



In force from XX  
As amended to XX

# **ETHICS COMMISSION BYE-LAW 1 TERMS OF REFERENCE**

**OF THE ASSOCIATION OF NATIONAL OLYMPIC COMMITTEES**



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## Preamble

In 2016 at the XXI ANOC General Assembly held in Doha, the NOCs adopted a new ANOC Code of Ethics (“the Code”). The Code reflects ANOC’s, its NOCs’, and its Continental Associations’ commitment to disseminate a culture of ethics and integrity as incorporated in the Olympic Charter and in particular its fundamental principles.

In accordance with recognised good governance practice, and pursuant to Article 13.22(h) of the ANOC Constitution, this Bye-Law establishes an independent Ethics Commission to hear and decide allegations of breaches of the ANOC Code of Ethics.

This Bye-Law was adopted by the ANOC Executive Council in furtherance of the ANOC General Assembly’s decision, at the XXII ANOC General Assembly held in Prague, to establish an ANOC Ethics Commission.

This Bye-Law was adopted pursuant to the powers of the Executive Council to enact Bye-Laws under Article 13.22(f) of the ANOC Constitution.

By means of enactment of a separate Bye-Law the Executive Council has established the Procedural Rules Governing Proceedings Before the ANOC Ethics Commission.

This Bye-Law sets out the establishment, composition, powers and jurisdiction of the ANOC Ethics Commission and takes effect from 1 December 2018.

## Definitions and Interpretation

**Definitions:** In this Bye-Law the following terms have the following meanings:

“**ANOC**” and “**ACNO**” mean the Association of National Olympic Committees.

“**ANOC Code of Ethics**” means the code of ethics of ANOC which was first adopted by the General Assembly on 16 November 2016 (and as amended from time to time) which sets out the fundamental ethical principles applicable to ANOC and all persons and bodies as described in the Code of Ethics.

“**Applicable Person**” means any of the bodies and persons to whom the ANOC Code of Ethics applies as described in the ANOC Code of Ethics.

“**Athlete**” means a member of the ANOC Athletes Commission.

“**Bye-Law**” means this bylaw unless the context indicates otherwise.

“**Continental Associations**” means ANOCA, OCA, Panam Sports, ONOC and EOC which have been recognised by the IOC.

**“Constitution”** means the ANOC Constitution.

**“Executive Council”** means the organ of ANOC described in rule 13 of the Constitution.

**“General Assembly”** means the organ of ANOC described in rule 12 of the Constitution.

**“IOC”** means the International Olympic Committee.

**“Independent”** means the person does not hold any other role, position or office within the IOC, ANOC, any Continental Association, or any NOC and does not act for, represent or advise any of them or any Applicable Person under the ANOC Code of Ethics.

**“Independent Investigator”** mean a qualified investigator who is Independent.

**“Ineligible”** means the person:

- a. is a member of ANOC staff;
- b. has been declared by an authority to be an undischarged bankrupt or is subject to a condition not yet fulfilled or any order under any applicable insolvency laws;
- c. has been convicted of any offence punishable by a term of imprisonment of two(2) or more years (whether or not a term of imprisonment has been imposed) unless the person has obtained a pardon or has served the sentence imposed on them;
- d. has been prohibited by an authority from being a director or promoter of or being concerned or taking part in the management of a company for breach or non-compliance with any law applicable to that person;
- e. is subject to an order by an authority that the person is lacking in competence to manage their own affairs;
- f. is a Minor;
- g. has been deprived of his or her civil rights by proper application of the law;
- h. is serving a period of ineligibility (including provisional suspension) for breach of the ANOC Code of Ethics;
- i. has been found by an authority to have committed an anti-doping rule violation at any time, including any person who has served any period of ineligibility for that violation.

**“Minor”** means a natural person who has not reached the age of eighteen years.

**“NOC”** means a National Olympic Committee.

**“Notice of Charge”** means the written notice sent by the Independent Investigator to the Chairperson

of the Ethics Commission and copied to the Applicable Person subject to the charge (and the relevant NOC and Continental Association) as stated in this Bye-Law.

**“Olympic Movement”** means the organizations, Athletes and other persons who agree to be guided by the Olympic Charter as described in the Olympic Charter.

