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The Importance of Specifying The Plaintiff's Boundaries In The Legal Regulations Concerning The Environment In Indonesia

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Abstract: It is important for the government to be actively involved in creating a balanced ecosystem, with the role of the community being a key factor. To maximize the community's contribution, it is recommended that environmental laws grant legal status to non-governmental organizations in this field, enabling them to file dispute resolution applications in the Administrative Court. Non-governmental organizations with legal status that emphasize their goal of preserving the environment can file lawsuits in court, as explained in Decision No. 41/G/LH/2018/PTUN. PBR in the Administrative Court of Pekanbaru, serving as the main subject of this research with a normative juridical approach. In conclusion, challenges arise when the scope of non-governmental organizations in filing lawsuits is too broad, resulting in multiple interpretations and potential harm to other parties. The suggestion is to revise the Environmental Law to address the legal standing limitations of non-governmental organizations as plaintiffs in the Administrative Court, making it more effective in enforcing the law and maintaining ecosystem balance.

Keyword: Plaintiff Limitations, Legal Regulations, Environmental Issues.

INTRODUCTION

The environment is one of the priority issues globally, as the sustainability of living organisms is greatly influenced by the quality of the environment (Kementrian Lingkungan Hidup dan Kehutanan, 2022). Environmental issues are highly diverse, including pollution in various forms such as water, soil, and air pollution. The causes are numerous; water pollution can occur due to oil spills in water bodies, household waste, industrial or corporate waste, and domestic waste disposal, including leftover detergents, insecticide residues, and so on. Air pollution can involve gases and particles originating from unnecessary combustion, vehicle emissions, and factory smoke containing sulfur and combustion by-products. The impact of air pollution includes acid rain.

Soil pollution arises from non-biodegradable plastics and pollutants accumulating in the soil, such as metal substances, synthetic rubber, glass fragments, and cans. Environmental

issues are closely linked to climate change, manifesting as global warming, a process involving the increased average temperature of the atmosphere, oceans, and Earth's surface. This is caused by carbon emissions triggering the greenhouse effect, leading to a rise in Earth's temperature, as seen in Indonesia. The declining quality of the environment in Indonesia is marked by global warming, threatening the survival of humans and other living beings (Ruslan Renggong, 2018).

The effects resulting from the imbalance in the environment pose significant dangers to humans. For instance, polluted air can disrupt breathing, cause irritation, lead to chronic illnesses, and in severe cases, contamination with high levels of substances can result in fatalities within the community, as exemplified by the incident in Minamata Bay known as Minamata Disease. Minamata Disease is an environmental tragedy that caused mercury contamination throughout the bay, impacting approximately 50,000 people. In Indonesia, a similar case of mercury pollution occurred in Buyat Bay, North Sulawesi, in 2004.

Given the crucial importance of the environment, the state plays a role in maintaining balance. Indonesia, for instance, has enacted regulations to ensure environmental equilibrium, such as Law No. 32 of 2009 concerning Environmental Protection and Management (Environmental Law). Article 1, paragraph (1) of the Environmental Law defines the environment as "…the unity of space with all things, forces, conditions, and living creatures, including humans and their behavior, that affect nature itself, the continuity of life, and the well-being of humans and other living beings..." The law even grants legal standing to environmental non-governmental organizations (NGOs) under Article 92 of the Environmental Law. In essence, this article states that environmental organizations meeting certain criteria, such as legal entity status, establishment for the purpose of environmental conservation, and a track record of at least 2 years of relevant activities according to their bylaws, have the right to file lawsuits for the preservation of environmental functions.

Based on this article, environmental NGOs have the right to sue in the Administrative Court. An interesting issue arises when an environmental NGO acting as the plaintiff has not been to the area where water pollution is suspected, as seen in Case No. 41/G/LH/2018/PTUN.PBR. This is intriguing to investigate because the NGO is not part of the local community but still has the right to file a lawsuit.

