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Togo Country Report on Human Rights Practices for 1997

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TOGO

President General Gnassingbe Eyadema and his Assembly of the Togolese People (RPT) party, strongly backed by the military, continue to dominate the exercise of political power. During the year, the RPT used its parliamentary majority in the National Assembly to create a Constitutional Court, an Audio-visual and Communications Authority, and a Supreme Council for the Magistrature. Despite the Government's professed intention to move from an authoritarian legacy to democracy, in practice the new legislation ensures that President Eyadema and his supporters continue to maintain firm control over all facets of government. As all of these new bodies are filled with allies and supporters of President Eyadema, their authority is thus limited, and their autonomy and effectiveness is very much in doubt. The Government also moved forward unilaterally to update electoral lists and make preparations for the presidential election, scheduled for June or July 1998. Despite opposition demands to establish an electoral system free from government influence for the election, the RPT majority in the National Assembly passed a new Electoral Code that gives responsibility for organizing elections to the Minister of Interior, an army general. The National Electoral Commission, whose own independence is not guaranteed by the new legislation, is merely charged with confirming the results of the election. The Government also exerts control over the judiciary.

The security forces consist primarily of the army (including the elite Presidential Guard), navy, air force, the Surete Nationale (including the national police), and the Gendarmerie. Approximately 90 percent of the army's officers and 70 percent of its soldiers come from the President's northern (Kabye) ethnic group. The Minister of the Interior is in charge of the national police, and the Defense Minister has nominal authority over the other security forces. In practice there is little differentiation between civilian and military authorities. Security forces remain overwhelmingly loyal to their chief, President Eyadema, subject to his direct control, and carry out his orders. Some members of the security forces committed serious human rights abuses.

About 80 percent of the country's estimated 4.25 million people are engaged in subsistence agriculture, but there is also an active commercial sector. The main exports are phosphates, cotton, and cocoa, which are the leading sources of foreign exchange. While there has been considerable recovery in the gross domestic product (GDP) since the severe political and economic crisis of the early 1990's, annual per capita GDP remains below \$400. The country is slowly moving toward structural adjustment under programs of international financial institutions and has resumed moderate growth.

The Government's human rights record continued to be poor. The Government restricted citizens' right to change their government. Security forces were responsible for extrajudicial killings, beatings, arbitrary detentions, and interference with citizens' movement and privacy rights. The Government did not, in general, investigate or effectively punish those who committed such abuses. Prolonged pretrial detention was commonplace, and prison conditions remained very harsh. The Government continued to influence the judiciary; defendants' rights to fair and expeditious trials are not ensured, and some detainees wait years to be jud-

c.
Punishment or

Torture and Other Cruel, Inhuman, or Degrading Treat-

Punishment

The law prohibits these practices, but security forces often beat detainees immediately after arresting them. Some suspects have claimed credibly to have been beaten and denied access to food and medical attention. The Government did not investigate, prosecute, or punish any officials for these abuses.

Prison conditions remained very harsh, with serious overcrowding and inadequate sanitation and food. Medical facilities are practically nonexistent and disease is widespread. Despite these problems, there were no reported deaths of prisoners due to disease or inadequate medical facilities, unlike in 1996, when conditions led to an estimated 15 deaths. Prison guards in the overcrowded Civil Prison of Lome charge prisoners a small fee to shower, use the toilet, or have a place to sleep. Children are often incarcerated with convicted adults. Women are housed separately.

Although international and local private organizations have access to prisons for monitoring purposes, the Ministry of Justice refused written requests from diplomatic missions for monitoring visits.

d.

Arbitrary Arrest, Detention, or Exile

The law allows authorities to hold arrested persons incommunicado without charge for 48 hours, with an additional 48-hour extension in cases deemed serious or complex. In practice detainees can be, and often are, detained without bail for lengthy periods with or without the approval of a judge. Family members and attorneys officially have access to a detainee after the initial 48- or 96-hour detention period, but authorities often delay, and sometimes deny, access.

