

# Comparison of Freedom of Assembly Laws of Egypt and Washington, D.C.<sup>1</sup>

By David E. Risley

District of Columbia	Egypt	Comments
<b>Statement of Policy</b>		
<p>“It is the declared public policy of the District of Columbia that persons and groups have a right to organize and participate in peaceful First Amendment assemblies on the streets, sidewalks, and other public ways, and in the parks of the District of Columbia, and to engage in First Amendment assembly near the object of their protest so they may be seen and heard, subject to reasonable restrictions designed to protect public safety, persons, and property, and to accommodate the interest of persons not participating in the assemblies to use the streets, sidewalks, and other public ways to travel to their intended destinations, and use the parks for recreational purposes.”</p>	<p>“Citizens have the right to organize and join peaceful public meetings, processions, and protests, in accordance with the provisions and rules stipulated in this law.”</p> <p>“Within the framework of procedures, measures, and methods of treatment placed by the committee mentioned in [the article directing issuance of regulations in each governate], security forces shall take the necessary measures and procedures to secure notified public meetings, processions, or demonstrations, while protecting lives, the well-being of the participants, and the public and private properties, without obstructing the purpose [of the demonstration].”</p>	<p>The DC policy statement describes rights of protesters to be balanced against more general public interests.</p> <p>The Egypt law, taken as a whole, describes a right to assembly for protest that exists only to the extent allowed by the protest law and the police.</p>
<b>Applicability of Law to Meetings Held to Discuss or Listen to Candidates for Political Office</b>		
<p>[No equivalent restriction.]</p>	<p>“Electoral meetings that abide to the following conditions are considered as public meetings [note: defined as any gathering of 10 or more persons in a public building or other location accessible without prior personal invitation, held for the purpose of discussion or exchange of views on an issue] in applying the provisions of this law:</p> <ol style="list-style-type: none"> <li>1- When the aim of it is to select a candidate or candidates for the memberships of parliaments or to listen to their electoral programs.</li> <li>2- When it’s limited to the voters, and candidates, or both of them.</li> <li>3- When the meeting takes place in the time designated for electoral campaigning.”</li> </ol>	<p>In combination with the notice provisions of Egypt’s law described below, this means that organizers must provide at least 24 hours advance notice to the police (including stating the purpose of the meeting and any slogans to be used) before any gathering of as few as 10 people to discuss selection of or listen to candidates for political office during election season if the meeting is held in a public location, such as a community room at a public library or at a public square.</p>

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		<p>As noted below, failure to provide such advance notice is a crime punishable by a mandatory minimum fine of 10,000 and up to 30,000 EGP (roughly \$1435-\$4300).</p> <p>Such a provision would be held unconstitutional in the U.S. as an unreasonably intrusive and overbroad restriction of a quintessential form of political speech, association, and assembly.</p>
<b>Prohibition of Political Gatherings at or Near Religious Institutions</b>		
[No equivalent restriction.]	“Public meetings for political purposes are prohibited in places of worship or their arena, or their annexes. It is also prohibited to conduct processions to them or from them, or protest in them.”	<p>This provision in Egypt’s law would be held unconstitutional in the U.S. as an unreasonably overbroad restriction of freedoms of association, speech, and assembly.</p> <p>This provision primarily impacts the Muslim Brotherhood and its allies, who typically use mosque grounds or environs as rally locations and as staging areas for protest marches.</p>
<b>Notice</b>		
<p>General rule: at least 15 days notice.</p> <p>Exception: “A person or group who wishes to conduct a First Amendment assembly on a District street, sidewalk, or other public way, or in a District</p>	<p>General rule: at least 3 working days notice for assemblies of 10 or more. “In the case of electoral meetings, this duration will be 24 hours.”</p>	<p>Note express application of Egypt’s notice requirements to public meetings held to discuss, select, or hear from candidates for public office.</p>

