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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

**13th meeting of the Joint Council
on Constitutional Justice**

**Batumi, Georgia
26-27 June 2014**

MEETING REPORT

A. Working Group on the Systematic Thesaurus

The Working Group met to discuss 23 proposed additions and amendments to Version 21 of the Systematic Thesaurus.

These proposed modifications to Version 21 of the Systematic Thesaurus were presented to the Joint Council for adoption, see item 13 below.

B. Training session

Mr Dürr presented the various IT- tools at the disposal of the liaison officers, which include the procedure for resetting the password (see http://www.venice.coe.int/WebForms/pages/?p=05_password_reset, access to the public and restricted website of the Venice Commission, including the list of courts, the list of secretaries general, the list of liaison officers, regional and linguistic groups, the World Conference on Constitutional Justice, opinions and reports.

Mr Dürr also explained how to access the Interim Bulletin, the Venice Forum, which includes the Newsgroup, the “Classic” Venice Forum (per e-mail exchange) and the Constitutional Justice Observatory (<https://cs.coe.int/team21/veniceforum/default.aspx>). Finally, he then presented the CODICES database (www.CODICES.coe.int).

C. Joint Council meeting

Opening address

Mr George Papuashvili, President of the Constitutional Court of Georgia and member of the Venice Commission for Georgia, opened the meeting and welcomed the participants to Batumi. He explained that the Constitutional Court of Georgia moved from Tbilisi to Batumi seven years ago and that it was the first time the Constitutional Court of Georgia was hosting the meeting of the Joint Council on Constitutional Justice.

Mr Papuashvili chaired the first part of the meeting.

1. Adoption of the Agenda

The Agenda was adopted without any changes.

2. Election of a Co-President of the Joint Council on behalf of the liaison officers

Ms Krisztina Kovacs, liaison officer for the Constitutional Court of Hungary, was elected Co-President of the Joint Council on behalf of the liaison officers. Ms Kovacs said that she was pleased about this election and would do her best, as Co-President, to attract the Constitutional Justice World community’s attention to the work of the Venice Commission over the next two years.

3. Communication by the Secretariat

Mr Dürr informed the participants about the appointment of new liaison officers from five courts: Mr Felipe Paredes San Roman from the Constitutional Court of Peru; Mr Eugeny S. Grushko and Mr Alexey V. Antanov from the Constitutional Court of the Russian Federation, replacing Mr Pyrikov; Mr Peter Smith from the Constitutional Court of South Africa, replacing Mr Pillay; Mr Mohcine El Hbabi from the Constitutional Council of Morocco and Justice Lübbe Wolff from the Constitutional Court of Germany will be replaced by Justice Susanne Baer.

The participants were also informed about the 99th Plenary Session of the Venice Commission, which had taken place on 13-14 June 2014, notably:

- on the on-going constitutional reform in Georgia, there was an exchange of views with Ms Tinatin Khidasheli, Member of the State Constitutional Reform Commission of Georgia, on the progress of work on Constitutional Reform in Georgia;
- the adoption of the opinion on Federal Law no. 121-FZ on Non-commercial Organisations (“Law on Foreign Agents”) and on Federal Law no. 190-FZ on making amendments to the Criminal Code (“Law on Treason”) of the Russian Federation;
- the adoption of the opinion on the procedure for appointing judges to the Constitutional Court in times of presidential transition in the Slovak Republic;
- that there had been exchanges of views between the Venice Commission’s delegations and the Ukrainian authorities. A revised set of constitutional amendments would be sent to the Venice Commission before the end of June. In this case the opinion of the Commission had to be provided quickly since the *Verkhovna Rada* had to adopt the amendments in the first reading during its current session. Otherwise the amendments could enter into force only next year.

Mr Dürr added that during the 98th Plenary Session in March, the Venice Commission adopted the Opinion on “Whether the decision taken by the Supreme Council of the Autonomous Republic of Crimea in Ukraine to organise a referendum on becoming a constituent territory of the Russian Federation or restoring Crimea’s 1992 Constitution is compatible with constitutional principles”.

