

CIVIL SOCIETY AND NATIONALISM IN LATVIA

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The problem of civil society and nationalism in Latvia is indicative of how the new security concept for Europe is being interpreted. The most characteristic feature of Latvian society today is a large share of permanent resident non-citizens, predetermined to their fate by the 'restored citizenship' concept. Civil society is inevitably a citizens' society. The citizenship problem in Latvia originates from nationalistic reasons, it was seen as a way to ensure the titular ethnic group political power. To a considerable extent the political elite in Latvia successfully managed to 'sell' the concept of restored citizenship to the international community by exploiting security considerations. Within the 'old' model, security, was first and foremost, related to political and military blocks. Disenfranchisement of Russian speakers, in this view, would ensure inclusion of Latvia into the 'Western' block, i.e. moving the 'iron curtain' further eastwards. According to a new understanding of security, exclusion of a big group of residents from political participation, regardless of its legal or historical grounds, inevitably impedes the development of civil society and inclusive democracy, and thus represents a major threat in terms of European security.

SECURITY CONCEPTS RECONSIDERED

It is widely recognized nowadays that a radical transformation of the understanding of international security has taken place since the time of the Cold War. A bipolar Europe does not exist anymore, and the fear of a large-scale, systemic war - 'the great war' - has gone. Security becomes relative, divided. The main threats are connected with improvised, unexpected, fractioned violence. Socio-economic issues, culture and identity problems are stressed more and more within the security context.¹

However, the outcome of this ongoing debate is still far from being obvious. The changes appeared so drastic and happened so quickly, 'overnight', that it seems it will take time for the political, diplomatic, and, particularly, military elites of European states to get used to the new conditions and to come to a consensus on the new common security model.

Within the 'old' model, security is, first and foremost, related to military aspects and is determined by the relative strength of the opposing political and military blocks. The 'new' security model for highly

inter-connected and inter-dependent New Europe implies security as being predetermined primarily by internal social and inter-ethnic cohesion, economic wealth, social stability and a reliable legal order in all, without exception, European states. What conclusions should be drawn from these seemingly evident points in terms of European interstate cooperation and particularly for elaboration of proper policies towards newly independent and newly democratic members of 'the European family', with their uneven, often alarming and sometimes scary developments? This general question still awaits a generally accepted and comprehensive answer.

LATVIA: A BUFFER OR A BRIDGE?

The geographic location of this 'tiny' state situated 'between European giants', its long history of being an arena for clashes of these giants, and the tragic events of the 20th Century when the independence of Latvia was violently terminated by Soviet aggression, predetermine a temptation to consider Latvia 'a natural buffer between the West and the East'. It is even more seductive to divide the residents of Latvia into two groups along ethnic lines: while ethnic Latvians embody 'the Western trend', Russian-speakers are identified with 'the East'.

However, a different idea is getting more and more popular nowadays. Namely because of the geographic location and ethno-cultural diversity of Latvia, the future of the country should be seen as becoming a bridge between the West and the East.

However, the delimitations mentioned above are only symbols rather than concepts. In practical terms, sticking to the old security model is fatal for Latvia. The new Europe needs producers, not consumers of security. If the military aspect of security is still stressed, the costs of creating a modern, well-equipped and properly educated army will be too high. Latvia has neither the raw materials nor sources of energy sufficient for own needs. The militarization of the Latvian economy will aggravate the problem of scarce resources. Funds necessary to facilitate social cohesion (civic education, cultural autonomy, teaching the state language etc.) will be even more limited. Meanwhile, well-elaborated, consistent and persistent state activities aimed at the integration of the Latvia's society are necessary to overcome the hard legacy of the Soviet past. The lack of such measures will inevitably impede the formation of a civil society and sustainable democracy and will make Latvia a source of potential conflicts.

THE PROBLEM OF CITIZENSHIP

The most characteristic feature of contemporary Latvian society is a large share of permanent resident non-citizens predetermined by the 'restored citizenship' concept. Latvia and Estonia were the only two post-Soviet states to reject the 'zero option' of citizenship after the restoration of independence. Only those individuals who were citizens of these states before annexation by the USSR in 1940 and their descendants were recognized as initial citizens of the re-established states. This solution was formally based on legal considerations - the so called concept of legal continuity. The cornerstone of this concept was non-recognition of legitimacy of the Soviet annexation shared by many democratic states (though politically rather than juridically). Thus, independence of the Baltic states was not established anew but regained in 1990, and so was the body of citizens.

