

CAP horizontal regulation

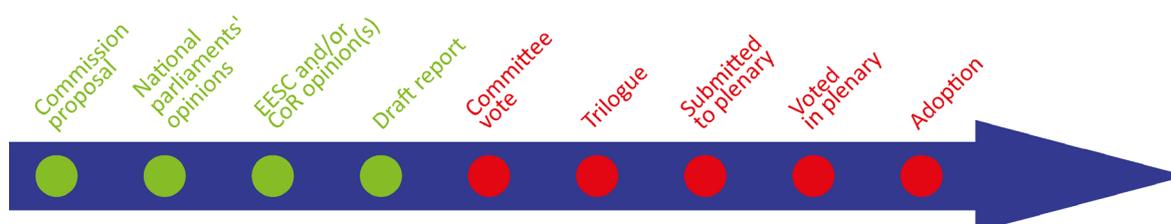
Financing, management and monitoring of the common agricultural policy for 2021-2027

OVERVIEW

As part of the preparation of the EU budget for 2021-2027, the European Commission put forward a new set of regulations to shape the future EU Common Agricultural Policy (CAP) on 1 June 2018. The proposal for a regulation on the financing, management and monitoring of the CAP provides the legislative framework for adapting the financing, management and monitoring rules to a new CAP delivery model. This seeks to achieve more subsidiarity and simplification, with greater responsibility given to Member States, a shift from ensuring single transaction compliance to monitoring system performance in each Member State, and reduced 'red tape', among other things.

Proposal for a regulation of the European Parliament and of the Council on the financing, management and monitoring of the common agricultural policy and repealing Regulation (EU) No 1306/2013

<i>Committee responsible:</i>	Agriculture and Rural Development (AGRI)	COM(2018) 393 01.06.2018
<i>Rapporteur:</i>	Ulrike Müller (ALDE, Germany)	2018/0217(COD)
<i>Shadow rapporteurs:</i>	Michel Dantin (EPP, France) Ricardo Serrão Santos (S&D, Portugal) Beata Gosiewska (ECR, Poland) Anja Hazekamp (GUE/NGL, the Netherlands) Maria Heubuch (Greens/EFA, Germany) Marco Zullo (EFDD, Italy) Philippe Loiseau (ENF, France)	Ordinary legislative procedure (COD) (Parliament and Council on equal footing – formerly 'co-decision')
<i>Next steps expected:</i>	Vote on draft report in committee	



Introduction

In preparing the EU budget for the next programming period (2021-2027), the European Commission adopted a set of legislative proposals to redefine the way the CAP works on 1 June 2018. These proposals follow the November 2017 [communication](#) on the future of food and farming. They put forward a new CAP delivery model that should lead to a more results-based policy and greater flexibility in its implementation, while preserving its common dimension. According to the Commission, simplification of the current system is a key element of the future CAP, which will be achieved through more subsidiarity, that increases Member States' responsibilities in implementing the policy and reduces EU-level bureaucracy in the management of the measures.

Commission proposals include a regulation on the [CAP strategic plans](#), another on the [common organisation of the markets](#) in agricultural products and other CAP measures, as well as a [CAP horizontal regulation](#), which covers elements such as the governance structure and financing of agricultural expenditures, the clearance of accounts and the control system.

Context

The Commission proposal for a multiannual financial framework ([MFF](#)) for the 2021-2027 period sets out an overall amount of €365 billion for agricultural policy measures. Nearly 80 % of this amount is allocated to direct payments to farmers and agricultural markets measures, under the European Agricultural Guarantee Fund (EAGF), while the remaining part supports rural development, under the European Agricultural Fund for Rural Development (EAFRD), as shown in table 1.

Expressed in 2018 prices, the proposed CAP allocation for 2021-2027 is €324 billion, which means a reduction of 15 % compared to the total EU envelope for the 2014-2020 programming period (also taking into account changes between the two programming periods, such as by deducting allocations to the United Kingdom from the current MFF). Despite this budget cut, the CAP is the [second biggest](#) policy in the 2021-2027 MFF proposal in terms of funding, second only to cohesion policy. However, its share of the EU budget has fallen below 30 % of the total for the first time.