METHOD

The research method employed in this writing is normative juridical. The normative juridical research method is a series of studies aimed at examining and evaluating law as a rule, legal principles, norms, legal doctrines, legal theories, legal principles, and other literature to address the legal issues under investigation (Muhaimin, 2020). The data collection method involves retrieving judgments available on the Supreme Court's website, specifically the decision in Case No. 41/G/LH/2018/PTUN.PBR at the Administrative Court in Pekanbaru. The data analysis method is qualitative. Qualitative data analysis can be understood as a research analysis method that produces descriptive-analytical data. Descriptive-analytical data is information obtained from respondents, either in written or oral form, or observable behaviors. This information is examined and studied as a comprehensive entity (Muhaimin, 2020). The formal law's data sources are secondary data, consisting of primary, secondary, and tertiary legal materials obtained through library research but not through field research (Bachtiar, 2018).

RESULTS AND DISCUSSION

The use of the term "environment" is often interchangeable with the term "environmental." Although these two terms are technically distinct, they generally carry the same meaning, referring to the broader concept of the surroundings. In this broad sense, it encompasses biological, chemical, and physical aspects, involving the environment of

humans, flora, and fauna. Additionally, environmental surroundings also differ in meaning from ecology, ecosystems, and environmental carrying capacity. Nevertheless, these three concepts cannot be separated from an understanding of the environment or environmental surrounding (R. Sihadi Darmo Wihardjo dan Hernita Rahmayanti, 2021). Certainly, environmental conservation has a significant impact on the desired ideal ecosystem (Oriny Tri Ananda, dkk, 2022).

Environmental protection can be understood as the preservation of the environment. The concept of environmental preservation is an effort to preserve the functions of the environment itself. This directly implies the protection of the environment (environmental protection) (Indang Dewata dan Yun Hendri Danhas, 2018).

Environmental law is one of the relatively new branches of law, emerging in response to the growing awareness of society regarding the environment (Wilsa, 2020). If we look at the state administration, it is a system of governance carried out by state administrative agencies or officials (Sulistyowati, 2021). State administrative officials also have the authority to issue permits related to the environment. If such permits are deemed detrimental to the surrounding community, it can lead to an administrative dispute over the administrative decision. The existence of the Administrative Court serves the purpose of resolving such administrative disputes (Marshaal NG, dkk, 2019). The pressure from the public on the Administrative Court has significantly increased with the development of democratization in Indonesia (Martitah,dkk, 2018), as an example, in Case No. 41/G/LH/2018/PTUN.PBR.

The Non-Governmental Environmental Organization YLBHR (Plaintiff), located in Kampar Regency, Riau, filed a lawsuit against the Head of the Investment Agency of Kampar Regency (Defendant I) and also the Head of the Environmental and Sanitation Agency in Indragiri Hilir Regency (Defendant II), and PT. RSPI in Indragiri Hilir Regency (Intervening Defendant II) (Decree Number: 503/BP2MPD-IL/IX/2014/4 dated September 24, 2014, regarding the Granting of Location Permit to RSPI (Object 1) and Decree Number Kpts.21/BLH-UPL/VI/2015 dated June 26, 2015 (Object 2)). Because Intervening Defendant II is suspected of water pollution in Indragiri Hilir. Argumentative debates occurred when Intervening Defendant II felt that their actions did not meet the legal standing to file a lawsuit because, apart from not residing in Indragiri Hilir but in Kampar, the Plaintiff also never visited the specified location. Meanwhile, the Plaintiff believed they had legal standing based on the mentioned provisions, and the panel of judges in the case considered that the Plaintiff had legal standing to file a lawsuit in the Administrative Court.

The authority held by the Administrative Court is to adjudicate matters related to administrative decisions (Aden Rosadi dan Fadhli Muhammad, 2019). The authority to adjudicate, or competence, is a court's power to receive, examine, and make decisions to settle cases brought before it. There are two types of jurisdiction: absolute competence and relative competence. Absolute competence is related to the subject matter or material or the essence of the dispute to be adjudicated by the Administrative Court. It must be understood that not all actions can be adjudicated by the Administrative Court, even if state administrative bodies/officials can be sued in the Administrative Court (Ridwan, Despan Heryansyah, dan Dian Kus Pratiwi, 2018).

Absolute competence refers to the absolute authority related to the subject matter of the dispute, indicating that the issue cannot be adjudicated by any other court. For instance, administrative decisions must go to the Administrative Court, tax disputes to the Tax Court, Muslim divorces to the Religious Court, non-Muslim divorces to the District Court, cases of debt payment deferment to the Commercial Court, and so on. In contrast, relative competence refers more to the jurisdiction where a case should be heard. For example, whether it should be in the Administrative Court in Pekanbaru or the Administrative Court in Jakarta.

