

THE RELATIONSHIP BETWEEN THE ADMINISTRATION AND CITIZENS IN ACCORDANCE WITH THE PRINCIPLES OF TRANSPARENCY AND NEUTRALITY

Review Article¹

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Abstract

The significance of the relationship between the administration and the citizen becomes evident when considering that the citizen is the foundation upon which states and societies are built. Accordingly, citizens' rights and freedoms must be protected, which requires limiting the power exercised by state authorities and individuals alike. The relationship between citizens and the administration has therefore attracted increasing attention, owing, on the one hand, to the growing participation of citizens in administrative affairs and, on the other, to the evolving functions of the administration. In order to regulate this relationship, the Algerian legislator established a legal framework aimed at safeguarding these reciprocal ties.

Keywords: Administration; citizen; authority; transparency; neutrality.

Introduction

The developments experienced by the state immediately after the Second World War, as a result of the expansion of its functions into various fields and its abandonment of its traditional role, which had been confined to maintaining security and public order, generated extensive interaction between the administration and individuals, particularly the users of its services. The administration consequently came to play an important role in people's lives, as individuals require high-quality services that are accessible and close to them. Conversely, the administration needs individuals, since they constitute the very reason for its existence and the source of its activities.

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If the ultimate objective of the state is to pursue comprehensive development on the one hand and bring the administration closer to citizens on the other, in implementation of the constitutional reality of local administration, the application of the system of territorial administrative decentralization has gone beyond the stage of doubt and hesitation among states (Habchi Lazraq, 2019, p. 8).

The crisis of communication within and outside public administration has been one of the principal causes of the spread of administrative corruption. This phenomenon emerged and intensified as a result of several factors, most notably invoking professional secrecy, centralized decision-making, lack of transparency, one-sided relationships, the slowness and complexity of administrative procedures, and a policy of closure toward the surrounding environment. All these factors have had a significant impact on the reputation and future of the administration (Al-Sarn, 2002, p. 38).

It is clear that efforts to improve and legally regulate relations between the administration and citizens began in the early 1980s under the policy known as bringing the administration closer to citizens. This was pursued through the establishment of various administrative structures and legal instruments. In this context, the Algerian legislator issued Executive Decree No. 88-131 regulating relations between the administration and citizens, which was regarded as one of the most important texts in Algerian administrative law for restoring the missing relationship of trust between the administration and citizens.

Administrative reform is therefore closely linked to the development of communication mechanisms with public-service users, as part of opening the administration to its environment. This can be achieved by improving conditions for receiving citizens and providing them with proper guidance within administrative departments, particularly because their impressions often depend on the quality of the reception they receive when dealing with the administration. This also requires adopting administrative transparency in relations with service users and ensuring neutrality, a right recognized by the current Algerian Constitution, particularly Article 26, which requires the adoption of the necessary legal measures for its effective implementation.

Service users may also resort to administrative courts, which have jurisdiction over cases in which the State, a wilaya, a municipality, or a public administrative institution is a party.

This study sheds light on the legal framework governing the relationship between the administration and citizens. The implementation of public policies, the preservation of state authority, and the establishment of a communication bridge between citizens, the state, and the administration constitute the practical face of state activity. It is therefore necessary to regulate this relationship. The service dimension of administrative activity cannot be considered immune from dysfunction in relations between the administration and citizens; when a public service fails in its actions and practices directed toward serving citizens, the relationship with citizens is consequently disrupted.

The study aims to highlight the principal principles governing the relationship between the administration and citizens and to analyze the main legislation and regulations issued in this regard. This relationship is grounded in a set of fundamental principles recognized in most legal systems, as it falls within the broader field of rights and freedoms—human and civic rights exercised vis-à-vis public authorities. Constitutions establish general principles governing relations between the administration and citizens, most notably the principle of administrative neutrality and impartiality and the principle of administrative transparency in dealings with citizens.

Part One: The Relationship between the Administration and Citizens According to the Principle of Administrative Neutrality

The principle of administrative neutrality and impartiality is one of the most important constitutional principles, expressly provided for in Article 26 of the current Algerian Constitution. Its importance derives from its role as an aspect of good governance, within which citizens' rights and freedoms are respected.

