GEOENERGETIC ASPECTS OF THE TERRITORIAL DISPUTE BETWEEN THE REPUBLIC OF SLOVENIA AND THE REPUBLIC OF CROATIA

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Abstract: *The report analyzes the territorial dispute between the Republic of Slovenia and the Republic of Croatia in the context of the development of the main energy projects in Eastern Europe. An emphasis is placed on the Final Award of the Permanent Court of Arbitration regarding the maritime border between the two countries in the Piran Bay and especially on the decision for establishment of a "Junction Area", allowing physical connection between the territorial sea of Slovenia with international waters, through the territorial sea of Croatia and the influence of this decision on the opportunities for implementation of energy projects in the region. Additionally, the importance of the North-South Gas Corridor is presented as well as how it relates to the Baltic Pipe project and the Southern Gas Corridor. The report highlights the competition between some of the energy projects in the region. As a result, it is revealed that behind the territorial dispute between Slovenia and Croatia, falsely perceived as an insignificant, lay the confronting interests of USA, Germany and the Russian Federation, further transferred to the regional level, including through the interests of powerful energy corporations as ExxonMobil, Gazprom and OMV, turning the local dispute into a geopolitical vortex.*

Keywords: ENERGY SECURITY, INTERMARIUM, LNG, PIRAN BAY, NORTH-SOUTH GAS CORRIDOR, BERLIN PLUS

1. Introduction

The lack of significant amounts of energy resources in Europe is generating a constant strive of the countries on the continent toward finding a resolution of this crucial problem for their security, stemming from the need of energy at competitive prices. The total production of primary energy in Europe has fallen from 904.2 million tons of oil equivalent in 2005 to 766.6 Mtoe in 2015[1]. At the same time the Russian Federation remains the main source of solid fuels, crude oil and natural gas for the European Union[2]. This shared challenge is forcing the member states to seek a common approach aimed at dealing with this vulnerability.

Despite this, very often the European Union energy policies are falling victim to the national interests of member states or the rivalry between the major geopolitical actors. This creates an extremely complex situation in which the local energy priorities are interwoven with the global objectives pursued by the most powerful states in the world. As a result, the economic logic of energy supplies is subordinated to the geopolitical interests of parties, external for the European continent.

In this situation the European countries are faced with the dilemma whether to seek reliability of energy supplies at the expense of dependency or to pursue diversification, hiding the risk of higher prices or even complete termination of supply. Within this context the current article explores the implications of the territorial dispute between the Republic of Slovenia and the Republic of Croatia for the European energy security.

The methodology used in this research is based upon the critical thinking framework developed by Linda Elder and Richard Paul[3]. The main question raised before the current article is *"Why the Federal Republic of Germany is supporting the Republic of Slovenia in its territorial dispute with the Republic of Croatia?"*. The reasons behind this formulation of the main research question as well as the origin and the characteristics of the territorial dispute between the two countries, are presented in the next section of the article.

2. The territorial dispute between the Republic of Slovenia and the Republic of Croatia in the wider context of the Three Seas Initiative

The dissolution of Yugoslavia arose the problem of determining the border between the Republic of Slovenia and the Republic of Croatia, especially in its maritime sector and the Piran Bay. On the 4th of November 2009 both countries signed an Arbitration Agreement, facilitated by the European Commission, according to which Slovenia lifts its *"reservations as regards opening and closing of negotiation chapters (*between EU and Croatia*) where the obstacle is related to the dispute"* and that the Permanent Court of Arbitration will determine *"the course of the maritime and land boundary between* the two states*"*[4].

As a result, the Republic of Croatia joined the European Union in 2013, but the resolution of the dispute has remained an unachievable goal. Furthermore, in 2015 the Croatian media revealed telephonic conversations between Dr. Jernej Sekolec, the arbitrator appointed by Slovenia and Ms. Simona Drenik, agent of Slovenia, linked to the deliberations of the Tribunal[5]. This led to the withdrawal of the Croatian side from the Arbitral process, which it described as *"tainted"* and *"gravely damaged"*, while at the same time Slovenia confirmed that *"the Tribunal should continue to fulfill its mandate"*[6].

