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## State Security in Ukraine: Legal Framework and Enforcement Mechanisms

This article examines Ukraine's legal framework for ensuring state security. The study aims to assess the current stage of its development and to propose legal improvements that align with international security standards. The findings indicate that Ukraine's

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legislation lacks a unified conceptual approach to defining state security, resulting in legal uncertainty and inefficiencies in protective measures. Three key dimensions of state security are identified: substantive (a set of military actions to counter threats), institutional (the distribution of powers among authorities), and organizational-legal (a system of regulatory provisions). The concept of state security is proposed to be understood as preventive and deterrent measures undertaken by the state to safeguard territorial integrity. The study concludes that a legal framework distinguishing state security from national and military security should be developed. It further advocates legislative reforms to strengthen Ukraine's resilience against modern threats and to ensure the effective protection of national interests.

**Keywords**

legal uncertainty; national interests; state security; state sovereignty; territorial integrity.

## Introduction

The ongoing military aggression, hybrid threats, cyberattacks, information warfare, and internal destabilization in Ukraine underscore the critical importance of ensuring state security (Nizovtsev et al., 2022). Since the Constitution of Ukraine (Verkhovna Rada of Ukraine, 1996) proclaims human life as the highest social value, it follows that guaranteeing human security is the primary function of the state. Consequently, any measures undertaken by the state to counter security violations must also safeguard the rights and freedoms of its citizens.

At present, Ukraine's legal framework for state security is fragmented, and the distinction between state, national, and military security remains unclear at the legislative level. This ambiguity gives rise to legal uncertainty and diminishes the effectiveness of protective measures. To address this, the scope of state security must be clarified by examining its relationship with related concepts such as human security, national security, the right to defense, and the right to sovereignty. However, a unified and generally accepted approach to defining the notion and scope of state security has yet to be developed. Thus, this article seeks to introduce a new approach to defining the concept of state security by examining its scope within the legal field. The relevance of the issue is reinforced by the need to align domestic legislation with international security standards arising from Ukraine's European integration processes (De Luca & Giungato, 2024). The initial steps in countering modern threats and safeguarding state sovereignty and territorial integrity involve clarifying the scope of state security

and strengthening the mechanisms of its legal protection. In addition, the article identifies the actions to be taken against violations of state security and further classifies them according to their scope. State security and measures to prevent its infringement have been examined through the lens of various scientific fields, including military science and administrative science. In military science, state security is primarily associated with protecting the nation-state against external military threats. This perspective emphasizes the development and maintenance of armed forces, defense strategies, and military readiness to deter or respond to aggression (Idachaba, 2019). Szpyra (2014) defines military security as the capacity of a nation-state to defend itself and/or deter military aggression, further underscoring the role of organized coercive force in national defense.

In administrative science, scholars approach state security from the standpoint of governance and policy implementation, focusing on the institutions, regulations, and processes that preserve internal stability and public order. Chachko (2020) characterizes state security as a set of goals, directives, and intentions formulated by officials to mitigate threats within the state's jurisdiction. In this sense, state security encompasses the development of legal frameworks, the functioning of law enforcement agencies, and the adoption of administrative measures to prevent internal threats such as terrorism, espionage, or subversion. The scientific novelty of this article lies in its original approach to defining the scope of state security by establishing its relationship with related concepts such as national security, military security, defense, and the right to sovereignty. For the first time, defense is examined through three dimensions: substantive (a set of military actions to counter threats), institutional (the distribution of powers among authorities), and organizational-legal (a system of regulatory provisions). The study substantiates the need to amend Ukraine's current legislation, including the Law of Ukraine On National Security, by introducing clarifications regarding the scope of state security. In addition, the scope of state security in the legislation of the EU and the United States is compared to identify regulatory trends and distinctive features at the international level. These findings expand the theoretical understanding of state security and reinforce the need to improve Ukraine's legislative framework.