Section One: The Concept of the Principle of Administrative Neutrality

Neutrality derives from the Latin notion expressed by the term “neutralité” and denotes the act of not leaning toward any party or political organization. It also signifies the will to abstain from taking sides. It is used to describe a person who does not belong to one party rather than another. Abstention, in turn, implies objectivity and applies to persons who put forward objective arguments that do not change according to personal inclinations (Firom, 2004, p. 3).

The neutrality of a public service means that, in performing its duties and managing its activities, it must observe the requirements of achieving the public interest. The manager of a public service must not use it to support particular interests at the expense of others (Baali, 2013, p. 254).

The Algerian legislator has not provided a legal definition of the principle of neutrality. It has therefore been necessary to rely on legal doctrine to determine its meaning. Moreover, studies have not generally addressed it as an independent principle among the principles governing the organization and operation of public services. Most researchers attribute this to the fact that neutrality is studied as a consequence of the principle of equality before public services (Lebad, 2006, p. 198).

A review of the writings of constitutional and administrative law scholars, as well as specialists in public administration and political science, shows that previous studies have not primarily focused on defining and explaining the substance of administrative neutrality. Rather, the principle has generally been discussed in connection with related issues, although it constitutes a constitutional guarantee for protecting citizens' rights and freedoms against the prerogatives of public authority.

Despite the difficulty of formulating a comprehensive definition, neutrality may generally be understood in two complementary senses. The negative sense requires the public servant to avoid anything that might influence administrative activity and obliges the servant not to be driven by personal emotions or inclinations. The positive sense allows the public servant to participate objectively in political life without allowing personal considerations to influence his or her conduct. Neutrality therefore encompasses both abstention and objectivity (Labid, 2014, p. 1).

Discrimination among persons is a manifestation of the absence of neutrality. Article 29 of the current Algerian Constitution provides that all citizens are equal before the law and that no discrimination may be invoked on the basis of birth, race, sex, opinion, or any other personal or social circumstance (Belhadji Ahmed, n.d., p. 82).

Section Two: Importance of the Principle of Administrative Neutrality

The principle of administrative neutrality in Algeria emerged from constitutional revision, which represents an important stage in the country's constitutional development. Constitutional revision not only acts as a driving factor in constitutional evolution but also reveals certain manifestations of political authority within the state. Since the Constitution provides the framework for political life, it must adapt to changing realities. Constitutional revision therefore seeks a reasonable balance between adapting the Constitution to new realities and preserving its original foundations, within the continuity of the existing system and institutions.

In this regard, Professor Gérard Conac noted that, despite enduring stability, constitutional transformations and revisions reflect a search for structures and procedures more suited to the sociological or cultural realities of each state (Hamrit & Gharbi, 2008, p. 12).

The practical implementation of administrative neutrality is highly significant. It improves and strengthens relations between the administration and citizens, distances the administration from political conflicts, restores its distinctive position and noble objective of serving the public interest, and enhances its credibility. It also encourages citizens to participate in public affairs, either directly in administrative decision-making or indirectly through elected councils. Citizens' satisfaction with administrative action strengthens the legitimacy of the administration.

The principle also promotes social justice by preventing favoritism toward one group at the expense of another and ensuring that public services are provided equally and without discrimination. It contributes to continuity and stability in administrative work by protecting the administration from the forms of bias that may generate political conflict.

Effective implementation of administrative neutrality also contributes to the general principle of legality in administrative law (Belhadji Ahmed, n.d., p. 82), enhances the effectiveness and productivity of administrative activities and public services, and gives public servants a sense of stability and security against arbitrary dismissal. This enables them to acquire experience and skills that improve their professional performance. As Georges Elgozy stated, there is no good policy without good administration and no good administration without political neutrality (Labid, 2014, p. 50).

Section Three: Applications of the Principle of Administrative Neutrality in Algerian Law

In addition to its constitutional recognition, the principle of neutrality has been incorporated by the Algerian legislator into numerous laws and regulations.

