



## **TURKEY**

JOINT SUBMISSION TO THE UN COMMITTEE ON THE  
ELIMINATION OF DISCRIMINATION AGAINST WOMEN  
82<sup>ND</sup> SESSION JUNE – JULY 2022

ISSUES RELATING TO WOMEN REFUGEES, ASYLUM SEEKERS,  
MIGRANTS, AND IMMIGRATION DETENTION

**16 May 2022**

*Joint submission from:*

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## **ABOUT THE INTERNATIONAL REFUGEE RIGHTS ASSOCIATION (IRRA)**

The International Refugee Rights Association (IRRA) was established in 2013 by legal practitioners following a mass influx of refugees into Turkey, with the aim of defending their legal rights and promoting legal regulations and their implementation in line with international standards. The IRRA's mission is:

- To be a pioneer in refugee legal aid provision and right-based advocacy in line with international standards through its dedicated team of lawyers across Turkey;
- To prevent violations of the right to live and promote the prohibition of torture within the scope of international human rights law, especially in immigration detention and deportation cases;
- To raise public awareness and knowledge about the global situation of refugees as well as their plight in Turkey through activities, training, and media including television, newspapers, and social media;
- To document and report on the condition and challenges faced by refugees inside and outside camps both in Turkey and abroad.

## **ABOUT THE GLOBAL DETENTION PROJECT**

The Global Detention Project (GDP) is a non-profit organisation based in Geneva that promotes the human rights of people who have been detained for reasons related to their non-citizen status. Our mission is:

- To promote the human rights of detained migrants, refugees, and asylum seekers;
- To ensure transparency in the treatment of immigration detainees;
- To reinforce advocacy aimed at reforming detention systems;
- To nurture policy-relevant scholarship on the causes and consequences of migration control policies.

## TURKEY

### Joint Submission to the UN Committee on the Elimination of Discrimination Against Women 82<sup>nd</sup> Session, June – July 2022

#### Issues Relating to Women Refugees, Asylum Seekers, Migrants, and Immigration Detention

#### 1. INTRODUCTION: TREATMENT OF REFUGEES, ASYLUM-SEEKERS AND MIGRANTS IN TURKEY, INCLUDING MIGRATION-RELATED DETENTION

- 1.1. The International Refugee Rights Association (IRRA) and the Global Detention Project (GDP) welcome the opportunity to provide information relevant to the eighth periodic review of Turkey with respect to the implementation of the UN Convention on the Elimination of Discrimination Against Women (CEDAW) during its eighty-second session. The submission focuses on human rights concerns relating to Turkey's treatment of women refugees, asylum seekers, and migrants, including its use of immigration detention.
- 1.2. Turkey's immigration and asylum policies have been shaped by numerous factors related to its geography, history, and politics. Its relationship with the European Union (EU) has been particularly crucial because of Turkey's location between the EU and the Middle East and other parts of the world.
- 1.3. As the country has stepped up its immigration controls in recent years, there have been increasing reports of human rights abuses in detention centres and in other control sites along its borders and at ports of entry.<sup>1</sup> Women have also been subjected to abuses and gender-specific violations, including reports of rape of refugee women in some removal centres<sup>2</sup> as well as humiliating strip searches.<sup>3</sup>
- 1.4. Despite a long history of migration due to both its historical and geographical location, Turkey did not establish a comprehensive migration policy until the 2000s. However, the large-scale refugee movements which followed the Arab revolts in 2011 across the Middle East, prompted Turkey to start putting in place institutionalized migration and asylum policies. In this context, Law 6458 on Foreigners and International Protection (LFIP) was published in the Official Gazette on 11 April 2013. As well as taking into account general "EU acquis" in the preparation of the new law, the authorities also tried to ensure that it was in compliance with decisions made by the European Court on Human Rights (ECHR).<sup>4</sup>
- 1.5. In 2015, during Europe's "refugee crisis,"<sup>5</sup> hundreds of thousands of people transited Turkey en route to Europe.<sup>6</sup> Brussels subsequently negotiated an agreement with Ankara aimed at stemming refugee flows. The controversial 2016 [EU-Turkey deal](#) established that Turkey would prevent refugees from leaving its territory for Europe, and that all migrants and asylum seekers who arrived on Greek islands after 20 March 2016 would be liable to return to Turkey.<sup>7</sup>
- 1.6. In October 2016, Turkey issued Decree 676, which expanded the grounds for deporting people still applying for international protection,<sup>8</sup> and resulted in increased deportations of refugees and asylum seekers to countries like Afghanistan, Syria, and Iraq.<sup>9</sup> In July 2019, authorities in Istanbul announced raids, stop-checks, and arrests of Syrian refugees registered in other cities.<sup>10</sup> The raids were followed by summary deportations into northern Syria.<sup>11</sup>
- 1.7. In February 2020, just before the onset of the COVID-19 pandemic, Turkey announced that it would open its borders with Europe and cease efforts to stop refugees from crossing. In a televised speech, Turkish President Recep Tayyip Erdogan accused EU leaders of failing to keep their promises to help Turkey shoulder the refugee load.<sup>12</sup> Thousands of migrants and refugees travelled to the Greece-Turkey border, with some