## 1. Literature Review

In the scientific literature, state security is generally understood as a set of measures aimed at protecting the sovereignty, territorial integrity, constitutional order, and national interests of the state (Verkhovna Rada of Ukraine, 2018). Within Ukrainian administrative law, research has focused on the relationship between state security and national or military security (Dragan et al., 2025). However, scholarly works still lack a clear distinction between these concepts, resulting in legal uncertainty. Contemporary Ukrainian scholars in administrative law define state security as a set of organizational, economic, and political measures implemented by public authorities under conditions of martial law (Farrand et al., 2024). Rattanasengchanh (2024) analyzes defense as a component of state security directed at preventing and repelling attacks on a country's territory. Tran and Vo (2024) define military security as a state's ability to repel external aggression by armed means, while De Luca and Giungato (2024) emphasize the role of state security in addressing internal threats. International scholars propose diverse approaches to conceptualizing state security. In the United States and the European Union, it is often viewed through the lens of protecting the constitutional order and preventing threats to internal stability (Hwang, 2025; Levy, 2025). American scholarship, in particular, highlights the importance of grounding state security in moral principles when determining national interests (Borowitz et al., 2024). Furthermore, the distinction between state security and national security has been a subject of scholarly debate in Ukrainian political discourse. Kuts (2023) argues that national security encompasses a broader spectrum, including both societal and individual dimensions, whereas state security is primarily concerned with safeguarding sovereignty, constitutional order, and territorial integrity. This distinction is particularly evident in democratic societies, where the protection of individual rights and societal interests forms an integral part of national security. By contrast, in authoritarian regimes, the two concepts often converge, with a stronger emphasis on regime stability than on broader societal welfare.

Modern researchers increasingly examine the integration of cyber components into the concept of state security. Shackelford and Andres (2010), for example, address the complexities of attributing cyberattacks to state actors and discuss the implications for state security within the framework of international law. Schiliro (2023) explores cybersecurity

as part of the broader state security framework, emphasizing the need for a comprehensive understanding that aligns with state security objectives. He defines cybersecurity as the coordinated use of resources (personnel, structures, etc.) to protect networks and cyber-enabled systems from incidents that threaten their integrity, violate property rights, or cause potential losses. This definition underscores the importance of safeguarding critical infrastructure and information systems as essential elements of state security. Shi (2024) likewise stresses the importance of countering information influence operations and cyber threats, particularly in the context of hybrid warfare. The analysis revealed significant gaps in the scientific literature concerning the interpretation of state security. To address these shortcomings, a comprehensive approach that integrates substantive, institutional, and organizational-legal dimensions should be developed. Accordingly, this study seeks to fill these gaps by clarifying the concept of state security and proposing improvements to the legal framework in this field.

## 2. Materials and Methods

The theoretical and methodological foundation of this study is a comprehensive approach to state security, examined as an object of legal protection in Ukraine. The sources used include legislative acts of Ukraine, in particular the Constitution of Ukraine (Verkhovna Rada of Ukraine, 1996) and the Law of Ukraine On National Security (Verkhovna Rada of Ukraine, 2018). Additional materials comprise decisions of the Constitutional Court of Ukraine, regulatory acts issued by the President of Ukraine and the Cabinet of Ministers of Ukraine, as well as scholarly articles in administrative law and security studies that explore various approaches to defining national and state security. The study also draws on European legal acts and international security standards that influence the regulatory and legal framework for state security. This study employed both general and specialized methods of scientific inquiry to provide a comprehensive analysis of the legal framework for preventing violations of state security in Ukraine. Particular attention was devoted to interpreting the concept of state security and its scope through the examination of international security standards and law enforcement practices. The abstract-logical method was applied to define the notion of state security and to establish its relationship with related concepts such as national security, military security, defense,

and the right to sovereignty. Historical-discursive analysis was used to trace the development of legal frameworks for state security in Ukraine and globally. System-structural and system-functional methods were applied to examine the scope and structure of state security, enabling the identification of its functions both under martial law and in the absence of military threats. Modeling and forecasting methods were employed to substantiate the need for amendments to Ukraine's current legislation in the field of state security. The comparative legal method was used to analyze the concept of state security in U.S. and EU legislation, which, in turn, made it possible to identify trends and specific features of legal regulation in this area at the international level. The application of these methods facilitated an in-depth analysis of the legal framework and law enforcement practices in the field of state security. On the basis of this analysis, substantiated recommendations were developed to improve Ukrainian legislation with the aim of strengthening the protection of state sovereignty and territorial integrity.