Table 1 – CAP allocations 2021-2027	Current prices, € million	2018 prices, € million
Agricultural policy total	365 006	324 284
European Agricultural Guarantee Fund (EAGF)	286 195	254 247
European Agricultural Fund for Rural Development (EAFRD)	78 811	70 037

Source: EPRS analysis of [Commission proposal for the 2021-2027 MFF](#), 2018.

According to the 2021-2027 MFF proposal, EU agriculture should also benefit from €10 billion dedicated to research and innovation in food, agriculture, rural development and the bioeconomy coming from the Horizon Europe programme. However, this allocation is not part of the agricultural policy *strictu sensu* and thus it is not regulated by the proposed CAP horizontal regulation.

Existing situation

General agricultural policy framework

Agriculture is one of the areas where the EU and its Member States share competence in formulating and implementing policy. Besides this principle, stated in Article 4, the [Treaty](#) on the Functioning of the European Union (TFEU) provides the legal basis for a common agricultural policy (Article 38), with set objectives (Article 39) and a common organisation of agricultural markets (Article 40), thereby establishing one of the EU's oldest and most important policies.

Successive policy reforms have reshaped EU agricultural policy. The different elements of the 2014-2020 CAP are set out in four regulations: on [direct payments](#) to farmers (EU Regulation 1307/2013); on [common organisation of the markets](#) in agricultural products (EU Regulation 1308/2013); on support for [rural development](#) (EU Regulation 1305/2013) and on the [financing, management and monitoring](#) of the CAP (EU Regulation 1306/2013). These regulations created a two-pillar structure: one regulating farmers' income support and measures to deal with difficult market situations, solely funded by the EU budget, and one for rural development measures based on multiannual national (sometimes regional) programmes, co-financed by Member States.

Financing, management and control

With a significant part of its budget allocated to the CAP, the EU is the main source of funding for agriculture, in recognition of its role in ensuring food security and in taking care of natural resources and the countryside. EU Regulation 1306/2013 provides rules for the financing of CAP expenditure under the two EU funds and for the relevant management and control systems, with provisions specific to each fund and common provisions applying to both funds.

As for the EAGF payments, according to the principle of shared management, Member States' paying agencies make payments to beneficiaries of market-related expenditure and direct payments with the Commission reimbursing the Member States on a monthly basis afterwards. These payments are subject to financial and budgetary discipline that ensures the respect of set annual ceilings. Moreover, a reserve for major crises affecting agricultural production or distribution was established, for a total amount of €400 million per year. The shared management principle also applies to EAFRD payments: the Commission does not make payments to beneficiaries, but makes funds available to Member States within a set ceiling, for expenditures under their rural development programmes. The funds are available in the form of an initial prefinancing amount, interim payments to reimburse expenditure to the paying agencies, and the payment of a balance after the Commission receives the last annual progress report.

Most of the provisions on control of expenditure compliance with EU rules are common to both the EAGF and the EAFRD. First of all, the Commission's clearance of account procedures verify the proper functioning of the management and control systems in the Member State, with the possibility of the Commission carrying out on-the-spot checks, while annual financial clearance of the paying agencies' accounts is performed by the Member State audit bodies. Furthermore, Commission conformity clearance for the expenditures ensures the conformity of all CAP payments and the recovery of amounts spent unduly. From the Commission's perspective, recovery means a financial correction to exclude expenditures from EU financing, while Member States are then responsible for recovering irregular payments from the beneficiaries.

Secondly, Member States are responsible for protecting the EU's financial interest and this is why EU Regulation 1306/2013, besides establishing rules on checks to be performed by the national authorities and on administrative penalties that may be imposed on beneficiaries, requires Member States to put an integrated administration and control system (IACS) in place for the management of most of the EU agricultural spending. IACS is based on information technology (ICT) tools that interconnect all databases needed for CAP payments to run smoothly: a system for the identification of all agricultural parcels (land parcel identification system, (LPIS)); a system for the identification of payment entitlements; a system for the unique identification of beneficiaries; a database for animals where animal-based aid schemes apply. This integrated control system provides support along the whole process of CAP payments, from aid application to payment verification.

Other provisions on the control system for CAP expenditure include scrutiny by Member States of the commercial documents of those entities directly or indirectly connected with transactions carried out within the EAGF financing system, and the checks related to marketing rules and the EU quality schemes.

