

II. CONSTITUTIONAL, ADMINISTRATIVE AND FINANCIAL LAW

Information for citation:

Voronov A. M. *Instituty grazhdanskogo obshchestva v negosudarstvennoy sisteme obespecheniya natsional'noy bezopasnosti sovremennoy Rossii* [Institutions of Civil Society in the Non-State System of Ensuring National Security of Modern Russia]. *Vestnik Permskogo Universiteta. Juridicheskie Nauki* – Perm University Herald. Juridical Sciences. 2017. Issue 35. Pp. 33–41. (In Russ.). DOI: 10.17072/1995-4190-2017-35-33-41.

UDC 342

DOI: 10.17072/1995-4190-2017-35-33-41

INSTITUTIONS OF CIVIL SOCIETY IN THE NON-STATE SYSTEM OF ENSURING NATIONAL SECURITY OF MODERN RUSSIA

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Introduction: based on the legal analysis of “The Strategy of National Security of the Russian Federation” as amended by the Presidential Decree of December 31, 2015 No. 683, the author argues that the sphere of social (public) and national security remains not fully protected as the fundamental documents do not provide for the forms of participation of civil society institutions, their place and role in providing security. At the same time, the non-state system of ensuring public security successfully functions *de facto*, even not being included into the integrated system of forces and means to provide security. **Purpose:** development of the non-state system of ensuring security. **Methods:** the study is based on empirical methods of comparison, description, and interpretation, theoretical methods of formal and dialectical logic, and specific scientific methods, in particular, legal-dogmatic one and method of interpretation of legal norms. **Results:** as the analysis of the abovenamed document has shown, the role and place of institutions of civil society in ensuring national security of the Russian Federation, their tasks, and also functions assigned to them are only stated in the Strategy in a declarative way, while the legal mechanism of their implementation is not specified. Furthermore, nothing is mentioned concerning the legal status of security subjects, guarantees of their social security and many other issues. **Conclusions:** in connection with the above, the author suggests developing the law of the Russian Federation “On Institutions of Civil Society in the System of Ensuring National Security”, which is considered to be an important and urgent task of modern legal science.

Keywords: civil society; institutions of civil society; national security; security system; national security strategy; legal status of security subjects; guarantees of social security

Information in Russian

ИНСТИТУТЫ ГРАЖДАНСКОГО ОБЩЕСТВА В НЕГОСУДАРСТВЕННОЙ СИСТЕМЕ ОБЕСПЕЧЕНИЯ НАЦИОНАЛЬНОЙ БЕЗОПАСНОСТИ СОВРЕМЕННОЙ РОССИИ

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Введение: в статье автор на основе правового анализа утвержденной указом Президента Российской Федерации от 31 декабря 2015 г. № 683 обновленной редакции «Стратегии национальной безопасности РФ» констатирует, что сфера социальной (общественной) и национальной безопасности остается не в полной мере защищенной, так как формы участия институтов гражданского общества, их место и роль в обеспечении безопасности не прописаны в основополагающих документах. При этом негосударственная система обеспечения общественной безопасности успешно функционирует де-факто, однако до настоящего времени не была вписана в дислокацию единой системы сил и средств обеспечения безопасности. **Цель:** развитие негосударственной системы обеспечения безопасности. Именно в этом заключается тот резерв, которым располагает гражданское общество. **Методы:** эмпирические методы сравнения, описания, интерпретации; теоретические методы формальной и диалектической логики; частнонаучные методы: юридико-догматический и метод толкования правовых норм. **Результаты:** как показал анализ данного документа, роль и место институтов гражданского общества в обеспечении национальной безопасности Российской Федерации, их задачи, а также возложенные на них функции в Стратегии прописаны лишь декларативно, при этом не раскрывается организационно-правовой механизм их реализации. Также не нашли своего отражения вопросы, касающиеся правового статуса субъектов безопасности, гарантий их социальной защищенности и многие другие. **Выводы:** в связи с изложенным автором предлагается разработка закона Российской Федерации «Институты гражданского общества в системе обеспечения национальной безопасности», что является важной и актуальной задачей современной правовой науки.

