# The Legal Framework for the Protection of the Slovenian Minority in Italy

#### **COCEANCIG ARON**

#### Introduction

This article is inspired by the presentation made at the Global Minority Rights Summer School, organized in Budapest in 2016. During the Summer School, dedicated to the importance of minority protection, we discussed several issues related to different legal frameworks in use around the world. Within this context, the analysis and evaluation of the legal framework for the protection of the Slovenian minority in Italy could serve as an interesting source of comparison.

The subject of examination encompasses the legal framework used for the protection of the Slovenian community in Italy, in particular two laws: the States Law No. 482/1999 and Law No. 38/2001. These two pieces of legislation created a new situation for the Slovenian community succeeding in raising the standards of protection. The article aims to analyse this situation by highlighting the positive and critical aspects of the protection of the Slovenian minority.

Before analysing the legal framework, the paper makes a historical, geographical and linguistic introduction in order to understand and define the Slovenian minority. It then proceeds to analyse the context in which the laws of protection developed, with a stress on the problem of the unequal protection provided to Slovenian residents in various provinces. This brings us to the new situation initiated by the law No.482 and No.38. Particular attention will be given to the role played by the Joint Institutional Committee, a body created in 2001 with the task of monitoring the implementation of protective laws.

Special attention is given to the different situation created for Slovenians in some of the provinces, protected by international treaties and State laws, and Slovenians in the Province of Udine who had not been recognized as a minority until 2001. The reason for this different treatment stems from the different approach of the Italian State towards the Slovene community. While the Slovenian community in the south-eastern part of the Friuli Venezia Giulia region could be considered in fact a "national minority" with a strong sense of national identity, distinct from the Italian one, the Slovenians in the Province of Udine could be better characterized as an "ethnic group" or a "linguistic minority".

In Italy the Constitution stipulates only the protection of "language minorities", groups that speak non-Italian languages. Italy does not use the term "national minority" in legal language.

### Socio-geographic context

The Slovenian community in Italy is located in the north-eastern part of the country, in the Autonomous Region of Friuli Venezia Giulia (FVG). The FVG Region was created in 1948 and attained autonomy in 1963, although its development had been long and difficult. The FVG is a peculiar union of two widely different historical areas: Friuli, and the Provinces of Gorizia and Trieste, often called Venezia Giulia.<sup>2</sup> If Friuli has been part of Italy since 1866, the Provinces of Gorizia and Trieste were part of the Austrian Littoral until the World War One, and were culturally, economically, politically influenced by the Central European historical and political legacy.

The FVG created after World War Two was in a strategic geographical position: on the border with the Germanic world to the north and the Slavic world to the east. The FVG's borders were thus not only administrative, but partially coincided with political boundaries between two "different worlds". Precisely because of this position, four different recognized linguistic communities – the Italian, Friulian, German and the Slovenian – have coexisted, and coexist, in it.

The Slovenian community, on which this paper focuses, is settled in a long strip of land running along the border with Slovenia. The territory, in which the minority is settled, includes three of the region's four provinces: Udine, Gorizia and Trieste. The characteristics and identity of the Slovenian community differs greatly among the Province of Udine on one hand, and those of Gorizia and Trieste on the other.

The Provinces of Gorizia and Trieste became part of Italy in 1920, while previously they were part of the Austro-Hungarian Empire. The Slovenian community in these two provinces lives in two major cities, in their satellite towns and in most of the rural areas within several kilometres from the Slovenian border. It is a community with a strong and well-developed network of cultural and economic associations, enjoying a high level of social integration and maintaining strong connections with its so-called "outside motherland", Slovenia. The numerous border crossings, most densely located in the vicinity of major urban areas on the other side of the border, enable the maintenance of intense cultural and economic ties with Slovenia. These ties are strong also from the historical point of view. The cities of Trieste and Gorizia played a significant role in the genesis and development of Slovenian national identity.

Also from a linguistic point of view, these areas maintain strong contacts with the contiguous areas of the Slovenian linguistic domain. Slovenian is, in fact, a language with as many as 40 dialects, divided into seven major dialect groups. All the linguistic varieties of Slovenian spoken in the FVG region belong to the Primorska (Littoral)

<sup>2</sup> The name Venezia Giulia was invented by Graziadio Isaia Ascoli an Italian linguist during the XX<sup>th</sup> century and until nowadays are questioned, while the border and the location of Venezia Giulia is still under debate.