On the 29th of June 2017 the Permanent Court of Arbitration issued its Final Award on the territorial dispute between Slovenia and Croatia. The Ministry of Foreign and European Affairs of Croatia announced that *"*the *arbitral award does not in any way bind Croatia and Croatia shall not implement it"*[7]. On the other side, the prime minister of Slovenia declared that his country will implement the arbitration ruling and expects Croatia to do the same[8]. The understanding of the aforementioned positions as well as the actions of the external for the region actors requires taking into consideration the details of the Final Award, rendered by the Permanent Court of Arbitration.

The Final Award determines[9]:

1. The geodetic lines of the land border between the two states, mainly in the disputed areas around river Mura and the Istrian peninsula.
2. The geographic coordinates of the so-called closing line (dividing internal waters from territorial sea) of the Piran Bay. The internal waters are distinguished by the territorial sea according to the status of the Bay – the Tribunal finds that *"*it *had the status of internal waters prior to the dissolution of the SFRY and determines that it retained that status after the independence of Croatia and Slovenia"*.
3. The geographic coordinates of the maritime boundary between Croatia and Slovenia.
4. The geographic location and the usage regime of the so-called "Junction Area". It represents a corridor that connects the Slovenian territorial sea with the area that is beyond the 12 NM territorial sea limits of Croatia and Italy (the "High Sea") (Fig. 1). Furthermore, the Tribunal determines that in the Junction Area a special regime of usage shall be applied,

including mainly *"freedom of* (transport) *communication to all ships and aircraft, civil and military, of all flags or States of registration, equally and without discrimination on grounds of nationality, for the purposes of access to and from Slovenia, including its territorial sea and its airspace"*.

Fig. 1 *Geographic location and limits of the Junction Area.*

This Junction Area allows the Republic of Slovenia to establish a physical connection between its territorial sea and international waters. The significance of this decision is related to and stems from the local and regional energy projects. Therefore, firstly, the research requires clarification of the position of Croatia on the energy map of Eastern Europe.

In Croatia the transit gas pipelines are maintained and operated by the company "Plinacro". The end-user natural gas transmission system, on the other side, is being controlled by 36 distribution companies. The largest importer of natural gas in Croatia is the private company "Prvo plinarsko društvo" - PPD. It is a subsidiary of the consortium "Energia naturalis" (ENNA), which also operates in the neighboring Hungary, Slovenia, Bosnia and Herzegovina, and Serbia. PPD delivers to the Croatian market around 800 million cubic meters of natural gas per year from Gazprom, representing 75% of the total imports of natural gas in the country.

The main supply route is through Hungary via the interconnector Varosfeld (HUN) - Dravaszerdahely (HUN) - Donji Miholjac (CRO) - Slobodnica (CRO). Another supply route passes through Slovenia via the interconnector Rogatec (SLO) - Zabok (CRO) - Zagreb (neighborhood Lučko), by which natural gas from Western Europe is being delivered (small quantities from Norway) and again Russian gas, from "Nord Stream". In addition, the country has a gas storage facility with capacity of 533 million m^3, positioned in Central Croatia (village Okoli). It is maintained and operated by the state company "Podzemno skladište plina".

An alternative to the Russian natural gas is the planned terminal for liquified natural gas on the island of Krk (port Omišalj). The EU and the USA are looking at this project for a LNG terminal as an opportunity to decrease the dependency of Croatia on Russian natural gas, and therefore strongly support its implementation. It is expected that most of the natural gas imported through this terminal will be delivered by USA and after the process of regasification, transited to Serbia, Hungary and Austria along the existing interconnectors.

The interests of Russia and Germany in relation to Croatia overlap in their desire to block all opportunities aimed at providing an alternative energy supply routes for Europe, in order to ensure the profitability of "Nord Stream" and its planned expansion, which guarantees the leading role of Gazprom on the European natural gas market and establishes Germany as the main European energy hub. Also in this direction should be understood the insistence of the US Congress to extend the sanctions against the Russian Federation, which will mainly affect the European energy companies, involved in the construction of "Nord Stream 2". In this regard, the initiative of USA and Poland to forge a new Intermarium, an alliance of the central and eastern European countries, can be seen as a tool, by which to counter the opportunity for unification of the German and Russian interests in the region.