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<p>park, is not required to give notice or apply for approval of an assembly plan before conducting the assembly where:</p> <p>(1) The assembly will take place on public sidewalks and crosswalks and will not prevent other pedestrians from using the sidewalks and crosswalks;</p> <p>(2) The person or group reasonably anticipates that fewer than 50 persons will participate in the assembly, and the assembly will not occur on a District street; or</p> <p>(3) The assembly is for the purpose of an immediate and spontaneous expression of views in response to a public event.</p>	<p>Exception: “The appropriate governor shall issue a decree determining sufficient space inside the governorate, in which public meetings, processions, or demonstrations, with the purpose of peaceful expression of opinions are allowed without prior notification.”</p>	<p>Egypt’s law contains no allowance for spontaneous demonstrations, unless held at a designated no-notice protest area.</p> <p>In Cairo, the no-notice public assembly area has been announced as being roughly 20 acres of land in Al-Fustat Park, which is a relatively isolated area well away from central Cairo and most government institutions, where demonstrations would be unlikely to attract much public or government attention.</p>
<b>Police Permission</b>		
<p>Requires application for police approval of an assembly plan.</p>	<p>No permission requirement. Noticed event can proceed unless prohibited or restricted by police.</p>	<p>DC approach is collaborative, seeking to work out mutually acceptable solutions.</p> <p>Egypt’s approach is more arms-length, pass-fail in nature.</p>
<b>Consequences of Failure to Notify or Obtain Approval of Assembly Plan</b>		
<p>“It shall not be an offense to assemble or parade on a District street, sidewalk, or other public way, or in a District park, without having provided notice or obtained an approved assembly plan.”</p> <p>“An order to disperse or arrest assembly participants shall not be based solely on the fact</p>	<p>Failure to provide notice subjects event organizers to a minimum fine of 10,000 and up to 30,000 EGP (roughly \$1435-\$4300).</p>	<p>Penalties in Egypt’s law for failure to provide notice (and thus an opportunity for the police to prohibit the protest) reflect the policy that the right to public assembly exists only to the extent allowed by the</p>

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<p>that a plan has not been approved for the assembly.”</p> <p>However, there may be practical consequences of failure to work out an approved plan with the police, which may include prohibition of the event if, for example, it conflicts with another event that was approved.</p> <p>“Applications filed less than ten (10) days prior to the proposed date of the event shall receive favorable action only if there is sufficient time to review the application and to coordinate with the event organizers to resolve questions or problems concerning the application.”</p> <p>Nevertheless, “[w]here a First Amendment assembly is held on a District street, sidewalk, or other public way, or in a District park, and an assembly plan has not been approved, the [police department] shall, consistent with the interests of public safety, seek to respond to and handle the assembly in substantially the same manner as it responds to and handles assemblies with approved plans.”</p> <p>“When responding to and handling a First Amendment assembly for which a plan has not been approved, the [police department] may take into account any actual diminution, caused by the lack of advance notice, in its ability, or the ability of other governmental agencies, appropriately to organize and allocate their personnel and resources so as to protect the rights of both persons exercising free speech and other persons wishing to use the streets, sidewalks, other public ways, and parks.”</p>		<p>demonstrations law.</p>
<b>Content of Notice/Application for Plan Approval</b>		

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<p>“The person or group requesting approval of a First Amendment assembly plan shall make representations concerning the nature of the event, sufficient for the Chief of Police or his or her designee to classify the activity as a First Amendment assembly ..., and, in addition, shall provide the following information:</p> <p>(a) The name, address, and telephone number of the sponsoring organization (if any) and its chief officer;</p> <p>(b) The name, address, and telephone number of the applicant and the person or persons chiefly responsible for the conduct of the event, if other than the applicant;</p> <p>(c) The purpose of the event;</p> <p>(d) The date when the event is to be conducted;</p> <p>(e) The approximate times when the event is to begin and end, and the approximate times when assembly for, and disbanding of, the event are to take place;</p> <p>(f) The specific proposed route of the event if it is a parade, march, race, or walk-a-thon;</p> <p>(g) The locations of the assembly area, any related stands or other structures, and the disbanding area for the event;</p> <p>(h) The approximate number of persons, animals, and vehicles that will constitute the event;</p> <p>(i) A description of the types of animals; the types of vehicles to be used; the number of bands and other musical units and sound trucks to be used; and the number, type, and size of banners, placards, and signs to be used; and</p> <p>(j) The number of persons who will be designated to monitor the event and the name of the person in charge.”</p>	<p>“The notification ... should include the following data and information:</p> <ol style="list-style-type: none"> <li>1. The place of the public meeting or the place and route of the procession or protest.</li> <li>2. The start and end time of the public meeting, procession or protest.</li> <li>3. The subject of the public meeting, procession, or protest, its purpose, <i>the demands requested by the participants in any of them, and the slogans used.</i></li> <li>4. The names of individuals, and their titles, or entities organizing the public meeting or procession or protest, their residences and contact information.”</li> </ol> <p>(Italics added.)</p>	<p>Egypt’s law (see italicized language) requires prior notice of speech content, including protest demands and slogans to be used.</p> <p>In contrast, the DC law states, “No time, place, or manner restriction regarding a First Amendment assembly shall be based on the content of the beliefs expressed or anticipated to be expressed during the assembly, or on factors such as the attire or appearance of persons participating or expected to participate in an assembly, nor may such restrictions favor non-First Amendment activities over First Amendment activities.”</p>

