




BRUSSELS, 17 NOVEMBER 2016

# Plenary Meeting of the Sectoral Social Dialogue Committee for Professional Football

WE CARE ABOUT FOOTBALL

The image shows a close-up of a soccer player's legs and feet on a field, with a soccer ball on the ground. The entire scene is overlaid with a blue tint. A horizontal line is positioned above the text, and another is below it.

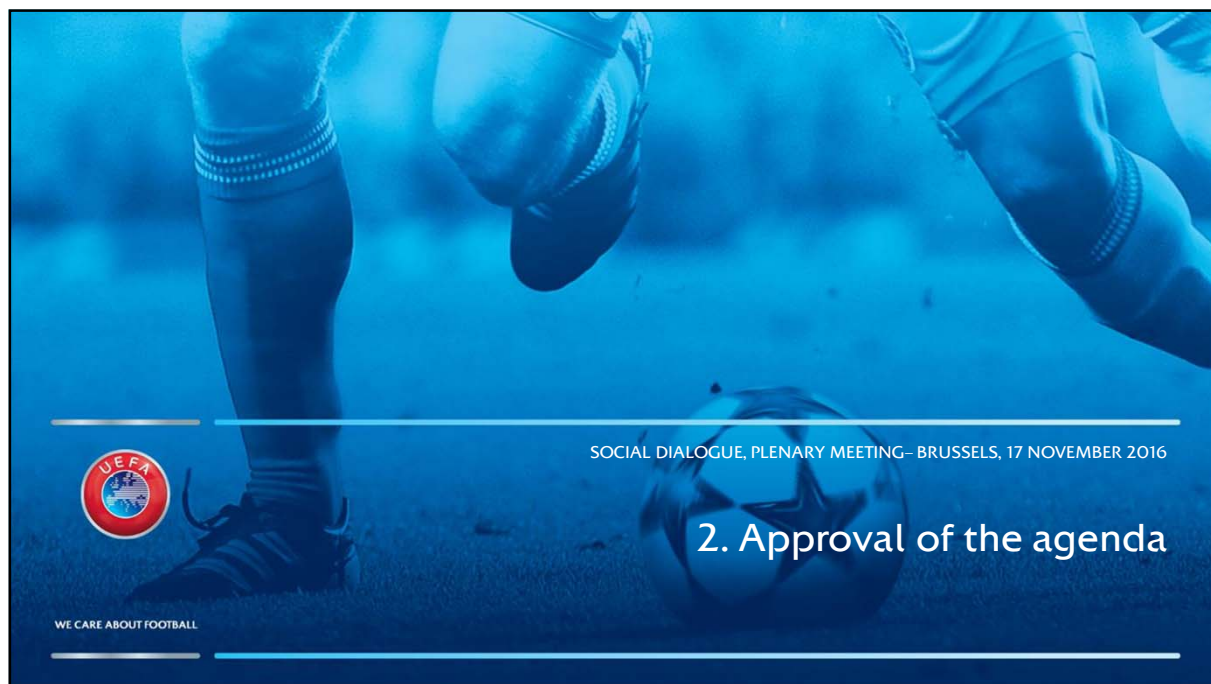


SOCIAL DIALOGUE, PLENARY MEETING- BRUSSELS, 17 NOVEMBER 2016

# 1. Welcome and opening of the Plenary meeting

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## Agenda (1/2)

1. Welcome and opening of the Plenary meeting
2. Approval of the agenda
3. Minutes from the previous meeting (19<sup>th</sup> November 2015)
4. Working group on implementation of the 'Autonomous Agreement'
  - 4.1. Assessment of implementation process
    - 4.1.1. Social Dialogue at national level
    - 4.1.2. Standard Contracts
    - 4.1.3. National Dispute Resolution Chambers
    - 4.1.4. Nature of contracts (employment contract vs "civil law contract")
    - 4.1.5. Other remarks or observations
  - ...

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## Agenda (2/2)

- ...
  - 4.2. Report on recent country visits
    - 4.2.1. FYROM
    - 4.2.2. Bosnia & Herzegovina
  - 4.3. Renewal of the Autonomous Agreement
  - 4.4. Next steps
  - 5. Working group on "Labour market regulations"
    - 5.1. Improving the system of intermediaries (presentation by ECA)
    - 5.2. Next steps
    - 5.3. Other remarks or observations
  - 6. Information from the Commission on other sports-related initiatives
  - 7. Calendar of meetings for 2017
  - 8. Any other business
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## 2. Approval of the Agenda



**Does the plenary  
approve the Agenda  
for the meeting?**

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## 2. Approval of the Agenda

# Agenda approved

A blue-tinted photograph showing the lower legs and feet of a soccer player on a grass field. A soccer ball is on the ground in the foreground.