Intermarium in the form of the Three Seas Initiative, a reincarnation of the Międzymorze proposed by Józef Piłsudski nearly a century ago, held its first summit on 25th August 2016 in Dubrovnik, Croatia. It was attended by the heads of states of Croatia, Hungary, Poland, Bulgaria, Lithuania and Slovenia, and ministers from Austria, Czech Republic, Estonia, Latvia, Romania and Slovakia. The common between these countries is that they are all dependent (to a varying degree, but above 50%) on the imports of energy resources from the Russian Federation.

The second summit of the Three Seas Initiative, held on 6th and 7th July 2017 in Warsaw, Poland, was attended by the President of the United States of America. Donald Trump underlined the US readiness to export LNG to Eastern Europe and that *"USA will never use energy to coerce your nations, and we cannot allow others to do so"*[10]. The third summit of the Initiative will be held in 2018 in Bucharest, Romania. The Three Seas Initiative has two major objectives: 1. Development of the LNG terminals in Poland and Croatia and connecting them by the North-South Gas Corridor, and 2. Construction of the North-South highway "Via Carpathia", extending from Lithuania to Greece.

If we look at the Final Award of the Arbitral Tribunal in the territorial dispute between Zagreb and Ljubljana through the prism of Intermarium, we can say that it serves the interest of Germany and Russia, which with their support for Slovenia gain access to a "warm" sea (by guaranteeing access to and from the Slovenian port of Koper to international waters). The decision of the Permanent Court of Arbitration is decreasing the importance of the competitive Croatian ports, thus, indirectly, the feasibility of energy projects from south to Central Europe through Croatia (including the project for LNG terminal on the island of Krk), is being restricted.

The interests of Moscow coincide with the Germany's strive for expansion of its influence in Slovenia, as such development might decrease the US and British pressure in the region and thwart the Polish plan for establishment of "Three Seas" buffer zone. On the other side, the plan of Poland collides with the German strategic concept for development of the region along the west-east axis, implemented through the EU Strategy for the Danube Region. At the same time Germany seeks to include the non-integrated countries from the Western Balkans into regional integration processes. Such a project is the supported by the Serbian President, Aleksandar Vučić, initiative for Balkan Customs Union, which is part of the German plan for the region "Berlin plus".

The United States are against the formation of pro-Russian or pro-German centers of influence in the countries of the former SFR Yugoslavia, and especially in Serbia. For this reason, the regional integration initiatives of Washington gravitate around the establishment of Adriatic partnerships on the periphery, with leading countries Albania, Montenegro and Croatia, where the Russian and German influence is much weaker.

Furthermore, in the context of the Three Seas Initiative, it is interesting to explore why Hungary temporarily (from 21.7.2017 to 28.9.2017) expressed the position that the BRUA project should not be realized in its originally envisaged form (cutting off the access of this pipeline to CEGH Baumgarten, Austria). Firstly, this behavior

of the Hungarian state might had been directed to the satisfaction of the Russian energy interests in the region with a view to achieve a better position in the forthcoming negotiations with Gazprom in 2021. This fact transforms Hungary into an unpredictable partner from the US viewpoint. Turning BRUA into BRU would have deprived this pipeline of the possibility to transfer natural gas from CEGS Baumgarten to Southeast Europe. As a result, this infrastructure would have lost one of its main functions and could have even been used to transfer Russian natural gas from Greece, supplied via Turkish stream.

Also by this move Hungary might have pursued a violation of the interests of the companies developing the gas fields in Romania (ExxonMobil and OMV). The potential removal of the connection between this source of natural gas and the CEGS Baumgarten turns the investment in the Neptun gas field far less profitable. Additionally, by such an attempt the Hungarian political leadership might have considered the possibility to limit the potential markets for the Romanian natural gas and thus to ensure for itself better conditions for its purchase in the future. Overall, Hungary wanted to show its capabilities to influence the energy configuration in the region, but its main interest is and will continue to be an increase of the significance of the Central Eastern European Gas Exchange (CEEGEX) trading hub.

3. Importance of the North-South Gas Corridor for the energy security of Eastern Europe

The North-South Gas Corridor is the leading project of the Three Seas Initiative, due to its potential to counter the Russian influence in Eastern Europe, which is closely related to the supply of energy resources. This project relies on the overall development of energy infrastructure in the region. In the south, of particular importance is the construction of the LNG terminal on the island of Krk, which initial capacity will be limited by the capacity of the gas transmission system of Croatia - 2.6 bcm of natural gas per year[11]. After 2020 the capacity of the terminal can be upgraded up to 7 bcm of natural gas per year[12].