Based on the aforesaid research, the Plaintiff believes it has the right to sue as an organization after receiving reports from the communities of Kemuning District and Keritang

District. This is because the Reteh River is located in Indragiri Hilir Regency, Riau Province, traversing six villages: Air Baluri Village, Tu'jjimun Village, Kemuning Tua Village, Kemuning Muda Village, Limau Manis Village, Lubuk Besar Village, and Tulang Jangkang Village. These villages feel aggrieved due to environmental pollution committed by Intervening Defendant II (Verdict of Case Number 41/G/LH/2018/PTUN.PBR).

The Plaintiff alleges that the company is suspected of continuous waste disposal without sufficient supervision of compliance by Defendant I and Defendant II. Feeling aggrieved, the Plaintiff demands the court to grant two things: first, the suspension of the implementation of the disputed object by requiring Defendant I to postpone the implementation of Defendant I's letter and Defendant II's letter. Second, in the substance of the case, the Plaintiff requests Defendant I and Defendant II to revoke Decision Letter No: 503/BP2MPD-IL/IX/2014/4, dated September 24, 2014, and Defendant II's Decision Letter No: Kpts. 21/ BLH-UPL/VI/2015.

In Verdict of Case Number 41/G/LH/2018/PTUN.PBR, Intervening Defendant II disputes the claims. There is a significant time gap between the emergence of the dispute object and the filing of the lawsuit. "… RSPI obtained legal entity approval on February 13, 2013. It received location permits on September 24, 2014, obtained Environmental permits for Palm Oil Factory Activities on June 26, 2015, and received plantation permits for processing on December 3, 2015, and subsequently commenced production. There is a considerable time gap with the lawsuit registered in August 2018. During this time, there have been no environmental pollution issues. Even if there is alleged pollution in September 2018 after heavy rain, it is likely to originate from coal waste, not from RSPI".

The Plaintiff remains adamant based on the results of community reports and the examination conducted by the Plaintiff using the Total Economic Valuation approach. According to this approach, the economic value that can be calculated from environmental pollution in the six villages is Rp. 1,534,000,000.00 (one billion five hundred thirty-four million rupiah).

The issue becomes interesting when Intervening Defendant II claims that the Plaintiff does not have a legitimate interest. This is because the interest depicted by the Plaintiff is a general interest and not an interest as required by Law No. 5 of 1986 regarding the Administrative Court, namely, that the Plaintiff's interest is harmed. The organization's rules state that its goals and activities are related to the environment. Isn't this scope too broad? There are no territorial limitations where the organization is located, and there are no clear rules on the direct losses it suffers. If environmental management is the right of all citizens, wouldn't it be more effective for a local organization of a similar nature to file the lawsuit? At least, it would be aware of and observe the local developments in environmental management. If there are limitations related to organizations with the right to sue domiciled thousands of kilometers away, even outside the provincial jurisdiction, as long as they have the right to sue, while the defendant is a concrete, individual, and final decision of the State Administrative Agency.

According to the explanation of Article 1, number 3 of the Law on Administrative Court, "Concrete" means that the object decided in the State Administrative Decision is not abstract but tangible, specific, or determinable. "Individual" can be understood as the State Administrative Decision is not intended for something general but for a specific thing, whether it be an address or a specific matter. If the State Administrative Decision is directed at more than one person, each person's name is mentioned in the decision. "Final" means that it is definitive and can have legal consequences. If the decision still requires approval from a higher or another agency, it is not final because it cannot yet impose rights or obligations on the parties involved (Explanation of Article 1, Number 3 of the State Administrative Court Law).

In this study, the objects of the State Administrative lawsuit issued by Defendant I and Defendant II are Decision Letter No: 503/BP2MPD-IL/IX/2014/4 dated September 24, 2014, and Defendant II with Decision Letter No: Kpts. 21/ BLH-UPL/VI/2015. Both decision letters obtained by Intervening Defendant II went through a very detailed and challenging process.

The concrete, individual, and final nature of the State Administrative Decision, along with the lengthy and intricate process to obtain it, can be easily questioned by others who may not have dealt with such matters before but are deemed eligible to file a lawsuit. This aspect is intriguing to explore.