**Time Limits for Approval/Disapproval**

<p>[W]here a complete application for approval of a First Amendment assembly plan is filed 60 days or more prior to the proposed assembly date, the application shall receive final action no later than 30 days prior to the proposed assembly.”</p> <p>“Following the approval of an assembly plan in response to an application ..., the Chief of Police may, after consultations with the person or group giving notice of the assembly, amend the plan to make reasonable modifications to the assembly location or route up until 10 days prior to the assembly date based on considerations of public safety.”</p>	<p>Police prohibition or restriction of a noticed assembly be communicated to the organizers at least 24 hours in advance of the event.</p>	
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**Grounds for Disapproval or Restriction**

<p>“A proposed First Amendment assembly plan shall be approved if, after consideration of the application and other information that may otherwise be obtained, the Chief of Police or his or her designee concludes that:</p> <p>(a) The conduct of the event will not <i>substantially</i> interrupt the safe and orderly movement of other vehicular and pedestrian traffic contiguous to its route;</p> <p>(b) The conduct of the event will not divert such numbers of police officers from their normal police duties that the city would be deprived of <i>reasonable</i> police protection;</p> <p>(c) The concentration of persons, animals, and vehicles in the assembly and disbanding areas and along the event route will not <i>substantially</i> interfere with the movement of police, fire, ambulance, and other emergency vehicles on the streets;</p> <p>(d) The conduct of the event route will not <i>substantially</i> interfere with any of the designated Emergency Evacuation Routes outlined in the</p>	<p>“If serious information or evidence is found before the scheduled time for starting a public meeting, procession, or demonstration, indicating the presence of threats to security or peace, the Minister of Interior or the specialized Director of Security may issue a justified decree prohibiting the public meeting, procession, or demonstrations, or suspending it, or relocating it, or altering the route ....”</p>	<p>Egypt law authorizes the police to prohibit any demonstration activity that may pose <u>any</u> (unqualified) threat to public safety or peace. Because virtually every protest gathering of any substantial size will inevitably present at least some degree of security risk or potential to disturb the peace (the reason DC requires advance planning with the police to mitigate those risks), the practical effect of this unqualified language is to authorize the police to prohibit or disperse every sizeable protest demonstration.</p> <p>Contrast with the repeated use in the DC law of italicized</p>
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<p>District Response Plan;</p> <p>(e) The event is scheduled to move from its assembly location to its disbanding location expeditiously and without <i>unreasonable</i> delays enroute;</p> <p>(f) The event will not <i>substantially</i> interfere with any other event for which an assembly plan has already been approved;</p> <p>(g) The applicant has not <i>materially</i> misrepresented any facts or information set forth in the application for the an assembly plan;</p> <p>(h) The applicant has furnished proof that, if the assembly or disbanding locations or the route of event, encroach upon, occupy, or traverse any area within the jurisdiction of the federal or non-District local governments, permits or permission have been obtained from the appropriate authorities; and</p> <p>(i) The proposed event does not create a <i>substantial</i> possibility of violent, disorderly conduct likely to endanger public safety or to result in significant property damage.”</p> <p>“The Chief of Police shall inform the person or group giving notice of an assembly, in writing, of the reasons for any decision to:</p> <p>(1) Deny an application for approval of a First Amendment assembly plan;</p> <p>(2) Revoke an assembly plan prior to the date of the planned assembly; or</p> <p>(3) Approve an assembly plan subject to time, place, or manner restrictions that the applicant has advised the Chief of Police are objectionable to the applicant.</p>		<p>qualifying (limiting) words such as “substantial” and “unreasonable.”</p>
<b>Appeals</b>		
<p>“Any applicant whose proposed assembly plan has been denied, revoked prior to the date of the planned assembly, or granted subject to time, place,</p>	<p>“Without prejudice to the jurisdiction of the Administrative Court, organizers [submitters of the request] may appeal against the</p>	

