

JOINING THE EUROPEAN ADMINISTRATIVE SPACE: CHALLENGES FOR TURKEY

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Abstract

The paper focuses on the needs and challenges of European integration, such as the multilevel governance and the division of competences between different governmental levels. Developments in public administration and modernization of public sector institutions requires application of the concept and process of Europeanization.

*The paper examines the compliance with the *acquis communautaire* (EU laws and policies) in the field of public administration in Turkey, as well as with rules, principles and standards stemming from the European Administrative Space.*

The Union's public policies shape the European integration process, in particular those policies with a strong territorial impact. The paper gives an answer how the EU innovation and competitiveness related programmes can facilitate the reform of the public administration.

Keywords: *public administration, public policy, Europeanization, (de)centralisation, European Administrative Space*

1. Introduction

Turkey has been linked to the EU by an Association Agreement since 1964 and a customs union was established in 1995. The European Council granted the status of candidate country to Turkey in December 1999 and accession negotiations were opened on 3 October 2005. Turkey is a candidate country and a strategic partner for the European Union. The Eastern enlargement have brought Turkey closer to the European Union.

Turkey needs to harmonize its legislation with the *acquis communautaire*. European integration over the past decades has led to a system of multilevel governance and development of the European Administrative Space in the EU member states. The Turkish

local authorities are involved in the enlargement process in particular with regards to the implementation of the *acquis communautaire* at local level.

Local authorities in Turkey face dynamic changes to meet the Copenhagen criteria¹ that are mainly determined by the division of competences between the central and local level, and the decentralisation process, administrative capacity building and by facilitating exchanges of best practice of the European multilevel governance models.

‘Space’ is a common metaphor to describe integration phenomena in the European context.² The ‘European Administrative Space’ has been described as the realm of shared values between the Member States and the EU. This is a special part of the the future member states. These states have to take into consideration the administrative principles. If these states do not take into account and do not apply these principles they will not able to fulfill the requirements of the *acquis communautaire*.³

Developments in public administration and modernization of public sector institutions requires application of the concept and process of Europeanization. According to Olsen the Europeanization is the central penetration of national and subnational systems of governance.⁴ The Europeanization implies adapting subnational systems of governance to a European political centre and European-wide norms. The government and governance are multileveled and differentiated, with the location of sovereignty, power and legitimacy being a shifting negotiated, multi-centred set of entities.

2. Good Governance and the European Union

There is a challenge of the European Union in the candidate countries to redefine the role of the state. The rivaling paradigms are the good government vs. good governance. The choice between the two paradigms is based on the “reason” for the state.⁵

¹ The Copenhagen Criteria was laid down by the Heads of State or Government of the Member States in June 1993. This document defines whether a country is eligible to join the European Union.

² HOFMANN, H.C.H. Mapping the European Administrative Space. p. 1. Access from: http://www.mzes.uni-mannheim.de/projekte/typo3/site/fileadmin/research%20groups/crosscutting/Papers_London_Nov2006/Hofmann.pdf

³ TORMA, A. The European Administrative Space (EAS). *European Integration Studies*. 2004, vol. 9, no. 1, pp. 149-150.

⁴ OLSEN, J. P. The Many Faces of Europeanization. *ARENA Working Paper*. WP 01/2 2002, no. 2, p. 3. Access from: https://www.sv.uio.no/arena/english/research/publications/arena-publications/workingpapers/workingpapers2002/wp02_2.htm

⁵ STUMPF, I. Rediscovering the State and the Neo-Weberian State. In CZENE G. (ed.) *Good Governance, sustainable development and the education of the future generation of scientists*. Pi-Net Conference, Postgraduates’International Network, 2012, pp. 10-11.

The good government paradigm based on the principle of central state, which is strong, active, intelligent but constitutionally limited state. The most important elements of this approach are the effective bureaucracy, norm-based approach, liability and accountability.

The contrasting approach of the state-centric model is the paradigm of good governance. Governance has become an important concept with the decreasing role of the welfare state since the 1980s. Governance comprises complex mechanisms, processes and institutions through which different actors, social groups and institutions articulate their interests, mediate their differences, and exercise their legal rights and obligations.