Both Defendant II and Intervening Defendant II explain that the disputed decision letters comply with procedures. An example is the basis for issuing the permit, which is based on the Minutes of the Examination Meeting on the UKL-UPL Document of the RSPI Palm Oil Factory with a capacity of 60 tons of TBS per hour in Selesen Village, Kemuning District, Indragiri Hilir Regency, Riau Province. Certainly, the minutes are not created arbitrarily, but the document is produced after a field inspection. It is not possible to create minutes of the field conditions without prior inspection.

In the aforesaid case, the Panel of Judges opined that the Plaintiff has legal standing, considering that Article 1, number 27 of the Environmental Law states, "Environmental organizations are organized groups formed voluntarily whose goals and activities are related to the environment." Based on the issuance of the State Administrative Dispute Object, the Plaintiff has a legal position and legal interest, possessing the right to sue as explicitly regulated in Article 92 of the Environmental Law.

It is argued that the party that should be able to file a lawsuit is the one whose interests are clearly and tangibly affected by the issuance of a State Administrative Decision. This implies that, with reference to who has the right to sue in the Administrative Court, it is regulated in such a way that, similar to the Constitutional Court, the constitutional harm must be clear (The Constitutional Court decided based on Constitutional Court Decision Number 006/PUU-III/2005 dated May 31, 2005, and Constitutional Court Decision Number 11/PUU-V/2007 dated September 20, 2007), Thus, the constitutional harm and/or authority as referred to in Article 51 paragraph (1) of Law Number 24 of 2003 concerning the Constitutional Court must meet 5 criteria:

1. The existence of the Constitutional Right granted by the 1945 Constitution.
2. That the Constitutional Right of the Applicant is considered by the Applicant to have been harmed by a law that is being examined.
3. That the alleged harm is specific and actual or at least potentially foreseeable based on reasonable reasoning.
4. The existence of a causal relationship between the harm and the enactment of the law being requested for examination.
5. The possibility that by granting the petition, the alleged constitutional harm will not occur or will no longer occur.

When compared to legal standing in Article 92 of the Environmental Law with Article 51 paragraph (1) of Law Number 24 of 2003 concerning the Constitutional Court, there is a fundamental difference. Legal standing in the Constitutional Court requires specific details of the harm caused. In point 1 regarding who has constitutional rights, it is mentioned more limitatively, namely, considering constitutional rights and/or authority granted by the 1945 Constitution harmed by the enactment of a law, first, individual Indonesian citizens; second, Customary Law Community Units as long as they are still alive and in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia regulated in the Law; third, Public or Private Legal Entities; fourth, State Institutions. However, in judicial review, even if there is specific harm, if the material being challenged is approved, it will have implications for the entire Indonesian population. Conversely, loose

organizations can file lawsuits against concrete, individual, and final decision letters. The process to obtain such decision letters is lengthy and gradual.

The research topic began when the Plaintiff claimed that the company was allegedly continuously disposing waste without sufficient supervision of the business's compliance by Defendant II, which was baseless. Defendant II Intervened denied this claim.

"Defendant II Intervensi obtained legal entity approval for the company on February 13, 2013. Received a location permit on September 24, 2014, and obtained an Environmental Permit for Oil Palm Factory Activities on June 26, 2015, and received a plantation permit for processing on December 3, 2015, and subsequently engaged in production. There is a considerable time gap with the registration of the lawsuit in August 2018. And during this time, there has been no environmental pollution issue. Even if there is suspected pollution in September 2018 after heavy rain, it is reasonable to suspect that it comes from coal waste, not from Defendant II Intervensi..."

Furthermore, Defendant II Intervensi questions the Plaintiff's calculation of damages, considering that the Plaintiff is not even part of the environmental organization in Indragiri Hilir but is domiciled in Kabupaten Kampar. Isn't there a requirement for calculating damages, and isn't it regulated by the law? In this case, Defendant II Intervensi accuses the Plaintiff of arbitrarily making calculations for an achievement that has never been done for the Indragiri Hilir region. Even if there is harm, it should not be through an administrative lawsuit but through a Tort Lawsuit in the District Court. The unlimited environmental lawsuit rights held by Environmental NGOs can indeed raise specific issues and challenges (Nommy H.T. Siahaan, 2011). Because the damages cannot be clearly demonstrated, the lawsuit is still pursued in the name of the environment. The judge, in the name of the law, still provides room for Environmental NGOs to exercise their right to sue, even though after all allegations are proven unfounded.

