

# Water supply contract in the context of environmental safety: features of legal regulation

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**Abstract.** The article focuses on the special nature of water supply contract and its legal regulation. It is known that civil law regulates various relations in the sphere of property and other non-property things. It acts as a separate branch, which has a certain independence, as well as a certain specificity of functioning. Civil law is based on concluded agreements. It is a system of property and personal non-property relations regulated by civil legislation on the basis of legally binding contracts. Contracts are one of the most important sources of civil regulation and form a fundamental part of civil legislation. One of the most important types of civil law contracts is the «contract of water supply and sewerage». Water supply contract is an agreement between the organization managing water supply and sewerage system (Vodokanal) and the user, under which Vodokanal undertakes to provide the customer with drinking and technical water through a connected centralized water supply network. The customer is obliged to comply with the regime of water resources consumption and to pay for them on time, to comply with the contractual regulations on the volume and quality of waste water discharged into the sewerage system. According to the Article 432 of the Civil Code of the Russian Federation: a contract is considered concluded if the parties, in the required form, have reached an agreement on all material terms of the contract. The contract specifies the volume and quality of services provided, tariffs for water supply, the procedure for calculations, the responsibility of the parties and the terms of termination of the contract. As the object of research the authors have defined the peculiarities of the legal nature of the water supply contract under the conditions of deterioration of the situation with environmental safety. The purpose of the work is the study of the legal nature of the contract of water supply and its civil-law regulation in accordance with the current legislation of the Russian Federation in view of the special importance of water supply for environmental safety.

## 1 Introduction

All subjects of public authority in the Russian Federation are currently paying attention to the problem of providing water to the population. At the same time, the separate parties to

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this problem are both the quality of the supplied water, the condition of water supply networks, sanitation issues, and purely legal issues related to the water supply and sanitation contract itself, as well as the possibility of concluding this contract. Water supply and sanitation, on the one hand, is an object of economic relations, since it is associated with the payment of water and the provision of services for its supply, on the other hand, sanitation, which also acts as an object of environmental legal relations, since centralized sanitation is not implemented everywhere. The civil law regulation of this agreement is necessary for the normal functioning of the parties involved in the agreement, their confidence in the future, as well as to prevent possible violations by water utilities or subscribers. The development of centralized water supply and sanitation networks has been going on for centuries under the influence of various factors. One of them was the massive outbreaks of infectious diseases caused by drinking contaminated water. In an attempt to solve this problem, cities have begun to build water supply and sewerage systems. In addition to the spread of diseases, large fires served as an additional incentive to create centralized water supply and sanitation systems. Just as in the case of disease epidemics, water played a crucial role in extinguishing fires, but was not always available in sufficient quantities, which led to great losses and destruction. The third important factor that influenced the development of water supply and sewerage systems was the rapid growth of industrial production in many countries. The availability of a guaranteed water supply and the possibility of diverting industrial wastewater were necessary conditions for the operation of factories and plants [1].

Thanks to the development of technologies in the field of water purification and pumping, as well as the laying of large-diameter pipes, in the XIX century, water supply and sewerage appeared in many cities. The plumbing business has made it possible to solve important social problems and improve the sanitary and epidemiological situation. The advent of centralized water supply systems has increased the level of home improvement and reduced infectious diseases and mortality.

Housing and communal services is a complex of economic sectors that ensures the functioning and development of real estate, including residential buildings, enterprises and organizations, as well as public and administrative buildings. This industry plays a key role in the economy of the state, providing the population and enterprises with services for housing maintenance and repair, water supply, sanitation, heat supply, electricity and gas supply.

Water supply is a set of measures aimed at providing the population and enterprises with water for household, industrial and environmental needs. It includes extraction of water from natural sources, its purification, transportation and distribution to consumers [2].

A significant place in the housing and communal services is occupied by the water supply contract. It is one of the main tools for regulating relations between water suppliers and consumers. This type of contract has a number of features due to the specifics of water supply as a branch of the economy.

The problem of providing the population with good quality water currently requires special attention, and the bottom line is that this agreement is extremely important for providing the population with water, as well as for maintaining cleanliness and order in cities and towns. It is an object of economic relations, as it is associated with the payment of water and the provision of services for its supply.