Judges or senior police officials issue warrants. Although detainees have the right to be informed of the charges against them, police sometimes ignore this right. The law stipulates that a special judge conduct a pretrial investigation to examine the adequacy of evidence and decide on bail. However, a shortage of judges and other qualified personnel, plus official indifference, have resulted in lengthy pretrial detentions—in some cases several years—and confinement of prisoners beyond their sentences. An estimated 50 percent of the prison population were pretrial detainees. The Government continued to use brief investigative detentions of less than 48 hours to harass and intimidate opponents and journalists for alleged defamation of government officials (see Section 2.a.). The Government often resorts to false charges of common crimes to detain and intimidate opponents.

There were instances of arbitrary arrests and detention. In the week preceding the January 13 anniversary celebration of President Eyadema's coup d'etat, security forces arrested a number of young men in the Nyekonakpoe and Adidogome Casablanca districts of Lome. These areas are reputedly strongholds of the opposition and are also adjacent to the border with Ghana. Security forces reportedly deployed and then conducted identity checks throughout the area, arresting those who could not produce identity cards. The security forces conducted a similar roundup in the Be quarter of Lome (the site of the anniversary parade) 2 days before the celebration. All those detained were later released. Houssoukpe Kokou was detained on June 15 and held for 3 days on charges that his 8-year-old son was found carrying a gun. Security forces found no weapons when they conducted a search of his residence. Dogbolo Sofahu and Agbodzalu Kemavo, arrested on June 15 along with Dosseh Danklou and Agbodjinshie Yakanou (see Section 1.a.), were later released.

In December security forces detained Jean-Pierre Fabre, the Secretary General of Gilchrist Olympio's Union of the Forces for Change (UFC) Party. Fabre was accused of plotting to take pictures of cadavers at Lome hospitals, supposedly of persons killed by security forces. The pictures reportedly were to be used in a Lon-

don press conference by Olympio to attempt to defame the military. The Government did not produce any photographs, did not file charges, and released Fabre after a 36-hour detention.

The Constitution prohibits exile, and the Government respects this prohibition.

e. Denial of Fair Public Trial

Although the Constitution provides for an independent judiciary, in practice the executive branch continued to influence the judiciary. The Government established a Supreme Council for the Magistrature in August, but a majority of its members are strong supporters of President Eyadema.

The Constitutional Court, established in March, stands at the apex of the court system. The civil judiciary system includes the Supreme Court, the Sessions (Court of Assizes), and Appeals Courts. A military tribunal exists for crimes committed by security forces, but its proceedings are closed. Traditional law discriminates against women, particularly in the area of inheritance.

The court system remained overburdened and understaffed (see Section I.d.). Magistrates, like most government employees, are not always paid on time. The judicial system employs both African traditional law and the Napoleonic Code in trying criminal and civil cases. Trials are open to the public, and judicial procedures are generally respected. Defendants have the right to counsel and to appeal. The Bar Association provides attorneys for the indigent. Defendants may confront witnesses, present evidence, and enjoy a presumption of innocence. In rural areas, the village chief or council of elders may try minor criminal and civil cases. Those who reject the traditional ruling may take their cases to the regular court system, which is the starting point for cases in urban areas.

There were no reports of political prisoners.

There have been no developments in the case of members of the radical opposition group M05, convicted and sentenced to prison for the 1994 attack on an electrical station owned by the Togolese phosphate parastatal. Although the crime appeared to have been politically motivated, the State Prosecutor refused to apply the December 1994 general amnesty law to this case.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence

In criminal cases, a judge or senior police official may authorize searches of private residences. In political and national security cases, the security forces need no prior authorization. Police conducted searches without warrants, searching for dissidents' arms caches as well as for criminals, often under the guise of searching for identity cards. Armed security checkpoints exist throughout the country, and security forces arbitrarily interfere with privacy by searching vehicles, baggage, and individuals in the name of security. The Government monitors telephones and correspondence and maintains the police and Gendarmerie as domestic intelligence services.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press, but the Government regularly intimidated journalists through threats, detention, and persecution. Police and gendarmes frequently harassed newspaper vendors. Advertisers were often intimidated as well.