In the system of good governance responsibilities are shared between different levels of government by diverse actors. (EU, nation states, regions, and local governments) The concept of governance refers to the existence of various actors and the interaction between them they also involve private sector actors and parts of civil society, public-private partnerships (PPP) and the privatisation of some public services.

Compared to state-based arrangements in which hierarchical and top-down relations set rules in a relatively bureaucratic manner, this type of governance arrangements rules with more participatory, inclusive and horizontally networked relations between socio-cultural, political and business groups.

The principle of subsidiarity⁶ seeks to ensure that, in areas of non-exclusive Community responsibility, decisions are taken at the most appropriate level – which is the lowest level, the one “closest to the citizens”.

The good governance taking shape in the European integration is examined by several documents (European Commission (2001): *European governance — a White Paper*; Committee of the Regions (2009): *White Paper on multilevel governance*)⁷, however, no legal framework has been elaborated yet, in which competences of European, national, regional and local tiers are described in a clear and comprehensive way.

⁶ Decisions are taken as closely as possible to the citizens of the Union. The Treaty of Maastricht introduced the principle of subsidiarity at Union level in 1992. Article of the Treaty on European Union (2009) confirmed the principle. According to the principle of subsidiarity, the Union can act only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the member states, either at central level or at regional and local level, but can be better achieved at Union level. Each institution shall ensure constant respect for the principles of subsidiarity and proportionality, laid down in Article 5 of the Treaty on European Union.

⁷ European Commission. *European governance — a White Paper* (COM(2001) 428 final OJ C 287 12. October 2001; Committee of the Regions. *The Committee of the Regions White Paper on multilevel governance*, Brussels, 17 and 18 June 2009 CdR 89/2009 fin

Nevertheless the full deployment of multilevel governance confirms the necessity of the development of the European Space along the dimensions of the European Political Space, the European Public Space and the European Administrative Space.⁸ In addition, putting multilevel governance into practice requires improving the efficiency of the existing mechanisms of both territorial and sectoral dimensions of the European Space as a whole.

3. European Political Space

Multilevel governance is the model, where regions would be a governmental level of importance next to national, European and local arenas. It is essential for local and regional authorities to have the necessary power to play their role in promoting and managing the challenges of competitiveness and innovation in public policies. The principles of autonomy and decentralisation are currently part of the set of values shaping the distribution of governance powers in countries throughout Europe. A significant administrative authorities, regional and local governments have developed and increased their powers, administrative competencies and public expenditures in recent decades.

Local and regional authorities throughout the Union have the responsibility for providing a wide range of services to the public. Currently, after the Eastern enlargements (2004; 2007), nearly 95 000 local and regional authorities have significant powers in key sectors such as education, environment, economic development, town and country planning, transport, public services and social policies within the European Union. Moreover, the Local and Regional Authorities implement nearly 70% of EU legislation.⁹

Due to the decentralisation of central assignments in the division of power of states at local and regional levels the Council of Europe¹⁰ Congress of Local and Regional Authorities (CLRAE) drafted the basic expectations towards the self-governmental minimum for the development of local and regional democracies in two documents. These two documents are the European Charter of Local Self-government (1985) and the Draft European Charter of Regional Democracy (2008).

The European Charter on Local Self-Government is of particular importance for the process of democratic institution building. As expressed in the Preamble, 'local authorities are

⁸ ONGARO, E. *Committee of the Regions' White Paper on Multi-Level Governance. Response to the general consultation*. 2009. p. 1. bi

⁹ Committee of the Regions. *The Committee of the Regions White Paper on multilevel governance*. Brussels, 17 and 18 June 2009 CdR 89/2009 fin p. 3.

¹⁰ Turkey became the 13th member state of the Council of Europe on 9 August 1949.

one of the foundations of any democratic regime'. The principle of local self-government shall be recognised in domestic legislation, and where practicable in the constitution. It must be taken to ensure in candidate countries that the Charter is a basic rule, particularly its meaning under Article 4 on the scope and exercise of local self-government, and Article 9 on financial and budgetary autonomy.¹¹ Turkey has ratified the Charter on 9 December 1992, but hasn't signed yet the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority.¹²

In 2008, the CLRAE passed the Draft European Charter of Regional Democracy¹³, which drafts a system of criteria for establishing a regional self-government, and provides constitutional and legal framework for the rights of regional self-governments, which are necessary to apply in the process of European developments. This document is also serving as a reference point for candidate governments wishing to begin a process of regionalisation or reform of its local and regional structures.