Ключевые слова: гражданское общество; институты гражданского общества; национальная безопасность; система обеспечения безопасности; Стратегия национальной безопасности; правовой статус субъектов безопасности; гарантии социальной защищенности

Introduction

It is a known fact the civil society and the legal state appeared and developed as a reaction against the ideal of the medieval theocracy, as a result of the split between the public and the private, society and the state, law and morality, the secular and the religious etc. Religion, morality, science and art develop to the true and full extent only through withdrawing from the political grounds [2, p. 112]. All this resulted in the removal of religion, science, literature, art and all the complex of institutions and organizations aimed at the socio-cultural and spiritual development of society from the political sphere (public law) into the sphere of private interests (private law).

In this paper, the author aims to identify and define the main trends and regularities in the development of civil law institutions in modern Russia, their role and importance in ensuring national security. It should be noted, however, that a large body of nor-

mative legal acts, the practical work of the state administration and law enforcement authorities, and also the practice of participation of the civil society institutions in helping those to provide security indicate that the sphere of social (public) and national security remains not fully protected. The participation of the civil society institutions, their role and place in ensuring security are not defined in the fundamental legal acts, which cover only the activities of the state administrations in the sphere of security.

However, the non-state system of ensuring public security, which is successfully functioning de facto (for example, a voluntary people's patrol, private security companies, the Cossacks communities and other citizen associations focused on safety), has never been included into the dislocation of the unified system of forces and means of ensuring security.

We consider that the non-state system of ensuring safety includes, first of all, the mentioned

civil society institutions focused on law enforcement, and also other non-state organizations, which will be reviewed in the pages that follow.

It is worth pointing out that the realization of the national interests and strategic national priorities of the modern state cannot be performed outside the civil society. One of the most important components of social security is the availability of an effective network of the civil society institutions in the state. These institutions traditionally include public associations, non-governmental organizations, political parties and social movements not having the officially settled status, however, organizationally and functionally well-formed.

At the national level, this idea was originally set forth under Decree of the President of the Russian Federation “On the Russian Federation’s National Security Strategy” No. 683 of December 31, 2015¹. Paragraph 3 of this act states that the state is interested in the consolidated activity of the civil society institutions, state power bodies of different levels and the local self-governance bodies aimed at creating favorable internal and external conditions for the realization of the Russian Federation’s national interests and strategic national priorities.

Thereby, the importance of the role is defined which is to be played by civil society institutions in assisting the state administration activities on ensuring the national security, which includes the organic triad of personal security, the civil society security and the security of the state as a whole.

The civil society in the Russian Federation has been strengthened significantly over the past decades. If we consider its transformation at the transnational level, we can state that the golden age of the civil society has come. The information and communication technologies, geopolitics and the development of market relations provided the necessary basis and opportunities for creating a large number of public associations, non-governmental organizations, political parties. This process is ongoing both in Russia and in the rest of the world, resulting in the development of the newest on-line and off-line forms of influence of the civil society

institutions onto processes of governance and protection of a person, society and the state.

Thus, it is the development of the non-state system of ensuring security that is deemed to be a reserve of the civil society, which is not fully used for the benefit of the whole state.

Formation and Development of the Civil Society Institutions

The idea of the civil society as the union of citizens was first described in “The Republic” by Plato and “The Politica” by Aristotle. Before that, the political thought had hardly been concentrated on the content of the “civil society” concept, because the state and the society had been considered to be an integral whole. “The need for communication and upbringing of civil virtues is implemented in the state, which serves the “common good”, being the highest mode of the human coexistence” [11, p. 63]. At the same time, Aristotle thought that the state itself is the purpose of the free society [1, p. 379].

The idea of civil society arose originally as a philosophical concept. In the 17th century the English philosopher T. Hobbes in two his works “On the citizen” [5, p. 232] and “Leviathan” [4, p. 129] presented a fundamentally new concept of civil society which emerged in the context of transition from the natural state of universal enmity and fear of death to the orderly cultural society whose citizens are disciplined by the power of the state, which establishes peace and order in the country. The person himself changes fundamentally and becomes a developed, holistic and active individual. According to the most prominent philosophers of the New World (J. Locke [8, p. 223], I. Kant [7, p. 320], etc.), civil society is an “alliance of individuals”, a collective in which the members acquire high human qualities.