<sup>3</sup> Regarding the definition of motherland, Rogers Brubacker: *I nazionalismi nell'Europa ceontempo-* ranea. Editori Riuniti, Roma, 1996.

<sup>4</sup> At the outbreak of World War One Trieste was the city with the largest Slovenian population in the world.

dialectical group, except the Slovenian spoken in the Canale Valley, which belongs to the Carinthian Dialect Group; the taxonomy of the linguistic variety spoken in the Resia Valley is heavily disputed, both in the political and linguistic sphere.

In the province of Udine the Slovenians live in two distinct areas. The Canale Valley, which was acquired by Italy after WWI, and the "Friulian Slavia" or "Benečija", part of Italy since 1866.

The Canale Valley is an area in the north-eastern corner of FVG, as all four official languages of the region are present in its small territory: Italian, Friulian, German and Slovenian. Until World War One, it was part of the Duchy of Carinthia, a Kronland of the Austro-Hungarian Empire.

The Friulian Slavia is located further south, and encompasses a wider geographical area. It is roughly divided into three valleys: the Natisone Valley, the Torre Valley and the Resia Valley. Slovenians live in small mountainous villages, which in the last decades have witnessed a massive emigration to the cities of the plains due to economic marginalization. Because of this situation many municipalities lost more than 60% of the population.<sup>5</sup> The crisis persists nowadays, too, and economic marginalization is still causing social problems that have an impact on minority protection standards. Due to geographical isolation and the historical Italian (and Venetian) influence/assimilation, the relation with Slovenia is weaker and the sense of a distinct Slovenian "national identity" is significantly more elusive, if present at all. A persistent situation of dyglossia enforces these trends. Few local Slovenian speakers have a working knowledge of standard Slovenian, which is albeit completely absent in daily communication. Instead, three related dialects are spoken; although belonging to the "Littoral Slovenian", they have maintained several archaic features and, in the case of Resian, a range of unique linguistic innovations. The strongly related dialects in the Natisone and Torre Valleys, which both extend into parts of Slovenia, are locally known simply as "po našin" (roughly translatable as "our /speech/").

The situation of the Resia Valley is more specific: in this narrow glacial valley in the northern part of the Friulian Slavia, the inhabitants speak what themselves refer to exclusively as "Resian", a unique form of the Slovene language. The origin of "Resian" is still debated by linguistic experts, although the consensus is now that it followed a separate development since the early Middle Ages. This interpretation is, however, highly disputed in the political sphere, as most Resians tend to view their linguistic form as a separate language. This claim is supported by the fact that Resian and standard Slovenian are mutually unintelligible (not a unique case among Slovenian dialects); while the intelligibility with neighbouring Slovenian dialects is much higher, it has historically not given rise to a sense of ethnic kinship.

From this brief introduction, we can understand how the differences between the Slovenian community in Gorizia and Trieste and the valleys of the province of Udine are relevant and affect the perception of Slovenian identity. For the Slovenian com-

<sup>5</sup> Antionio Banchig: Il gruppo linguistico delle Valli del Natisone. Master thesis in Political Science on Trieste University, 2009, 12.

munity of the Littoral we can use the definition of "national minority", because the minority has a clear national character that is identified with an outside state, Slovenia, with which there are strong cultural and economic relations. However, we cannot say the same for Slovenians in the Province of Udine. They have maintained weaker ties with Slovenia (in the last few years, however, relations have intensified and this probably started a change of identity perception at least in part of the community). This minority cannot be defined as a "national minority", but rather as "linguistic minority" or "ethnic group", in the sense that it keeps its traditions, its local dialect and its identity, but does not have a direct relationship with Slovenia and with the Slovenian national idea. This different perception of belonging to the "Slovene community" clearly reflect on the laws of protection and in particular activism of civil society in the defence of minority rights.

#### Census

How many Slovenians live in Italy? We know that determining the number of a minority is always a complicated issue. Surveys do not always show the real data, while estimates can only indicate an approximation and they are often influenced by who made them. The circumstance of the Slovenian minority in Italy is particular since the census data on the number of Slovenian speakers has not been updated for some time. The last census that included the question of language was held in 1971, since then the representatives of the Slovenian community have always rejected the idea of making a new census. The reason for this rejection and the effects that the lack of data has had on the implementation of laws will be discussed later in this article.