<p>or manner restrictions deemed objectionable by the applicant, may appeal such decision to the Mayor or the Mayor's designee, who shall concur with, modify, or overrule the decision of the Chief of Police.”</p> <p>“The Mayor shall make a decision on appeal expeditiously and prior to the date and time the assembly is planned to commence, and shall explain in writing the reasons for the decision.”</p>	<p>prohibition or postponement decision before the Urgent Matters Judge at the appropriate First Instance Court. The Judge shall issue his verdict swiftly.”</p>	
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**Standards for On-Scene Enforcement/Dispersal Operations**

<p>“Where participants in a First Amendment assembly fail to comply with reasonable time, place, and manner restrictions, the [police department] shall, to the extent reasonably possible, first seek to enforce the restrictions through voluntary compliance and then seek, as appropriate, to enforce the restrictions by issuing citations to, or by arresting, the specific non-compliant persons, where probable cause to issue a citation or to arrest is present.”</p> <p>“Where participants in a First Amendment assembly, or other persons at the location of the assembly, engage in unlawful disorderly conduct, violence toward persons or property, or unlawfully threaten violence, the [police department] shall, to the extent reasonably possible, respond by dispersing, controlling, or arresting the persons engaging in such conduct, and <i>not</i> by issuing a general order to disperse, thus allowing the First Amendment assembly to continue.” (Italics added.)</p> <p>“The [police department] shall not issue a general order to disperse to participants in a First Amendment assembly except where:  (1) A <i>significant number or percentage</i> of the</p>	<p>“Participants in public meetings or processions or protests are prohibited to disrupt public security or order or obstruct production, or call for it, or hamper citizens’ interests or harm them or subject them to danger or prevent them from exercising their rights and work, or affecting the course of justice, public utilities, or cutting roads or transportation, or road, water, or air transport, or obstructing road traffic or assaulting human life or public or private property or subjecting it to danger.”</p> <p>“Officially dressed security forces – based on an order from the appropriate field commander – may disperse the public meeting, procession, or demonstration, and arrest suspects, if the participants in the public meeting, procession, or demonstration take <i>any</i> action that constitutes as a crime punishable by law or violate the peaceful nature of expressing opinions.” (Italics added.)</p> <p>“In the cases in which the law permits the dispersal or break up of a public meeting,</p>	<p>Note the contrast between the DC law’s requirement that dispersal is justified only when “a significant number or percentage” of assembly participants engage in “substantial” misconduct, versus the Egypt law’s authorization for police to disperse any assembly if participants engage in “any” misconduct, including (any) disruption of public order, (any) hampering of other citizens’ interests, or (any) obstruction of roads or transportation.</p> <p>Note, also, that the Egypt law authorizes escalating degrees of force up to and including the use of birdshot—capable of inflicting severe bodily injury and even death—if the protesters fail to disperse as ordered, no matter how trivial</p>