It is worth noticing in this context that the term *grazhdanskoe obshchestvo* (“civil society” in Russian) is one of the most widespread and complicated for defining in political science. This phrase has a narrow scientific meaning and appears to be not an entirely felicitous translation of the English term “civil society” that rooted into the political science towards the end of the 1960s.

The word “civil” in the English language has nothing in common with the “citizenship” and means those aspects of a human life which are

¹ Decree of the President of the Russian Federation “On the National Security Strategy of the Russian Federation” No. 683 of December 31, 2015. *Collection of Legislation of the Russian Federation*. 2016. No. 1. Part 2. Art. 212.

beyond the control of the state. The notion of “civil” used in the domestic science introduces the opposite meaning covering those particular spheres where the state is inseparably connected with a human as its citizen [9, p. 17].

In social sciences, there are distinguished the following main approaches to defining the essence of civil society: as contraposition to anarchy [3, p. 452]; as antipode to church [4, p. 345], as a set of social relations contrary to the state [10, p. 234]; as a particular phenomenon of the Western civilization [8, p. 304].

The emergence of the civil society was determined by the differentiation between the human rights (the right to live, the right to pursuit of happiness) and the citizen rights (political rights) [13, p. 267].

With the account for the mentioned above, the most important precondition for the existence of both the civil society and the legal state is the human – a person having the right to the realization of the economic, cultural, spiritual and political potentials; by practicing them, the person reproduces social life through the civil society [12, p. 177].

Turning to the historical background of the civil society formation, it should be noted that its essence was researched in due time by C. Beccaria, G. Vico, T. Hobbes, H. Grotius, J. Locke. The works by E. Durkheim, N. Luhmann, T. Parsons, R. Merton are devoted to the questions of the civil society formation and its influence onto the state policy development. The communicative models of the civil society were widely discussed in the works by H. Lasswell, C. Shannon, T. Weaver, B. Westley, P. Lazarsfeld. The dialogue between the state and the society as an important component of the public communication was studied by Buber, F. Ebner, G. Cohen, Yu. Lotman.

Speaking about modern times, one has to acknowledge that a developed civil society is an integral element of all the democratic states of the world. Today it has already become axiomatic that a strong state is not possible without a developed civil society, but the civil society and its institutions become an effective factor of the state only provided that there is a constructive and socially conscious dialogue between the society and the state within the legal framework [6, p. 29].

Under such an approach, it follows that in the legal state, social relations covered by the “civil society” category are to rest on the rule of law, and correspondingly – to be the legal relations aimed at enforcing legitimate rights and interests of all the subjects and institutions of this civil society.

It is commonly believed that the basis of the developed social state is extensive efforts of the civil society institutions, which are understood as regular and structured manifestations of the civil society, and in particular political parties, non-parliamentary organizations, social associations whose activities are aimed at the influence onto the public, socio-economic and political legal processes, alternative to the influence of the state.

Upon that, the character of the cooperation between the state and the civil society institutions in many respects determines the stability and safety in society and the state [14, p. 332]. This cooperation has gained a fundamental importance and is at the heart of the state administration science.

Another thing that should be noted is the difference in researchers’ approach when analyzing specific features of ensuring national security. The early researchers had mentioned the priority role in this process of the state or public institutions, while recent works are focused on the problems and perspectives of practical cooperation between the state and civil society institutions.

One of the most important Russian civil society formation regularities, which is directly associated with the national security, is being focused on the situation when the state and the civil society institutions do not only always compliment each other but are also in the hierarchic dependence.

Historical Background

Concerning the historical background of the question, it should be noted that there is a growing interest to studying the social phenomena, processes and objects in terms of their security, and the subject field of these studies is gradually expanding.

For example, in the first half of the 20th century the analysis prevailed of the conditions for providing the state stability in the complicated structure of the international relations, which shaped a classical model of national security.

In the second half of the previous century, the number of national security factors increased due to the analysis of domestic processes.

The beginning of the new millennium is marked with the increased attention paid to the security of society: information, technological, economic, spiritual, humanitarian and other kinds. The interest has also noticeably grown to the social security, which is a system characteristic of the country's social sphere condition. An important place in researches on national security is given to the issues connected with the cooperation between the state and the civil society institutions.