He informed the participants that, following an invitation by the Italian authorities, the 100th Plenary Session of the Venice Commission will take place in Rome rather than in Venice on 17-18 October 2014.

Mr Dürr informed the participants that the Venice Commission would soon have a 60th member: Kosovo and welcomed the new liaison officer from the Constitutional Court of Kosovo, Mr Veton Dula, to the Joint Council meeting.

Mr Dürr also conveyed Ms Marian Jordan’s greetings to the liaison officers. Ms Jordan, the former assistant in the Division on Constitutional Justice of the Venice Commission, retired in the first half this year.

4. Updating data on the participating courts

The liaison officers were invited to let the Secretariat know whether the information regarding their Courts was correct on the following websites:

<http://www.venice.coe.int/webforms/courts/>

<http://www.venice.coe.int/WebForms/contacts/Default.aspx?cat=LO>

<http://www.venice.coe.int/WebForms/cocentre/new.aspx>

5. Venice Forum

5.a. “Classic” Venice Forum

The liaison officers were, briefly reminded about the functioning of the “Classic” Venice Forum, a system based on e-mails that are shared on a restricted website, through which liaison officers can safely exchange information on pending cases before their courts (<http://www.venice.coe.int/JU/VeniceForum/>).

Ms Tanja Gerwien thanked the liaison officers for their interesting requests and for taking the time out of their busy schedules to answer the questions from other liaison officers.

Year	Number of questions received (in total)	Number of answers received (in total)
2013	30	501
2014	17	216
TOTAL	47	717

5.b. Venice Forum

The Venice Forum site now includes the Newsgroup, the “Classic” Venice Forum (see above 5.a), the Constitutional Justice Observatory and the Interim Bulletin.

Mr Dürr explained that the Secretariat uses the Venice Forum Newsgroup to inform liaison officers about accessions to the World Conference on Constitutional Justice (WCCJ) and appointments of Presidents to Courts or other news such as Jordan’s posting of its new website.

Liaison officers are alerted about new items added to the Newsgroup every Friday at 16:00 CET. New liaison officers or those that have not received such alerts are invited to contact the Secretariat.

Ms de Broutelles told the participants about the Constitutional Justice Observatory, explaining that it contains press articles on constitutional courts, recent judgments and, among others, discussions on constitutional reform that are put together by the Secretariat using a google-alert system. It is not exhaustive and the Secretariat neither censures the information nor is responsible for its content.

Link: <https://cwsml.coe.int/team21/veniceforum>

6. Opinions and studies of the Venice Commission

Participants were informed about opinions and reports on ordinary and constitutional justice, adopted by the Venice Commission since the last meeting of the Joint Council that took place in Venice, Italy on 8-9 October 2013.

October 2013 – 96th Plenary Session of the Venice Commission

Montenegro	Opinion on draft amendments to three constitutional provisions relating to the Constitutional Court, the Supreme State Prosecutor and the Judicial Council of Montenegro (CDL-AD(2013)028) http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2013)028-e
Ukraine	Joint opinion by the Venice Commission and the Directorate for Human Rights on the Law on the Public Prosecutor's Office (CDL-AD(2013)025) http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2013)025-e

December 2013 – 97th Plenary Session of the Venice Commission

Tajikistan	Opinion on the Code of Judicial Ethics of Tajikistan (CDL-AD(2013)035) http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2013)035-e
Ukraine	Opinion on the draft law on Amendments to the Constitution to strengthen the Independence of Judges in Ukraine (CDL-AD(2013)034) http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2013)034-e

March 2014 – 98th Plenary Session of the Venice Commission

Armenia	Joint opinion by the Venice Commission and the Human Rights Directorate of the Directorate General of Human Rights and Rule of Law (DGI) on the draft Law on making amendments and supplements to the Judicial Code of the Republic of Armenia (CDL-AD(2014)007) http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2014)007-e
Bosnia and Herzegovina	Opinion on the draft Law on the High Judicial and Prosecutorial Council of Bosnia and Herzegovina (CDL-AD(2014)008) http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2014)008-e
Moldova	Joint opinion by the Venice Commission and the Directorate of Human Rights of the Directorate General of Human Rights and Rule of Law of the Council of Europe, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR), on the draft Law on disciplinary liability of judges (CDL-AD(2014)006) http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2014)006-e