This in turn requires improvement of the interconnectors between the participating countries – Croatia, Hungary, Slovakia, Czech Republic and Poland (Fig. 2). The current interconnector between Croatia and Hungary (built in 2011) with capacity of 7 bcm of natural gas per year, enables gas supplies only from Hungary to Croatia. By March 2019, the Croatian side will build the infrastructure, necessary to allow reverse flow capability between the two countries[13]. The interconnector between Hungary and Slovakia (built in 2014) also requires further improvement. Its annual capacity of 4.5 bcm does not meet the ambitions of the North-South Gas Corridor project, especially considering the lower transmission capacity in the Hungarian-Slovak direction[14].

Fig. 2 *Route of the North-South Gas Corridor (blue dotted line)*[15]

Slovakia on the other side is highly concerned with the possible ending of Russian gas supplies to Ukraine as this will deprive her of the revenues from pipeline charges for the natural gas transited to the Czech Republic, Austria and Germany[16]. As a result, Bratislava is highly interested in the development of the North-South Gas Corridor, not only due to its dependency on Russian natural gas but also because this project will allow the country to avoid being isolated by the future major energy infrastructure in the region. The interconnector between Slovakia and the Czech Republic (Lanžhot) has reverse flow capability and capacity of around 27 bcm of natural gas per year[17]. In addition, interconnector between Slovakia and Poland should be constructed by 2021 with technical capacity of 4.7 bcm/y in the direction from Poland to Slovakia and of 5.7 bcm/y in the direction from Slovakia to Poland[18]. The interconnection between the Czech Republic and Poland is intended to have a capacity of 5 bcm/y (possibility of increase to 10 bcm/y) in both directions but its completion date remains unclear (2019-2022) due to Poland's concerns that "Nord Stream 2" will render this infrastructure unviable[19].

In the end, whether or not the Czech Republic will be partially "bypassed" by the North-South Gas Corridor, this infrastructure should connect its northern side with the LNG terminal in Świnoujście, Poland, getting access to 5 bcm/y of natural gas (the capacity of the terminal will be expanded to 7.5 bcm/y by 2020). There is a possibility for connecting the North-South Gas Corridor with the proposed floating LNG terminal in Gdansk Bay, which capacity will be between 4.1 and 8.1 bcm/y. The floating LNG terminal in Klaipeda, Lithuania, probably will remain unconnected to this energy infrastructure, due to its focus on the Baltic States market. As a result, the North-South Gas Corridor will have initial access to 7.6 bcm/y of LNG imports with realistic increase to 14.5 bcm/y and maximum increase up to 22.6 bcm/y.

The current capacities for LNG imports are insufficient to affect profoundly the energy security of the countries, participating in the NSGC. Therefore, this project is highly dependent on the implementation of two other energy infrastructures - the Baltic Pipe and the Ionian-Adriatic pipeline, the last in turn, relying on the construction of the Southern Gas Corridor. The Baltic Pipe (expected completion in 2023) will have capacity of 3 bcm/y to Denmark and Sweden, and 10 bcm/y of natural gas to Poland. IAP (expected completion not earlier than 2020), on the other side, must be able to deliver 5 bcm/y to Croatia but it should be taken into consideration that the future of the whole Southern Gas Corridor remains unclear. Despite the recent political and financial support for this project it is very probable that it might share the destiny of "Nabucco" pipeline.

Consequently, by 2023 the NSGC, optimistically, will have access to 15 bcm/y of natural gas supplied by pipelines. Such scenario underlines the importance of this project, as a total of 29.5 bcm/y of natural gas flowing along the participating states, with the possibility of export to other eastern European countries holds the potential to gravely threaten the Russian interests in the region.