4. European Administrative Space

Drawing up and implementing EU public policies presuppose the build-up of a European Administrative Space. The Treaty of Lisbon (2009) brings out new regulations meant to promote and sustain 'good governance' and European administration, thus underlining the right to good administration.

Although the public administration structures and regulations vary among the EU member states, the national public administrations have to apply the *acquis communautaire* in a homogeneous way. The term 'European Administrative Space' has been used to describe an increasing convergence of administrations and administrative practices at the EU level and various member states' administrations to a 'common European model'.¹⁴ It has also been used to describe the phenomenon of the coordinated implementation of EU law and the Europeanization of the member states' administrative structures.

¹¹ Article 4 (3): Public responsibilities shall generally be exercised, in preference, by those authorities which are closest to the citizen.

Article 9: Local authorities shall be entitled, within national economic policy, to adequate financial resources of their own, of which they may dispose freely within the framework of their powers.

¹² Council of Europe. *Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority*. Treaty Series No. 207, Utrecht, 16.XI.2009

Turkey hasn't signed it.

¹³ Council of Europe Congress of Local and Regional Authorities. Recommendation 240 (2008). This text was not accepted in the form of a convention.

¹⁴ OLSEN, J. P. Towards a European Administrative Space? *Journal of European Public Policy*. 2003, no. 10, p. 506.

Cooperation amongst administrations in the EU is marked by a high degree of close administrative cooperation between all levels of member states' administrations with the European institutions and bodies in various policy phases. The supranational legal and political order, established by the EU member states, has grown accordingly. Thus far, the reality of the European administrative space is closely related to, and its importance has grown with, the expansion over time of the *aquis communautaire*.

The development of the European Administrative Space, as an informal entity, based on different national legal and administrative frameworks, refers to a set of common principles¹⁵ such as reliability and predictability, openness and transparency, accountability, effectiveness and efficacy that guide the actions within national public administration towards administrative convergence and performance with candidate countries.

The principles need to be applied in each in each authority of the states both in the central authorities and in the local governments. The extent to which EU member states and candidate countries share the public administration principles and values serve as preconditions for a closer integration among them and determine the degree of compatibility amongst their administrative systems.

5. European Public Space

The territorial reorganization, the decentralisation process has more or less confirmed the concept of three-level structure of the EU polity, consisting of the supranational, national (centralistic) and regional (decentralised) layers.

Local and regional authorities implement a major part of the EU *aquis* and are actively involved in management of water and energy supply, territorial development, waste management, environment protection, transport, education, culture, migration, social policies, as well as in economic development and investment. In almost all of the European states, the municipality remains the basic territorial level. European municipalities ensure the delivery of community services to the population. In every member state, they manage basic local public services. Particular services vary considerably from country to country, because of the different subnational systems and different competences of the local and regional authorities.

There is no single model of local government in the European Union, there is a close relationship between the local government systems and citizens' demand for local supply of

¹⁵ The treaties of the European Union do not include a common model of public administrative system for the Member States.

cheap and efficient public services. The Nordic model of large local governments is characterized by high level of financial and economic autonomy and responsibility for a wide range of services. In the Mediterranean model the financial system is centralized, the public authorities supervised by state administration and the small municipalities provide a limited range of responsibilities.¹⁶

Despite the diversity of the local and regional levels, some general trends are visible at European level. The European Union provides a high autonomy in member states for the operation of the municipal system, including the inter-municipal cooperation.

1. Municipal merger policies have been implemented in many European countries, one of the objectives being to compensate for the economic disadvantages linked to the small size of many of the municipalities concerned (insufficient financial resources to carry out their responsibilities correctly, limited tax base, etc.).¹⁷ Nevertheless, many territorial reforms have been proposed in order to reduce their number, postulating better management of local public services and reduced public expenditures. In Denmark reduced the number of municipalities from 1 387 (1950) to 98 (2013). In Sweden in 1950 the number of municipalities was 2 281 and in 2013 it was 290.