If farmers want to avoid penalties that reduce CAP funds, besides all those rules stemming from the EU legislation (such as the identification and registration of animals or the protection of water quality from nitrates), they have to apply a set of standards on the good agricultural and environmental condition of land (GAEC), which include protection of water, soil and landscape. EU Regulation 1306/2013 sets rules on cross-compliance (annex II) and on Member State checks and penalties.

The combined impact of all CAP 2014-2020 instruments is measured through a [monitoring and evaluation framework](#), in relation to the following objectives: (a) viable food production; (b) sustainable management of natural resources and climate action; (c) balanced territorial development. The performance of the CAP is therefore measured against a set of indicators and by means of recurring evaluations of market and income instruments and rural development measures. An initial Commission report to the Parliament and the Council on the monitoring and evaluation of the CAP, including the first results of the policy performance, is due by 31 December 2018; a second report including an assessment of the performance of the CAP is due by 31 December 2021.

Finally, EU Regulation 1306/2013 introduces more transparency in EU agricultural spending by requiring Member States ensure annual ex-post publication of the beneficiaries of CAP payments.

Parliament's starting position

On 30 May 2018, Parliament adopted a resolution ([2018/2037](#)) on the future of food and farming, with Herbert Dorfmann (EPP, Italy) as rapporteur, which represents Parliament's view on the future CAP, as depicted in the Commission's communication of November 2017.

Parliament's resolution welcomes the intention to simplify and modernise the CAP, but emphasises that EU legislators should maintain the essential relationship with farmers and citizens, with no possibility of renationalising the CAP. To better target the implementation of the CAP to the different realities of EU agriculture, subsidiarity should be granted to Member States in the context of a common set of EU rules, objectives, indicators and checks. This would guarantee a level playing field for farmers and respect for the rules and principles of the single market.

To reduce the administrative burden related to the financial management of the CAP, the Commission plans a less prescriptive approach, with fewer detailed requirements at EU level in terms of controls, penalties and audit arrangements. In this respect, Parliament considers it necessary to set the general common objectives, basic standards, measures and financial allocations via the co-decision procedure. As for the controls, it stresses the importance of basic uniform criteria in the new performance-based evaluation approach and of the Commission's financial and performance control and audits, in guaranteeing that functions are performed to the same high standards and in accordance with the same criteria across the EU. Lastly, Parliament supports the collection of information through new technologies, rather than farmers' data submissions, to cut red tape, and stresses the risk of [gold-plating](#) with the introduction of unnecessary national and regional rules.

Council starting position

On 19 March 2018, following the debate at the Agriculture and Fisheries Council, the Bulgarian Presidency published the Council's [conclusions](#) on the Commission communication on the future of food and farming, supported by 23 Member States (all but Estonia, Latvia, Lithuania, Poland and Slovakia). Overall, these conclusions support the main objectives for the future CAP and endorse the view that Member States should enjoy more subsidiarity and flexibility.

Concerning CAP financial management, the Council's conclusions highlight the potential risk of policy fragmentation, to be avoided through the adoption of basic common rules at EU level. Simplification and reduction of the administrative burden should be reflected both in the definition of the CAP strategic plans and in secondary legislation. The CAP indicators should be simple, realistic, easily quantifiable, controllable and applicable to local realities. Audit and control systems should be based on the principles of proportionality, simplification and single audit, focusing on achieving policy results. A reduced number of controls should be based on risk analysis, using new technology, including satellite images.

Preparation of the proposal

The current CAP is the result of several reforms that have incrementally updated one of the oldest and most iconic EU policies, to address new challenges and reply to societal demands. The most recent major reform covers the 2014-2020 period. In light of the preparation of a new legislative framework, the Commission began a reflection on the future CAP, with a number of initiatives beginning in early 2017.

A public online consultation on the modernisation and simplification of the CAP took place between February and May 2017, with thousands of [responses](#) from citizens and stakeholders. Following the consultation and the analysis of available evidence on the CAP's performance, the Commission published its [communication](#) on the future of food and farming on 29 November 2017. Although the communication is rather vague operationally, it paves the way for the future reform and outlines its priorities. At the core of the communication is the new delivery model that aims to simplify CAP governance with more subsidiarity to rebalance responsibilities between the EU and its Member States and a shift of the policy focus from compliance to performance. Member States would formulate strategic plans in order to attain objectives and targets decided jointly at EU level; results would be evaluated based more on the performance of the policy than on compliance with prescriptive rules.