reports suggesting that Turkish police had transported groups to border areas and shown them where to cross.<sup>13</sup> Greek security forces deployed at the border used tear-gas, water cannons, and stun grenades to prevent border crossings.<sup>14</sup> Some people were reportedly detained, assaulted, robbed, and stripped by Greek security forces before being pushed back into Turkey.<sup>15</sup>

- 1.8. After US and other international forces pulled out of Afghanistan in mid-2021, the Turkish government, already host to 300,000 Afghan refugees, was unequivocal in its response, stating that it could not take in any more Afghan refugees and that it wouldn't be used as a "migrant storage unit" for refugees trying to reach Europe.<sup>16</sup> An estimated 53,000 Afghans were deported from Turkey between 2018 and 2019.<sup>17</sup> In 2021, fearing a new influx of migrants and refugees, Turkey constructed a wall and surveillance system along its 295 kilometre border with Iran to prevent refugees from entering the country. The country also summarily expelled thousands of Afghans, including women and children.<sup>18</sup> Afghan families described repeatedly trying to cross the border into the Van region of Turkey that borders Iran, being caught by the police and deported or detained.<sup>19</sup>
- 1.9. Turkey has one of the world's largest immigration detention systems, which is comprised of "removal centres," ad hoc detention sites along its borders, transit facilities in airports, and police stations in 27 different locations in Turkey, three of which are in Istanbul.<sup>20</sup> Unfortunately, there is no publicly available official data on the total number of women being held in immigration detention in Turkey.
- 1.10. Migrants who are found to be remaining "illegally" in Turkey are held in detention facilities (formerly known as the Foreigners' Branch of Local Police Department Guesthouses) pending their deportation.
- 1.11. After the arrest of irregular migrants by law enforcement agencies in Turkey, their fingerprints and photographs are recorded in a common database integrated by the General Directorate of Security, the Gendarmerie General Command, the Coast Guard Command, and the Directorate of Migration Management. Foreign nationals who come to the Removal Center are first interviewed to determine their identity and nationality and whether they have travel documents, and after the relevant legal process is completed, deportation procedures are carried out if deemed appropriate.
- 1.12. The number of people being held in immigration detention in Turkey has risen dramatically from 1,750 in 2015, to 20,000 people as of May 2022. 320,172 foreigners have been deported from Turkey since 2016. Although deportations dropped during the COVID-19 pandemic, since 2021 the return rates have increased substantially, with a 74% increase in deportations in 2021 compared to the previous year.<sup>21</sup>
- 1.13. In April 2020, the Turkish Parliament passed a law allowing for the release of up to 100,000 prisoners from Turkish jails in response to the COVID-19 pandemic.<sup>22</sup> By June 2020, a total of over 64,661 prisoners had been temporarily released.<sup>23</sup> However, according to research carried out by the Global Detention Project in December 2020, there were no reports of any immigration detainees being released for COVID-related reasons between April and December 2020. Moreover, the Turkish government did not delay or stop issuing administrative detention orders as a result of the global pandemic and regular reporting to the Provincial Directorate of Migration Management as an alternative to detention was suspended during the pandemic. Removal decisions also continued to be issued during this time.
- 1.14. Although some detainees being held in overcrowded centres were transferred to less crowded ones to facilitate social distancing, in general no other measures appear to have been taken to effectively prevent the spread of COVID-19 amongst immigration detainees or to provide adequate care to those who fell ill, there was no obligatory quarantine on release from immigration detention, and migrants and asylum seekers were not routinely tested for the virus.<sup>24</sup>
- 1.15. Registered refugees, asylum seekers, and those persons with temporary protection status all had access to COVID-19 vaccines. However, language barriers, difficulties accessing information and booking systems, and fears of being reported to the police and deported have prevented refugees and migrants from getting vaccinated.<sup>25</sup>