June 2014 – 99th Plenary Session of the Venice Commission

Albania	Opinion on the draft amendments to the Criminal Procedure and Civil Procedure Codes (CDL-AD(2014)016) http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2014)016-e
Kyrgyzstan	Joint opinion on the draft amendments to the Law on the status of judges (CDL-AD(2014)018) http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2014)018-e
	Opinion on the amendments to the Law on the Constitutional Chamber (CDL-AD(2014)020) http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2014)020-e
Tajikistan	Opinion on the draft law on the Constitutional Court (CDL-AD(2014)017) http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2014)017-e

7. Co-operation activities**7.a. Co-operation with the Conference of European Constitutional Courts (CECC)**

Ms Britta Adamovich-Wagner informed the participants about the Venice Commission's co-operation with the Conference of European Constitutional Courts (CECC).

She said that the XVIth Conference of the CECC took place in Vienna on 14 May 2014. The general topic of the Conference was "Co-operation of Constitutional Courts in Europe – Current Situation and Perspectives" with several sub-themes: (1) "Constitutional Courts between Constitutional Law and European Law"; (2) "Interaction between Constitutional Courts" and (3) "Interaction between European Courts".

Ms Adamovich-Wagner told the participants that the general rapporteur, Justice Christoph Grabenwarter, summarised the discussions of the Congress in a general report. Referring to the general report, she briefly explained that the term "*Verbund*", often used in the Congress presentations, covers various forms of co-operation and describes a complex process of interpretation and application. She added that the general report also refers to the term "openness" that courts use by deciding to turn to the case-law of courts in neighbouring countries and their application of the law and by following the case-law of the European Courts. That although Europe found itself in an on-going transitional phase, this had

changed with the entry into force of the Lisbon Treaty creating a clear goal for the EU to accede to the ECHR.

Ms Adamovich-Wagner said that the national reports by member courts of the CECC would be updated by the end of August 2014 and that the publication of the General Report, national reports and the contributions to the Congress was scheduled for the end of 2014. The Circle of Presidents granted the status of full member to the Netherlands. Kosovo's request, did not obtain the necessary majority, however. More information can be found at the following website:

<http://www.vfgh.gv.at/cms/vfgh-kongress/en/xvi-kongress-2014/beschluesse.html>

Ms Adamovich-Wagner thanked the Venice Commission for the working document / Special Bulletin on this topic (see also 10.b. below). She informed the participants that the Constitutional Court of Georgia now holds the presidency of the CECC and will be organising the XVIIth Congress of the CECC and that the Constitutional Court of Austria was ready to share its experience in the organisation of this event.

Ms Adamovich-Wagner informed the participants and the Secretariat that she is going to retire this summer after having served the Constitutional Court of Austria for 30 years.

Mr Dürr explained that a number of judges at the Congress of the CECC were unaware of the work of the Venice Commission's Constitutional Justice Division. They did not know of the existence of the Joint Council on Constitutional Justice, with its nearly 60 liaison officers and of the "Classic" Venice Forum etc. and suggested that a "platform" for the exchange of information between Constitutional Courts be established. This situation clearly indicated that it was important to inform Constitutional Courts that the Venice Commission exists, what it does and how it can apply to them.

Mr Papuashvili said that the Constitutional Court of Georgia intends to enhance the co-operation with the Venice Commission by providing more information on Venice Commission mechanisms with the aim of using them more efficiently and effectively.

7.b Co-operation with the Association of Constitutional Courts using the French Language (ACCPUF)

Mr Dürr informed the participants about the Venice Commission's co-operation with the Association of Constitutional Courts using the French Language (ACCPUF).

He attended the 7th Conference of Heads of Institutions of the ACCPUF in Ottawa, Canada on 28-30 April 2014, hosted by the Supreme Court of Canada on the topic "Relations between constitutional courts and the media".

Mr Dürr took the opportunity during this event to offer a training session on CODICES in Strasbourg for those ACCPUF courts that are interested.