In the object of this research, it is revealed that Dr. H. Eddy Asnawi, SH, MH, provided expert testimony that causation must be established between the plaintiff and the object where the disputed object is issued. Additionally, he stated his opinion that 'no interest, no action,' meaning actual activities must be carried out in that location. If not fulfilled, then legal standing is not satisfied (NN, Putusan sengketa PDAM Bekasi). All of the above does not matter and, when associated with legal standing, because the judge believes that direct interests also include procedural interests. In addition to individuals with a direct interest, there are also social organizations with an interest in filing a lawsuit in the Administrative Court. All objections raised by Intervening Defendant II regarding the lack of real interest for the Non-Governmental Organization (NGO) do not appear to be considered in the consideration of the Plaintiff's legal standing unless it is deemed to meet the requirements of Article 92 of the Environmental Law. All detailed rules about who has the right to sue, in contrast with the very loose limitations on the right to sue, are owned.

Considering the considerations related to legal standing, it is not a problem for any NGO, even outside the province. The spirit of the lawmakers certainly aims to protect the environment, but to focus more on the goal, more detailed regulations and limitations on environmental NGOs in certain regions need to be established. At least, environmental NGOs in the district/city where the object of the administrative dispute is questioned, making the connection and the losses suffered clearer, thus having the right to sue in environmental cases. It is well understood that the emergence of the spirit to preserve and protect nature, one of which is to prevent natural disasters on Earth (Taufika Hidayati dan Yulia Tiara Tanjung, 2022).

Natural disasters come in various forms, including floods (an area or land that is usually dry is inundated by a large amount of water, commonly known as a flood), earthquakes (vibrations that occur due to the sudden release of energy within the Earth's plates or due to volcanic activity that creates seismic waves, commonly known as an

earthquake), volcanic eruptions (the process of magma, volcanic ash, and gas erupting from the Earth's interior to the Earth's surface, commonly known as a volcanic eruption), tsunamis (terrifying tidal waves caused by earthquakes or volcanic eruptions at the seabed), droughts (an event that occurs when there is a prolonged shortage of water supply, either due to a lack of atmospheric water (below-average rainfall), surface water, or groundwater, also known as a drought), tornadoes (strong winds crossing the ground, capable of destroying buildings, shaped like an inverted cone), hurricanes (a storm system consisting of heavy rain and strong winds, rotating around a low-pressure area), landslides (the movement of rocks, soil, or debris down a slope. Causes are diverse, not only deforestation but also volcanic eruptions, heavy rainfall, earthquakes; in essence, causing the soil to shift), and blizzards (usually occurring in winter in high mountains, temperate, or polar climates, lasting three hours or more, characterized by severe snowstorms with strong and prolonged winds) (Mademoiselle dii, 2022).

Everyone would agree on the importance of environmental protection. It is so crucial that the government has the right to file lawsuits, as stated in Article 90 paragraph (1) of Law No. 32/2009, which reads, 'Government institutions and regional governments responsible for the environment have the authority to file compensation lawsuits and specific actions against businesses and/or activities causing pollution and/or environmental damage resulting in environmental losses.' The government, in filing lawsuits regarding environmental pollution, presents several reasons, including, first, the state as the guardian of the environment. The second and third reasons involve state losses and the consequences of the state's responsibility for the environment (Dona Pratama Jonaidi, Andri G. Wibisana, 2020).

There are 58 verdicts found and sentenced based on Environmental Law. From the aforementioned cases, there are 6 types of offenses charged, but the most common violation is the mismanagement of hazardous and toxic waste (B3) materials, with 18 verdicts related to such violations. The second most common is illegal dumping, which involves disposing and placing waste in the environment without proper permission. Issues related to environmental criminal offenses are most frequently found in connection with corporations. Out of the 26 criminal verdicts related to the environment associated with corporations, 17 cases involve general environmental offenses, particularly illegal dumping. Out of these 17 verdicts, 8 charge the corporations, and the other 9 involve corporate officials as defendants. Individual non-corporate businesses also face criminal environmental cases, specifically related to improper management of B3 waste, illegal dumping, and environmental pollution. These actions are often carried out by small and medium-sized enterprises (SMEs), such as used oil recycling, paper waste, and plastic bottle recycling (Nur Syarifah, dkk, 2020).