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<p>assembly participants fail to adhere to the imposed time, place, and manner restrictions, and either the compliance measures set forth [above] have failed to result in <i>substantial</i> compliance <i>or</i> there is no reasonable likelihood that the measures set forth [above] will result in <i>substantial</i> compliance;</p> <p>(2) A <i>significant number or percentage</i> of the assembly participants are engaging in, or are about to engage in, unlawful disorderly conduct or violence toward persons or property; or</p> <p>(3) A public safety emergency has been declared by the Mayor that is not based solely on the fact that the First Amendment assembly is occurring, and the Chief of Police determines that the public safety concerns that prompted the declaration require that the First Amendment assembly be dispersed.” (Italics added.)</p> <p>“No emergency area or zone will be established by using a police line to encircle, or substantially encircle, a demonstration, rally, parade, march, picket line, or other similar assembly (or subpart thereof) conducted for the purpose of persons expressing their political, social, or religious views except where there is probable cause to believe that a <i>significant number or percentage</i> of the persons located in the area or zone have committed unlawful acts (other than failure to have an approved assembly plan) and the police have the ability to identify those individuals and have decided to arrest them; provided, that this section does not prohibit the use of a police line to encircle an assembly for the safety of the demonstrators.” (Italics added.)</p> <p>“If and when the [police department] determines that a First Amendment assembly, or part thereof, should be dispersed, the [police department] shall</p>	<p>procession, or demonstration, the Security Forces shall abide by the following methods and stages:</p> <p>Firstly: Requesting from the participants in the public meeting, procession, or demonstration to voluntarily depart by directing repetitive verbal warnings at an audible level to disperse the public meeting, procession or demonstration, while specifying and securing the departure routes for the participants.</p> <p>Secondly: In case of the non-responsiveness of the participants in the public meeting, procession, or demonstration to the departure warning, the Security Forces shall disperse them in accordance with the following order:</p> <ol style="list-style-type: none"> <li>1. Using water cannons;</li> <li>2. Using tear gas canisters;</li> <li>3. Using batons</li> </ol> <p>“In the case of the failure of the previously stipulated methods in dispersing or breaking up the participants in the public meeting, procession, or demonstration, <i>or</i> in cases in which the participants undertake acts of violence, sabotage, destroying public and private properties, or assaulting individuals or forces, the Security forces may gradually use force, as follows:</p> <ul style="list-style-type: none"> <li>- Firing warning shots;</li> <li>- Firing sound bombs or gas bombs;</li> <li>- Firing rubber cartouche bullets;</li> <li>- Firing non-rubber cartouche bullets [i.e., birdshot].</li> </ul>	<p>the misconduct was that triggered the police order to disperse. No requirement of proportionality between the misconduct and use of up to such an extreme level of force, only protester refusal to obey a police order to disperse, even if peaceful, such as by quietly sitting down and refusing to move.</p>
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issue at least one clearly audible and understandable order to disperse using an amplification system or device, and shall provide the participants a reasonable and adequate time to disperse and a clear and safe route for dispersal.