7.c Co-operation with the Southern African Chief Justices Forum (SACJF)

Chief Justice Shivute, Namibia, informed the participants about the Venice Commission's co-operation with the Southern African Chief Justices Forum (SACJF).

He told the participants that the SACJF was established in December 2003 in Johannesburg and that it changed its name in 2008 to reflect that it was a Chief Justices meeting and not a meeting for judges. With the accession of Uganda and Kenya, there were now 17 members of the SACJF.

Chief Justice Shivute explained that the SACJF holds annual general meetings to discuss common topics of interest and that the next meeting will be held in Livingstone, Zambia. A Colloquium will also be organised in September 2014 in Windhoek, Namibia.

Contact and co-operation among Southern and Eastern African regions on democracy and independence and the status of judges, is very good. He said that the Courts help each other where possible, although sometimes to no avail e.g. the situation in Swaziland where a judge, who had requested help, ended up nevertheless being dismissed. The SACJF has drafted policy guidelines to approach certain issues and become more effective over time, notably on how courts can assist one another without it being perceived as an interference in internal affairs of another state. The co-operation with regional bodies, international organisations and others is a constitutional imperative and will be promoted. Mr Shivute therefore finds attendance at the JCCJ very useful.

Chief Justice Shivute explained that the links with the Venice Commission played a crucial role in the conception and founding of the SACJF, especially Mr Buquicchio and Chief Justice Chaskalson and later Chief Justice Langa whom he sees as the founding fathers of the SACJF.

7.d. Co-operation with the Conference of the Constitutional Control Organs of the Countries of New Democracy (CCCOCND)

Mr Vahanyan fell ill and could not attend the JCCJ meeting. Mr Dürr therefore informed the participants about the co-operation with the Conference of the Constitutional Control Organs of the Countries of New Democracy (CCCOCND) and the Venice Commission.

Mr Dürr told the participants that the Conference in co-operation with the Constitutional Court of Armenia and CCCOCND on the "Constitutional Status of Human Dignity" will take place on 23-24 October 2014 in Yerevan.

7.e. Co-operation with the Association of Asian Constitutional Courts and Equivalent Institutions (AACC)

Mr Coban informed the participants about the co-operation with the Association of Asian Constitutional Courts and Equivalent Institutions and the Venice Commission (AACC). He said that Turkey currently holds the presidency of the AACC and that the 2nd Congress of the AACC took place in Istanbul at the end of April 2014. This Congress was held in conjunction with the celebration of the 50th anniversary of the Constitutional Court of Turkey.

He informed the participants that the 13th member of the AACC was the Constitutional Court of Azerbaijan and that a declaration (the "Istanbul Declaration") was adopted by the board of members.

Mr Coban informed the participants that the next meeting of the AACC will be held in Jakarta in 2015.

Mr Dürr informed the participants that the ban of YouTube and Twitter in Turkey was heavily criticised by the international community. The Constitutional Court of Turkey, who fought these bans, came under severe attack from the Government and the media. The President of the Venice Commission, Mr Buquicchio, participated in a conference and having heard directly from the Constitutional Court what kind of pressure it was being put under, made a public statement in support of the Court.

Mr Dürr explained that the Venice Commission provides this kind of support when there is severe pressure on Constitutional Courts for the judgments they rendered. These public

statements are, on occasion, taken up by others that have more political power than the Venice Commission.

7.f. Co-operation with the Ibero-American Conference of Constitutional Justice (CIJC)

Mr Dürr informed the participants about the co-operation with the Ibero-American Conference of Constitutional Justice (CICJ).

He told the participants that, in parallel to the CICJ, the Venice Commission had set up a Sub-Commission on Latin America, as the Venice Commission has four full members in Latin America: Brazil, Chile, Mexico and Peru. The Sub-Commission allows members to work more specifically on their issues e.g. meeting in Ouro Preto, Brazil, on “The protection of economic rights in times of economic crisis: what role for constitutional courts” (5-6 May 2014).