2. Inter-municipal cooperation is another popular option in the attempt to attain more effective delivery of public services. It allows municipalities and regions to pool their resources in order to improve the management of public services and to attain a sufficient size to carry out certain responsibilities (i.e. sewerage, water, transportation), while at the same time keeping their own municipal structure. The forms of intermunicipal cooperations vary greatly from highly integrated, as is the case in Spain, Italy and Portugal, to very specific structures such as syndicates.¹⁸

3. The general trend in Europe towards externalising the operation of local public services. Over the last years the European Neighborhood Policy (ENP) seeks to strengthen the partnership between the European Union and the countries and societies of the neighborhood and to promote stability, prosperity and security in the neighborhood. Stronger relations

¹⁶ KOPÁNYI M. *Az európai önkormányzati rendszerek.* [Local Governments in Europe.] In KUSZTOSNÉ NYITRAI E. (ed.) *A helyi önkormányzatok és pénzügyeik.* [Local Government finance.] Consulting, Budapest, 1999, p. 25.

¹⁷ Council of European Municipalities and Regions. *Balancing Democracy, Identity and Efficiency. Changes in local and regional structures in Europe.* 2008. p. 5.

¹⁸ *Sub-national Governments in the EU. Organisation, responsibilities and finance.* Dexia, 2008.p. 6. Access from:
http://www.dexiacreditlocal.fr/SiteCollectionDocuments/Collectivites%20locales/Les%20CT%20dans%20l'UE27/CT_UE_book%20at%20a%20glance.pdf

between Turkey and its neighbours are also in the interest of the EU. This goal does not only include cooperation with the central governments of the neighbouring states, but there is also an urgent need to speed up cooperation at all levels, building national, regional and local partnerships.

In non-EU member states which are members of the Council of Europe, the Third Additional Protocol to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities concerning Euroregional Co-operation Groupings (2009) offers a new legal instrument for cooperation and could therefore facilitate cooperation between programme and project partners from EU member states and third countries of the EU.

**Table 1 Legal tool for international cooperation:
Euroregional Cooperation Grouping (ECG)**

Members	CoE member states, regional and local authorities
Legal status	legal personality, property; staff
Applicable law	the laws of the CoE member state where the ECG has its headquarters
Statute of the grouping	organs, staff, budget

Source: compiled by the author

The ECGs are generally established to bring together authorities from different administrative levels, including municipalities and regions to act together as one.¹⁹ Through the creation of this legal framework, partners from different countries and different administrative levels can have one common voice.

6. The public administration in Turkey: recent developments

To complete democratic governmental system through introducing good governance principles such as transparency, accountability, participation and responsiveness are vital challenge to the public administration in Turkey. The mode of governance in Turkey has been transformed over the past decade as a result of various influences; namely, the impact of the

¹⁹ Metis GmbH. *EGTC Monitoring Report 2012*. European Union, Brussels, April 2013, p. 101.

democratization process, developments in the relationship with the European Union and increasing demands of citizens from the administration required new mechanisms to be established for better quality services. The goal of a fully democratic governmental structure can be achieved only through a modernization of the public administration.

The 2000's were the years of reform for local governments. The government of Turkey has undertaken a very comprehensive programme to reform and modernise the local government system, and put it in line with the requirements of the European Charter on Local Self-Government and of the European Union's Copenhagen criteria. In 2004, no. 5216 "Metropolitan Municipality Law" and in 2005, no. 5393 "Municipal Act" was enacted. Mayor's positions were slightly strengthened, aimed at municipality's understanding to become more autonomous and to ensure the participation of the people.²⁰

In Turkey the governmental system is organised in a two-tier structure, with central and local government. The central administration consists of central bodies (ministries, agencies), with its deconcentrated branches disseminated on the territory. The local administration is organised in three autonomous types of local government: special provincial administrations, municipalities and villages. There were 81 special provincial administrations, 2 947 municipalities and 34 402 villages before the 2012 year reform.²¹ The reorganization reduced the number of provinces and accordingly the number of metropolitan municipalities has increased to 30.

Turkey is increasingly urbanised, 77.3% of the total population live in urban areas. It plays an important role in the recent reforms. The development of municipalities and of their capacities, the new threshold of 5 000 habitants will avoid to small municipalities unable to perform their functions.