Despite Government interference, there is a lively independent press, some of which is often extremely critical of President Eyadema. Of the 10 independent newspapers identified in 1996, only 8 continue to publish with any regularity. There are four independent radio stations and two private television companies that retransmit international satellite stations, but none of the independent broadcasters provides any reporting of local or national events. The official media consist of one radio station, one television station, and one daily newspaper. Although they were generally slanted in favor of President Eyadema and the Government, they allowed the opposition limited access.

The High Authority for Audio-visual and Communications (HAAC), designed to provide equal access to state media, as called for in the 1992 Constitution, was created in June. In practice it operates as an arm of the Government, is filled with Eyadema supporters, and has not increased opposition access to government media.

There were many instances of detention and censorship. Moreover, intimidation of the press leads to considerable self-censorship. The publishers of two independent weeklies, *Le Regard* and *Tingo Tingo*, were arrested in February for printing articles that were critical of present and former members of the Government. Mikaila Saibou, publisher of *Le Regard*, was detained for 5 days and then freed after apologizing in person to President Eyadema. Saibou was then instructed to publish a statement in his paper admitting that *Le Regard* violated basic principles of journalism. Augustin Assiobo, publisher of *Tingo Tingo*, was fined \$100 (50,000 cfa) and served 3 months in prison for defaming the family of a deceased government minister. *Tingo Tingo* also issued a written apology for the story.

Also in February, the chief state prosecutor ordered the suspension of the opposition paper *Forum Hebdo* for 6 months. The publisher, Gabriel Kouame Agah, was fined \$2,000 (1,000,000 cfa) and sentenced in absentia to 1 year in prison on the charge of criminal libel and publication of false information likely to incite the public to unrest. Agah had been residing in self-imposed exile in Ghana since 1992. *Forum Hebdo* resurfaced in May with a new name (*Le Nouvel Echo*) but with the same editorial outlook and staff.

In March the Government detained and questioned Lucien Messan, the publisher of *Le Combat du Peuple*. He was taken to the Minister of the Interior, General Seyi Memene, and questioned about an article the paper had written alleging that an Africa Numero 1 journalist had accepted a \$20,000 (10,000,000 cfa) bribe from the Government to do a favorable story on the newly-installed Constitutional Court. When Messan refused to disclose his source, he was arrested and confined overnight at the headquarters of the Gendarmerie. Messan had also been briefly detained in January, during which time he was brought in handcuffs before President Eyadema to hear complaints about an unflattering picture of the Togolese leader that the paper had published. In this instance, he was released the same day. Although *Le Combat du Peuple* continues to publish regularly, Messan fled into exile in May.

In December the Government arrested and detained Afatsao Siliadin and Basile Agboh, respectively the publishers of "*Nouveau Journal*" and "*Crocodile*", two independent weeklies, after the papers ran stories linking President Eyadema to pro-Mobutu rebels in the Democratic Republic of the Congo. The two journalists were held for 48 hours, then released, after making private apologies to the president, followed by televised public confessions that their stories were false.

At the University of Benin, the country's sole university, academic freedom is constrained by concern among professors about potential harassment by the Government or antiopposition militants and the lack of a faculty-elected rector. Opposition student groups are intimidated by an informer system that has led in the past to government persecution. The only recognized student group is pro-Eyadema.

b.

Freedom of Peaceful Assembly and Association

Under the Constitution, citizens are free to assemble, and in practice political parties are able to hold congresses and meet. However, fear of informants and harsh reaction from the Government has reduced public demonstrations, particularly outside the capital. In February the mayor of the northern city of Kara banned a seminar on civic education jointly organized by a Togolese nongovernmental organization and a German foundation. In March RPT political activists attempted to break up an Action Committee for Renewal (CAR) party rally in Mango. A local police official arrived on the scene at the same time and informed the organizers that the prefect had prohibited the meeting. In April RPT youth using tear gas and machetes broke up a political rally in the prefecture of Agou organized by the opposition CAR party. In the same month, the opposition alleged that the prefect of Oti had forced the area's traditional chiefs to adopt a resolution calling on CAR party leader Yawovi Agboyibo to stay out of the area because his "security could not be assured." In October soldiers prevented the CAR from holding a political rally in the northern town of Bafilo. When the party again attempted to meet in Bafilo in November, two assailants, credibly alleged to be members of the security forces in civilian clothes, attacked CAR leader Agboyibo as he alighted from his vehicle. Agboyibo sustained minor facial injuries, but the rally proceeded as planned. The security forces briefly detained the attackers but later released them and have filed no charges.