For what individuals or corporations do, punishment must be administered through the judiciary by judges. However, everything must comply with the legal rules. Judges are representatives of God on Earth, and they base their decisions on three legal principles: justice, legal certainty, and utility (Tata Wijayanta, 2014). Judges do not always decide as mere mouthpieces of the law. According to Apeldoorn, individuals can freely interpret a law or regulation, and if necessary, they can even add content to the legislation (open-system legislation) (Sri Wijayanti, 2018).

In order to fulfill a sense of justice, the interpretation of the law can certainly be used. Dworkin's idea that law is interpretative or has an interpretative dimension even begins with the notion that the world cannot be separated from interpretation (Diah Imaningrum Susanti, 2019). The professional duty of a legal enforcer as well as a legal aid provider is to be free and courageous, accompanied by a full sense of responsibility in providing legal advice and assistance, both inside and outside the Court, applicable to anyone who needs it because there are matters that could threaten their life, freedom, property rights, and reputation. This is done by applying all the expertise based on knowledge, contributing to upholding the law, truth, and justice based on Pancasila and the 1945 Constitution (Jefri Tarantang, 2018).

The judge in the trial process has an active role (dominus litis), as the judge has the duty to seek material truth (Sudarsono dan Robbenstain Izroiel, 2019). In deciding a case, judges also have the right of rechtvinding. Rechtvinding is the judge's freedom, within certain limits, to reconcile the law with the situation experienced by society. This is done through interpretation if the regulation is unclear or legal construction if the law does not regulate it (Yati Nurhayati, 2020). Of course, this is done with strong legal arguments. Judges essentially have an obligation to explore, follow, and evaluate legal values that exist in society, as stated in Article 5 of Law No. 48 of 2009 Regarding Judicial Power. In finding the law, judges use interpretation, which can take the form of systematic, extensive, or a contrario interpretation. A contrario argumentation occurs when a judge makes a legal finding with the consideration that if the law stipulates certain things for certain events, it means that the regulation is limited to those specific events, and the opposite applies to events outside of them (Musa Darwin Pane dan Sahat Maruli Tua Situmeang, 2018). Shouldn't judges be more than just mouthpieces for the law? Deciding a case solely based on the wording of the law. Judges should be a conduit for justice, the interests of society, and well-being. The accountability of a judge is a serious matter, especially when using the phrase 'In the Name of Justice Based on the Almighty God,' meaning the judge's accountability is not only to humans but directly to God. The piety of a judge should be reflected through their rulings, demonstrating honesty, nobility, authority, wisdom, and fairness.

What happened in the present case study indicates that, in the Environmental Law concerning legal standing and the right to file a lawsuit, further examination is needed. Certainly, if a solution to the problem, in the form of limiting who has the right to file a lawsuit, is desired, there needs to be a revision related to environmental protection and management laws to clearly describe who has the right to file a lawsuit in environmental cases. The limitation of legal standing in testing laws at the Constitutional Court can serve as a reference for restricting legal standing. In addition to the constitutional rights possessed, one should be able to demonstrate clear losses suffered to file a lawsuit. These losses can be measured by the involvement and participation in development, especially regarding the environment. Moreover, considering the specificity of the contested object, there should be specific limitations to demonstrate the harm suffered, so that the relevant article does not create an easy loophole for anyone to file a lawsuit, even though there are rights that need protection, as sovereign citizens in their own country.

CONCLUSION

The right to sue for environmental issues should have clear limitations on who has the right to file a lawsuit, so it is not in contradiction with other existing rules. Instead, it should clarify further by setting more concrete limitations, at least regarding geographical boundaries. Those who have the right to file a lawsuit, in addition to meeting the requirements as stipulated in Article 92 of the Environmental Law, should also have their institutions domiciled in the district or city where the disputed object is contested in the Administrative Court. To achieve this, strategic steps are needed, such as revising the law to improve regulations related to this matter.

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