**“Provisional Suspension”** means the person is barred temporarily from participating in any event, meeting or activity prior to the final decision at the hearing conducted by the Panel in the case that there is a finding that there was no breach of the ANOC Code of Ethics or, where there is a finding that there was a breach of the ANOC Code of Ethics prior to the final decision of the Executive Council or of the General Assembly, as the case may be, regarding the consequences and sanction(s) on account of the breach.

**“Publicly Disclosed”** means disclosure of the decision to the public via the Ethics Commission or ANOC websites, and such other public notification as decided by the Ethics Commission.

**“Panel”** means a panel of the Ethics Commission established under the Procedural Rules.

**“Procedural Rules”** means the Procedural Rules Governing Proceedings Before the ANOC Ethics Commission as enacted by an Executive Council Bye-Law.

**“Proceeding”** means the process undertaken by the Ethics Commission from receipt of the Notice of Charge by the Ethics Commission until the final determination of the charge and imposition of the consequences and sanction(s) on account of the breach, if applicable, unless specified otherwise.

**“Report”** has the meaning given to it in clause 6 of this Bye-Law.

**“Substantial Assistance”** means the person providing substantial assistance has (i) fully disclosed in a signed written statement all information he/she possesses in relation to the alleged breach/es including those involving himself/herself and (ii) fully co-operated with the investigation and adjudication of any case related to that information, including, for example, presenting testimony at a hearing if requested to do so by the prosecuting authority or hearing panel. Further, the information provided must be credible and must comprise an important part of any case which is initiated or, if no case is initiated, must have provided a sufficient basis on which a case could have been brought.

**Interpretation:** This Bye-Law shall be interpreted as follows:

Any reference to any law, act, regulation, rule, Bye-law, or the Olympic Charter, includes any amendment to it and any replacement passed in substitution for it.

The plural includes the singular and vice versa and words of the masculine gender include the feminine and vice versa unless the context requires otherwise.

Words importing a person include an individual, partnership, association, body corporate, trustee, executor, administrator and legal representative.

The Preamble in this Constitution is included by way of background and the headings are inserted for convenience. Neither the Preamble nor the headings shall affect the construction or interpretation of this Constitution.

Any reference to a Rule number is a reference to a rule in this Constitution, unless expressly stated otherwise.

## 1 Commencement

1.1 This Bye-Law shall commence on 1 December 2018

1.2 This Bye-Law shall apply to the following:

- a. any complaint or information received by ANOC prior to 1 December 2018 concerning an alleged breach of the Code by an Applicable Person which is alleged to have occurred prior to 1 December 2018, but which has not been finally resolved by the ANOC Executive Council;
- b. any complaint or information received by ANOC about which it is conducting a fact finding investigation or it is otherwise in the process of being considered by the Executive Council prior to 1 December 2018 in respect of the alleged breach but which has not been finally resolved by the ANOC Executive Council;
- c. any complaint or information received by ANOC or the Ethics Commission on or after 1 December 2018 concerning an alleged breach of the Code by an Applicable Person which is alleged to have occurred prior to 1 December 2018; and,
- d. any complaint or information received by ANOC or the Ethics Commission on or after 1 December 2018 concerning an alleged breach of the Code by an Applicable Person which is alleged to have occurred on or after 1 December 2018;

## 2 Composition and Appointment

2.1 The members of the Ethics Commission will be appointed by the Executive Council subject to their confirmation through election by the General Assembly, for a four-year term.

2.2 Members of the Ethics Commission may be appointed for a maximum of two terms of office or eight (8) consecutive years, whichever is the greater.