It is pertinent to note that legal fundamentals of ensuring national security are set forth in the Constitution of the Russian Federation, the universally acknowledged norms of the international law, international treaties and agreements ratified by the Russian Federation, and in the federal legislation. These documents contain a complex of officially recognized views on the purposes and strategy in the sphere of ensuring protection from internal and external threats and challenges.

The first document of this type to come was the Presidential Address to the Federal Assembly on National Security of June 13, 1996, where the national security policy was formulated for 1996–2000.

On December 17, 1997, the Russian Federation Concept of National Security was approved by the Decree of the President. It was for the first time that the system of the national interests of Russia was formulated.

The Decree of the President of the Russian Federation of May 12, 2009, No. 537 approved the “National Security Strategy of the Russian Federation for the Period until 2020”¹ (hereinafter referred to as the Strategy), which is a core document for planning the system of ensuring the Russian Federation's national security and contains the action plan and measures for ensuring national security. The Strategy is a basement for the cooperation between the bodies of the state power, organizations and public associations aimed at protecting national interests of the Russian Federation and ensuring the security of the person, the society and the state.

By the Decree of the President of the Russian Federation “On the National Security Strategy of the Russian Federation” No. 683 of December 31, 2015, the President approved the revised version of the “National Security Strategy of the Russian Federation”. The legal basement of the Strategy are: the Constitution of the Russian Federation, Federal Law No. 390-FZ “About Security” of December 28, 2010 and Federal Law No. 172-FZ “About Strategic Planning in the Russian Federation” of June 28, 2014², other federal laws and normative legal acts of the President of the Russian Federation.

The mentioned strategy is aimed at consolidating the efforts of the federal bodies of the state power, other state bodies, state power bodies of the Russian Federation's territories (hereinafter referred to as the state power bodies), the local self-government bodies, *the civil society institutions*³ in creating favorable internal and external conditions for the realization of the national interests and strategic national priorities of the Russian Federation.

Legal Analysis of the Novations

The Strategy is a basis for the formation and implementation of the state policy in the sphere of ensuring national security of the Russian Federation and is based on the inseparable interconnection and interdependence of the national security of the Russian Federation and the country's socio-economic development.

For the first time, the Strategy understands ensuring of national security as the implementation of political, military, organizational, socio-economic, information, legal and other measures aimed at counteracting threats to the national security and serving the national interests, by the state power bodies and the local self-government bodies, *in cooperation with the civil society institutions*. With this, the national security of Russia (hereinafter referred to as the national security) is defined as the state of protection of the individual, society, and the state against internal and external threats, which provides enjoyment of the constitutional rights and freedoms for citizens of the Russian Federation (hereinafter citizens), a decent quality of life and standard of living for them, sovereignty,

¹ National Security Strategy of the Russian Federation for the Period until 2020: Decree of the President of the Russian Federation of May 12, 2009, No. 537. *Collection of Legislation of the Russian Federation*. 2009. No. 20. Art. 2444.

² Federal Law No. 172-FZ “About Strategic Planning in the Russian Federation” of June 28, 2014. *Collection of Legislation of the Russian Federation*. 2014. No. 26. Part 1. Art. 3378.

³ The civil society institutions are introduced into the system of ensuring the national security for the first time.

independence, state and territorial integrity, and sustainable socioeconomic development of the Russian Federation.

National security includes the country's defense and all types of security envisioned by the Russian Federation Constitution and Russian Federation legislation – primarily state, public, informational, environmental, economic, transportation, energy security, and individual security;

the Russian Federation's national interests (hereinafter national interests) – objectively significant requirements of the individual, society, and the state with regard to ensuring their protection and sustainable development;

threats to national security – the set of conditions and factors creating a direct or indirect possibility of harm to national interests.

The Strategy of the Russian Federation's National Security consists of 6 Sections and 112 Articles:

I. General Provisions.

II. Russia in the Modern World: Status and Development Trends.

III. National Interests and Strategic National Priorities.

IV. Ensuring National Security:

1. National Defense.

2. State and Public Security.

3. Improving the Quality of Life of Russian Citizens.

4. Economic Growth.

5. Science, Technologies, and Education.

6. Public Health.

7. Culture.

8. Ecology of Living Systems and Rational Use of Natural Resources.

9. Strategic Stability and Equal Strategic Partnership.

V. Organizational, Regulatory-Legal and Information Foundations for Implementing this Strategy.

VI. Main Indicators of the State of National Security.

It seems appropriate to consider the novations of the Strategy, for understanding the role and the place of the civil society institutions in the system of ensuring the national security of modern Russia.