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### 3. Minutes from the previous meeting (19<sup>th</sup> November 2015)

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### 3. Minutes of the previous meeting (19<sup>th</sup> November 2015)



#### 1. Welcome and adoption of the agenda

The meeting was chaired by Mr Grafström (UEFA).

The agenda for this meeting was adopted without changes.

The social partners mutually reaffirmed their positive approach and the expectation to achieve results with social dialogue<sup>1</sup>.

FIFPro reiterated the request to take social dialogue seriously and to consider the actual situation in professional football governance as an opportunity to substantially change the situation of the sector for the better. EPFL agreed with FIFPro that there exist significant problems in the treatment of professional players in the sector and considers improvements in that respect as in its own interests. ECA agreed with FIFPro and EPFL in its commitment to social dialogue, stressed however, that the legal complaint against the transfer system overshadows the work in the committee.

UEFA confirmed for their side also the commitment to the work of the committee.

#### 2. Working Group on implementation of the Autonomous Agreement

The situation in the two countries visited last was reported by UEFA.

**Albania:** While employment contracts are the norm, there exist no players' union and no standard contracts. Work is ongoing to arrive at a standard contract. In place of negotiations with a trade union, the captains of the clubs with professional players have been consulted. European social partners recognised that the autonomous agreement was not known in Albania, but – once informed – there appeared to be willingness to implement.

<sup>1</sup> Since the last meeting of the Committee the President of UEFA, Mr Blatter, had – as well as the president of FIFA, Mr Blatter – been suspended from office and FIFPro had launched a complaint against the transfer system with DO CONIP.

### 3. Minutes of the previous meeting (19<sup>th</sup> November 2015)



Does the Plenary  
 approve the minutes  
 from the previous  
 meeting?

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3. Minutes of the previous meeting (19<sup>th</sup> November 2015)

Minutes  
approved

A blue-tinted photograph showing the lower legs and feet of a soccer player in motion on a field. A soccer ball is visible on the ground in the foreground.

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**4. Working-group on 'Implementation of the Autonomous Agreement'**

4.2. Report on recent country visits

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#### 4. Working-group on 'Implementation of the Autonomous Agreement'



Follow-up questionnaires on status of implementation



(Social) Dialogue in the vast majority of the countries



Standard Contract in force in many countries



Helpful dialogue with public authorities in some countries

#### 4. Working-group on 'Implementation of the Autonomous Agreement'



Lack of shared will amongst the national stakeholders



Nature of contract ('civil law' vs 'labour law' contract)



Non-compliance with FIFA NDRC requirements (FIFA CL 1010)



Lack of incentives for the implementation



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 **4. Working-group on ‘Implementation of the Autonomous Agreement’**

**4.2. Report on recent country visits**

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4.3. Report on recent country visits