According to Article 14 of the Municipal Law (2005) the municipalities provide services of urban infrastructure such as development of the region, water and sewage system and transportation; geographical and urban data systems; environment and environmental health, cleaning and solid waste; security forces, fire brigades, emergency aid, relief services and ambulance; city traffic; funeral and cemetery services; forestry, parks and green areas; housing, cultural and artworks, tourism and presentation, youth and sporting activities; social and aid services; marriage ceremonies, professional trainings; and services aimed at development of

²⁰ DURAK D. *Of 6360 Metropolitan Law Announcement in Rural Perception And Expectations*. The Russian Academic Journal, 2015, vol. 31, no. 1, 2015, p. 174.

²¹ Committee of the Regions. *Division of Powers between the European Union, the Member States and Regional and Local Authorities*, (ed.) European Institute of Public Administration (EIPA)-European Center for the Regions European Union, December 2012, p. 1149.

economy and commerce. The Greater City Municipalities and the municipalities having population more than 50.000 shall open houses for women and children welfare.

According to Article 6 of the Special Provincial Administration Act (2005) the special provincial administration provides services relating to health, agriculture, industry and trade; environmental arrangement plan of the province, public works and housing, protection of soil, prevention of erosion, social services and assistance, granting micro loans to the poor, nurseries and orphanages; procurement of plots of lands for primary and secondary education schools, and the meeting of their needs for the construction, maintenance and repairs of their schools.

Table 2 Local Administration in Turkey

Type of local unit	Decision-making/ legislative body	Executive/ administrative body	Other bodies
villages (<i>köy</i>) 18,247	village council (<i>köy derneği</i>)	village executive committee (<i>ihtiyar heyeti</i>)	headman (<i>muhtar</i>)
municipalities (<i>belediye</i>) 1,397	municipal council (<i>belediye meclisi</i>)	mayor (<i>belediye başkanı</i>)	municipal executive committee (<i>belediye encümeni</i>)
special provincial administrations (<i>il özel idaresi</i>) 51	provincial council (<i>il genel meclisi</i>)	provincial executive committee (<i>il encümeni</i>)	governor (<i>vali</i>)

Source: compiled by the author

Although the Constitution states clearly that their decision-making organs are elected, they are considered basically as service providers rather than government authorities. The law on unions of local authorities (n°5355, 26 May 2005) facilitate functional rationalisation in service delivery.²²

Turkey is a unitary state. The Turkish administrative system is based upon certain fundamental political and legal principles stated in the Constitution of 1982.²³ According to

²² MARCOU G. *Local Administration reform in Turkey*. A legal appraisal based on European principles and standards. July 2006, p. 23.

²³ The Constitution has been subject to many amendments in the last 30 years. Its latest amendments were adopted after the constitutional referendum of 2010.

Constitution of the Republic of Turkey. Access from: https://global.tbmm.gov.tr/docs/constitution_en.pdf

the Article 3 of the Constitution the Turkish State is an indivisible whole, with its country and nation.

The organization and functions of the administration of the Turkish State is based on principles of centralisation and decentralisation (Article 123 of the Constitution). The central government is obliged to fulfill a public service to be planned and executed by state public entity.

Despite the ongoing decentralisation process Turkey covers the spectrum somewhere between deconcentration and devolution. The superiority of the central administration over local government through administrative tutelage secured by the Article 127 of the Constitution, which states: *“The central administration has the power of administrative tutelage over the local administrations in the framework of principles and procedures set forth by law with the objective of ensuring the functioning of local services in conformity with the principle of the integrity of the administration, securing uniform public service, safeguarding the public interest and meeting local needs properly.”*²⁴

The Constitution emphasises the “unity” of public administration, which includes “local administration”. According to article 123 “The administration forms a whole with regard to its structure and functions, and shall be regulated by law.”

The organization and functions of the administration are based on the principles of centralisation and local administration. Public administration in Turkey is divided between the central and local administrations.