7.g. Co-operation with the Union of Arab Constitutional Courts and Councils (UACCC)

The participants were informed about the co-operation with the Union of Arab Constitutional Courts and Councils (UACCC). The next event is a conference organised by the Constitutional Council of Lebanon in Beirut on 14-15 November 2014 on the topic “Evaluating the experiences of constitutional review in Arab States”.

7.h. Co-operation with the Conference of Constitutional Jurisdictions of the Portuguese-speaking Countries (CJCPLP)

Ms Baptista Lopes informed the participants the Conference of Constitutional Jurisdictions of the Portuguese-speaking Countries (CJCPLP), which was established in 2008 in Brazil and held its first general assembly in Lisbon in 2010 and meets every two years. The last meeting took place in Angola and the next one will take place in Brazil.

The members of the CJCPLP are eager to develop a closer co-operation with the Venice Commission.

7.i. Co-operation with the Conference of Constitutional Jurisdictions of Africa (CJCA)

Mr Issac Yankhoba N'diaye informed the participants about the co-operation with the Conference of Constitutional Jurisdictions of Africa (CJCA). He explained that it is his second attendance at the JCCJ and that the CJCA had been established under the auspices of the African Union. It has 31 members.

He explained that an international seminar in Cotonou brought together the African groups on the topic “ The constitutional judge and political control” , which allowed them to take stock of the situation and move towards supporting democracy and the rule of law.

Mr Dürr said that the Venice Commission always tries to support the establishment of bodies such as the CJCA in order to enhance cross-fertilisation especially for courts that have common or similar legal systems.

8. World Conference on Constitutional Justice (WCCJ)

Mr Kim from the Constitutional Court of Korea, the hosts of the 3rd Congress of the WCCJ, made a brief presentation on the advancement of the organisation of the event and showed

the participants a promotional video on the Congress, presented the programme of the event as well as the social programme.

The Congress will be held in Seoul, on 28 September to 1 October 2014. The topic of this Congress is: "*Constitutional Justice and Social Integration*".

Mr Dürr explained that the Congress will have five sub-topics and that the key-note speakers will have to read all the answers to the questionnaire and provide an overview on the sub-topic that they were assigned. There will be seven official languages, which is very expensive, therefore little remains of the budget to cover the organisation of the event. The Constitutional Court of Korea has kindly provided funding to help countries that could otherwise not afford to attend this Congress.

Since the WCCJ's Statute entered into force on 24 September 2011, 86 Constitutional Courts, Constitutional Councils and Supreme Courts exercising constitutional justice have acceded to the WCCJ. The updated list of members is available at www.venice.coe.int/WCCJ.

9. Seminars and conferences with Constitutional Courts (CoCoSem)

The participants were informed about the seminars/conferences in which the Venice Commission has participated since the last Joint Council meeting as well as the programme for future CoCoSem seminars.

2014 – completed events	
12-15 May	<i>Vienna</i> - XVI th Congress of the Conference of European Constitutional Courts
May	<i>Luanda</i> - General Assembly of the Conference of Constitutional Jurisdictions of the Portuguese-speaking Countries (CJCPLP)
28-30 April	<i>Istanbul</i> - 2 nd Congress of the Association of Asian Constitutional Courts and Equivalent Institutions (AACC) and 52 nd anniversary of the CC of Turkey: ``The Role of the Constitutional and Supreme Courts in the protection of the Constitutional order``
28-30 April	<i>Ottawa</i> - Conference of Heads of Institutions of the Association of Constitutional Courts using the French Language (ACCPUF)
24 April	<i>Amman</i> - Conference with the Constitutional Court on "Constitutional Courts And The Judiciary: Protecting Human Rights Together"
26-28 March	<i>Sarajevo</i> - International Conference with the Constitutional Court on: "Constitutional Court – Between a Negative Legislator and Positive Activism"
12-14 March	<i>Santo Domingo</i> - X th Ibero-American Conference of Constitutional Justice on "Legal rules and the Supremacy of the Constitution"
28 February – 1 March	<i>Tbilisi</i> - Conference on "Selection and Evaluation Criteria for Judges" with the Ministry of Justice of Georgia
2014 – upcoming events	
27-28 June	<i>Minsk, Belarus</i> – International conference on "Constitutional review: modern tendencies of development and improvement"
7 July	<i>Strasbourg</i> - Conference on « Best Constitutional Court Practices in Europe" in co-operation with the Constitutional Court of Turkey and the Directorate of Human Rights/DGI of the Council of Europe
17-20 September	<i>Skopje</i> - International conference with the Constitutional Court on Contemporary Challenges of the Constitutional Judiciary, with two sub topics: 1. The principle of separation of powers and its protection by the Constitutional Court; and 2. Constitutional review of byelaws
23-24 October	<i>Yerevan</i> - Conference in co-operation with the Constitutional Court of Armenia and the Conference of Constitutional Control Organs of the Countries of New