The civil law regulation of this agreement is necessary to protect the rights and legitimate interests of the parties involved in the agreement, as well as to prevent possible violations by water utilities or subscribers.

Violation of the terms of the contract may result in fines, restriction or termination of water supply, as well as legal proceedings. This is also relevant when studying the specifics of concluding a water supply contract in the Russian Federation.

Despite the fact that the problem under study has repeatedly come to the attention of prominent Russian jurists (Agarkov M.M., Braginsky M.I., Vitryansky V.V., Ioffe O.S., Klein N.I., Korneev S.M., Sadikov O.N., Seinaroev B.M., Sukhanov E.A., Shafir A.M. and others) there is a significant need to continue studying the water supply contract, which will identify problems and shortcomings in the legal regulation of the water supply system, suggest ways to solve them, as well as develop recommendations to improve the quality of services and improve the efficiency of the water supply system.

In the conducted research, the modern concept of a water supply contract in the system of contracts in accordance with Russian civil legislation received its scientific and theoretical justification. At the same time, the achieved research results are due to the expediency of their use in research activities in the subsequent development of theoretical and applied problems of legal regulation of the water supply contract in the Russian Federation.

## **2 Materials and methods**

When choosing the methods of research, the authors were guided by the logic of the construction of the conducted research and its subject matter. In this regard, the application of the general scientific methodology of cognition in this study was combined with methods aimed at identifying the specifics of the water supply contract and the features of its legal regulation, and, in particular, the comparative legal method, systemic-structural, formal-legal. The indicated methodology of theoretical research allowed the authors to formulate a number of fundamentally important provisions governing the water supply contract in domestic law.

## **3 Results and discussion**

The expected results of the research conducted by the authors are related to the peculiarities of the legal regulation of the water supply contract, the assessment of its role and importance for environmental safety.

The term «water supply contract» is fixed in the Federal Law «On Water Supply and Sewerage». The water supply contract is a public contract. This is a contract concluded by a commercial organization and establishes its obligations for the sale of goods, performance of works or provision of services, which such an organization, by the nature of its activities, must carry out in relation to everyone who applies to it.

The parties to the water supply contract are the water supply service provider and the consumer.

The subject of the water supply contract is to provide the subscriber (consumer) with drinking water, hot water, as well as wastewater and pollutants disposal services.

The subject of the contract is the water supply regime, and it is also a mandatory item that describes in detail the service provided by the supplier. This section defines what kind of water the organization supplies: clean, potable, technical, cold.

The price of the water supply contract is determined by the tariffs set by the service provider.

The content of the water supply contract includes the terms of service, the rights and obligations of the parties, the payment procedure and liability for violation of the terms of the contract.

The timing of the water supply is determined in the water supply contract and depends on various factors such as consumption, seasonality, technical condition of networks and so on. Usually, the water supply time ranges from several hours to several days.

To ensure high-quality water supply, it is necessary to use modern technologies and equipment, as well as to carry out strict control over water quality. Water characteristics must comply with legal requirements and sanitary and epidemiological standards. The water should be safe for health, free of harmful impurities and bacteria.

The procedure for water quality control is determined by legislation and may include laboratory tests, checking the condition of water supply networks, and so on [3].

The procedure for accounting for supplied water is defined in the water supply contract and may include the installation of meters, periodic inspections, and so on [4].

The terms and procedure for payment under the water supply contract are defined in the contract itself and may vary depending on the terms of the agreement. Payment is usually made monthly or quarterly, but there may be other conditions. The contract also specifies the amount of payment and how to make it.

The rights and obligations of the parties under the water supply contract are also determined by the contract itself and may differ depending on the specific conditions.

According to this agreement, the organization providing hot or cold water supply may refuse to conclude the contract in case of violation of the technical conditions for connecting the subscriber to the water supply system. The deviation is also likely in cases of arbitrary connection to the water supply system.

Payment for water under the water supply contract is carried out at the existing tariffs.