**Bosnia & Herzegovina**  
15 November 2016



**FYR of Macedonia**  
15 November 2016







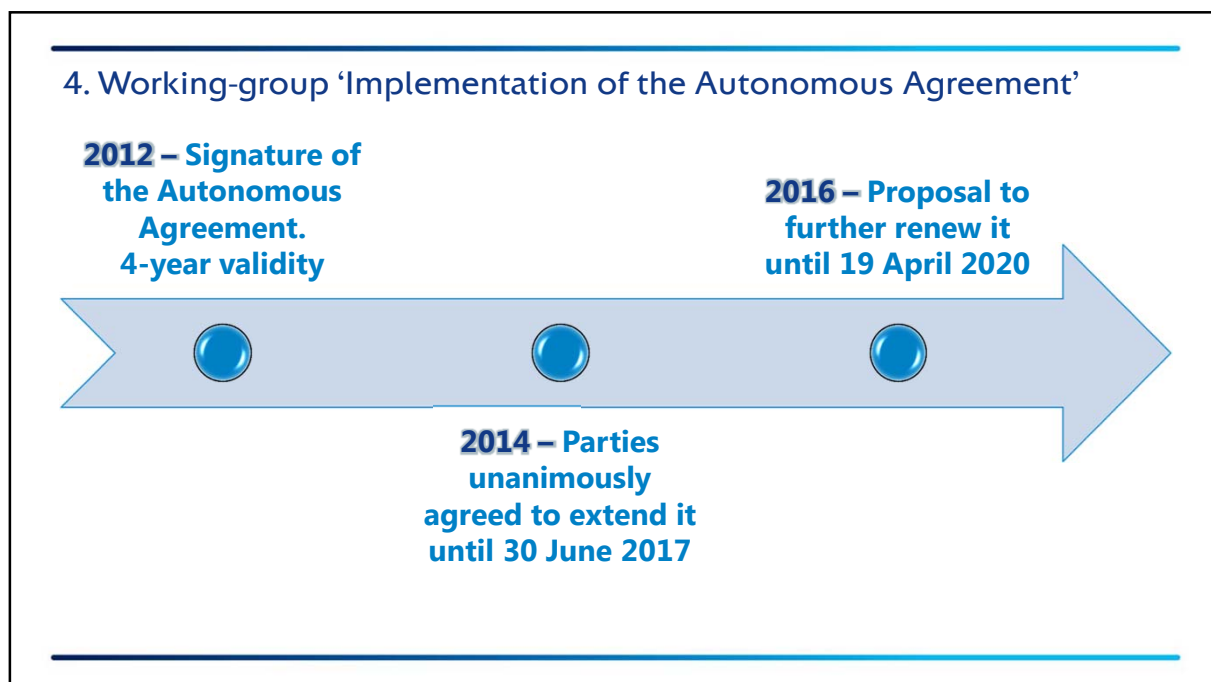
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**4. Working-group on ‘Implementation of the Autonomous Agreement’**

4.3. Renewal of the Autonomous Agreement



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4. Working-group 'Implementation of the Autonomous Agreement'



**Does the Plenary  
approve the renewal  
of the Autonomous  
Agreement until  
19 April 2020?**

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4. Working-group 'Implementation of the Autonomous Agreement'

**Autonomous  
Agreement  
renewed**





4. Working-group on 'Implementation of the Autonomous Agreement'

 **Malta** (29.11.2016)

 **Poland** (TBC)

 **Georgia** (TBC)

 **Romania** (TBC)

 **Kazakhstan** (TBC)

 **Serbia** (TBC)

 ... (TBC)

 ... (TBC)

 **To resolve pending issues and set deadlines for the full implementation of the minimum requirements**

#### 4. Working-group on 'Implementation of the Autonomous Agreement'

### Approach for next visits:



In-depth assessment of national situation



Strengthened assistance on open issues



Custom-made action plan  
(including strict deadlines)



Increased monitoring

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#### 4. Working-group on 'Implementation of the Autonomous Agreement'

Incentive needed for NAs to fully implement MRSPC

If MRSPC not fully implemented by end of 2017/18,  
possible deduction of UEFA HatTrick payments

Proposal endorsed by UEFA Player's Status Committee (4.11.16)

Proposal to be presented at UEFA HatTrick Committee (18.11.16)

Final decision by the UEFA ExCo in December 2016 / March 2017






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## 5. Working group on ‘Labour market regulations’

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## 5.1. IMPROVING THE SYSTEM OF INTERMEDIARIES

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## Introduction: why intermediaries in SD?

LEADING THE WAY FOR FOOTBALL CLUBS IN EUROPE

- FIFA Regulations on Working with Intermediaries (FIR) entered into force on 1 April 2015
  - Licence system abolished
  - Agents are now called intermediaries
  - Focus on the transaction itself rather than on the profession
- Consequences:
  - Widespread fear for "jungle"
  - Nobody really dares to take responsibility
  - Implementation of FIR on national level led to diversification (next slides)



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## IMPLEMENTATION FIFA REGULATIONS ON WORKING WITH INTERMEDIARIES (FIR)

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## Implementation of the FIR at national level

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- FIFA Regulations on Working with Intermediaries (FIR) entered into force on 1 April 2015
- No direct effect → national federations to implement min. req. in national regs
- Research conducted by ECA to see if harmonisation/big differences exist following implementation (21 UEFA NAs examined)
- Examined topics:
  - Registration of intermediaries /jurisdiction national association over intermediaries
  - Notion of "impeccable reputation"
  - Maximum duration/exclusive nature of representation agreement & minors
  - Disclosure and publication provisions
  - Recommended cap of 3% for the total amount of remuneration
  - Conflict of interests
  - Sanctioning catalogue and mechanism
  - Dispute resolution