In the elections to the Latvian Supreme Soviet in the spring of 1990 all then residents of Latvia could participate, including even Soviet military personnel. The Popular Front of Latvia won a resounding victory at the elections. Also a significant number of non-Latvian voters supported this predominantly Latvian movement. The PFL election program contained what for all practical purposes amounted to support of the 'zero option' of citizenship, and this clause in the Front's electoral platform was decisive in securing the support of many Russian-speaking voters.

However, after the coup attempt in Moscow in August 1991 had collapsed and the international community had recognized Latvian independence, the Supreme Council of Latvia adopted a Resolution on the Restoration of the Body of Citizens and on the Main Principles of Naturalization. The Resolution restored the citizenship rights of the prewar body of citizens and left the question about the citizenship of the others open. Only 'pre-war' citizens and their descendants could vote in the next parliamentary elections in 1993.

Thus, there was neither revolution nor civil war in Latvia. The state's sovereignty was re-gained by parliamentary means. The same parliament (though declared a 'transitional' one) which proclaimed the restoration of independence deprived a considerable part of its own electors of political rights.

The citizenship law which established procedures for naturalization was adopted by the new parliament, the Saeima, in summer 1994 after protracted and stormy debates and active intervention of the OSCE and the Council of Europe. Along with common requirements like 5 year residence, stringent criteria of Latvian language proficiency, knowledge of the Constitution and history of Latvia, the law set up the so called

'time-table', or 'windows" of naturalization. Only persons who belonged to certain privileged categories could begin to apply for citizenship immediately after the law entered into legal force (in particular, ethnic Latvians; Livs; spouses of citizens who had been married for at least ten years; persons who had had legal residence in Latvia before 1940; graduates from Latvian language schools, and former citizens of Lithuania and Estonia). Individuals who were born in Latvia and aged between 16 and 20 years could begin to apply for citizenship on 1 January 1996. Next, by 1 January 1997 also individuals under 25 years of age could begin to apply, etc. Persons who are born outside Latvia may begin to apply for citizenship in 2001 if they entered Latvia as minors, in 2002 if they were 30 years or younger when they arrived, or after 2003 (all others).

The necessity of strict naturalization demands was substantiated with the need to 'provide guarantees for the survival of the Latvian nation', and to make ethnic Latvians 'masters in their own land'. The 'ethnic dimension' of the citizenship legislation on the whole is rather transparent, even leaving aside preferential treatment of ethnic Latvians envisaged by the law. Although the 1991 Resolution on the Restoration of the Body of Latvian Citizens did not contain any overt ethnic criteria, nevertheless, it automatically turned the vast majority of ethnic Latvians into citizens while the majority of Russian-speaking residents in Latvia were categorized as citizens of the USSR. Among the citizens, ethnic Latvians made up 79% in 1996 while their share of the population at large was around 56%. For the Russians, the figures were 16% and 31%, respectively. By February 1996, 99% of all ethnic Latvians in Latvia had acquired Latvian citizenship, while only some 38% of the Russians, 19% of the Belarusians, and 6% of the Ukrainians had.²

PRACTICAL IMPLICATIONS: LEGAL STATUS OF THE RESIDENTS OF LATVIA

The 1991 Resolution denoted the legal status of persons not eligible for 'initial' citizenship as the citizens of the USSR. When the Soviet Union collapsed shortly afterwards, these became de facto stateless persons. Yet, this was never recognized by Latvia's authorities. The main reason for this reluctance was the desire to avoid implementation of measures envisaged in international human rights instruments for the protection of stateless persons and reduction of statelessness - a fact admitted by high-ranking Latvian officials.³

Until 1995 the legal status of permanent residents of Latvia who had not been recognized as citizens remained undefined. The prolonged legal vacuum led to a situation in which nationalistically-minded state

bureaucrats and local authorities could act arbitrarily. Systematic administrative violations were perpetrated by officials of the Citizenship and Immigration Department which was entrusted with the task of compiling the Registry of Residents. Persons who were (often contrary to the law) denied entry into the Registry were barred from legal employment, social benefits, marriage registration, the opportunity to travel etc. This situation attracted the attention of several international human rights organizations, Helsinki Watch in particular.⁴