Let's consider the circumstances when the subscriber has not paid for the water supply and sanitation services provided to him by the organization of the water supply and sewerage system. As an example, take the Decision of the Judicial Board for Economic Disputes of the Supreme Court of the Russian Federation dated 30.01.2024 No. 307-ES23-20474 [5] in case No. A56-52721/2022 and the Decision of the Arbitration Court of the Volga-Vyatka District dated 21.01.2022 No. F01-8271/2021 [6]. The courts of the first and appellate instances found that the subscriber improperly fulfilled contractual obligations to pay for the cold water supplied during the disputed period and the services provided for sanitation. In this regard, the courts came to the correct conclusion about the existence of grounds for collecting a penalty from the defendant. But it is worth noting that in some cases, the subscriber can avoid paying a penalty if he proves that the fulfillment of obligations has become impossible due to circumstances of force majeure (natural disasters, military operations, etc.). It is also important to mention that the subscriber can reduce the amount of the penalty by applying to the court for its reduction. The court may reduce the amount of the penalty if it finds it justified and proportionate to the circumstances of the case. In addition, the subscriber may be exempt from paying a penalty if the organization of the water supply and sewerage system has committed violations related to the provision of water supply and sanitation services.

In a situation where the subscriber has paid for more than the consumed volume of water, the overpaid amount is credited to him for the next billing month.

Hot and cold water supply contracts are concluded in accordance with approved standard contracts.

From all this, it can be summed up that under the water supply contract there is an agreement between the water supplier and the consumer, which sets the conditions for the supply of water, its quality, prices and other conditions.

This agreement is binding on the parties and violation of its terms may lead to fines and other sanctions.

Regulation conclusion of contractual relations in the field of application of water supply to the population is a comprehensive legislative decision that defines the rules and procedure for concluding agreements in this area between the water supply service provider and the consumer.

The purpose of the regulatory regulation of the conclusion of a water supply contract is to ensure compliance with the rights and interests of the parties, as well as the preservation of environmental safety and social norms.

The basis for the regulatory regulation of the conclusion of a water supply contract is Federal Law No. 416-FZ dated 07.12.2011 «On Water Supply and Sewerage».

With regard to the water supply contract, Federal Law No. 416-FZ, there is a hotel article 13 «Hot or cold water supply contract». This article contains provisions that establish the rights and obligations of the parties, the conditions for the conclusion and execution of such an agreement. According to this article, a contract for hot or cold water supply must be concluded in writing. It specifies information about the parties to the contract (supplier and consumer), as well as the conditions for providing water supply, including the volume, quality and methods of water supply [7].

The contract must also determine the procedure and terms of payment for water supply services, the grounds and consequences of changing the terms of the contract, the rights and obligations of the parties, as well as liability for violation of the terms of the contract. The article states that the consumer has the right to demand high-quality and safe water supply in accordance with established regulatory requirements. The supplier, in turn, is obliged to ensure the proper execution of the contract and maintain the operability of the water supply system.

The article also provides that in case of violation of the terms of the contract, the supplier is financially responsible to the consumer.

The consumer has the right to go to court to protect their rights and interests [8].

Thus, the Federal Law «On Water Supply and Sewerage» directly regulates the water supply contract, establishes essential conditions as a public contract, the rights and obligations of subscribers, management organizations.

Nevertheless, this law also has the following disadvantages:

- vague definition of «water supply contract»;
- there are no references to antimonopoly legislation;
- the law is more related to administrative legal relations.

In our opinion, the water supply contract concerns more civil relations. These are legal relations that arise between individuals and legal entities in the course of their activities. They are regulated by civil legislation and are based on the principles of equality, independence of freedom and material self-sufficiency of the participants in the legal relationship.

The agreement in the field of water supply is regulated by the Civil Code of the Russian Federation (Article 548). The water supply contract is a public contract. In a social agreement, the value of a product, work or service must correspond to the goals of the relevant consumer group. All variants of other requirements of the social agreement are approved, starting with the positive aspects of individual buyers.

According to the Civil Code of the Russian Federation, a water supply contract is a type of service agreement, since water supply operators provide a service to provide water to consumers. In accordance with this, the water supply contract must contain all the necessary conditions defined by Article 426 of the Civil Code of the Russian Federation, such as the subject of the contract, the price of the service, the procedure and timing of the provision of services, and others.

Thus, the water supply contract is the main element of civil relations. However, this agreement also applies to administrative legal relations. This is due to the fact that the Administrative Code of the Russian Federation establishes responsibility for its violation (Article 7.20).

Persons who connect to such systems without appropriate permission may be brought to administrative responsibility.