“Except where there is imminent danger of personal injury or significant damage to property, the [police department] shall issue multiple dispersal orders and, if appropriate, shall issue the orders from multiple locations. The orders shall inform persons of the route or routes by which they may disperse and shall state that refusal to disperse will subject them to arrest.

“Whenever possible, [the police department] shall make an audio or video recording of orders to disperse.”

“Officers in riot gear shall be deployed consistent with the District policy on First Amendment assemblies and only where there is a danger of violence. Following any deployment of officers in riot gear, the commander at the scene shall make a written report to the Chief of Police within 48 hours and that report shall be available to the public on request.

“Large scale canisters of chemical irritant shall not be used at First Amendment assemblies absent the approval of a commanding officer at the scene, and the chemical irritant is reasonable and necessary to protect officers or others from physical harm or to arrest actively resisting subjects.

“Chemical irritant shall not be used by officers to disperse a First Amendment assembly unless the

“In case the participants in the public meeting, procession, or demonstration resort to using firearms, thus providing a legitimate basis for self-defense, they [demonstrators] shall be dealt with using tools proportionate to the danger posed against life, money, or property, in response to the assault.”

assembly participants or others are committing acts of public disobedience endangering public safety and security.”		
<b>Documentation of Arrests</b>		
<p>“The [police department] shall cause every arrest in connection with a First Amendment assembly to be documented, in writing or electronically, by the officer at the scene who makes the arrest.</p> <p>“Except as provided [below], the arrest documentation shall be completed at a time reasonably contemporaneous with the arrest, and shall include:</p> <ol style="list-style-type: none"> <li>(1) The name of the person arrested;</li> <li>(2) The date and time of the arrest;</li> <li>(3) Each offense charged;</li> <li>(4) The location of the arrest, and of each offense;</li> <li>(5) A brief statement of the facts and evidence establishing the basis to arrest the person for each offense;</li> <li>(6) An identification of the arresting officer (name and badge number); and</li> <li>(7) Any other information the [police department] may determine is necessary.</li> </ol>	<p>[No equivalent requirement of documenting individualized evidence of guilt of the offenses for which demonstrators are arrested, or of the identity of the arresting officer or officers.]</p>	<p>The absence of a requirement in Egypt’s law that the basis for arrests be documented on an individual basis enables mass arrests without regard to individual culpability, or lack thereof.</p> <p>Absent documentation of evidence of individualized guilt during mass arrests, only two prosecutorial outcomes are possible, both of which are undesirable if those arrested actually committed crimes: (1) release of the offenders for lack of individualized evidence of guilt; or (2) prosecution despite lack of evidence of individual guilt.</p>
<b>Public Accountability: Visible Identification of Individual Police Personnel</b>		
<p>“The [police department] shall implement a method for enhancing the visibility to the public of the name or badge number of officers policing a First Amendment assembly by modifying the manner in which those officers' names or badge numbers are affixed to the officers' uniforms or helmets. The [police department] shall ensure that all uniformed officers assigned to police First Amendment assemblies are equipped with the enhanced identification and may be identified even if wearing riot gear.”</p>	<p>The only requirement is that any enforcement action must be conducted by “officially dressed security forces”.</p>	<p>The DC law eliminates the anonymity of individual police officers, thereby increasing individual accountability and incentives for police officers to comply with the law and department policies.</p> <p>The Egypt law maintains the anonymity of individual police officers.</p>

<b>Public Accountability: Official Reporting</b>		
<p>“The Chief of Police shall issue an annual public report that:</p> <p>(1) Identifies the number of persons in the preceding year who were arrested in connection with a First Amendment assembly and opted for release pursuant to any lawful release option or were not charged with any offense and were not released from custody within 4 hours after the time of arrest;</p> <p>(2) Discusses the reasons for the delay in processing such persons for release; and</p> <p>(3) Describes any steps taken or to be taken to ensure that all such persons are released within 4 hours from the time of arrest.</p> <p>“The [police department] shall ensure that it possesses an automated information processing system that enables it to promptly process for release or presentation to the court all persons arrested in connection with a First Amendment assembly, and shall ensure that such system is fully operational (with respect to its hardware, software, and staffing) prior to a First Amendment assembly that has a potential for a substantial number of arrests.”</p>	<p>[No public accountability reporting requirement.]</p>	<p>Lack of public accountability shields and therefore enables abuses of authority.</p>
<b>Public Accountability: News Media Access</b>		
<p>“The [police department] shall allow media representatives reasonable access to all areas where a First Amendment assembly is occurring. At a minimum, the [police department] shall allow media representatives no less access than that enjoyed by members of the general public and, consistent with public safety considerations, shall allow media representatives access to promote public knowledge of the assembly.</p> <p>“The [police department] personnel located in or near an area where a First Amendment assembly is</p>	<p>[No equivalent requirement regarding news media access for reporting.]</p>	<p>Lack of public visibility shields and therefore enables abuses of authority.</p>

<p>ongoing shall recognize and honor media credentials issued by or officially recognized by the [police department].</p> <p>“The [police department] shall make reasonable accommodations to allow media representatives effectively to use photographic, video, or other equipment relating to their reporting of a First Amendment assembly.”</p>		
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<sup>1</sup> Comparing Presidential Decree, Law Number 107 for 2013 (Egypt)(unofficial English translation), with District of Columbia Code, Sections 5-331.01 and following (2013), as supplemented by implementing regulations (USA), accessible at:

<http://law.justia.com/codes/district-of-columbia/2012/division-i/title-5/chapter-3a/subchapter-i/> (2012)

<http://www.dcregs.dc.gov/Gateway/RuleHome.aspx?RuleNumber=24-705>

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