- 2.3 The Ethics Commission shall be comprised of seven(7)) members of whom there shall be one member from each continent, one Athlete, and one member of the Executive Council. Each Member, except for the Athlete and Executive Council members, must:
- 2.3.1 be either:
    - a. a qualified practising lawyer with substantial experience in legal issues affecting sport; or,
    - b. a person with substantial involvement in sport and/or ethics in some capacity; and,
  - 2.3.2 not be Ineligible; and
  - 2.3.3 be Independent.
- 2.4 The Ethics Commission shall select and appoint its Chairperson. The Chairperson must:
- 2.4.1 be a qualified senior lawyer (ten years or more experience);
  - 2.4.2 practise in litigation or arbitration; and,
  - 2.4.3 have some prior involvement in sport.
- The term of office for the Chairperson shall be four years and the individual may not serve as Chairperson for more than a maximum of two terms or eight (8) consecutive years, whichever is the greater.
- 2.5 The Chairperson of the Ethics Commission may appoint a deputy Chairperson from amongst the members of the Ethics Commission, from time to time.
- 2.6 For each Proceeding, a panel of three shall be appointed by the Chairperson of the Ethics Commission from amongst the members of the Ethics Commission, in accordance with the Procedural Rules.
- 2.7 Each member of the Ethics Commission is bound by the ANOC Constitution, Bye-Laws, Compliance Policy and Code of Ethics.
- 2.8 With the exception of the Executive Council and Athlete members, the Members of the Ethics Commission must remain Independent and not Ineligible for the duration of their term of office.
- 2.9 In the event a member of the Ethics Commission resigns (by giving not less than 30 days' written notice to the Executive Council), dies, or is removed from office (in accordance with clause 3), the position shall either:
- 2.9.1 remain vacant until the next General Assembly meeting; or,
  - 2.9.2 if the Ethics Commission considers it necessary, the Executive Council may appoint a

replacement member to fill the vacancy on the Ethics Commission and such member's term shall expire at the next General Assembly meeting.

The powers of the Ethics Commission are not affected by any vacancy.

- 2.10 Each member, except for the Athlete and Executive Council members, upon election shall sign a declaration confirming that they are not Ineligible and Independent which declaration shall be renewed annually. Each such member has an obligation to disclose on an ongoing basis any facts or circumstances that may cause them to become Ineligible to lose their Independent status.
- 2.11 The Athlete and Executive Council members upon election shall sign a declaration confirming that they are not aware of any facts or circumstances that may compromise their membership on the Ethics Commission. Each such member has an obligation to disclose on an ongoing basis any facts or circumstances that may compromise their membership on the Ethics Commission.

### 3 Suspension and Removal

- 3.1 A member of the Ethics Commission may be suspended or removed from office prior to the expiry of their term of office, subject to clause 3.5, as follows:
  - 3.2 by the Chairperson of the Ethics Commission, if:
    - a. The member is under investigation for or is charged with any of the circumstances which give rise to the member's ineligibility;
    - b. the member is required to be independent and is no longer independent;
    - c. the member is alleged to have, or has, breached the Constitution, the ANOC Code of Ethics, Compliance Policy, or any Bye-laws of ANOC;
    - d. the member is unable or unwilling to perform the duties of office, has neglected their duties, or has engaged in misconduct;
  - 3.3 by the Executive Council, if any of the circumstances set out in clause 3.2 apply to a member, including the Chairperson;
  - 3.4 by the General Assembly if the Executive Council has not acted under clause 3.3 or the General Assembly considers that any decision of the Executive Council under clause 3.3 should be reviewed.
- 3.5 Before making any decision to suspend or remove a member, of the Ethics Commission, the member concerned shall be given reasonable notice by the relevant decision maker in clause 3.2, 3.3 or 3.4, whichever is applicable, of the proposal to suspend or remove them as a member



of the Ethics Commission, the grounds for such proposal and the facts supporting the grounds for such proposal. The member of the Ethics Commission concerned shall be entitled to respond to the proposal in person or in writing within not less than seven(7) days of being notified in writing of the proposal.

## 4 Powers and Jurisdiction

- 4.1 The Ethics Commission shall have the power and jurisdiction to hear and decide any alleged breaches of the ANOC Code of Ethics in accordance with this Bye-Law and to carry out such other functions as set out in this Bye-Law.

## 5 Other Matters

- 5.1 Indemnity: No member of the Ethics Commission will be personally liable for any act done or omitted to be done by the Ethics Commission or any member of the Ethics Commission in good faith in pursuance or intended pursuance of the functions, duties, powers and authorities of the Ethics Commission.

- 5.2 Remuneration & Expenses: ANOC will provide reasonable compensation (as decided by the Executive Council) and reimbursement of expenses to the members of the Ethics Commission for time spent on Proceedings before the Ethics Commission. Such payments will not be deemed to compromise their independence.