	Democracy (CCOCND) on the "Constitutional Status of Human Dignity".
November	Strasbourg – Training for ACCPUF liaison officers on contributing to CODICES

10. Publication of the *Bulletin on Constitutional Case-Law*

10.a Regular issues of the *Bulletin*

Mr Dürr presented Bulletin no. 2013/2 and informed the liaison officers that Bulletin no 2013/3 would be ready soon.

He thanked the liaison officers for their regular contributions.

10.b Special *Bulletins*

Ms de Broutelles informed the participants about the Special Bulletin on Court Descriptions, last published in 1999, which will be published either in September or October 2014. She thanked the liaison officers for having updated their Court descriptions.

Mr Dürr reminded the liaison officers that a link to the working document on “Co-operation of Constitutional Courts in Europe – current situation and perspectives” for the XVIth Congress of the Conference of European Constitutional Courts, which was held in Vienna on 12-15 May 2014, was distributed at the end of May 2014 (<http://www.venice.coe.int/files/2014-05-02-CECC-e.pdf>). Any changes should be sent to the Secretariat by 15 September 2014.

This working document will be published in 2015 as a Special Bulletin together with the General Report of the XVIth Congress.

11. CODICES database

Updating and indexing of constitutions, laws and descriptions in CODICES

The participants were informed about the progress made in updating constitutions, laws on and descriptions of courts (see CDL-JU(2014)006).

Mr Dürr explained that the Secretariat encountered a number of problems with the computer system and the DVD could therefore not be produced. The problem would hopefully soon be fixed.

He told the participants that due to an agreement with ACCPUF, the Venice Commission has the duty of producing a DVD and hard copies of the Bulletin on Constitutional Case-Law.

Mr Dürr informed the participants that the CODICES database would need to be completely re-built and that this would require considerable funds. The Courts were invited to see whether their respective Governments could support this work.

The liaison officers agreed that CODICES needed to be made more visible and accessible.

12. Documentation Centre on Constitutional Justice / Library

The Secretariat thanked the participating courts for their contributions to the Documentation Centre. The list of documents is available at:

<http://www.venice.coe.int/WebForms/cocentre/new.aspx>

13. Version 22 of the Systematic Thesaurus

The Secretariat presented the results of the meeting of the Working Group on the Systematic Thesaurus (item 1, above and document CDL-JU(2014)008).

The participants adopted the modifications made to the Systematic Thesaurus which will be published in a "Version 22" of the Systematic Thesaurus.

14. Other business

No other business was discussed.

15. Date and place of the next meeting

The next meeting of the Joint Council will take place in Bucharest in 2015, on the kind invitation of the Constitutional Court of Romania.

C. Mini conference on the "Role of constitutional courts in economic crises"

The conclusions of the mini conference were prepared by Rik Ryckeboer, liaison officer for the Constitutional Court of Belgium:

During economic crises, governments and parliaments have to take urgent and sometimes draconian measures that affect all citizens, but especially those with low incomes.

It is difficult for constitutional courts to assess whether or not governments and parliaments have crossed the line set by constitutions or by fundamental principles and human rights. But at the same time, these courts have to maintain a certain flexibility and apply common sense to the situation at hand.

The courts also have the duty to uphold minimum standards and to prevent arbitrary and irrational measures from being adopted.

Courts are also often a last resort for persons who, without this protection, would fall well below the minimum essential levels of social and economic rights necessary for living in dignity.

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