### 3. Results and Discussion

#### **3.1. State Security and National Interests: Perspectives from Western Academia**

Scholars in EU legal studies often equate the notions of national interests and national security, viewing the protection of national interests as an integral component of national security policies (Hama, 2021). Niebuhr (2013) was among the first American scholars to formally employ and analyze the concept of national interest in academic research. He demonstrated that national interests are closely linked to social values and the moral principles that shape relations within society. According to Niebuhr (2013), justice plays a central role in shaping these values and in determining the essence of national interests. Aron, Mahoney, and Anderson (2017) also interpreted the notion of national interests within the framework of social values. They grounded the functions of the state in the idea of national unity, equating national interests with the power of the people. From this perspective, state security is defined as a set of actions, policies, and strategies aimed at upholding the principles of national unity. Accordingly, the degree of societal cohesion determines the effectiveness of state security. Therefore, national interests must be taken into account

when formulating government policies and assessing whether these policies align with the moral values of society (Kennan, 2014). Sarkesian, Williams, and Cimbala (2008) emphasized the necessity of objectifying national interests, a position later supported by Bloom (2024), who regarded such objectification as a regulatory requirement. Both scholars, while acknowledging the complexity of the concept of national interest, argued that its functions include safeguarding state independence and integrity, as well as fostering economic growth and social stability. However, the idea of objectifying national interests has not received a clear or consistent evaluation in the wider academic community. Critics contend that the determination of values should be understood as an evaluative process that necessarily relies on the subjective judgments of authorized actors. This objection is reflected in the works of Slawotsky (2024).

In summary, the foundations of national interests are rooted in social values and collective benefits. Social values, in turn, shape national development and serve as the basis for maintaining state security. International legal frameworks establish the principles for pursuing and safeguarding national interests. Articles 1(1) and 4(3) of the Treaty establishing the European Community affirm the idea of global partnership and stipulate that the pursuit of national goals must be balanced against the interests of other states. This principle is further reinforced by Article 5(3) of the Single European Act (1986), which introduced the concept of subsidiarity. Initially applied primarily to environmental protection, the principle of subsidiarity has since broadened in scope as European legislation evolved. It now prescribes that the EU should take action only when issues cannot be effectively addressed by individual member states.

### **3.2. Clarifying the Boundaries Between Defense and State Security**

As noted in previous sections, the concept and scope of state security should be examined in relation to other legal categories such as human security, national security, the right to defense, and the right to sovereignty. This assumption is supported by Article 1 of the Law of Ukraine On the National Security of Ukraine (Verkhovna Rada of Ukraine, 2018), which defines state security as the protection of state sovereignty, territorial integrity, the constitutional system of rule of law,

and other vital national interests from actual and potential non-military threats. Nevertheless, a clear and unified approach to defining state security has not yet been established, and its scope remains undefined at the normative level. Turning to the notion of defense, it should be noted that multiple approaches exist regarding its definition. Scholars in law and public administration typically characterize defense as a set of administrative, economic, and political measures undertaken by public authorities to preserve the state's territorial integrity. Such measures are primarily applied under special conditions, such as martial law (Bytyaka, 2007; Pashynsky, 2017).

Sokurenko (2017), meanwhile, does not treat state security as a separate category, instead emphasizing the need to view national security, military security, and defense as interconnected concepts. The foregoing analysis suggests that scholars in law and public administration generally do not treat state security as a distinct concept, nor do they define its scope separately from national security and defense. Consequently, the effectiveness of military defense measures is viewed as directly tied to the state's overall defense capability, while national and military security are regarded as essential conditions for preserving territorial integrity and protecting state sovereignty. In the military literature, defense is most commonly defined as the preventive and deterrent measures undertaken by a state to safeguard its territorial integrity. Hrushko (2021) advances an interesting proposition that national defense may be understood as a sphere of state security interests.

Szpyra (2014) argues that the key distinction between military security and defense lies in their scope. He defines defense as a state's ability to employ armed forces to counter and repel attacks from external enemies, whereas military security refers to the state's capacity to address internal threats that may undermine national integrity. According to Dragan et al. (2000), the functions of military security encompass a complex set of measures that extend beyond defense capability, including internal and external policy, economic security, and the state's ability to support its population during armed conflict or under martial law. By contrast, Pogibko (2009) contends that military security is strictly a component of defense and should be considered separately from national security. Similarly, Pashynsky (2017) observes that legislation often defines national security primarily through the lens of defense, thereby significantly narrowing its broader scope.