## 2. RELEVANT RECOMMENDATIONS FROM THE CONCLUDING OBSERVATIONS OF CEDAW'S SEVENTH PERIODIC REVIEW OF TURKEY

2.1 In its seventh periodic review of Turkey in 2016, the CEDAW Committee noted with appreciation that Turkey had welcomed more than 2.5 million refugees, mainly from Syria, and allocated "significant resources to catering for their needs." Nevertheless, the Committee noted concerns about the precarious and insecure living conditions for women refugees, both inside and outside the refugee camps, including deprivation of basic services and essential goods, education, economic opportunities, health care, clothing, food, heating and hygiene articles and increased risks of sexual and other forms of violence. In particular, the Committee raised concerns about the increase in prostitution amongst Syrian refugee women and girls aged between 15 and 20 years of age as a means to support themselves and their children; the pervasive underreporting of gender-based and sexual violence against refugee women and the lack of specialised services in place; and the prevalence of forced marriages of refugee women and girls to Syrian and Turkish men for socioeconomic or protection reasons.

2.2 The Committee recommended that Turkey take prompt action to improve the security of refugee women and girls, increase their access to basic services and essential goods, including food, clothing and hygiene articles, and ensure that they are not compelled into sexual or labour exploitation. In particular, it called on Turkey to:

- Ensure access to education, training, and livelihood opportunities and health care;
- Provide capacity-building programmes for law enforcement authorities on responding to cases of gender-based violence, including sexual violence, against refugee and asylum-seeking women and girls;
- Ensure that refugees and asylum seekers, in particular women, are informed about the national referral mechanisms for victims of sexual and gender-based violence and how to gain access to the formal justice mechanism.<sup>26</sup>

2.3 Also of relevance, are the recommendations that the CEDAW Committee has made in its "General Recommendation No. 32 on the gender-related dimensions of refugee status, asylum, nationality and statelessness of women," with respect to the detention of refugee and asylum-seeking women. These include:

"Gender sensitivity should be reflected in reception arrangements, taking into account the specific needs of victims of sexual abuse and exploitation, of trauma and torture or ill-treatment and of other particularly vulnerable groups of women. Reception arrangements should also allow for the unity of the family as present within the territory, in particular in the context of reception centres. **As a general rule, pregnant women and nursing mothers, who both have special needs, should not be detained. Where detention of women asylum seekers is unavoidable, separate facilities and materials are required to meet the specific hygiene needs of women. The use of female guards and warders should be promoted. All staff assigned to work with women detainees should receive training relating to the gender-specific needs and human rights of women. Pursuant to articles 1, 2, 5 (a) and 12 of the Convention, failure to address the specific needs of women in immigration detention and ensure the respectful treatment of detained women asylum seekers could constitute discrimination within the meaning of the Convention. Not least for the purposes of avoiding violence against women, separate facilities for male and female detainees are required, unless in family units, and alternatives to detention are to be made available**" [Para 34].<sup>27</sup>

**"States parties should recognize in their legislation that seeking asylum is not an unlawful act and that women asylum seekers should not be penalized (including by means of detention) for their illegal entry or stay if they present themselves to the authorities without delay and show good cause for their illegal entry or stay. As a general rule, detention of pregnant women and nursing mothers, who both have special needs, should be avoided, while children should not be detained with their mothers unless doing so is the only means of maintaining family unity and is determined to be in the best interest of the child. Alternatives to detention, including release with or without conditions, should be considered in each individual case and especially when separate facilities for women and/or families are not available"** [Para 49].<sup>28</sup>

### **3 KEY ISSUES FACING WOMEN REFUGEES, ASYLUM SEEKERS, MIGRANTS, AND VICTIMS OF TRAFFICKING IN TURKEY, INCLUDING IN IMMIGRATION DETENTION FACILITIES**