²⁴ The Turkish administrative system is based on certain fundamental political and legal principles stated in the Constitution of 1982. The main legal basis for local authorities are:

- Constitution of the Republic of Turkey; last amendment in 2010;
- Law on Public financial management and control, n°5018 of 10th November 2003, as amended by the law n°5436 of 22nd December 2005;
- Law on Metropolitan municipalities, n°5216 of 10th July 2004, as amended by the law n°5390 of 2nd July 2005;
- Law on Special provincial administrations, n°5302 of 22nd February 2005, as amended by the law n°5391 of 2nd July 2005;
- Law on Unions of local authorities, n°5355 of 26th May 2005;
- Law on Municipalities, n°5393 of 3rd July 2005;
- Law on Tax Revenue Shares for Special Provincial Administrations and Municipalities, Law n° 5779, dated 02.07.2008;
- Law on the establishment and duties of development agencies, n°5449 of 8th February 2006

6.1 Central Administration

Article 126 of the Constitution states that the central administrative structure in Turkey is divided into provinces on the basis of geographical situation and economic conditions. Due to the public service requirements provinces are further divided into lower levels of administrative districts.

6.2 Local Administration

Article 123 of the Constitution states that in order to maintain integrity in public administration in terms of organizations and responsibilities, national, provincial, urban, and rural administrations should function in unity and coherence.

Local Administration, which functions under the administrative tutelage of the central administration, is divided into three main administrative tiers. These are the special provincial administrations, municipalities, and village administrations.

In terms of local administrative structure the populations of provinces, municipalities, and villages are to be administered by units of local government established by law as legal public entities and governed in accordance with the principle of self-government. Besides it in larger urban areas metropolitan municipalities have been established. Usually, metropolitan municipalities are not considered as an additional level of local government, but they are becoming step by step such a new level, and again with the new law on metropolitan cities of 10 July 2004.

Turkey has no regional government. The EU regional policy, with all the requirements attached to it for allocating structural funds, has a strong impact on national systems of government. The recent creation of statistical units (NUT 1, NUTS 2) fulfils the requirements of the EU.²⁵ The EU funds regional development in the candidate countries must have adequate administrative capacity to ensure the institutional and financial management of the projects. The law n°5449 of 8 February 2006 provides for a legal framework for establishing development agencies.

²⁵ The Nomenclature of Territorial Units for Statistics in Turkey: 12 NUTS 1 level; 26 NUTS 2 level; 81 NUTS 3 level.

7. CONCLUSIONS

1. In Turkey over the last decade there has been a greater support for delegation of the powers of the institutions of the central government to the provincial level, however the structure and the tradition of a highly centralized public administration persisted.

2. Despite the ratification of the European Charter on Local Self-Government by Turkey in 1992, the provisions are often inconsistent with the Charter. There is a discrepancy between the competencies and the resources of the local governments. Besides that the country maintains a large number of reservations to the Charter.

3. Regarding the local government in Turkey, the fiscal decentralisation remains limited despite the amendment of the Law on Metropolitan Municipalities in 2012, which extended the scope of municipalities' powers.²⁶ Municipalities need the necessary financial resources to carry out the responsibilities transferred to them.

4. Turkey is moderately prepared with the reform of its public administration. Consistency with EU public policies requires further progress in service delivery to citizens and businesses. There is a commitment to a user-oriented administration.

5. In the field of administrative capacity, training and technical assistance Turkey has continued to strengthen all institutions involved in the implementation of the EU's multi-annual planning and financial assistance programmes for Turkey (IPA). In line with Turkey's new more decentralised and differentiated approach to regional development, priority areas related to economic, social and territorial developments.

6. The dimension of multilevel governance is a heart of the process to establish and manage institutionalised forms of cross-border and interregional cooperation. However, multilevel governance fosters interconnection and interaction between different stakeholders through the institutional framework of ECGs. The creation of broad partnerships between the political, economic, cultural and civil actors, with regional and local authorities and all public or private entities (universities, chambers of commerce, foundations, etc.) with closer cooperation with citizens must include all aspects of everyday life (energy, health care, tourism, sport, education, training, infrastructure etc.).

²⁶ European Commission. Commission staff working document. *Turkey 2015 report*. Brussels, 10.11.2015 SWD(2015) 216 final p. 10.

7. The EU's commitment and assistance need to be matched with the dedication of non-EU governments to implement the necessary legal and political reforms. The central government of Turkey, has the legal obligation to harmonize domestic law with existing international law and the EU law. The legal, financial and administrative environment needs to be more conducive to the development of public administration.

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