Judicial practice also confirms these provisions of the legislation. So, in particular, in the review of judicial practice in civil cases of the Supreme Court of the Russian Federation dated 01/16/2024 No. 89-KG23-17-K7, the court considered a dispute between a resource supply company and a consumer who voluntarily connected to the water supply system. The court found that the consumer connected to the water supply system without permission and used the water for several months without paying for it. As a result, the resource supply company went to court with a claim for debt collection for water. The court, having considered the case, ruled in favor of the resource supply company [9].

In the Definition of the Judicial Board for Civil Cases of the Supreme Court of the Russian Federation dated 12/19/2023 No. 18-KGO [10], it was noted that connection to the water supply system is carried out only through the conclusion of a connection agreement that relates to a specific facility. Even if it is necessary to increase the load, a new contract on water supply and sanitation is required. This means that any new facility that is being built must be connected in accordance with the general rules. After the successful connection of such an object, a new contract will be concluded regulating water supply and sanitation for this object. It is important to note that unauthorized use of the water supply system without concluding an appropriate contract is unfair behavior of the subscriber. Such behavior contradicts the requirements of the current legislation. This can have serious consequences, including legal liability for violations of the law.

The Ruling of the Constitutional Court of the Russian Federation dated 09/28/2023 No. 2449-O emphasizes that the state is obliged to take measures to prevent and eliminate the negative impact of economic and other activities on the environment, as well as to preserve and restore natural resources [11].

At the same time, questions arise in the implementation of wastewater disposal. Wastewater disposal is a complex of engineering structures and processes, conditionally divided into three components: collection and transportation of household wastewater through wastewater collectors; pumping of wastewater using sewage pumping stations; treatment of incoming wastewater at wastewater treatment plants. Attention is drawn to these circumstances in the established judicial practice, in particular the Ruling of the Supreme Court of the Russian Federation in case No. A27-5249/2018 on the cassation appeal of the joint-stock company «Road Maintenance Plant» against the decision of 05.07.2018 of the Arbitration Court of the Kemerovo Region and the decision of 04.10.2018 of the Seventh Arbitration Court of Appeal.

Based on this, it can be concluded that the normative legal regulation of the conclusion of a water supply contract is a set of normative acts and legal norms that establish the rules and procedure for concluding a water supply contract between a water supply service provider and a consumer.

The Federal Law «On Water Supply and Sewerage» is the main legislative act regulating relations in the field of water supply and sanitation in the Russian Federation. It establishes the legal basis for the activities of organizations engaged in water supply and sanitation, regulates relations between these organizations and consumers of their services, and also defines the powers and responsibilities of state and local governments in this area.

The Civil Code of the Russian Federation regulates civil law relations, including in the field of water supply. Chapter 30 of the Civil Code of the Russian Federation contains general provisions on the contract for the provision of paid services, which apply to the water supply contract.

At the moment, the civil law regulation of the water supply contract in Russia is facing the following problems:

- the legislation is dominated by the administrative order, because it regulates more by the norms of administrative law rather than civil law;

– the lack of a specialized body to protect the rights of citizens in the housing and communal services sector;

– violation of the principle of freedom to conclude a contract between the parties.

Legislation in the field of concluding contracts for water supply and sanitation is complex and includes norms of both civil and administrative law, which is the first problem that needs to be investigated in this article.

Administrative law regulates relations between authorities and subscribers, and civil law regulates relations between subscribers and service providers.

To regulate relations in the housing and communal services sector, appropriate standards are used, for violation of which administrative liability is provided. However, it should be noted that administrative legislation does not exclude the application of civil law in the field of water supply. Civil legislation regulates property and personal non-property relations arising between legal entities and individuals, including in the field of water supply and consumption.

Currently, the problems of housing and communal services in Russia are one of the key aspects, since this sector reflects the level of development of both a particular region and the whole country.

The problems also affect the complexity of concluding water supply contracts. As a result, the following negative trends are manifested:

– constant violations of contracts;

– the growth of corruption;

– ambiguity on some provisions of the treaties;

– a natural monopoly in the field of cold and hot water supply to consumers.

Constant violations of water supply contracts lead to a decrease in the quality of services, deterioration of water resources and consumer dissatisfaction. They can lead to increased conflicts between water suppliers and consumers, as well as to lawsuits and fines for violators.