- 3.1 As the country has stepped up its immigration controls in recent years, there have been increasing reports of human rights abuses in detention centres and in other control sites along its borders and at ports of entry.<sup>29</sup> Women have also been subjected to abuses and gender-specific violations, including reports of rape of refugee women in some removal centres<sup>30</sup> as well as humiliating strip searches.<sup>31</sup>
- 3.2 Contrary to the recommendations cited above from CEDAW General Recommendation No. 32, the Asylum Information Database (AIDA) of the European Council on Refugees and Exiles cites reports of unaccompanied children, mothers with children, pregnant women, children with disabilities, elderly persons with health conditions, LGBTI persons, sex workers and victims of trafficking being held in immigration detention in Turkey, not receiving sensitive or appropriate treatment, and in some cases being ill-treated or discriminated against.<sup>32</sup> The LFIP defines “persons with special needs” as unaccompanied minors, persons with disabilities, elderly persons, pregnant women, single parents with accompanying children, victims of torture, rape or other serious psychological, physical or sexual violence.<sup>33</sup> In general, there are no special provisions or protection for “persons with special needs” held in removal detention centres.
- 3.3 Summary, unlawful deportations have also affected women, children, and other vulnerable groups, with authorities “expelling groups of around 100 Syrian men, women and children to Syria on a near-daily basis” since mid-January 2016. Returnees reportedly included children and pregnant women.<sup>34</sup>
- 3.4 Women victims of trafficking also face serious protection challenges in Turkey. In 2006, Turkey revised its [Criminal Code](#) to include penalties for smugglers and traffickers (Law No. 5237, Article 89). The LFIP includes the protection of “victims of human trafficking benefitting from victim support processes” from expulsion (Article 55 (1)(ç)). The law provides for the establishment of centres and shelters for victims of human trafficking, as well as for outsourcing operations at these facilities (Article 108 (1)(i)(6)). As such, Turkey reportedly provides two dedicated facilities for victims of trafficking: one run by the Directorate General for Migration Management (DGMM) in Kirikkale with 12 spaces, and another operated by Ankara’s municipality with 30 places.<sup>35</sup>
- 3.5 Despite these provisions, observers report that trafficked persons often go unidentified and are detained and deported.<sup>36</sup> The US State Department, in its 2018 report on trafficking, found that “the government did not meet the minimum standards in several key areas. ... Civil society remained largely excluded from anti-trafficking efforts, and specialised support services for victims were limited to a government-run shelter after several NGO-run shelters closed in 2016; critics asserted civil society’s diminishing role hindered the identification and specialised care of victims.”<sup>37</sup> Moreover, according to AIDA, sex workers (and among them, potential victims of trafficking) are at particular risk of detention in removal centres on public order and public health grounds (LFIP, Article 57). In one judgement, the 2nd Magistrates’ Court of Aydın upheld a detention order on grounds of “public security” issued to eight foreign women who had been informally working in a night club.<sup>38</sup>
- 3.6 Turkey has received various recommendations to improve protection of vulnerable persons. In 2012, the UN Human Rights Committee (HRC) urged the country to “protect victims of trafficking from prosecution, detention or punishment for activities they were involved in as a direct consequence of their situation as trafficked persons.”<sup>39</sup> This recommendation was repeated in 2016 by the Committee on the Protection of All Migrant Workers and Members of their Families (CMW).<sup>40</sup>

### **4 INFORMATION FROM THE INTERNATIONAL REFUGEE RIGHTS ASSOCIATION (IRRA) ON TREATMENT OF WOMEN IN IMMIGRATION DETENTION CENTRES**

- 4.1 To prepare this report, IRRA undertook interview with seven lawyers (five of them women), who represent women detainees in seven detention centres [Kocaeli, Istanbul, Kirklareli, Izmir, Gaziantep, Erzurum, and Hatay.] It is important to note while these interviews represent only a partial sampling of Turkey’s full detention systems, the results may be indicative of the current state of the country’s policies with respect to women in immigration detention.