- 5.3 Coordinator and Secretariat:

5.3.1 The ANOC Chief Ethics and Compliance Officer shall act as the Coordinator and Secretariat of the Ethics Commission. The duties of the Coordinator and Secretariat function is to:

- a. manage all Proceedings filed with the Ethics Commission;
- b. liaise with all members of the Ethics Commission as appropriate in relation to Proceedings in which they are appointed members of a Panel; and,
- c. take any such other steps as are necessary to ensure the efficient management of the Ethics Commission.

The ANOC Ethics and Compliance Officer shall perform this function independently of his/her other ANOC functions and in this capacity shall report exclusively to the Ethics Commission.

- 5.3.2 The Ethics Commission shall, subject to reasonable budgetary limitations imposed by the Executive Council, be allocated the necessary financial resources on a 4 yearly basis to fulfil its functions.

## 5.4 Confidentiality:

5.4.1 The members of the Ethics Commission shall ensure that everything disclosed to them during the course of their duties remains confidential, including the facts of any case or issue and any deliberations or decisions that are taken.

5.4.2 The members of the Ethics Commission shall not disclose the existence of, or make any statements relating to:

- a. any matter that is before the Ethics Commission; or
- b. any matter that has been decided by the Ethics Commission,

except to the extent stated in any Provisional Suspension decision and the final decision of the Proceedings by the Ethics Commission.

## 6 Reporting

6.1 Every Applicable Person has an obligation to report as soon as practicable any act, thing or information which they become aware of, or to make a complaint about any such act, thing or information, which may constitute (on its own or with other information) a breach of the ANOC Code of Ethics, including approaches or requests to engage in conduct that may constitute a breach of this Code.

6.2 Any such information or complaint shall be reported to the Chairperson of the Ethics Commission by lodging a Report in the manner described in clause 6.3.

6.3 All Reports should be completed on such form or in such manner as may be decided by the Ethics Commission from time to time. Reports should be signed and dated by the person lodging the report and shall include all available evidence.

6.4 Nothing in this Rule limits the Ethics Commission from considering information which may form an alleged breach of the Code of Ethics, based on information that has come to its attention other than by way of a Report under this clause.

## 7 Prima Facie Case

7.1 The Chairperson of the Ethics Commission shall first ensure that the Report or information received relates to an alleged breach of the ANOC Code of Ethics. If it does not, he/she may refer it to the appropriate authority and subject to clause 7.3 shall advise the person who reports the matter that no further action on the report will be taken.

7.2 If, upon review of a Report the Chairperson of the Ethics Commission considers the Report to be

frivolous or malicious, he/she may decide to take no further action in which case the Chairperson subject to clause 7.3 shall so advise the person who reported the matter.

- 7.3 All Reports in respect of which the Chairperson has decided to take no further action must be reported to all the other members of the Ethics Commission, who may disagree with the Chairperson's decision in which case the Chairperson shall reconsider his/her decision having regard to the comments of the member or members of the Commission who disagreed with the initial decision.
- 7.4 if the Chairperson of the Ethics Commission considers it appropriate to do so, he/she may ask any person filing a Report to provide further information before a decision is taken under clause 7.5 as to whether a prima facie case is made out.
- 7.5 Following receipt of a Report or other information, subject to clauses 7.2 and 7.3, the Chairperson of the Ethics Commission will consider whether there is sufficient evidence to establish a prima facie case of breach of the ANOC Code of Ethics.
- 7.6 If the Chairperson of the Ethics Commission considers there is a prima facie case of breach of the ANOC Code of Ethics, he/she will cause an investigation to be commenced, unless, in the view of the Chairperson of the Ethics Commission in consultation with the other members of the Ethics Commission, there is a good reason not to cause an investigation to be commenced either immediately or at all.
- 7.7 In addition to information provided in a Report, the Chairperson of the Ethics Commission may consider information that has come to his/her attention by whatever means to establish whether there is a prima facie case of a breach of the ANOC Code of Ethics, and in such circumstances he/she will initiate an investigation for an alleged breach of the ANOC Code of Ethics in accordance with these clauses.
- 7.8 Grounds do not need to be given for the initiation of an investigation for an alleged breach of the ANOC Code of Ethics and the decision may not be contested. The Applicable Person will be notified of the commencement of such an investigation and of the possible breaches of the ANOC Code of Ethics to which the investigation relates, and will be afforded the right to make a written submission as part of the investigation.
- 7.9 The Chairperson of the Ethics Commission will have discretion, to be exercised as appropriate, to write to any Applicable Persons against whom a prima facie case has been found to exist, to ask whether or not they wish to admit any breaches suggested by the prima facie case. If the Applicable Person wishes to admit any breaches, the Chairperson of the Ethics Commission shall direct that the matter proceed directly to a decision of the Ethics Commission on the consequences and sanction(s) to be recommended to the Executive Council or General Assembly, as the case may be.