In April 1995, a law was adopted 'On the status of former citizens of the USSR who are not citizens of Latvia or another state'. In effect, this law introduced a new legal status: the former citizens of the USSR are regarded as neither citizens of Latvia, nor as foreigners (i.e. they are not citizens of another state), but they are not treated as stateless persons either. While the adoption of this law greatly clarified the situation in practical terms, the implementation of it was hampered by serious problems, particularly family re-unification. Issuing identification documents foreseen by the law and guaranteeing freedom of movement started only in April 1997.

Human rights experts differently evaluated the citizenship approach implemented in Latvia and Estonia. Generally, the very principle of 'the restored citizenship' was accepted by the international community. However, in the course of implementation of this principle serious human rights problems arise. The problem of mass statelessness is one of them. In particular, over 19,000 babies born in Latvia after international recognition of its independence have no citizenship other than that of 'the former USSR'.⁵ Latvia is a state party of the 1961 UN Convention on the Reduction of Statelessness. A similar legal regime to prevent statelessness is stipulated by the recently adopted European Convention on Nationality. Finally, the right to citizenship from birth is envisaged in the 1989 Convention on the Rights of the Child. Nevertheless, as a matter of fact, new stateless babies are born in Latvia every day.

Citizenship laws of some other former post-Communist countries were and are severely criticized by human rights organizations for their restrictive nature depriving substantial groups of residents of citizenship (for example, the Czech Republic and Slovenia). In the meantime, the attitude towards Latvian citizenship legislation, which left without citizenship a much greater number of persons and, besides, allows proliferation of statelessness, is much softer.

A number of laws, regulations, and administrative decrees were adopted which limited the social and economic rights of non-citizens, such as property rights, the right to work in certain professions, the right to receive social benefits, the right of self-defense, the freedom of conscience, and a number of others.⁶ These restrictions were repeatedly criticized by

representatives of European inter-governmental organizations. In the autumn of 1996 Latvia's National Human Rights Office concluded that 10 of these legal acts were in breach of Latvia's international human rights obligations. Nevertheless, over the next year only one restriction was abolished (non-citizens were allowed to work as firemen).

Unlike in Estonia, in Latvia non-citizens possess neither active nor passive voting rights in municipal elections.

Today Latvia's non-citizens have four different types of identification documents: 'internal' and 'foreign' USSR passports ('the red passports'), a temporary identification document (the so called 'brown passport') which was issued by Latvia since summer 1995 and is valid for two years, and non-citizens' ('aliens') passports issued since April 1997 according to the law 'On the status of former citizens of the USSR...' (the so called 'violet passport'). It is not permitted to have simultaneously two or more of these documents (except for the USSR passports). Some countries have not recognized the 'brown passports', some others do not allow entry to holders of the 'violet passports'. Besides, Latvian authorities continued to demand 're-entry guarantees' or 'return visas' (requiring payment) whenever a holder of the Soviet-type passport leaves the country for a shorter journey, in clear contradiction to the law mentioned above (the law entitles permanent resident non-citizens the right to leave Latvia and to return freely). All these factors seriously restrict non-citizens' freedom of movement.

Presence of the so called 'illegals' is the most painful problem connected with the legal status of Latvia's residents. 'The illegals' are people most of whom permanently resided in Latvia at the moment of restoration of independence but, according to the legislation currently in force, have no right to legal residence in the country. As a rule, this fact is related to lack of a proper 'propiska' - the infamous Soviet-type registration of residence (a stamp in the passport). Most of these persons have no citizenship but that of the former USSR. Deprived of any legal status in Latvia, they have no right to legal employment nor social benefits. The Citizenship and Immigration Department assessed the number of such persons as 6,000 (October 1997), while the Latvian Human Rights Committee (an NGO dealing with legal assistance and litigation) mentions a figure three times bigger.