## Implementation of the FIR at national level

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- **Implementation FIR mainly differs in:**
  - I. Registration of intermediaries (art. 3 FIR)
  - II. Maximum duration of representation agreements
  - III. Recommendation of a 3% cap for the total amount of remuneration (art. 7 FIR)
  - IV. Payments in relation to minors (art. 7.8 FIR)
  - V. Sanctioning of intermediaries (art. 9 FIR)



## Implementation of the FIR at national level

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### I. Registration of intermediaries

- Fixed/single time registrations
- Some NAs maintain strict requirements in order to be able to act as an intermediary in the relevant jurisdiction (at least three years working experience (Bulgaria), Intermediary exams (Switzerland, Czech Republic), successfully passing a personal interview (Spain))
- In some NAs intermediaries actively hindered to perform activities in the relevant country:
  - Switzerland: in principle only Swiss nationals/residents can act as an intermediary. Foreign intermediaries need to liaise with Swiss intermediaries in order to perform intermediary activities on the Swiss market
  - France: knowledge of the local language required (finds its basis in applicable French law)

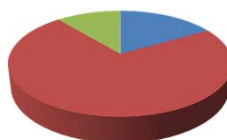


## Implementation of the FIR at national level

LEADING THE WAY FOR FOOTBALL CLUBS IN EUROPE

### II. Maximum duration of representation agreements

- FIR does not provide guidelines on the maximum duration of agreements between players/clubs and intermediaries
- Nevertheless, most NAs maintain a maximum duration of representation contracts of 24 months



- No provisions on the maximum duration (2 FAs)
- Maximum duration of two years (13 FAs)
- Maximum duration of three years (2 FAs)





## Implementation of the FIR at national level

LEADING THE WAY FOR FOOTBALL CLUBS IN EUROPE

### III. Recommendation of a 3% cap for the total amount of remuneration (art. 7 FIR)



- No recommended cap nor hard cap (3 NAs)
- Recommended cap (8 NAs)
- Hard Cap (10 NAs)

- NAs maintaining a hard cap/recommended cap: only few NAs distinguish salary/transfer fee cap
- Hard caps ranging from 3% (Serbia) to 10% (Croatia, France Ukraine)



## Implementation of the FIR at national level

LEADING THE WAY FOR FOOTBALL CLUBS IN EUROPE

### IV. Payments in relation to minors

- Art. 7.8 FIR: *"Players and/or clubs that engage the services of an intermediary when negotiating an employment contract and/or a transfer agreement are prohibited from making any payments to such intermediary if the player concerned is a minor, as defined in point 11 of the Definitions section of the Regulations on the Status and Transfer of Players"*
- FIFA RSTP *"Minor: a player who has not yet reached the age of 18"*
- In principle, all NAs appear to have included a provision according to which payments in relation to minors are in principle not allowed
  - However, some NAs allow payments in relation to minors as of a certain age: >15 years old (Slovakia) >16 years old (Czech Republic)
- ROGON case: prohibition of remuneration of intermediaries of minors having the status of licensed players unjustified and disproportionate



## Implementation of the FIR at national level

LEADING THE WAY FOR FOOTBALL CLUBS IN EUROPE

### V. Sanctioning of intermediaries

- NAs have individual system of sanctioning intermediaries – Sanctions are based on different regulatory frameworks
- Nonetheless, NAs obliged to inform FIFA of any sanction imposed on intermediary → FIFA Disciplinary Committee may decide to extend sanction to have worldwide effect



## Conclusions

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- Lack of harmonisation rules lead to considerable discrepancies:
  - (arbitrary) registration requirements which hinder cross border intermediary activities
  - Soft/hard caps
  - Remuneration in relation to minors
  - Sanctions
  - Lack of clarity dispute resolution
- Adapted rules on national level show lack of understanding of NAs of the business they aimed to regulate
  - Many NAs failed to liaise/seek input from stakeholders with practical experience in conducting transfers (clubs) in the implementation process



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## 5.2. NEXT STEPS (SHORT AND LONG TERM)

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## What do we want to achieve via SD?