- 4.2 General recommendation No. 32 stipulates the need for States to implement “measures to ensure that women are not discriminated against and that they are provided with effective legal protection throughout the asylum process.” More specifically, Paragraph 50(a) states that women asylum seekers should “have the right to an independent claim to asylum and, in this respect, to be interviewed separately, without the presence of male family members, so that they have the opportunity to present their case.” The lawyers interviewed indicated that women asylum seekers have the right to legal aid and legal representation, but they face gender-related barriers in accessing these rights. Due to lack of language and financial means, as well as household responsibilities, including childcare, women have more restricted access to lawyers and translators than men, they have more limited networks than men, and are frequently unable to attend meetings in persons because of childcare responsibilities. All these factors limit women’s access to adequate legal representation. The lawyers also said that detained asylum seekers, including women, generally do not have adequate information about their specific legal rights and that there is an inadequate number of officials to provide this information. While bar associations do provide legal assistance for refugees, this is generally only for legal cases and not for administrative processes, such as asylum cases. This evidence appears to indicate that Turkey has yet to implement practices that bring it fully in line with General Recommendation 32.
- 4.3 In terms of treatment of women in immigration detention centres, the lawyers noted that women also face certain gender-related barriers. Women with children younger than five years of age are detained with their children, contrary to international guidelines that as a general rule children should not be held in immigration detention.<sup>41</sup> If women have children over the age of five, the children are separated from their mothers and are expected to be cared for by relatives, or in the local community.
- 4.4 Pregnant women in detention centres do not have access to regular gynecological appointments, unlike pregnant women elsewhere in Turkey who receive monthly check-ups. Even pregnant women at risk of miscarriage have not been allowed to seek a doctor while they are in detention and it is only in the most critical cases that women may be transferred to a hospital, for example in the event of fainting or bleeding. Pregnant and nursing women and babies cannot access adequate or sufficient food that meets their specific nutritional needs, and required vitamins for pregnant and lactating women, such as folic acid, are not provided. These practices are in contravention of paragraph 49 of General Recommendation 32, which states that as a general rule “**detention of pregnant women and nursing mothers, who both have special needs, should be avoided, while children should not be detained with their mothers unless doing so is the only means of maintaining family unity and is determined to be in the best interest of the child.**” In this respect, the UN Committee on the Rights of the Child has ruled that the detention of children because of the migration status of their parents “constitutes a child rights violation and contravenes the principle of the best interests of the child.”<sup>42</sup>
- 4.5 Paragraph 48 of General Recommendation No. 32 states that: “States parties should ensure, throughout the asylum procedure and during the integration process for women granted refugee status, an adequate standard of living, including safe accommodation, sanitary and health facilities, food, clothing and necessary social services, in addition to sources of livelihood and employment opportunities for women asylum seekers and refugees, and provide for appropriate monitoring and complaints mechanisms at reception facilities.” With regards to conditions for women in detention, these can vary considerably depending on the detention centre. For example, while it is reported that the detention center in Kirklareli has good accommodation facilities, the center in Izmir has been criticized for its low standards and poor living conditions. The quality and quantity of food can also vary considerably depending on the detention centre, for example, there are reports that food at Izmir detention centre is poor quality and insufficient quantity. In general, the quality and quantity of food is not sufficient and this can have a negative impact, especially on pregnant, lactating, and menstruating women. The lawyers noted that while hygiene kits are provided to women in detention, often these do not contain sufficient sanitary pads, or other items such as shampoo and detergent. If an officer in charge is not on duty, detainees can wait for more than a week to be supplied with essential items (for example, if the officer in charge is on leave). Asylum seekers have few employment opportunities, regardless of whether they are detained or not.

They do not receive clothing and have no money to pay for them, this is especially a problem for pregnant women and due to seasonal changes in the weather. No social support, counselling, or mental health services are provided to women in detention. All of these aspects fall short of the standards provided for in paragraph 48 of General Recommendation No 32.