SUBSEQUENT DEVELOPMENTS

Historically, nationalism has been the dominant political philosophy of Central and Eastern Europe. Nationalistic feelings are rather widespread in all newly independent post-communist countries of the region. In Latvia, drastic changes in the demographic situation connected with a

large-scale in-migration of predominantly Slavic origin after World War II makes the problem particularly sensitive and causes fears of 'ethnic extinction' among Latvians. This factor is broadly exploited by most of the political forces which appeared after the restoration of independence. Ethnicity remains 'institutionalized'. As stipulated in normative acts enacted by the Republic of Latvia, Latvian passports record not only the citizenship of the passport holders, but also their 'nationality' (i.e. ethnicity). Thus, Latvia has retained the Soviet practice of official, mandatory ascription of ethnic origin in personal IDs. Also in the Registry of Residents the nationality of inhabitants, including newborn babies, is recorded.

Thus, it is not surprising that the emerging legal framework is directly or indirectly aimed at consolidating the dominant position of ethnic Latvians. Restrictive citizenship legislation created good tools for implementation of such policies. As a matter of fact, the problem of citizenship has made a general context for developments in other areas.

In the Soviet period, there were no legal acts requiring Latvian residents to have even a modicum of mastery in the Latvian language. Most people who moved to Latvia to settle there permanently did not try to learn the local language. As a result, in the 1989 census only 22.3% of the Russians who lived in the Latvian SSR claimed to be fluent in Latvian. One of the first legal acts adopted on the road towards restoration of Latvian independence was the Latvian Supreme Soviet resolution of 6 October 1988, giving Latvian official status as 'the state language' in the Latvian Soviet republic. The Law on the Languages of the Republic of Latvia was adopted on 5 May 1989. Latvian was proclaimed the sole state language and all official business should henceforth be conducted in Latvian. Alongside this basic principle, however, the 1989 law also contained certain guarantees for the continued use of Russian. The implementation period of the language law was stipulated as three years. However, in March 1992, two months before the law was about to enter legal force, the Latvian parliament passed a number of significant amendments to it which in reality changed its very essence. As a result, Russian for all practical purposes became a foreign language in Latvia, to be treated on a par with any other non-Latvian language. The adoption of the Language law was followed by a number of ordinances and other sublegal acts which regulated the usage of languages in Latvia, as well as established a system of punishment for violations of the Language law.

The law stated that all employees in state and private institutions, enterprises, and organizations had to know and to make use of the state language, as well as other languages, to the extent that their professional duties required it. The Latvian electoral law states that only citizens

of Latvia who have a command of the state language at the highest level may be registered as candidates for the Saeima (the parliament) and for local elected organs. Candidates who have received their education in a non-Latvian language are required to present a certificate of their language proficiency when they register. According to regulations adopted by the Cabinet of Ministers, everybody who has lost a job must present a language proficiency certificate to be registered as unemployed.

A new draft language law which considerably tightened language policies was adopted by the parliament of Latvia in a first reading in spring 1997. Several European organizations criticized the draft and evaluated it as contradicting to the Framework Convention on the Protection of National Minorities, as well as some other international instruments related to minority rights. Nevertheless, the draft is being prepared for the second reading without major amendments.

Reform of the education sphere aimed at its gradual 'Latvianization' is the problem most painfully perceived by Russian-speakers in Latvia. The overwhelming majority of Russians agree that all residents of Latvia must have a command of the state language but argue that teaching Latvian as a second language must be radically improved to achieve this goal, instead of completely or partially switching Russian-language education into Latvian language. Practically all Russian organisations strongly objected when Russian-language schools were closed according to decisions of municipal authorities and elimination of secondary education in all languages but Latvian was envisaged by the new draft education law. Over 50,000 signatures were collected within a few weeks under the petition protesting against adoption of the law - a rare case of mass activity by Latvia's Russian-speakers.

Many observers forecasted that along with the stabilization of Latvia's statehood, policies towards minorities will be softened. Yet, rather the opposite is true. Apparently, the role of ethnically Latvian new political elites⁷ was underestimated: any substantial changes in the established social and political framework could undermine their power. The issue of political power is always of utmost importance. Ongoing privatization, in fact - distribution of the former 'common popular wealth' makes the issue even more crucial. The role of a 'newborn' business elites, including criminal and semi-criminal ones, and mechanisms of their impact on political decision-making still remains to be thoroughly studied.

CIVIL SOCIETY - CITIZENS' SOCIETY

Civil society is inevitably a citizens' society. In Latvia today considerable groups of permanent residents are excluded from political participation and practically have no legal tools to represent and protect their interests.