The growth of corruption in the field of water supply contracts is a problem that is associated with an increase in bribery and illegal enrichment between the parties signing water supply contracts [12].

This can lead to improper allocation of resources, higher water prices and misuse of funds allocated for the development of water supply.

Ambiguity on some provisions of water supply contracts may be related to various reasons:

– insufficient elaboration of the contract;

– ambiguity of wording;

– hidden conditions;

– errors or misprints.

The emergence of monopolies in the field of cold and hot water supply to consumers is due to the fact that water supply is a natural monopoly, that is, an activity that is more economically efficient carried out by one company rather than several. This is due to the high costs of creating and operating water supply networks, which make it inefficient to divide them between several companies.

All this is due to the fact that in Russia there is no specialized body to protect the rights of citizens in the housing and communal services sector. At the moment, the supervision is handled by the Chief State Housing Inspector of the Russian Federation. At the same time, the housing and communal services sector is too large, therefore, separate bodies are needed for its various facilities, including at the state and municipal levels a body that will regulate the conclusion and execution of water supply contracts. The principle of freedom to conclude a contract assumes that the parties have the right to independently decide whether to conclude a contract or not, and if so, on what terms. In the field of water supply, this principle is

implemented through the possibility of choosing a service provider and concluding a contract with him on mutually beneficial terms.

Violation of the principle of freedom to conclude a contract can manifest itself in various forms, including coercion to conclude a contract, imposition of unfavorable conditions, discrimination against certain categories of consumers, and so on. Such actions may be contrary to the law and violate the rights and legitimate interests of the parties.

When the new supplier of guarantees presents the relevant conditions to the contractor, he will not be able by law to offer him a contract on other terms, on the terms of previously applied contracts.

Therefore, it can be summed up that the relevant problems of civil law regulation of the water supply contract are:

- legislation is administrative in nature, subject to the norms of administrative law rather than civil law;
- the lack of a specialized body to protect the rights of citizens in the housing and communal services sector;
- violation of the principle of freedom to conclude a contract between the parties.

Despite the vast number of sources of legal regulation, there is currently no single approach to classifying a water supply contract. This leads to gaps in legal regulation and creates the need to take into account not only regulatory sources, but also self-regulation, as well as dispositive contractual regulation.

The problem of combining private and public interests in law has a long history and is relevant in many legal systems around the world. In modern society, this problem is becoming particularly acute due to the increasing role of the state in economic and social life, as well as the growth of individual self-awareness and the desire of people to protect their rights and freedoms[13].

Taking into account the fact that water supply is one of the most important spheres of society, since it affects the interests of each person and society as a whole. The State is obliged to intervene in this area and apply imperative methods of legal regulation. First, the State must guarantee access to clean and safe water for all citizens. This means that it must set water quality standards, regulate water prices and ensure compliance with these standards and prices. Secondly, the State must ensure the rational use of water resources. This means that it should regulate the use of water in various sectors of the economy and set limits on water use. Thirdly, the State must protect water resources from pollution and depletion. This means that it must set environmental standards and monitor their compliance.

The problem of self-regulation in the water supply contract is of considerable interest. The parties to the water supply contract are free to regulate their relations, as well as have the opportunity to take into account the individual needs of the parties to the contract, which will ensure a balance of interests of the parties to the contract and contributes to improving the quality and reliability of water supply.

Currently, there is no legal basis for self-regulation in the field of water supply, although there is an association of water supply organizations. According to A.P. Anisimov, A.Y. Ryzhenkov and S.A. Charkin, «by concluding a water supply contract, the parties may include other conditions in the water supply contract that are not provided for by law» [14-19].

The parties to the water supply agreement can independently determine the price of water, the procedure for its payment, the terms of water supply, as well as liability for violation of the terms of the agreement. At the same time, they must take into account the requirements of the law and cannot include conditions in the contract that contradict the law. For example, the parties cannot set the price of water higher than that set by the state.

Improving consumer water supply plays an important role in civil relations, as it ensures public access to a vital resource, as well as contributes to the development of the economy and social sphere.

Water supply is the basis for many activities such as manufacturing, agriculture, transport, tourism and so on, and its quality and accessibility directly affect these industries.