- 7.10 At any time, whether or not the Chairperson of the Ethics Commission considers there is a prima facie case, he/she may refer any information he/she receives from a Report or otherwise to the appropriate criminal or other authorities, if he/she considers it appropriate to do so or it is required by law.
- 7.11 A decision under this clause by the Chair of the Ethics Commission that there is a prima facie case of a breach of the ANOC Code of Ethics, is final and may not be appealed. This does not prevent the final decision of the Ethics Commission from being appealed in accordance with the Constitution and this Bye-Laws.

## 8 Investigations

- 8.1 Where a prima facie case of a breach of the ANOC Code of Ethics has been determined to exist pursuant to clause 7, the Chairperson of the Ethics Commission shall appoint an Independent Investigator to conduct an investigation.
- 8.2 Investigations for breaches of the ANOC Code of Ethics may be conducted in conjunction with, and/or information obtained in such investigations may be shared with, other relevant authorities. The Independent Investigator may conduct the investigation alone or engage other suitable independent investigators, with the prior approval of the Chairperson of the Ethics Commission. The Chairperson of the Ethics Commission shall approve a budget and timeframe for the investigation which the Independent Investigator must comply with.
- 8.3 Upon application by the Independent Investigator, the Chairperson of the Ethics Commission may, where he/she deems it appropriate, suspend an investigation pending the outcome of investigations being conducted by other relevant authorities, (for example, where another authority is investigating the same or similar facts or it has superior powers of coercion or the investigations are likely to be substantially duplicative).
- 8.4 All Applicable Persons must cooperate fully with investigations conducted by the Independent Investigator. In cases of refusal or failure to do so without compelling justification, this may constitute a separate breach of the ANOC Code of Ethics. In particular (but without limitation),
  - 8.4.1 The Independent Investigator may make a written demand (“Demand”) to furnish to the Independent Investigator any information that may evidence or lead to the discovery or evidence of an ANOC Code of Ethics breach, including (without limitation): requiring any Applicable Person to:
    - a. attend an interview; and/or,
    - b. provide a written statement setting out his/her knowledge of the relevant facts and circumstances; and/or,

- c. provide relevant documentary records (such as betting account numbers and information, itemised telephone bills, bank statements, internet service records, computers, hard drives and other electronic information storage devices).
- 8.4.2 The relevant Applicable Person(s) must furnish such information within ten (10) days of the making of such Demand, or within such other deadline as may be specified by the Independent Investigator. The failure to do so shall be deemed to be in breach of the Code of Ethics.
- 8.4.3 Any information furnished to the Independent Investigator will be kept confidential except when it becomes necessary to disclose such information to further the investigation of and/or to bring proceedings relating to a breach of the ANOC Code of Ethics, or when such information is reported to administrative, professional or judicial authorities pursuant to an investigation or prosecution of non-sporting laws or regulations, or is otherwise required by law.
- 8.5 Each Applicable Person waives and forfeits any rights, defences and privileges provided by any law in any jurisdiction to withhold information requested in a Demand. If an Applicable Person refuses or fails to produce such information, then if:
  - 8.5.1 proceedings are brought against that Applicable Person under clause 8.11, or
  - 8.5.2 the Independent Investigator confirms that there is a good faith basis for the Demand, the eligibility of the Applicable Person to participate in any ANOC event, meeting or activity (including the ANOC World Beach Games) may be withdrawn by decision of the Executive Council on recommendation from the Chairperson and they may be denied credentials and access to such event, meeting or activity pending compliance with the Demand.
- 8.6 If an Applicable Person subverts or attempts to subvert the investigation process (e.g., by providing false, misleading or incomplete information and/or by destroying potential evidence), this may constitute a separate breach of the ANOC Code of Ethics.
- 8.7 If an Applicable Person refuses or fails cooperate fully with an investigation, the Ethics Commission may take such refusal or failure into account and infer that the answers would be adverse to that person.
- 8.8 The Chairperson of the Ethics Commission, following application by the Independent Investigator may at any time require an NOC or Continental Association:
  - 8.8.1 to assist in an investigation into a potential breach of the ANOC Code of Ethics by one or more persons under its jurisdiction (where appropriate, acting in conjunction with any other relevant national authority or body), and