The last census of 1971, carried out only in the provinces of Gorizia and Trieste, showed 24,076 Slovenian speakers in the province of Trieste, or 8.2% of the total population, and 10,533 in the province of Gorizia, or 7.4%.

However, recent estimates put the number of Slovenian speakers at between 40,000 to 80,000. One of the most reliable estimates suggests 46,000 Slovenians in FVG (3.7% of the total population), split between 10,000 in the province of Udine (1.9%), 11,000 in the province of Gorizia (7.8%) and 25,000 in the province Trieste (10.6%).

The presence of Slovenian is concentrated in certain well-defined areas. In the two biggest cities Gorizia and Trieste, Slovenian speakers are under 10% of the population, while they are present mainly in small municipalities close to these cities where they reach rates over 70%.

#### **Protection laws before 1999**

With the annexation of Friuli, Italy has had a Slovenian minority on its own territory since 1866. This minority was considerably expanded after World War One with the

<sup>6</sup> Pavel Stranj: *La comunità sommersa*. Založba tržaškega tiska, Trieste, 1992.

annexation of Gorizia and Trieste, but we can only speak of legal protection of state minorities for the Slovenian community after the London Memorandum in the 1954. Before there had been no specific laws referring to the Slovenian minority. However, the Italian Constitution recognizes the protection of linguistic minorities in the country.

Before World War Two, the Italian State had initiated assimilation policies towards Slovenians: nonviolent cultural assimilation between 1866 and 1920 was followed, after World War One, with the annexation of large areas compactly inhabited by Slovenians, by a phase of forced assimilation. It included the prohibition of Slovenian language usage in both the public and private sphere, the Italianization of geographical names, as well as personal names and surnames, the shutdown of all Slovenian language schools and associations, and political violence against persons and organizations. This violence had already started with the occupation of the territories by the Kingdom of Italy but increased during the Fascist period (1922–1945).

The Memorandum established the reunification of Trieste with Italy, and recognized certain minority rights for the protection of the Slovenian population of these territories (Trieste). But it was only the Treaty of Osimo in 1975, with the permanent recognition of the borders between Italy and Yugoslavia, that officially expanded the legislation of minority rights to the Province of Gorizia. The Slovenians in Udine not only did not have legal protection, but they were not even recognized by the State. During this period one of the major steps to claim a system of protection for the Udine Slovenians took place with the presentation of the "Charter of the Slovenes in the Udine province" drafted by the Slovenian cultural associations in 1977. The basic demand was the recognition of the Slovenian community in Udine.

During the '70s, successive drafts of bills advanced by the leftist parties and the Slovenian associations demanded an equal treatment for all the Slovenians living in the FVG. However, these proposal had never been approved.

After these unsuccessful projects, the Italian government committed itself to the development of the protection of minorities by establishing, in 1977, a special commission, the Commission Cassandro with the task of analysing the problems of minorities and resolving them. However, the Commission's work was hindered by the opposition between those who claimed the same treatment for all Slovenians and those who wanted a separate protection. Soon the work of the Commission was stopped when the government representatives began to doubt the existence of a Slovenian community in the province of Udine. To verify this decision the Commission sent questionnaires to the mayors of the area without involving the Slovenian associations. The results of the questionnaire recognized the existence of a minority, however, deciding that it was nota Slovenian one, but rather a minority characterized "by the use of a Slavic dialect". Because of this verdict, conflicts grew in the Commission and the Slovenian delegation decided to leave it. So the attempt to provide a legal framework for all Slovenians failed.

#### The State laws 482/1999 and 38/2001

These two laws open a new scenario for the protection of minorities in Italy. This new context is influenced by the new political season that opened in Italy and in Europe. The collapse of the Iron Curtain, the independence of Slovenia in 1991, the new focus at a European level on regional and minority languages, together with the new political course in Rome, "Tangentopoli" and the birth of the "Second Republic" created a fertile ground for the drafting of minority laws. Therefore, laws were passed during centre-left governments (1996–2001), as leftist parties usually paid more attention to minority issues in Italy.