An [appraisal](#) of the communication was recently prepared for the Parliament and a recent [EPRS briefing](#) provides an overview of the above initiatives and of stakeholders' reactions and views on the proposals that have set the scene for the CAP reform post-2020.

The Commission's communication was followed by the impact assessment of alternative scenarios for the evolution of the CAP. Published together with the legislative proposals, the [impact assessment](#) includes reflections on cross-cutting issues that are strictly related to the financial management of the CAP, such as the long standing objective of simplification. A general perception of complexity in implementation and of excessive administrative burden is indeed mostly linked to the procedures for aid applications and controls, as well as with the greening scheme for sustainable farmland care.

According to the Commission, the new delivery model would achieve simplification by streamlining all CAP interventions under a unique strategic planning approach; this would reduce, for example, the number of procedures and notifications due to the Commission. Moreover, the shift towards performance should provide for significant administrative burden reduction; for instance, the number of detailed prescriptive EU rules on compliance, checks and penalties would be drastically reduced. Fewer EU requirements would also change the Commission's audit role, with less administrative checks on compliance and less on-the-spot controls on farms. The uptake of new technologies, such as digitisation and use of satellites, should further impact on administrative burden reduction. Finally, if it is argued that greater Member State subsidiarity and flexibility may increase the risk of gold plating, the Commission considers that fewer EU rules will reduce Member States' fear of non-compliance, reducing therefore the need for establishing numerous national rules.

The changes the proposal would bring

Although the proposed new CAP horizontal regulation largely confirms the current framework, it introduces a number of changes to adapt the functioning of the funds and the system of controls and penalties to the new delivery model and simplify the entire financial governance of the CAP.

The proposal maintains two funds, the EAGF and the EAFRD, with the same scope in relation to the CAP two-pillar structure. It is proposed that a single agency per country deal with both EAGF and EAFRD expenditures, maintaining the possibility for Member States to establish one national agency, or one per region. Only minor changes are proposed to the provisions governing the national bodies, with the addition of a responsible authority at ministerial level per Member State.

A broader concept of agricultural reserve introduces the possibility of interventions in case of crises affecting agricultural production and distribution, with at least €400 million a year and the carry-over of unused amounts to the following financial years. New provisions on financial and budget disciplines aim to simplify rules and procedures.

Largely unchanged rules would apply to reimbursement of EAGF and EAFRD payments. EAFRD provisions refer now to the CAP strategic plan instead of rural development plan; the no double funding provision currently in use for the EAFRD only, is now extended to the EAGF as well.

Other important changes stem from the proposed performance-based control system, where an annual performance report (covering both financial and performance aspects) would focus on outputs and results instead of compliance on granular EU rules. As a result, for example, Member States risk suspension of payments if the Commission's annual performance clearance uncovers a greater than 50 %

divergence between expenditure and output. Moreover, the Commission may ask Member States to put plans in place to take remedial action in case of delayed or insufficient progress towards the CAP strategic plan targets, or in case of serious deficiencies in the functioning of their governance system. In brief, the whole performance clearance procedure would shift from beneficiary compliance to policy performance, with an annual performance clearance verifying the correspondence between expenditure and CAP strategic plan output.

In line with the EU Financial Regulation (see [Regulation \(EU\) No 2018/1046](#), Article 127 on cross-reliance on audits), the introduction of the single audit approach should reduce Commission audits, especially for on-the-spot checks. Further simplification is sought with Member States afforded more flexibility as regards rules on controls and penalties, although they need to ensure systematic checks that take the risk of error into account. The IACS maintains its main features, with the noteworthy introduction of technological updates, namely a geo-spatial and animal-based application system, an area monitoring system, and data maintenance and sharing with a broader scope than was the case for the previous database. Simpler rules are envisaged for control and administrative penalty systems to be set up by Member States in relation to conditionality (the new term for the current cross-compliance).

Finally, some parts of the current CAP horizontal regulation have moved to the proposed [CAP strategic plan](#) or [CMO](#) regulations (respectively, provisions on the farm advisory system, cross-compliance and monitoring and evaluation, and provisions on controls and penalties related to agricultural market policy). A recent [EP briefing note](#) provides a detailed analysis of the CAP reform package, with explanatory comments and a comparison of proposed provisions to current CAP regulations.