The opposition held well-attended and incident-free protest marches in Lome in May, September, and October. In all three instances, unarmed police and gendarmes acted professionally to provide security for the marchers, and appropriate crowd and traffic control.

Under the Constitution, citizens are free to organize in associations and political parties. Parties are able to elect officers and register. There are many active nongovernmental organizations.

c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government generally respects this right in practice.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for these rights; however, armed security checkpoints and arbitrary searches of vehicles and individuals are commonplace. The lack of discipline of the soldiers manning the roadblocks and their actions, such as firing at vehicles and frequently demanding bribes before allowing citizens to pass, impede free movement within the country.

The Government generally cooperates with the Office of the United Nations High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. While there is no legislated body to determine asylum or refugee status, the Government routinely accepts the decision of the UNHCR office resident in Lome. The Government provides first asylum (and provided it to approximately 500 persons in 1997). Ogoni refugees complained that security forces subjected them to arbitrary arrest and intimidation, but the UNHCR discounts these allegations. There were no reports of forced return of persons to a country where they feared persecution.

The August 1995 agreement with the UNHCR for the repatriation of an estimated 45,000 Togolese refugees living in Benin and 75,000 to 80,000 living in Ghana was formally terminated in June. The UNHCR estimates that approximately 15,000 refugees remain expatriated. The Government also accommodates roughly 8,500 refugees, mainly Ghanaians.

Section 3 Respect for Political Rights: The Right of Citizens to

Change Their Government

The Constitution provides for the right of citizens peacefully to change their government. In recent elections, however, this right was only partly respected. The Government, under the authority of the Minister of the Interior, began to revise the voting lists and prepare for the August 1998 presidential election. The RPT majority in the National Assembly also passed legislation to create, and the Government established, institutions designed to play a key role in future elections. In each case, the opposition boycotted the vote in the National Assembly. The Government set up a Constitutional Court in March, and in June it established a High Authority for Audio-visual and Communication (see Section 2.a.). The former has power to rule in the event of a disputed election, and the latter is to oversee government and private media. Both bodies are controlled by President Eyadema's appointees. Additionally, in August the National Assembly passed a new Electoral Code, which included a renewal of the mandate of the National Electoral Commission (NEC). The new code confirms that the Interior Ministry is to organize and supervise local, legislative, and presidential elections, and provides limited authority to the NEC. The method of nomination of members to the NEC creates an automatic majority for President Eyadema's supporters.

Eyadema maintains a highly centralized government, including influencing important nominations of ministers, prefects, mayors, and traditional chiefs. The Government does not openly restrict the functioning of political opponents, but the President uses the strength of the military and his government allies to intimidate and harass citizens and opposition groups. Eyadema also continues to influence the judiciary.

The Constitution provides for universal suffrage and a secret ballot, and these provisions are respected in practice.

There are no legal restrictions on the participation of women or members of ethnic minorities in politics or government. Although many women are members of political parties, there was only one female minister in the Government and one female deputy in the National Assembly.

Section 4 -Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

There are several local private human rights groups, including the Togolese Human Rights League and the Center of Observation and Promotion of the Rule of Law. In general the Government allows groups access to investigate alleged violations of human rights. However, the Government usually does not follow up on investigations of abuses. Years of government threats and intimidation of human rights leaders, combined with a lack of results from human rights initiatives, have led some human rights monitors to end their public activities.

The Government includes a Ministry of Justice and Human Rights. The National Assembly voted in 1996 to enact a ministerial decree to reorganize the government-sponsored and government-funded National Human Rights Commission (CNDH). The Government named the members of the CNDH in August, and the majority are supporters of President Eyadema. The opposition, which had boycotted the National Assembly vote, criticized the law for allowing the President to control the composition, and ultimately the actions, of the CNDH. In practice neither the Ministry of Justice and Human Rights nor the CNDH operate independently from the President. The International Committee of the Red Cross withdrew its permanent representative in late 1997.

Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution prohibits discrimination on the basis of ethnic group, regional or family origin, sex, religion, social or economic status, or personal political or other convictions. However, the Government does not provide effective redress for discrimination complaints, and discrimination based on both ethnic group and sex is common.

Women

Violence against women continues. Although mechanisms exist within both the traditional extended family and formal judicial structures for redress, the police rarely intervene in traditional or domestic violence cases. Wife beating affects an estimated 10 percent of married women and continues with impunity. Local houses of prostitution exist, and some trafficking in Togolese women for the purposes of prostitution or for exploiting women as domestic servants occurs with no visible effort by the Government to curtail these abuses. There is a Ministry of Feminine Promotion and Social Protection, which, along with independent women's groups and related nongovernmental organizations, has active campaigns to inform women of their rights.

Despite a constitutional declaration of equality under the law, women continue to experience discrimination, especially in education, pension benefits, inheritance, and as a consequence of traditional law. A husband may legally oppose his wife's right to work or control her earnings, and he may also decide where his family will live. Employers are often reluctant to hire women, especially for higher level positions. Far fewer women than men attend university, and fewer women graduate from secondary school. Families traditionally give boys priority over girls when deciding who shall attend school. In urban areas, women and girls dominate local market activities and commerce with neighboring countries. However, harsh economic conditions in rural areas, where most of the population lives, leave women with little time for activities other than tending domestic and agricultural field work. Under traditional law, which applies to the vast majority of women, a wife has no maintenance rights in the event of divorce or separation, and no inheritance rights on the death of her husband.

Children

Although the Constitution and family code laws provide for the protection of children's rights, in practice government programs often suffer from a lack of money, materials, and enforcement. The Government provides free education in state schools, and there are social programs to provide free health care for poor children. Orphans and other needy children receive some aid from extended families or private organizations but less from the State. There are few juvenile courts, and children are often jailed with adults. There are credible reports of trafficking in children for the purpose of forced labor (see Section 6.c.).

Female genital mutilation (FGM), which is widely condemned by international health experts as damaging to both physical and psychological health, remains a current, although diminishing, practice. Approximately 12 percent of girls and women have undergone FGM. Although many of the largest ethnic groups do not practice FGM, the practicing groups have rates ranging from 40 to 98 percent. In theory women and girls are protected by the Constitution from FGM, and in December the Government submitted draft legislation to the National Assembly to outlaw the practice completely. Under existing laws, the Government states that it would assist any woman who sought protection from infliction of FGM, but neither the constitutional protection nor the new draft law address "whistle blowers" who bring FGM cases to the attention of legal authorities. In any event, in practice, the prohibition is not enforced; no cases have been brought to court, no one has been helped by the authorities to evade FGM, and traditional customs often supersede the legal system in various ethnic groups. The Government has sponsored seminars to educate and campaign against FGM, and aired a documentary in April on national television that denounced the practice.

People With Disabilities

The Government does not mandate accessibility to public or private facilities for people with disabilities. Although the Constitution nominally obliges the Government to aid disabled persons and shelter them from social injustice, the Government provides only limited assistance in practice. While there is no overt state discrimination against disabled persons and while some hold responsible government positions, the disabled have no meaningful recourse against private sector discrimination, which compels many to beg.

National/Racial/Ethnic Minorities

Members of northern ethnic groups dominate the security forces, while southerners dominate most commerce and the professions. With a few exceptions, southerners and northerners are also divided along political lines. Civil unrest in recent years and inadequate or prejudicial law enforcement exacerbated ethnic rivalries dating from precolonial times. With the rise in north-south tensions, majority ethnic group members in those regions have harassed and attacked their neighbors belonging to minority groups, forcing them back to their home regions. In recent years, many Togolese, predominantly southerners, fled to neighboring Benin and Ghana, and members of northern ethnic groups were internally displaced.

Section 6 Worker Rights

a. The Right of Association

The Constitution provides most workers with the right to join unions and the right to strike. Security forces, including firemen and policemen, do not have these rights; government health care workers may join unions but may not strike. The work force in the formal (wage) sector is small, involving about 20 percent of the total work force, of whom 60 to 70 percent are union members or supporters.