Clarifying the scope of state security requires reference to Article

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17 of the Constitution of Ukraine (Verkhovna Rada of Ukraine, 1996). This article establishes the protection of state sovereignty, territorial integrity and inviolability, economic stability, and information security as the primary function of the state and the Ukrainian people. In this context, defense is defined as the development and, where necessary, implementation of a coordinated system of measures, tools, and mechanisms aimed at safeguarding territorial integrity in the event of armed attack (Cabinet of Ministers of Ukraine, 2020). Accordingly, the concept of defense should be distinguished from the broader categories of state security and national security. Decree No. 121/2021, signed by the President of Ukraine (2021), establishes that Ukraine's military security constitutes a fundamental basis for the Ukrainian people to exercise their right to self-determination. It further reinforces Ukraine's statehood and ensures sustainable development, guided by the rule of law and grounded in the core values of democracy, dignity, security, freedom, and citizen well-being (President of Ukraine, 2021).

Ukraine's 2023 Military Security Strategy identifies the escalating armed aggression by the Russian Federation as a principal threat to the state. This threat extends beyond Ukraine itself, encompassing the potential for aggression from other states or coalitions. Military actions against Ukraine have been conducted on a full scale, including decisive operations, psychological pressure, cyberattacks, information warfare, and blockades of airspace and seaports. Accordingly, military security and defense must be distinguished from state security on the basis of the specific types of violations they are intended to prevent (e.g., armed aggression by foreign states or internal conflicts).

The strategy also highlights the risk of "provoked and externally supported armed conflict within Ukraine," which could involve large-scale violence, illegal armed groups such as private military companies, and destabilization driven by international, interfaith, or socio-political factors (President of Ukraine, 2021). In military science, defense is typically understood as a set of combat operations organized to counter an offensive or invasion, often conducted against an adversary superior in numbers and weaponry. Such operations must adhere to principles designed to minimize human and material losses while aiming to defeat the enemy (Polyakov et al., 2014). Accordingly, within military science, defense is primarily associated with strategies and measures directed toward enemy defeat.

In law and public administration, however, defense is viewed

from a broader perspective. The prevailing approach characterizes it as a set of interconnected yet diverse actions undertaken by various sectors of society to counter internal and external armed threats or to fulfill international obligations (President of Ukraine, 2021). Sokurenko (2017) emphasizes that effective defense requires a combination of organizational, economic, social, legal, scientific, and technical measures. Similarly, Bogdanovych et al. (2012) argue that the administrative dimension of state security encompasses the responsibilities of public authorities, local self-government, and specialized military units in maintaining the state's defense capability under martial law. To ensure consistency and effectiveness, these public functions should be carried out in a highly formalized manner, leaving minimal room for discretionary power by governing entities.

Thus, three main approaches can be identified in defining the notion and scope of state security in relation to defense: the competent, substantive, and organizational-legal approaches. Under the competent approach, state security is understood as the powers and responsibilities of public authorities in ensuring the state's defense capability. The substantive approach defines state security as a set of specific measures undertaken by military units to address internal conflicts or repel external aggression. Within the organizational-legal approach, state security is conceived as a system of legal norms that establish the rights and obligations of participants in defense-related legal relations, as well as the object and subject of regulation in this sphere.

The state carries out security functions continuously, regardless of whether martial law is in effect or an immediate military threat is present. These functions include implementing policies and taking measures to protect national interests in fields such as the economy, social and cultural development, and environmental protection. Pashynsky (2017) supports this view, defining defense as a complex of socio-political, socio-economic, scientific-technical, and informational relations of a legal nature, unified by the common goal of repelling armed aggression, whether external or internal. In summary, defense constitutes a distinct state function, specifically directed at ensuring territorial integrity and safeguarding national sovereignty against armed threats.

The effectiveness of the administrative-legal mechanism in the field of state security is measured by the extent to which law enforcement agencies succeed in fulfilling their duties to prevent violations. However, ongoing reforms and changes to the legal

framework governing these agencies affect their ability to counter threats to Ukraine's state security. Since state security has been defined as involving measures that influence societal development, a key component of this process is the establishment of an administrative and legal framework for preventing offenses (Pashynsky, 2017). In this context, the norms of administrative law contained in military-administrative acts play a regulatory role in upholding state security requirements. These provisions are intended to structure, organize, and strengthen social relations within the public management of national defense.