- 4.6 Paragraph 5 of General Recommendation 32 states that refugee women should not be subjected to torture or to cruel, inhuman or degrading treatment or punishment, in line with international human rights law. Several cases of inhumane acts against women in immigration detention centers in Turkey have been investigated. In one of these cases, involving an Iranian female complainant Z.N. at the Immigration Detention Center in Van, a decision of non-prosecution was rendered for the five civil servants accused in the case.<sup>43</sup> In another incident against a Chechen female asylum seeker that took place in the detention center in Kocaeli, the Presidency of Migration Management issued a press release stating that the allegations did not reflect the truth.<sup>44</sup>
- 4.7 As stated in paragraph 34 of General Recommendation No. 32, “Gender sensitivity should be reflected in reception arrangements, taking into account the specific needs of victims of sexual abuse and exploitation, of trauma and torture or ill-treatment and of other particularly vulnerable groups of women and girls.” Although there are female officers in the detention centres, women continue to fear sexual harassment and abuse. For example, women detainees are usually accompanied by male officers when they meet with visiting relatives or lawyers. This can cause women detainees considerable discomfort and sense of insecurity due to cultural and religious sensitivities. Moreover, even in women-only corridors, there are cameras which male security officers can view. Women wanting to reach the toilets or bathrooms, or the visiting areas to meet with relatives and lawyers, have to pass the cameras in the corridors. Because of religious sensitivities, many women will only leave their rooms in full hijab, to avoid being caught on the cameras and being viewed by male officers. Women also feel uncomfortable during outdoor recreation periods as they can be viewed by male officers and filmed on security cameras while they are outside. As a result, many women detainees never go outside and do not benefit from fresh air and natural light. Even in their own rooms women may not feel comfortable, as male officers may interact with them, for example when bringing food.

## **5. RECOMMENDATIONS**

- 5.1 Turkey should be encouraged to regularly collect and publish gender disaggregated data on the number of women and girls being held in immigration detention facilities throughout the country.
- 5.2 Gender-sensitivity and human rights training should be provided to all officials working with women refugees, asylum seekers, migrants, and victims of trafficking to enable them to more appropriately meet the gender needs and protect the human rights of women and girls under their care. This includes immigration detention centre staff and officers, immigration officials, lawyers, social workers, and other staff. In particular, staff should be trained to recognize, prevent, report, and protect women and girls against sexual and gender-based violence, harassment, exploitation, and abuse and trained to overcome the gender-specific barriers that women may face in accessing legal advice, assistance, and services.
- 5.3 In line with General Comment No. 3 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 22 (2017) of the Committee on the Rights of the Child, children should not be detained, even with their parents, as this constitutes a human rights violation and is never in the best interests of the child, and in cases where children are with their families the best interests norm requires that the family not be detained but rather receive appropriate reception and care. Moreover, as stipulated by General Recommendation No. 32 of CEDAW, pregnant and nursing women should not be detained, and children should not be detained with their mothers. The Committee should again urge Turkey to follow this guidance.
- 5.4 In the event that pregnant and nursing women are detained, they must be provided with specialized care, including appropriate and regular access to medical care and gynecological check-ups; appropriate, nutritious food, vitamins, and other supplements as required;



appropriate clothing, especially for pregnant women; and supplementary food for babies and breastfeeding mothers.

- 5.5 Immigration detention centres should be adequately staffed with female officers. Women-only sections of detention centres, including outdoor recreation areas, should be exclusively for women staff and only women should have access to security cameras in these sections of the detention centres.
- 5.6 Women refugees, asylum seekers, and migrants should have adequate and appropriate access to medical care, mental health and counselling services, and social support, where possible provided by female professionals.
- 5.7 Women and girl refugees, asylum seekers, migrants, and victims of trafficking should be supported to report cases of sexual and gender-based violence, abuse, harassment, and exploitation, including in immigration detention centres; such reports should be thoroughly and sensitively investigated by trained law enforcement officials, and all efforts made to bring the perpetrators to justice.

## ENDNOTES

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<sup>4</sup> Law on Foreigners and International Protection, 2013, Law no: 6458. [https://www.unhcr.org/tr/wp-content/uploads/sites/14/2017/04/LoFIP\\_ENG\\_DGMM\\_revised-2017.pdf](https://www.unhcr.org/tr/wp-content/uploads/sites/14/2017/04/LoFIP_ENG_DGMM_revised-2017.pdf)

<sup>5</sup> Global Detention Project, "Physical Fences and Digital Divides—A Global Detention Project Investigation into the Role of Social Media in the Context of Migration Control, Part I: Exposing the 'Crisis'," 22 May 2018, <https://www.globaldetentionproject.org/physical-fences-and-digital-divides-exposing-the-crisis>

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