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- Create more clarity for clubs and players on who are the good and more serious intermediaries
  - Create a quality certificate/code of conduct
  - Promotion campaigns amongst players and clubs
- Harmonise implementation of FIR or at least facilitate access to different countries for certified intermediaries with the involvement of national stakeholders (good governance)
- Create a body which
  - Supervises the quality certification and
  - Aims at facilitating the harmonisation of the intermediary regulations amongst European countries and reduce formalities for certified intermediaries
  - Could settle disputes between clubs/players and intermediaries (eg. Arbitration)
- Try to work together with existing agents' associations (eg. EFAA)



## Short-term targets

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- Important benchmark: “**Dutch model**” (recent discussions with FA, players’ union, clubs and ProAgent on quality certificate) and possibility to open up this model to other countries
  - Currently discussions with German FA
  - Dutch and German certified intermediaries would be able to operate in both countries without further formalities
- There could be a role for SD Partners, in cooperation with local stakeholders (incl. FA and Agents’ Associations):
  - Take over existing quality certificate (eg. the Dutch one if satisfactory) and try to implement in other countries
  - Convince FAs to allow certified intermediaries to operate within their association without any formalities (Czech model)



## Long-term targets: what should we aim for

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- The creation of a **register** which will have the authority to decide on the quality certificate and relationship between club/player and intermediary
  - Managed by SD Social Partners, with involvement of FIFA, national stakeholders and Intermediaries (eg. via EFAA) + fully recognised and supported by FIFA and EC
  - Intermediaries would need to be member of this register or would obtain substantial benefits by being member
  - Would be the competent body to
    - Rediscuss quality certificate and other requirements for intermediaries operating in Europe
    - Try to harmonise intermediary regulations in Europe and negotiate with FAs to facilitate access to their market for certified intermediaries
  - Provide substantial benefits to intermediaries which are member of this body (easier access to other countries, promoted as certified intermediaries, arbitration procedure, etc)
  - Its creation financially supported by European Commission (via Erasmus+ programme)



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## 5. Working-group on 'Labour market regulations'

### 5.3. Other remarks and observations

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## 6. Information from the Commission on other sports-related initiatives

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7. Calendar of meeting for 2017



**Working Groups**

- 31 January - 6 February
- 29 August - 11 September



**Steering Group**

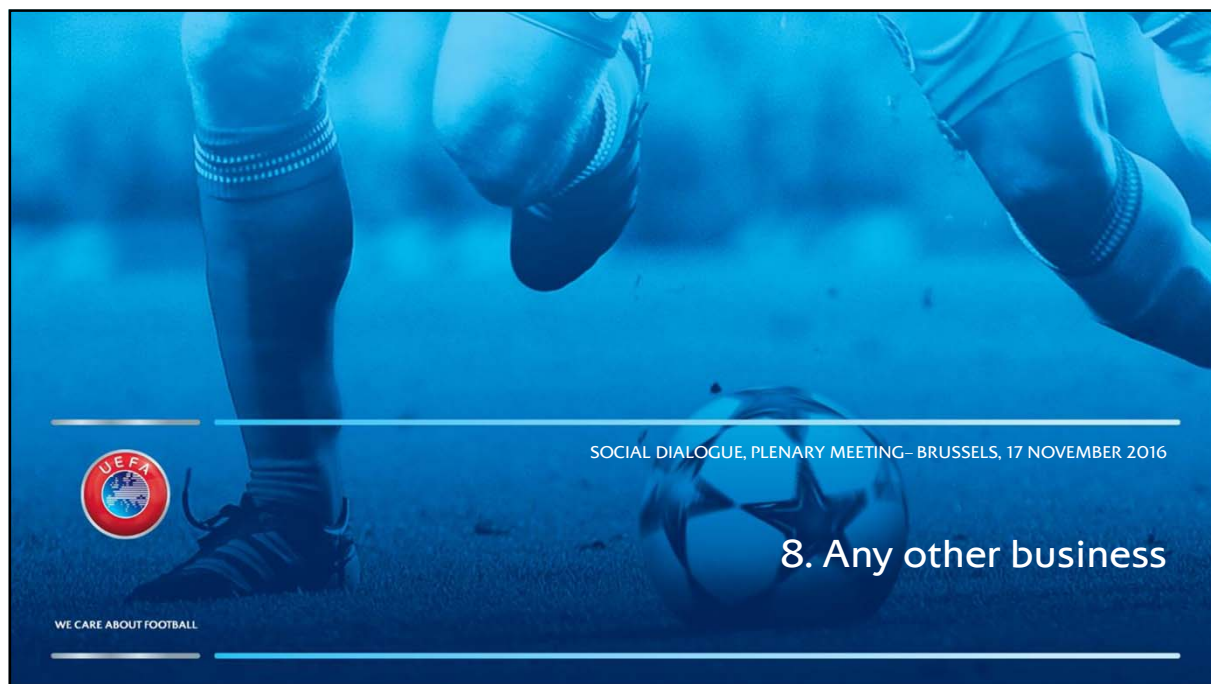
- 29 May
- 5 October



**Plenary**

- 17 November





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## 8. Any other business

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