Law No. 482 of 15 December 1999 named "Rules on protection of historical language minorities" established the promotion of minority languages. The Italian legal terminology has never used the term "national minorities"; instead, it is used the form "linguistic minorities." The law recognizes and mentions twelve historical linguistic minorities, including the Slovenian.

However, it was two years after that, that defined in detail the framework of protection of the A new law was passed concerning the Slovenian minority: law No. 38 of 2001 named "Rules for the protection of the Slovene linguistic minority in the Friuli Venezia Giulia". The fundamental innovation was the recognition and protection of the rights of Italian citizens belonging to the Slovene linguistic minority present in the Provinces of Trieste, Gorizia and Udine. The law therefore establishes that in the territories of the Province of Udine, there is a Slovene minority and this minority has the same rights as the Slovenes in Trieste and Gorizia. The equality of all Slovenes in Italy was thus sanctioned for the first time. Thanks to this law, all the protections provided for the Provinces of Gorizia and Trieste were automatically extended to the Province of Udine.

The new law includes: the use of Slovenian names written according to the Slovenian orthography and the change of the names to the original if the names had been Italianized (art.7), the use of the Slovenian language in public administration with the exception of the armed forces and the police (art.8), the use Slovenian in oral and written form in the elected bodies (art.9), the use bilingual public signs (art.10), the recognition of the educational institutions in the Slovenian language (art.11), declaration of regional support to the cultural, artistic, recreational, scientific, educational, informational and publishing activities carried out by institutions and organizations of the Slovenian minority (art. 16), the recognition of the Slovenian Theatre (art.18), the return of immobile property expropriated by the Italian State (art.19), and the protection of historical and artistic Slovenian heritage (art.20). The same law provides special provisions for the Province of Udine (art.12). It declared that in schools topics "related to the traditions, the language and the local culture" shall be taught in the

<sup>7</sup> In 1992 the European Charter for Regional or Minority Languages was adopted.

<sup>8</sup> This is due to historical reasons, because during Fascism the term "nation" was overused and after the collapse of the Regime this word acquired a negative connotation.

Slovenian language, and finally decreed the nationalization of the Slovenian bilingual private school of San Pietro al Natisone.

One of the most important points of the new law concerns the territorial delimitation of minority rights, i.e. in which municipalities the law has to be implemented. Article 4 states that the law should be implemented "in the territory in which the minority is traditionally present". The indication of the municipalities included in this territory is the task of the Institutional Joint Committee which has to draw up a table within 18 months of its constitution on the basis of the received requests. The requirements for a request are: the signature at least of the 15% of the citizens or a third of the municipality's councillors.

From the point of view of the territorial delimitation it is essential to underline two important criteria: censuses or estimates are not used to determine the territory; the signers of the request can be not members of the Slovenian community. These two are very important and peculiar elements, in fact, in different contexts, especially in Central Eastern Europe, minority laws are strictly connected to census and requests of members belonging to the minority.

The list of the municipalities subject to the minority law has to be established by the Institutional Joint Committee for Slovenian minority issues, set up by law 38 (art.3). The Committee has the task not only to identify the municipalities where the minority is traditionally present but to monitor the application of the law and the problems related to it.

## The Joint Institutional Committee for Slovenian minority issues

The Joint Institutional Committee is composed of twenty members, ten of them are the members of the Slovenian minority. The Italian Council of Ministers appoints four members, the Regional Council of FVG six, the Assembly of the Slovenians three, the Regional Assembly seven. The Committee has a key role in the implementation of Law No.38 and in the solution of issues relating to the protection of the Slovenian minority. It is the body that connects the Slovenian community to local and State institutions, by monitoring the implementation of the law. Despite this important task, the Committee's power is extremely limited, in fact, it does not have any possibility to impose or sanction bodies to enforce the law.

In the 15 years that Law No.38 was implemented, the Committee played different roles. His work has been influenced by the political climate in Italy and FVG. The atmosphere, in some cases facilitated, while in others undermined its operation.

The first session took place sixteen months after the adoption of Law No.38. The cause of this delay was the new government established in Rome after the elections of  $13^{th}$  May 2001 (just a few months after the approval of Law No.38). The new government  $^9$  (a right wing one) was unwilling to implement the minority law and to appoint

<sup>9</sup> The second Berlusconi government.

the governmental members to the Committee. When the nominations were completed, the first session took place on 19<sup>th</sup> June 2002. In this session Rado Race was elected President of the Committee, and he remained in office until 2007.