Creation of a political nation, integration of Latvia's society, models of Latvia's future have become permanent topics of heated debates in the country. However, most mainstream politicians, analysts and commentators interpret integration as cultural assimilation rather than processes at the institutional and linguistic level. The language issue is understood, as a rule, not in practical, instrumental terms but as a necessary component of the 'ethnic statehood' concept. The symbolic value of language is stressed. In the meantime, for many Russian-speakers, recognition of their language is first of all a problem of dignity, respect and acceptance of them as co-nationals.

The problem of citizenship in Latvia has both objective aspects (limits on democratic participation and obstacles to the formation of civil society) and subjective aspects. For many Russian-speakers, particularly intellectuals, who joined forces with Latvians during the struggle for independence, developments since 1991 have left them feeling betrayed.⁸ Restoration of independence and democracy entailed for them the loss of citizens' status, protracted legal insecurity, restrictions of a series of social and economic rights, considerable limitations on usage of their mother tongue, and for many even their right to reside in Latvia appeared questioned. Non-Latvians are practically squeezed out from the sphere of the state and municipal government, heavily underrepresented in state service and administration, even in areas dominated by Russian-speakers in the Soviet period (e.g. industry).

Most Russian-speaking non-citizens have so far failed to identify a proper model of social behavior under the new conditions and feel more and more alienated from the state. Passivity, insecurity, uncertainty about the future, lack of mobilization and fragmentation of the community are the most characteristic features for this biggest minority group in Latvia. This factor, along with several others, determines, in particular, the very low number of naturalized persons even in those groups which are eligible for naturalization (less than 6,000 naturalized of 120,000 eligible non-citizens by fall 1997). This trend has much in common with the Soviet model of relations between an individual and a state: avoidance of any contacts with the state whenever it is possible.

Emigration or return to Russia is not a very popular option. The maximum out-migration was registered in 1992 (52,000 persons), since then negative net migration decreases each year. Several surveys reveal that large-scale emigration of Russian-speakers should not be expected. All in all, up to 10% of non-citizens chose or will choose this option. The number of non-Latvians striving to assimilate fully in ethnocultural Latvian environment (in particular, tend to send their children into Latvian-language schools) is not substantial either. Many choose what can be called 'a Jewish model'. The current situation of Russians in

Latvia has much in common with the traditional conditions under which Jews had been living in Europe (lack of political rights, land ownership rights, exclusion from state service etc). The traditional 'Jewish' response was to deal with commerce, trade and financial activities. Problems are solved not through elaboration of effective social mechanisms but 'via one's personal moneybag' - for example, instead of struggling for state-funded Russian-language education, children attend private schools or study abroad.

Often Russians in the Baltics are identified with Russia, even labeled as a 'fifth column'. Sociological surveys reveal that this point is ill-based. Despite Russia offers its citizenship to all citizens of the former USSR by registration, less than 9% of Russian-speaking non-citizens in Latvia have acquired Russia's citizenship, many of them did so on the eve of leaving for Russia. For most Russians namely Latvia, not Russia, is 'their country', and there is not even a majority demand for closer ties with the Russian Federation.⁹ Moreover, Russian-speakers in both Latvia and Estonia are more in favor of joining the European Union than ethnic Latvians and Estonians are (66% vs 52 % and 78% vs 59%, correspondingly, in late 1996).¹⁰ Probably many Russians are more inclined to accept liberal European values than ethnic Latvians who are often preoccupied with the problem of preserving ethnic identity and the fear of 'European cultural intrusion'. Also in pragmatic terms, closer integration into Europe would increase the Russians' chances to compete on an equal basis with ethnic Latvians. This fraction of Russian-speakers can become a kind of 'avant garde' in Latvia to play an important role in the process of Latvia's integration in Europe.

'ETHNIC DEMOCRACY' VS 'JUST DEMOCRACY'

The main peculiarity of Latvia's situation is that 'the politicization of ethnicity', common for all post-Communist states, is channeled here predominantly along legalistic lines (often only indirectly connected with the ethnic factor). Legitimatization of ethnic domination is based upon 'the restored state' and 'the restored citizenship' concept which generally enjoy support on the part of international community. A restrictive approach to the citizenship problem was the key aspect: and as a result, the titular ethnic group, i.e. the Latvians possess the 'control package of shares' of political power. In turn, this allows them to implement desirable concepts in other areas too (like language policies, education and so forth), avoiding taking into account the views of the numerically substantial minority population.

