel referred to in the preceding paragraphs, in the case of the basic level of the National Civil Police, the level of general knowledge and/or the zones in which personnel are to be recruited and serve shall be taken into account. Those who do not have the level of formal education required for admission must pass an aptitude and skills test to evaluate their ability to follow the study programmes of the National Public Security Academy satisfactorily. Special courses shall be organized to prepare for this test, under the auspices of the National Public Security Academy and with support from the Ministry of Education and the country's universities.
- f. For courses at the basic level, 330 recruits shall be selected per month, for a 6-month training course, during the first 24 months of the mass training programme. Candidates shall be selected in such a way as to ensure that most recruits did not participate directly in the armed conflict and that the proportion of former FMLN combatants is no greater than that of former members of the National Police, and vice versa. COPAZ shall take special care to ensure that these requirements are met.
- g. The recruitment of officers for the executive and senior levels of the National Civil Police shall be carried out by means of rigorous selection, in accordance with the criteria and procedures laid down in this Agreement, and shall fully respect the principles of equality of opportunity among applicants and non-discrimination. Courses shall last a year, according to the level and manning table concerned. A total of 120 officers shall be trained each year.

- h. Posts at the executive and senior levels shall be allocated to graduates of the National Public Security Academy by the Director-General according to the needs of the service. However, the top five students each year shall be entitled to choose from the various vacant posts corresponding to the level of responsibility of their studies.
- i. Without prejudice to the provisions of the preceding paragraph, zones that were traditionally conflict zones during the armed conflict shall be the object of special treatment designed to promote national reconciliation and stability during the transition. Such treatment shall involve the formation of police units comprising personnel of different origins who have graduated from the National Public Security Academy. The chiefs of the corresponding delegations shall be appointed following consultations with the advisory commission of COPAZ.
- j. All personnel joining the National Civil Police in accordance with this Agreement shall be considered to be civilians, regardless of their origin.

E. Any other matter relating to the transitional regime which has not been resolved by this Agreement or by other agreements already adopted by the Parties shall be decided by COPAZ, under the terms laid down in the New York Agreement.

² The international cooperation referred to in these Agreements shall be coordinated by the United Nations and shall be subject to a formal request by the Government, compliance with the official procedures and the corresponding consultations.

³ This department shall provide support for the Juvenile Office of the Ministry of Justice.

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