Political tensions marked these early years influencing the Committee's operation and the implementation of the minority protection law. Law No.38 was approved under the centre-left governments in Rome. However the right wing won the national elections of  $2001^{10}$  and minority laws, especially law No.38lost the institutional support.

Due to the 2001 change the Committee could not work on the drafting of the list of municipalities subject to law No.38. Writing this list was one of the first and most important steps that the Committee had to take, 11 and that had to be completed within 18 months of its establishment. However, it was only completed in mid-2004.

The work was obstructed by the Italian speaking members who abandoned the meetings of the Committee, and with the lack of the quorum (the legal number were fixed in five members by each two language communities) the Committee could not work. The main reasons for the conflict were the territorial delimitation and the implementation process.

During the drafting of the municipalities list subject to law No.38 the main problems obviously did not concern the areas where the Slovenian community is in majority and where, in previous years, others protection laws in effect, such as the smallest municipalities of the province of Gorizia and Trieste. The main discussion was about the cities (Gorizia, Trieste and Cividale) and the questions of the Slovenian minority in Udine province, especially Resia Valley.

On the inclusion of the two county seats (Gorizia and Trieste) the main problem was posed by the respective city councils, both cities in fact were headed by right wing mayors that hindered the application of the law. The course of events was changed by the 2002 election in Gorizia, when mayor Brancati was elected, supported by a leftist alliance. The political change in the council created a greater collaboration between the city and the Joint Committee. With the step taken by Gorizia the relationship with the administration of Trieste became easier.

The inclusion of Cividale del Friuli, a town in Udine province adjacent to the Natisone Valleys, was interesting. This town involved recently emigration of Slovenes from neighbouring areas. In this case the registration of the municipality in the list did not take place through the establishment of a relationship with the mayor and the town council, but thanks to the initiative of the minority councillor<sup>13</sup> causing a heated debate. In fact, the Slovenian minority is not "historically present" in the town, however, eight councillors (six from the opposition) not belonging to the Slovenian-speaking

<sup>10</sup> The coalition also included an Italian post-fascist party: Alleanza Nazionale with a strong nationalist and anti-minority position.

<sup>11</sup> Law No.38/2001, Art. 4.

<sup>12</sup> Brancati was the first mayor in Gorizia supported by a leftist coalition.

<sup>13</sup> BANCHIG: op. cit., p. 31.

community supported the requests to include the town in the implementation area. Consequently, the request was accepted by the Joint Committee.

The "first period" of the Committee ended with the drafting of the municipalities list and the first steps towards the implementation of the law. President Rado was replaced by Bojan Brezigar (from 2007 to 2012), then followed by Jole Namor (2012–2014).

During this period the activity of the Committee proceeded with less tension, but not without problems. The support of regional governments improved the implementation thanks to regional law No.26 of November 2007. However, in several fields numerous problems are still present, particularly visible bilingualism is lacking, especially in municipalities where Slovenians are in minority. Administrative offices only partially use the minority language. However, the Committee continues with the goal to decrease tension and not to break relations with local administrations. The Committee intends to proceed with the policy of small steps.

The most controversial issue during Brezigar's and Namor's presidency was the situation of the Slovenians in Udine. The main problems concern the slow implementation of the law, especially in Cividale and the Natisone Valleys, and the so-called "Resian issue".

In the Natisone Valley the protection of the Slovenian minority generated the reaction of those who claim the strangeness of the Slovenian identity. The Italian nationalist movements started to mobilize to prevent the extension of law No.38 to municipalities in the province of Udine. This revival of Italian nationalism brought about demonstrations and acts of tensions which, however, never resorted to violence. The movements opposing law No.38 argue that local communities do not speak Slovenian, therefore cannot be classified as a Slovenian minority, even though they speak Slavic languages. This debate gives rise to more separation between Slovenians and Italians. The Committee recognized the different local language varieties, but never questioned the belonging of the local population to the Slovenian minority. Also, in order draw the attention to Udine's Slovenian community, in 2012 the Committee appointed President Jole Namor, a member of Slovenian community of Natisone Valleys.