The primary objectives of these rules include regulating the activities of military units and institutions by establishing procedures for their formation, organization, and functioning. They also ensure internal order by overseeing discipline, hierarchy, military training, service regulations, and record-keeping. In addition, these rules establish procedures and mechanisms to guarantee legal compliance and to monitor adherence to state security legislation. An important component is the protection of servicemen's rights and interests, which is achieved through a system of guarantees such as housing, medical care, and social security. Furthermore, the rules govern military-civilian relations by defining the framework for cooperation between military and civilian institutions in matters of defense and state security. Taken together, these provisions play a crucial role in maintaining an effective state security system, fostering military legal order, and providing the organizational foundation necessary for defense operations.

Therefore, it can be concluded that the rules of administrative law regulate public relations in the field of state security by establishing administrative responsibilities, procedures, and control mechanisms.

### **3.3. Regulation and Enforcement of State Security Through Administrative Law**

Preventing security-related violations requires a balanced approach that combines administrative regulation with administrative-legal support. As Pashynsky (2017) observes, law-making in the field of state security must be clearly defined within the limits of governmental authority, with the Security Service of Ukraine playing a central role. In this context, the administrative and legal provisions

of state security encompass both legislative and enforcement measures aimed at safeguarding territorial integrity, preventing attacks, and implementing countermeasures within the scope of state authority.

To distinguish between state security and national security, it is necessary to clarify the measures undertaken to prevent violations in these fields. Article 1 of the Law of Ukraine On the National Security of Ukraine (Verkhovna Rada of Ukraine, 2018) defines national security as the protection of state sovereignty, territorial integrity, the constitutionally established democratic system, and the national interests of Ukraine from existing and potential threats. By contrast, the same law stipulates that state security refers to the protection of state sovereignty, territorial integrity, the constitutional system of rule of law, and other vital national interests from real and potential non-military threats.

State security should be ensured through a systematic approach. From this perspective, state security can be understood as a component of the broader national security system, functioning to counteract negative influences that may harm legally protected national interests, with the exception of armed attacks. Within the legal framework of national security, several sub-branches of regulation may be distinguished, including defense (military) law, military-administrative law, and state security law. The latter encompasses multiple areas of regulation, such as public (civilian) security, airspace security, economic security, environmental security, information security, maritime security, and others (Pavlenko & Gulakov, 2020).

The foregoing analysis underscores the need to define national interests and their relationship to public interests, the interests of social groups, and individual interests. Interest—understood as both a need and the actions taken to satisfy it—forms the social foundation for lawmaking and the rules of law. Legislation is grounded in the system of societal values that require regulation and protection. Anything recognized as a rule of law thus carries value for society and demands effective means and guarantees for its protection and enforcement (Bogutsky, 2020).

Once an approach to articulating interest as a social category is established, a system of mechanisms for its provision and guarantee can be determined. These include lawmaking, law enforcement, and the administration of justice. Gerasymenko et al. (2022) emphasize that preventive and deterrent actions undertaken by the state in response to offenses against its security constitute essential elements of law

enforcement. Such actions involve state control and supervision, the prevention of offenses, and the effective functioning of the system for executing punishments and administrative sanctions.

Hama's (2021) finding that national interests should not be equated with the interests of public officials or local self-government is well-founded. The researcher interprets national interests in relation to the system of social needs and narratives. As social interests evolve into national interests, they undergo a process of legalization. The system of national interests is primarily set out in the Constitution of Ukraine, with priorities that include protecting state sovereignty, ensuring territorial integrity, safeguarding state security and constitutional order, fostering international security cooperation, harmonizing national legislation with European Union standards, and strengthening the effectiveness of crime prevention (Hama, 2021).

Subjective and objective clarifications of national interests require an examination of the historical and political conditions of state-building, an analysis of the functions of state institutions, and an assessment of the prevailing political and legal regime. It is also necessary to evaluate the extent to which global partnerships have developed in the country. In addition, numerous subjective factors must be considered, including citizens' legal awareness, the psychological perception of law and the state as values, and the ideologies promoted by influential groups.