In addition, improved water supply helps to reduce morbidity and improve the quality of life of the population. Therefore, an important place should be taken by improving the civil law regulation of the water supply contract.

The water supply contract is an important element of the infrastructure of any modern society. Its civil law regulation plays a key role in ensuring reliable and safe water supply, as well as protecting the rights and legitimate interests of the parties to the agreement.

Contractual regulation of water relations specifies the rights and obligations of water users. The issue of the sectoral affiliation of the water supply contract requires consideration of the relationship with contracts of civil and public law type.

It is necessary to establish the limits of civil law regulation of relations in the field of water use.

Improvement of the civil law regulation of water supply contracts can be carried out in several directions:

1. Strengthening the principle of freedom of contract. In particular, it is necessary to ensure compliance with the principle of freedom of contract, preventing coercion to conclude an unfavorable contract or the imposition of certain conditions. This can be achieved by establishing responsibility for such actions and creating effective consumer protection mechanisms.

2. Development of competition in the water supply market. Competition is a key factor contributing to improving the quality of services and reducing their cost. To do this, it is necessary to create conditions for attracting new participants to the market, as well as stimulate the development of small and medium-sized businesses in this area.

3. Improving the quality of services. An important area of improvement of civil law regulation is to improve the quality of water supply services provided. To do this, clear quality standards should be established and monitored, as well as regular inspections and monitoring of the condition of water supply systems.

Each of the listed areas should solve the problems currently existing in the field of concluding water supply contracts. In addition, the adoption of draft federal laws should be accelerated as much as possible: No. 1025103-7 «On Amendments to the Federal Law «On Water Supply and Sewerage» (regarding the introduction of a non-centralized wastewater disposal system) [20]; No. 950194-7 "On Amendments to the Federal Law «On Water Supply and Sewerage» and Certain Legislative Acts of the Russian Federation» (on Synchronizing the responsibilities of organizations Engaged in water supply, sanitation and heat supply) [21].

Improving the civil law regulation of the water supply contract is an urgent task that requires an integrated approach, which will improve the conditions of water supply to the population, increase the efficiency of water supply organizations and strengthen consumer rights.

In order to achieve these goals, it seems to us necessary to carry out the following measures:

- analysis of the sources of regulatory regulation of the water supply contract shows that most of the norms contained in these regulations are of a public legal nature, they are characterized by less dispositivity and, therefore, provide less freedom of action to legal entities;

- currently, there is no legal basis for self-regulation in the field of water supply, although there is an association of water supply organizations.

– the source of the dispositive legal regulation of the water supply contract is the contract itself, concluded by the parties, in which they specify their rights and obligations. The set of rights and obligations forms the content of the water supply contract.

– strengthening the principle of freedom of contract: it is necessary to ensure compliance with the principle of freedom of contract, preventing coercion to conclude an unfavorable contract or the imposition of certain conditions;

– development of competition in the water supply market: it is necessary to create conditions for attracting new participants to the market, as well as stimulate the development of small and medium-sized businesses in this area;

– improving the quality of services: it is necessary to establish clear quality standards and monitor their compliance, as well as conduct regular inspections and monitoring of the condition of water supply systems.

The improvement of civil law regulation of water supply contracts should be aimed at ensuring a balance of interests of all parties, including service providers, consumers and the state.

## 4 Conclusion

Thus, an analysis of the specifics of the legal regulation of the water supply contract in the Russian Federation allowed us to conclude that under the water supply contract there is an agreement between the water supplier and the consumer, which establishes the conditions for the supply of water, its quality, prices and other conditions. This agreement is binding on the parties and violation of its terms may lead to fines and other sanctions.

The study of the problem of improving the civil law regulation of the water supply contract in the Russian Federation allowed us to conclude that the current problems of civil law regulation of the water supply contract include:

– legislation is administrative in nature, subject to the norms of administrative law rather than civil law;

– the lack of a specialized body to protect the rights of citizens in the housing and communal services sector;

– violation of the principle of freedom to conclude a contract between the parties.

As part of improving the legal regulation of activities in the field of water supply, it is necessary to conduct a comprehensive analysis of current legislation and regulatory legal acts preparing for adoption related to the sphere of legal regulation under study, which made it possible to identify gaps, conflicts and contradictions in the designated legal regulation, as well as identify ways to eliminate them.

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