It is noted in the Strategy that “The emergence of the terrorist organization calling itself Islamic State¹ and strengthening of its

influence is the result of the policy of double standards to which some states adhere in the sphere of the fight against terrorism. This irresponsible action resulted in long years of instability in Afghanistan, Iraq, Libya, the war in Syria, proliferation of weapons, organized crime, drug trafficking, systematic infringement of rights and freedoms of millions of people”.

The revised Strategy, in particular, is intended to “consolidate the efforts to create favorable internal and external conditions for the realization of the Russian Federation's national interests and strategic national priorities”. It is based on “interconnection and interdependence of the Russian Federation's national security and the country's socioeconomic development”.

Section III. National Interests and Strategic National Priorities. The following long-term national interests of the Russian Federation are defined for the first time:

- developing democracy and civil society, increasing the competitiveness of the national economy;

- ensuring the inviolability of the constitutional order, territorial integrity and sovereignty of the Russian Federation;

- consolidating the Russian Federation's status as a leading world power, whose actions are aimed at maintaining strategic stability and mutually beneficial partnerships in a polycentric world;

The national security of the Russian Federation is ensured through the implementation of the strategic national priorities: national defense, state and public security.

Ensuring the national security rests on the priorities of the stable development, which are:

- raising the quality of life of the citizens through guaranteed personal security and high standards of life support;

- economic growth reached through the national innovation system development and investments into the human capital assets;

- science, technologies, education, public health and culture;

- ecology of living systems and rational use of natural resources;

- strategic stability and equal strategic partnership.

In Section IV “Ensuring National Security”, the key areas of ensuring the national security are

¹ Islamic State, or DAISH – a terrorist group outlawed in Russia.

considered; it is stated that the essence of ensuring the national safety is in supporting the legal and institutional mechanisms, and also resource opportunities of the state and society at the level complying with the national interests of the Russian Federation.

The main threats to the state and public security, among others, are:

- the activities of radical public associations and groups using nationalist and religious extremist ideology, foreign and international non-governmental organizations, and financial and economic structures, and also individuals focused on destroying the unity and territorial integrity of the Russian Federation, destabilizing the internal political and social situation, including through inciting “color revolutions” and destroying traditional Russian religious and moral values;

- the activities of criminal organizations and groups, including transnational ones, connected with the illegal trade in narcotic and psychotropic substances, weapons, ammunition, explosives;

- organization of illegal migration and human trafficking. It is the illegal migration that creates conditions for shaping terrorist organizations, political and religious extremism and nationalism.

The main areas of focus for ensuring the state and public security are strengthening the role of the state as a guarantor of security of the person and property rights; improving legal regulation of the prevention of crime (including in the information sphere), corruption, terrorism and extremism, distribution of narcotics, and the fight against such phenomena; developing cooperation between civil society and bodies ensuring the state security and public order; increasing citizens’ level of trust in the Russian Federation’s law enforcement and judicial systems; increasing the efficacy of protection for the rights and legal interests of Russian citizens abroad; and extending international cooperation in the area of the state and public security.

With this, for ensuring the state and public security, mechanisms to prevent and neutralize social and interethnic conflicts are being created, as well as mechanisms to counter the participation of Russian citizens in the activities of criminal and terrorist groups abroad.

In order to counter threats to the citizens’ quality of life, bodies of state power and local self-government bodies in collaboration with the institutions of the civil society:

- improve the protection of human rights and freedoms through the development of legislation and the judicial and law enforcement systems;

- promote the growth of citizens’ well-being, the reduction of differentiation within the population in terms of income levels, and the reduction of poverty by means of, inter alia, developing the pension system and social support for particular categories of citizens and improving the social services system;

- adopt measures to protect the population against natural and manmade emergencies and also to reduce the risk of such emergencies occurring in the territory of the Russian Federation;

- support the development of the information infrastructure, accessibility of information on various issues related to the society’s sociopolitical, economic, and spiritual life, and equal access to state services throughout the territory of the Russian Federation, by using information and communications technologies inter alia;

- improve the system of monitoring of the use of budget appropriations and the mechanism of the public-private partnership with a view to improving the citizens’ quality of life.