One of the earliest attempts to clarify the meaning of "interest protected by law" can be found in the ruling of the Constitutional Court of Ukraine dated April 8, 1999. In this decision, the Court held that the notions of national interests and state interests should be understood as interconnected. It defined national interests as those established by current legislation, particularly the Constitution of Ukraine. These include the implementation of nationwide political, economic, social, and other programs aimed at safeguarding Ukraine's sovereignty, territorial integrity, and state borders, as well as ensuring security in the economic, informational, and environmental spheres. National interests also encompass the protection of land as national wealth and the rights of all property owners and economic entities.

The ruling further reaffirmed the evaluative nature of the category of "state interest." The determination of whether a state interest exists in a particular case falls within the discretion of the competent state authority, which is empowered to assess both legal and factual circumstances. In the case under review, this role was assigned to the

Prosecutor's Office (Constitutional Court of Ukraine, 1999). National and state interests, being closely interconnected, form the foundation for defining the legal scope of state security. According to the Law of Ukraine On National Security, national interests comprise the vital personal, societal, and state interests that must be satisfied to guarantee Ukraine's sovereignty, progressive democratic development, and safe, dignified living conditions for its citizens. Scholars have offered various interpretations of this legislative definition. Panteleychuk (2012) argues that the essence of national interest should be understood through the prism of societal and human values, which represent the ultimate goals of state development. While state strategies, objectives, and functions may shift over time, national interests remain a guiding framework for ongoing social and political transformations.

## Conclusion

State security is a key component of Ukraine's national security, aimed at safeguarding sovereignty, territorial integrity, and the constitutional order from existing and potential threats. For many states, the protection of national interests constitutes a central objective of both foreign and domestic policy. These interests typically encompass territorial integrity, defense against external aggression, economic development, improvement of citizens' quality of life, and the promotion of social justice. In politics and international relations, the concept of national interest functions as a guiding principle, shaping a state's core priorities and strategic directions at both the domestic and international levels. An analysis of Ukraine's legal framework underscores the need to strengthen legislation to more effectively counter threats to state security, particularly in the spheres of information security, cybersecurity, economic stability, and environmental protection. A key finding is that existing laws do not adequately address the contemporary challenges of hybrid warfare and asymmetric threats, including disinformation campaigns, cyberattacks, and economic coercion. Mitigating these risks requires the adoption of new legal provisions and the enhancement of interagency coordination. A new approach is proposed for understanding state security through the lens of legal regulation, with an emphasis on protecting territorial integrity, sovereignty, the democratic system, and Ukraine's national interests from both military and non-military threats. For the first time,

defense is examined through three interrelated aspects:

- The substantive aspect – encompassing military actions to counter internal and external threats.
- The competent aspect – referring to the powers of state authorities to ensure territorial defense.
- The organizational-legal aspect – defining the legal framework that establishes the rights and responsibilities of participants in defense-related legal relations.

The study confirms that ensuring state security requires a comprehensive approach, which includes:

- Strengthening legal regulations to counter hybrid threats.
- Enhancing information and cybersecurity through advanced monitoring technologies and the protection of the information space.
- Optimizing governance and coordination among state agencies responsible for state security.

Increasing legal accountability for violations of state security regulations. Based on the findings, recommendations have been developed to amend Ukraine's legislation in order to strengthen state security in response to contemporary challenges. From a legal standpoint, paragraph four of Article 1 of the Law of Ukraine On National Security should be revised as follows:

“State security is a condition of societal development that ensures the fulfillment of national interests, including the protection of statehood, the preservation of territorial integrity, the safeguarding of state sovereignty, compliance with environmental security standards, the promotion of cooperation between society and government, and the assurance of economic stability and citizens' well-being. This is achieved by preventing external and internal threats, including terrorist activities, intelligence operations, and other hostile actions by foreign intelligence services.”

The proposed amendments incorporate the experience of the European Union and the United States in addressing emerging security threats, thereby enhancing Ukraine's resilience to both internal and external challenges. Strengthening state security is essential to safeguarding sovereignty, preserving territorial integrity, and ensuring the country's stable development. Achieving this objective requires the implementation of a comprehensive set of legal and organizational measures.

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