Advisory committees

Both the European Economic and Social Committee (EESC) and the European Committee of the Regions (CoR) had already adopted opinions on the future CAP in the course of 2017. As for the CAP financial management, the EESC [opinion](#) (rapporteur John Bryan, Diversity Europe – Group III, Ireland) highlighted simplification as a key feature of a reshaped CAP, with the use of modern technology to simplify and reduce administrative burden and changes to the audit/inspection process and compliance requirements for an improved policy delivery. These elements are echoed in the EESC [opinion](#) on the CAP legislative proposals adopted on 17 October 2018 (same rapporteur), where the EESC raises concerns over a contradiction between advocating simplification and putting forward proposals that 'will render the policy more complex and bureaucratic to implement at both Member State and farm level'. Therefore, a full review and redesign of the inspection and penalty system would help to deliver real simplification, while maintaining full and adequate controls. Moreover, the EESC proposes a crisis reserve financed outside the CAP and increased amounts for advance payments.

The CoR rapporteur on the reform of the CAP, Guillaume Cros (PES, France), [has called](#) for the role played by EU regions in managing and implementing the CAP to be maintained and strengthened, despite the fact that the proposed regulation does not oblige Member States to delegate the drawing up of plans to the regions. A CoR opinion on the CAP legislative package is expected by [February 2019](#).

National parliaments

The proposal for a regulation was submitted to national parliaments for reasoned opinions on the ground of subsidiarity, with a [deadline](#) of 24 September 2018. To date, about half of the Member States have considered the proposal and some have sent comments, in most cases relating to the entire CAP reform proposal and therefore mostly focused on budgetary issues and overall policy design.

Stakeholders' views¹

Any proposed CAP reform generates a wide range of opinions, because of the numerous and diverse concerns it involves besides agricultural production: environment, food safety, farm economics, not to forget animal welfare and the rural economy, to name but a few. Many stakeholders replied to the 2017 Commission [public consultation](#) and a number of them [also reacted](#) to the publication of the legislative proposals. However, besides more or less general statements on the strong need for simplification, in most cases their comments are not strictly related to the financial rules, but to the overall CAP reform, its

budget or specific issues of interest to the stakeholders.

On 18 September 2018, [Copa and Cogeca](#), the union of EU farmers and their cooperatives, published their position on the post-2020 CAP, which clearly underlines some facts on the financial governance of the CAP. The document calls for more simplification, as the proposals are deemed insufficiently ambitious to lessen the burden for farmers. Although recognising the need to provide Member States with some flexibility, farmers' representatives stress the need to safeguard the commonality of the policy. They recognise positive features in the proposals, such as the uptake of ICT and satellite technology in controls, combined with the reduction of on-the-spot-checks, and indicate better communication between administrations and farmers as the way to achieve greater simplification, with Member States required to limit burdensome administrative requirements. Moreover, the simplification of the system of penalties is welcomed, however farmers' representatives believe that the early warning system should offer more guidance and more possibilities for farmers to correct errors, and that there should be an upper limit for penalties. Finally, the crisis reserve should be a more flexible tool, also operating outside of the scope of the MFF, with a larger financial envelope.

Legislative process

The Commission proposal for a CAP horizontal regulation is examined simultaneously by the Special Committee on Agriculture ([SCA](#)) of the Council and the Committee on Agriculture and Rural Development ([AGRI](#)) of the Parliament, with Ulrike Müller (ALDE, Germany) as rapporteur for the latter.

Commissioner Phil Hogan, responsible for agriculture and rural development, presented the legislative proposals for the 2021-2027 CAP at an extraordinary AGRI meeting on 11 June 2018. To date, AGRI members have exchanged views on the proposal and discussed it with Commission representatives on several occasions. They have expressed their concerns as regards the lack of real simplification, claiming that the proposal does not make substantial changes to the CAP governance structure, with the risk of national rules creating additional complexity. Moreover, concerns about the implications of the proposals on the Parliament's institutional prerogatives in the decision-making process (such as the use of delegated and implementing acts that may take policy decisions out of Parliament's control), have led the AGRI committee to [request](#) an opinion from the Parliament's [Legal Service](#). On 9 October 2018, AGRI held a [public hearing](#) to gather insights from a number of experts, and a [workshop](#) on 15 October 2018 [assessed](#) the design of the future CAP as envisaged in the Commission proposal. These events have provided valuable input to the preparatory work of the legislative process and identified issues that require further attention, such as the risk of renationalisation of the CAP, lack of real simplification and risk of a heavy administrative burden.