In Section V. “Organizational, Regulatory-Legal and Information Foundations for Implementing this Strategy” it is also noted that the state policy of the Russian Federation in the sphere of ensuring national security shall be executed through the concerted actions of all elements of the system for ensuring it under the direction of the President of the Russian Federation and with the coordinating role of the Russian Federation Security Council. This Strategy shall be executed by consolidating the efforts and resources of bodies of state power and local self-government bodies with institutions of civil society.

The status of implementation of this Strategy shall be kept under the annual report on the state of the national security and measures to strengthen it made by the secretary of the Russian Federation Security Council to the President.

Section VI. “Main Indicators of the State of National Security” runs that the main indicator

necessary for the evaluation of the state of national security is the degree of citizens' satisfaction with the protection of their constitutional rights and freedoms and personal and property interests, including against criminal infringements.

Implementation of this Strategy is aimed at promoting the development of the national economy, improving the quality of life of citizens, strengthening political stability in society, ensuring the national defense, state and public security, and enhancing the competitiveness and international prestige of the Russian Federation.

Conclusions

Based on the mentioned above, it should be noted that the revised Strategy has a number of advantages over the terminated Russian Federation National Security Concept:

Firstly, the Strategy is for the first time linked with Federal Law No. 172-FZ of June 28, 2014 "About Strategic Planning in the Russian Federation" and is based on the inseparable interconnection and interdependence of the Russian Federation's national security and the country's socio-economic development. It should be specially emphasized that Federal Law No. 172-FZ of June 28, 2014 gives a legal definition of the "state administration", which is understood as activity of public authorities in exercising their powers precisely in the sphere of socio-economic development of the Russian Federation and ensuring the Russian Federation's national security. The issues concerning national security are mentioned 84 times in the text of the law.

The law also runs that the National Security Strategy of the Russian Federation is a document in the sphere of ensuring the Russian Federation's national security, which is developed by the Russian Federation Security Council jointly with other participants of strategic planning with the account for the strategic long-term prognosis of the Russian Federation. Its term does not exceed the period for which the Russian Federation strategic prognosis is developed, and the document is subject to revision every 6 years.

Secondly, there are differences in the format of the documents. The concept only gave the directions of the state's activities in ensuring national security and specified the procedure for identifying threats. The Strategy, first of all, defines the strate-

gic national priorities, forms the mechanism for the joint efforts of the state and society, and gives evaluation of the efficacy. Correspondingly, the principal difference is that the Strategy contains the criteria used for determining the state of the national security of the Russian Federation.

Thirdly, the Strategy defines the purpose of the Russian policy, which is to win back the Russian Federation's status as the leading world power, increase its role in the modern polycentric world, maintain its territorial integrity and sovereignty.

Fourthly, the Concept did not take into account all the areas of security, the state's ideology, the clarity of the legal basis, the clear distinctions between the activities of subjects ensuring security, the interconnections between the vital interests of a personality, society and the state, the analysis of the role and place of Russia in the modern world. This resulted in its mostly declarative character and hindered efficient solutions in the sphere of ensuring national security.

Fifthly, a peculiar feature of the Strategy is its clear social and socio-political focus: the national security is conditioned by the high level of the socio-economic development of Russia, and in particular – by improving the citizens' life standards, by the economic growth, by science, by new technologies, by increasing the quality of education, public health service and culture, by protecting ecology and by improving the rational use of nature resources.

Sixthly, as applied to the issues under study, the Strategy is the first document to define the participation of the civil society institutions, their place and role in ensuring national security. We consider that the development of the non-state system of ensuring safety is the reserve possessed by the civil society, which is not used to its full extent for ensuring protection of the interests of the individual, society and the state.

However, as the analysis of the document shows, the role and the place of the civil society institutions in ensuring the national security of the Russian Federation, their tasks and functions imposed on them are given in the Strategy only declaratively. Their legal status and the organizational legal mechanism are not specified. The issues concerning the legal status of the security subjects, the guarantees of their social security and many others are not considered.

Therefore, the development of the law of the Russian Federation “On Institutions of Civil Society in the System of Ensuring National Security” is deemed to be practical, and in our opinion is an important and urgent task of modern legal science.

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