- 8.8.2 to provide a written report on such assistance within a reasonable time period as stipulated by the Independent Investigator.
- 8.9 If an NOC or Continental Association refuses or fails to comply with clause 8.8 without compelling justification, this may constitute a breach of the Bye-Law for which the Executive Council or the General Assembly may exercise their respective suspensive and other powers to sanction the NOC or Continental Association in accordance with the Constitution.
- 8.10 Where during the course of an investigation the Independent Investigator identifies any additional Applicable Persons against whom it considers there exists a prima facie case of a related but separate breach of the ANOC Code of Ethics, the investigation may be expanded to deal with their involvement in the events in question.
- 8.11 Where, as a result of an investigation in relation to a breach of the ANOC Code of Ethics, the Independent Investigator forms the view that an Applicable Person has a case to answer for commission of a breach of the ANOC Code of Ethics, he will send a Notice of Charge in accordance with the Procedural Rules
- 8.12 Once a Notice of Charge has been issued, the Proceedings are deemed to have commenced. The procedure for Proceedings is set out the Procedural Rules.

## 9 Provisional Suspension

- 9.1 At any time, where a prima facie case of a breach of the ANOC Code of Ethics has been determined to exist pursuant to clause 7 of this Bye-Law, a Panel of the Ethics Commission, (convened in accordance with the Procedural Rules) may impose a Provisional Suspension on the Applicable Person pending the determination of the investigation and potential charge.
- 9.2 The Panel may impose a Provisional Suspension if it considers that the integrity of ANOC or the Olympic Movement could otherwise be seriously undermined.
- 9.3 Before imposing a provisional suspension, the Panel shall:
- notify the Applicable Person in writing of the proposal to impose a provisional suspension including the evidence on which it is proposed; and,
  - give the Applicable Person an opportunity to be heard on the proposal, which shall not be less than 24 hours, unless in exceptional or urgent circumstances.
- 9.4 Any Provisional Suspension imposed under this clause 9 will take effect from the date the Panel's decision is communicated to the Applicable Person. At the same time as such communication, a copy of the decision to impose a Provisional Suspension on the Applicable Person shall be:

- 9.4.1 communicated to the Applicable Person's National Olympic Committee, and Continental Association; and,
- 9.4.2 publicly disclosed, unless the Panel of the Ethics Commission decides otherwise.
- 9.5 A decision to impose a Provisional Suspension may be appealed to CAS in accordance with the Procedural Rules and any such appeal shall only be allowed if the Applicable Person establishes:
  - 9.5.1 that the charge(s) has/have no reasonable prospect of being upheld, e.g. because of a patent flaw in the case; or
  - 9.5.2 some other facts exist that make it clearly unfair, in all of the circumstances, to impose a Provisional Suspension prior to a full hearing on the merits of the charge(s). This ground of appeal is to be construed narrowly, and applied only in exceptional circumstances.

## 10 Recognition of Decisions

- 10.1 Provisional Suspensions, hearing results or other final decisions under the ANOC Code of Ethics will be applicable worldwide and will be recognised and respected by ANOC, NOCs and Continental Associations automatically upon receipt of notice of the same, without the need for any further formality.

## 11 Statute of Limitations

- 11.1 The statute of limitations for the commencement of Proceedings is ten years, unless stated otherwise under Swiss law.

## 12 Miscellaneous

- 12.1 General Assembly: Where a matter arises that is not otherwise provided for in this Bye-Law or in the Procedural Rules Bye-Law, the Chairperson of the Ethics Commission (or the deputy Chairperson) will resolve it as he/she sees fit.
- 12.2 Any deviation from any provision of the ANOC Code of Ethics or these clauses and/or any irregularity, omission, technicality or other defect in the procedures will not invalidate any finding, procedure or decision unless it is shown to render the proceedings unreliable or to have caused a miscarriage of justice.

## **ASSOCIATION OF NATIONAL OLYMPIC COMMITTEES**

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