The "Resian question" is a more complex issue, related again to the relationship between national and local identity. In 2007 the City Council of the municipality of Resia passed a resolution to request the inclusion in the area under protection of the law No.38,¹⁴despite the mayor's insistence on the indigenous "Resian culture". However, in 2010 the municipally elected a new mayor Sergio Chinese, founder of the "Identity and protection of Resia Valley"(association that fight against the Slovenian language in Resia) who requested the exclusion of the municipality from the safeguard area of law No.38. This decision subsequently was reaffirmed on several regional, national and international events¹⁵ and was brought to the Joint Committee. The Committee

<sup>14</sup> Probably to take advantage of the possibility to gain public funds.

The last open letter, on  $16^{th}$  May 2016, was send to the Joint Committee, the President of the Italian Republic, the Italian Prime Minister, the FVG Region and to the Council of the European Union.

debates the "Resia issue" and decided that the municipality had to be part of the list of towns where law No.38 is implemented. Moreover, the Committee decided to take measures to safeguard local dialects.

In recent years, after these tensions the Committee has had period of significantly less tension and has thus been able to concentrate on improving the protection services offered to the Slovenian community. Visual bilingualism, institutional service offices in the Slovenian language and an educational system now form the core of the debate. In addition, in 2014 Ksenjia Dobrila was elected new president.

#### **Conclusions**

This brief explication of the legal framework for the protection of the Slovenian minority in Italy allows us to observe the peculiarities of the law No.38, highlighting successes, problems and differences from the protection of other minorities.

The first major fact that we can identify is the lack of census data concerning the minority. From my point of view, the lack of statistical data is a positive example. We can see that, especially in Central Eastern Europe, minority laws are directly related to census data, therefore, legal protection is available for only a certain percentage of the minority population. This means that a census, instead of being a statistical tool, can become cause of political and nationalist fights. Furthermore, this way not only a territory where the minority is protected may lose its protection in case of a decrease in the minority's population, but during the census, the political climate can be affected by linguistic and nationalistic tensions.

Census data, although strongly demanded by international organizations (in the case of FVG, the Council of Europe demanded the execution of the census several times), often has negative implications. In this sense, the FVG system is different from other Italian cases like South Tyrol. In fact, in South Tyrol the use of three languages is compulsory and omnipresent (from education to political/administrative level). This compartmentalized system does not exist in FVG, probably because of the area's history, a traditional mix between language and national identity.

As a result of not using statistical data to determine the areas of the implementation of the law, the protected area cannot easily lose its status, as the case of the municipality of Resia shows. The rigidity of law No.38 in this sense provides a strong stability, necessary for any minority-protection policy.

Despite its considerable advantages (there is no doubt that law No.38 has greatly improved the protection of minority), there are still some problems.

The Joint Committee, although it was a fundamental institution for strengthening the law, has serious gaps. The most important is the lack of real power. In fact, the Committee can only monitor the situation and recommend improvements. Taking into account that the law does not provide sanctions, this greatly reduces the possibility of action where the law is not respected. Exactly because of this, implementation has been slow, consequently, even after 15 years, a significant number of fields are not

satisfactorily developed. The slow implementation, especially in the bigger cities and where the Slovenian community is in minority, is similar to other Central European cases.

Still, new and old challenges lie ahead that the legal framework will have to face in terms of minority protection in FVG and the Slovenian minority. Now, 15 years after the release of law No.38, even though several steps have been taken, numerous gaps remain: from the restoration of property to visual bilingualism. Because of the small size of the Slovenian community, the lack of Slovenian teachers in schools and people in translation service is particularly problematic, a problem that can only be solved with the help of Slovenia.

As shown throughout the article, the complexity of the Slovenian community and the differences inside the Slovenian linguistic group with particular attention to the local identity that characterize the Slovenians of FVG makes it a difficult challenge to safeguard the Slovenian minority.

As of now there are other problems related to the economic crisis affecting Italy and the institutional reorganization of the country. The economic crisis has severely affected the marginal areas where part of the Slovenian community of Udine province lives, highlighting the lack of state intervention in that area that did not stop emigration and the economic crisis. Due to the economic crisis, the institutional reorganization carried out by the Italian government is likely to jeopardize some vested rights for the Slovenian minority, by merging municipalities or abolishing provinces. Measures therefore need to be assessed in detail by the Joint Committee, which will thus continue to play the important role of the guarantor of the protection of the Slovenian community in Friuli Venezia Giulia.

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