The rapporteur's [draft report](#) was published on 24 October 2018, for discussion in the AGRI committee and with deadline for amendments before the end of the year. It expresses support for the proposal as a legislative instrument to shift from compliance to performance, while assigning more responsibilities to the Member States. The rapporteur's amendments (80) aim to clarify the governance structure in the Member States, Parliament's oversight role and other specific issues. The draft proposes that rules for other EU multiannual funds in the [Common Provisions Regulation](#) should also apply to the interventions and measures under the CAP, and would establish a stronger connection with the proposed [CAP strategic plan](#) regulation, which according to the rapporteur should be read and voted together with the CAP horizontal regulation due to substantial overlaps. In this context, provisions on essential elements of the implementation system common to all Member States (i.e. Farm Advisory Service on land and farm management, Managing Authority and Monitoring Committee for the CAP strategic plans) should move from the CAP strategic plan to the CAP horizontal regulation. Further amendments to the chapter on governance bodies aim to clarify roles and responsibilities of national authorities, move certain supervision tasks on system performance from the paying agency to the coordinating body, and would require the Commission to present to the Parliament a list of appointed certification bodies. The Commission's power to adopt implementing acts would be changed in favour of delegated acts vis-à-vis rules on governance bodies, as well as for other rules throughout the proposal. A crisis reserve would replace the agricultural reserve with a reduced intervention scope (no market management or stabilisation) and expanded appropriation scope (within the CAP framework as well as outside through financial discipline). The burden of increased reporting duties by Member States (such as the definition

of progress indicators in their action plans in case of deficiencies) would be compensated by a longer reporting cycle (bi-annual performance clearance). The threshold for exclusion from penalties (and from publication of information on CAP beneficiaries) would be set at €1 250 of aid received and 10 hectares of eligible land per beneficiary, while a system of gradually increasing penalties would be introduced in case of repeated non-compliance. Finally, the rapporteur expresses the need for a comprehensive legal act on transitional provisions to give Member States the time to set up the new system. With the European elections scheduled for the end of May 2019, Members have expressed concerns over the possibility of a final agreement being reached before the end of the legislature, [calling on](#) the Commission to arrange transitional measures that, in case of a delay in the adoption of the CAP reform, would avoid CAP payments being discontinued.

In the Council, the CAP legislative proposals have been the subject of several meetings of both the EU Agriculture Ministers and the SCA. Ministers have conveyed positive views on various elements of the proposals, such as subsidiarity and simplification, including the use of new technologies in agriculture and the shift from a compliance to a performance-based policy. On [16 July 2018](#), exchanging views and examples of how to make the policy less burdensome, they called for additional effort to further simplify the CAP and ensure greater subsidiarity and avoid any additional administrative burden and costs associated with the new delivery model. With the aim of taking discussions on the future CAP forward before the end of 2018, the Austrian Presidency tabled a [progress report](#) on the CAP proposals for discussion at the SCA meeting of [8 October 2018](#) and the Council meeting on [15 October 2018](#).

EP SUPPORTING ANALYSIS

Parry, M., Sapala, M., [2021-2027 multiannual financial framework and new own resources: Analysis of the Commission's proposal](#), EPRS, European Parliament, July 2018.

McEldowney, J., [CAP reform post-2020 - Setting the scene](#), EPRS, European Parliament, May 2018.

Massot Marti, A., Negre, F., [Towards the Common Agricultural Policy beyond 2020: comparing the reform package with the current regulations](#), European Parliament, September 2018.

[The CAP beyond 2020: appraisal of the EC legislative proposals](#), Policy Department for Structural and Cohesion Policies, European Parliament, October 2018.

OTHER SOURCES

[Common agricultural policy \(CAP\): financing, management and monitoring 2021–2027](#), European Parliament, Legislative Observatory (OEIL).

ENDNOTES

¹ This section aims to provide a flavour of the debate and is not intended to be an exhaustive account of all different views on the proposal. Additional information can be found in related publications listed under 'EP supporting analysis'.

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