The Constitution also prohibits discrimination against workers for reasons of sex, origin, beliefs, or opinions. There is no specific law prohibiting retribution against strikers.

There are several major trade union federations. These include the National Confederation of Togolese Workers (CNTT), which is closely associated with the Government; the Labor Federation of Togolese Workers (CSTT); the National Union of Independent Syndicates (UNSIT); and the Union of Free Trade Unions.

Federations and unions are free to associate with international labor groups. The CNTT and the UNSIT are affiliates of the International Confederation of Free Trade Unions.

b. The Right to Organize and Bargain Collectively

The Labor Code nominally provides workers with the right to organize and bargain collectively. All formal sector employees are covered by a collective bargaining agreement. However, true collective bargaining is limited by the Government's role in producing a single tripartite bargaining agreement signed by the unions, management, and the Government. This agreement sets wage standards for all formal sector employees. Individual groups in the formal sector can attempt through collective bargaining to negotiate a more favorable package, and some do, but this approach is not common.

The Labor Code prohibits antiunion discrimination. The Ministry of Labor is charged with resolving labor-related complaints but does not always do so effectively.

A 1989 law allows the establishment of export processing zones (EPZ's). Many companies have EPZ status, and about 30 are in operation. The EPZ law provides exemptions from some provisions of the Labor Code, notably the regulations on hiring and firing. Employees of EPZ firms do not enjoy the same protection against antiunion discrimination as do other workers.

c. Prohibition of Forced or Compulsory Labor

The law does not specifically address the question of forced or bonded labor including that performed by children, and children are sometimes subjected to forced labor, primarily as domestic servants. Credible sources confirm the international trafficking of children, who are sold into various forms of indentured and exploitative servitude, which amounts at times to slavery. This traffic often results in the children being

taken to other West and Central African countries, the Middle East, or Asia. In rural areas, parents sometimes force young children into domestic work in other households in exchange for cash. The Government has done nothing to stop this practice.

d. Status of Child Labor Practices and Minimum Age for

Employment

The Labor Code prohibits the employment of children under the age of 14 in any enterprise. The law, however, does not prohibit forced and bonded labor by children, and it is a significant problem (see Section 6.c.). Some types of industrial and technical employment require a minimum age of 18. Inspectors from the Ministry of Labor enforce these age requirements but only in the formal sector in urban areas. In both urban and rural areas, particularly in farming and petty trading, very young children traditionally assist in their families' work. Under the Constitution, school is mandatory for both sexes until the age of 15, but this requirement is not strictly enforced.

e.

Acceptable Conditions of Work

The Government sets minimum wages for different categories, ranging from unskilled labor through professional positions. Less than the official minimum wage is often paid in practice, mostly to less-skilled workers. Official monthly minimum wages range from approximately \$25 to \$39 monthly (cfa 14,700 to cfa 23,100). A 5 percent wage increase in July 1996 represented the first since 1987, despite the 50 percent devaluation of the cfa in 1994. Many workers cannot maintain a decent standard of living at the lower official minimum wages, and many must supplement their incomes through second jobs or subsistence farming. The Ministry of Labor is ostensibly responsible for enforcement of the minimum wage system, but it does not enforce the law in practice. The Labor Code, which regulates labor practices, requires equal pay for equal work, regardless of sex. However, this provision is generally observed only in the formal sector.

Working hours of all employees in any enterprise, except for agricultural enterprises, normally must not exceed 40 hours per week; at least one 24-hour rest period per week is compulsory, and workers must receive 30 days of paid leave each year. The law requires overtime compensation, and there are restrictions on excessive overtime work. The Ministry of Labor's enforcement is weak, however, and employers often ignore these provisions.

A technical consulting committee in the Ministry of Labor sets workplace health and safety standards. It may levy penalties on employers who do not meet the standards, and employees ostensibly have the right to complain to labor inspectors of unhealthy or unsafe conditions without penalty. In practice the Ministry's enforcement of the various provisions of the Labor Code is limited. Large enterprises must legally provide medical services for their employees and usually attempt to respect occupational health and safety rules, but smaller firms often do not.

Workers have the right to remove themselves from unsafe conditions without fear of losing their jobs.

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