4. Hypotheses, answering the main research question

Since the Final Award of the Permanent Court of Arbitration, regarding the dispute between Slovenia and Croatia, was issued, the German Embassy in Croatia, the German Foreign Minister and even the German Chancellor expressed the position that the ruling of the Tribunal must be respected and implemented, thus indirectly supporting the Slovenian side. The analysis made in the previous sections of the article allows us to return to the main research question: *Why the Federal Republic of Germany is supporting the Republic of Slovenia in its territorial dispute with the Republic of Croatia?*

First, the decision of the Arbitral Tribunal imposes an undeniable connection between the territorial sea of Slovenia and international waters, thus preserving the opportunity for construction of LNG terminal in the country. This entirely correlates with the German interests in the region as the implementation of such a project, or simply the possibility for this action, has the potential to weaken the importance of the North-South Gas Corridor. The construction of a competitive LNG terminal in Slovenia may be used by Germany as a tool for undercutting the price of the LNG exported by the United States to the region.

As a result, this will render the deliveries from USA economically unviable and will drive them out of the market. It is very unlikely for the US companies to subordinate their own interests to the priorities of the government and will rather continue to target markets with the highest gas prices (the European is not one of them). Therefore, such a chain of events might be seen as desirable by the German state, especially considering that a direct competition between the Russian natural gas, imported by "Nord Stream" and the US LNG, is avoided, and instead a narrative closer to the market logic is being presented.

There had been an idea for the construction of a LNG terminal in the Northern Adriatic since 2004. The project for such an energy infrastructure in Trieste (Zaule) had been rejected in 2013 after protests from the Republic of Slovenia. In the light of the aforementioned interests of Germany, the construction of a LNG terminal in a state as Italy, able to withstand to a greater degree external political and economic pressure, is not as valuable as positioning this infrastructure in a much smaller state as Slovenia. The last scenario gives more freedom to Berlin to use such a terminal as a tool to achieve its own interests of blocking the US LNG deliveries to Europe. The possible reason for adherence to the outlined behavior is preservation of the competitive advantage, being derived by the "special energy relations" between Germany and the Russian Federation. These special relations are expressed in some of the lowest prices of Russian natural gas for the German market, as in 2013 in only five countries this energy resource was cheaper (Belarus, Armenia, Great Britain, Moldova and Netherlands) (Fig. 3). Three of them are subjected to significant Russian influence, one is a prospective market for "Nord Stream 2" and the last is still a major natural gas producer.

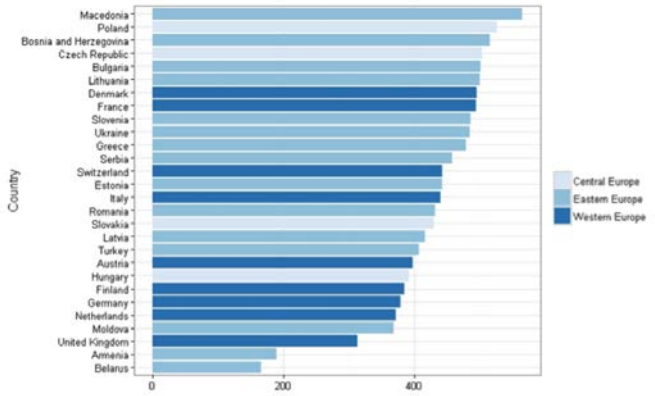

Fig. 3 *Average natural gas price paid to Gazprom by country in 2013 (in Euro per 1000 m^3)*[20]

Second, Germany wants to prevent the US becoming an actor in the European energy market, as this may initiate a chain of events ending with a drop of Russian natural gas prices for the Eastern European countries and thereby indirectly undermining the German foreign trade interests. There is a clear opposition between, on one hand, Germany and Austria, and the US and Poland, on the other, with regard to the construction of the "Nord Stream 2" project. For Germany, this project, despite it leads to almost complete dependence on Russian natural gas (hypothetically it can reach 100%), is the most advantageous option, because Gazprom offers lower prices that the other competitors, and the concessions to Berlin derive not only from the market logic, but also from the geopolitical interests of the Russian state. In order to avoid complete isolation, Moscow is forced to seek ways by which to maintain and improve its relations with the German political leadership.

In addition, Germany is Gazprom's main market in Europe, which in turn gives rise to an opposite dependency for the Russian side as well. Furthermore, account should be taken of the fact that the Russian Federation is dependent on German supplies of high-tech products. As a result, Russia is not able to use natural gas deliveries to Germany as a means of influence in the way it does with Poland, Bulgaria, Lithuania, Latvia and Estonia. US LNG supplies to the Eastern European countries also limit the possibility for Germany to resell natural gas to these markets. If "Nord Stream 2" is built, Germany will have a surplus of at least 30 bcm/y of natural gas (without considering the deliveries through Yamal and Transgas). This surplus may be diverted toward the countries participating in the North-South Gas Corridor project (attention in this respect deserves the route OPAL-Gazelle-Stork II), as long as the access of this infrastructure to natural gas sources is successfully blocked.