Thus, through directing nationalistic feelings along legalistic channels. Latvia managed to avoid not only violent inter-ethnic clashes but

also substantial deterioration of inter-ethnic relations at the everyday level. As some surveys show, the share of those Latvians who 'accept a Russian as a neighbor but not as a co-citizen' appeared over three times bigger than one of 'democratic nationalists' - i.e. those who advocate equal rights for both Latvians and Russians but at the inter-personal level prefer to deal exclusively with the representatives of own ethnic group.¹¹

On the other hand, such indirect legitimization of ethnic domination (through citizenship, language and cadre politics etc.) creates long-term obstacles to the development of universal, inclusive democracy and eliminates incentives for seeking efficient forms of inter-ethnic dialogue.

Not surprisingly, under such circumstances the emerging post-Communist political regime in Latvia is taking the shape of what is called ethnic democracy, several researchers maintain - i.e. a combination of certain principles of general democracy with elements of ethnic favoritism.¹²

The Latvian political elite managed to successfully 'sell' the restored citizenship concept to the international community to a considerable extent due to exploiting security considerations. Disenfranchisement of Russian-speakers, in this view, would ensure inclusion of Latvia into the 'Western' block - within the 'old' security concept, would move the iron curtain further eastwards. However, within the new security model, exclusion of a big group of residents from political participation, regardless of its legalistic or historical grounds, inevitably impedes development of civil society and inclusive democracy, and thus represents a major threat in terms of European security.

'The Russian problem' in Latvia is not a problem of Russians. It is a problem of Latvia, a problem of Latvia's future. And it can be resolved only by those who possess political power today - i.e. by ethnic Latvians, first of all, by the Latvian political elite.

THE ROLE OF THE OSCE

Permanent, though rather 'soft', pressure on Latvian authorities on the part of European inter-governmental organizations is one of the basic factors facilitating more liberal policies towards the Russian-speaking population and deterring aspirations of the radical nationalists. The fact that in the second half of the 90s political developments are no longer determined by broad popular movements but primarily by a national political elite makes this influence potentially more effective.

The activities of the OSCE High Commissioner on National Minorities are of special importance in this view. Since early 1993 the High Commissioner has urged the Estonian and Latvian governments to make their policy confer with non-citizens, make serious efforts to integrate them, and extend citizenship to as many qualified applicants as

possible¹³. The CSCE mission to Latvia established in late 1993 was intended to fulfill a dual function: to monitor the development of the situation and to act as an impartial mediator and facilitator in the conflict. This mechanism, very different from legal procedures (in particular, mechanisms envisaged by the European Convention on Human Rights) proved efficient in the situations of 'soft conflicts' like in Latvia.

Unlike other European organizations, in particular the EU and NATO which formulate conditions for post-communist states desiring to join these alliances, the OSCE has no 'carrot' at its disposal. In the meantime, namely the OSCE - to a considerable extent due to the existence of the office of the High Commissioner on National Minorities - plays a crucial role in conflict prevention and facilitating the building of civil society in the post-Communist countries of Eastern and Central Europe. To a substantial degree the policies towards newly independent and newly democratic post-communist states are derived from the security concept adopted by the OSCE member-states. On the other hand, developments in the post-communist states contribute much to the process of implementing the new security model.

To conclude, for Latvia, as well as for other post-communist countries, external and internal problems closely overlap. Effective implementation of the new concept of European security is, to a large extent, a matter of their survival as democracies.

NOTES

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² Leo Dribins (ed). *National and Ethnic Groups in Latvia*, (Riga: Ministry of Justice of the Republic of Latvia, 1996), annex.

³ See e.g. interviews with Inese Birzniece, the former chairman of Parliamentary Standing commission on human rights - Labrit, 16 February (1995) and Janis Leinsh, the vice-director of the Citizenship and Immigration Department - Baltijskaya Gazeta, 6 January (1995).

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⁵ Lauku Avize, 17 October (1997), p.4.

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