The NSGC alone is useless if it does not connect to Norway from the north via the Baltic Pipe, Azerbaijan to the south through the Southern Gas Corridor and the Ionian-Adriatic pipeline, and without building the floating LNG terminal "Adria" on the island of Krk, and an increase to both its capacity and the capacity of the gas transmission system of Croatia. Expansion of the capacity of the LNG terminal in Świnoujście is also a prerequisite for further increase of the significance of the NSGC. In the moderately optimistic case, along the NSGC will flow around 30 bcm/y of natural gas. It is in the interest of Germany that this does not happen.

Third, the development of such a large-scale energy infrastructure as the NSGC and all of its accompanying projects, which bypasses Germany and Austria and is not linked to the Central European Gas Hub in Baumgarten, is at best viewed by Berlin and Vienna as unbeneficial. The natural gas flowing through the Southern Gas Corridor can reach Baumgarten via Italy and the TAG pipeline, or Germany and France via Switzerland and the Transitgas pipeline. Initially, the natural gas flowing through the Trans-Adriatic pipeline at best would be around 10 bcm/y (as long as no quantities are being diverted through the Ionian-Adriatic pipeline), and at a later stage 20 bcm/y. But such capacity cannot be used, as the Trans-Anatolian natural gas pipeline will start operation (2018) at a capacity of 16 bcm/y, which might be expanded up to 22 bcm/y by 2023 and 31 bcm/y by 2026.

Even if the latter figure is accepted, 6 bcm/y of natural gas would be used by Turkey, further 4.4 bcm/y might be diverted through the BRUA pipeline and if another 5 bcm/y are being directed to the Ionian-Adriatic pipeline, then no more than 15.6 bcm/y of natural gas will reach Italy. In the initial stage of operation of TANAP and TAP, the quantities of natural gas reaching Italy would not exceed 4 bcm/y (considering that BRUA's initial capacity of 1.75 bcm/y and IAP are operational). Therefore, Germany may perceive IAP and BRUA projects as diverting quantities that otherwise would have reached its territory or CEGH Baumgarten. In this situation, Germany might seek to block the implementation of the IAP project and to reduce the NSGC to construction of bi-directional interconnectors, without providing real access to alternative natural gas sources.

Furthermore, Germany may attempt to hinder IAP and BRUA projects in order to support Russia's interests related to the construction of "Turkish Stream" to full capacity and the accompanying Eastring and Tesla pipelines. In return, the Russian state may (continue to) offer more favorable prices for the natural gas sold to Germany. Berlin earns double from this - ensuring Russia's benevolence in the supply of energy resources (including crude oil, 34% of the crude oil imported to Germany in 2016 is

from the Russian Federation), and preserving the access to the Southern Gas Corridor capacity via Italy. In this respect, account should be taken of the fact that Italy's gas transmission system is already loaded with the task to transport along the south-north axis large quantities of natural gas from the Trans-Mediterranean pipeline and Green stream. Hence, its ability to transfer larger quantities from the Southern Gas Corridor may be questioned.

And lastly, by creating difficulties to the realization of the North-South Gas Corridor, Germany may seek blockage of the Polish state intentions to build a gas hub on its territory.

5. Conclusion

The study successfully outlined hypotheses, answering the main research question raised before the current article. They may form different combinations to explain the actually observed situation, but more importantly, in the course of the work it was revealed that behind the territorial dispute between Slovenia and Croatia lay the interests of the major geopolitical actors, that further interweave with the aspirations of powerful energy corporations. As a result, emerges a situation in which Friedrich Naumann's "Mitteleuropa" is opposed to Józef Piłsudski's "Intermarium", and the intersection between political and economic more often becomes expressed by the energy issues, whose geopolitical dimensions remain the most accurate indicator of the strategic priorities pursued by the most powerful states in the world. The examined local dispute is just a small piece of the greater geopolitical puzzle stemming from the struggle for configuring the Eurasian space.

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