Organic Law No. 21-01 on the electoral system, in its opening provision concerning the implementation of constitutional principles, requires strict neutrality toward political parties and candidates (Order No. 21-01, 2021, Article 1). This provision directly establishes the neutrality of the authorities responsible for administering, organizing, managing, supervising, and ensuring the transparency of electoral and referendum operations. Instructions were also issued to officials in municipalities, wilayas, and administrative institutions connected with electoral operations, requiring them to observe the duty of neutrality.

Article 132 of the Penal Code further provides that a judge or administrative official who takes sides for or against one of the parties is punishable by imprisonment from six months to three years and a fine ranging from DZD 20,000 to DZD 100,000 (Order No. 66-156, 1966, Article 132).

Order No. 06-03 of 15 July 2006 establishing the General Basic Statute of the Civil Service provides in Article 41 that a public servant must perform his or her duties with integrity and without bias. The employee must therefore treat all beneficiaries of public services equally and must not favor one person over others (Order No. 06-03, 2006, Article 41).

At the regulatory level, Executive Decree No. 93-54 of 16 February 1993, concerning certain specific obligations applicable to civil servants, public agents, and employees of public institutions, required them to observe neutrality and loyalty toward the State and its institutions. The decree clearly defined employees' obligations and remained applicable from 1993 until its repeal in 2006 by Presidential Decree No. 06-124.

Article 2 required the persons concerned to demonstrate loyalty to the State and its institutions, meaning respect for the Constitution and the principles it enshrines. It also required loyalty in implementing government policy, programs, projects, laws, and instructions, as well as loyalty to the State alone.

The legislator additionally required employees to observe restraint in political or ideological debates and to remain neutral, avoiding political disputes that could obstruct the proper functioning of the administration and consequently delay citizens' interests (Executive Decree No. 93-54, 1993, Article 4). The decree also addressed relations with service users by requiring integrity, particularly in relations with the public, through compliance with the law, neutrality, and equal treatment of all users (Executive Decree No. 93-54, 1993, Article 6).

Furthermore, employees were prohibited from engaging in partisan activities within their institution because such activities could affect their conduct toward a public service that might hold a different political opinion, ideology, or orientation. This represented a requirement of complete neutrality (Executive Decree No. 93-54, 1993, Article 7).

Accordingly, the obligations imposed by Executive Decree No. 93-54 included loyalty to the State, the duty of restraint, the duty of integrity, and the prohibition of partisan activity within the institution or establishment employing the individual. Breach of these obligations could result in the sanctions specified in Article 11, including dismissal, without prejudice to the civil and criminal sanctions established by applicable legislation (Executive Decree No. 93-54, 1993, Article 11).

A further instruction dated 10 May 1993 specified the content of the duty of impartiality and acts constituting a serious breach thereof, including the falsification or attempted falsification of administrative documents with the intention of harming a beneficiary of a public service (Kharchi, 2010, pp. 283–285).

In the same context, a presidential instruction dated 7 February 2009 concerning the presidential election of 9 April 2009, addressed to the administrative, judicial, and political bodies supervising the elections, recalled the fundamental legal guarantees intended to ensure that voting took place transparently and with integrity. It emphasized the duty of neutrality incumbent upon public administrative authorities and their officials. Such neutrality could only be achieved through conformity of their conduct with the law and through creating an atmosphere of trust between public administration, political actors, and candidates (Presidential Instruction, 2009).

Part Two: The Relationship between the Administration and Citizens According to the Principle of Transparency

Transparency is one of the fundamental principles governing the relationship between the administration and citizens because it helps combat favoritism and bureaucracy. This principle also has a constitutional basis in Article 55 of the current Algerian Constitution, which recognizes the right of access to documents and information (Constitution of the People's Democratic Republic of Algeria, 2020, Article 55).

Section One: The Concept of the Principle of Transparency

Several definitions have been given to this principle. Some view transparency as the sharing of information and acting openly, while others define it more precisely as the timely provision of accurate and useful information in a manner that is easily accessible. It has also been defined as freedom of information flow in its broadest sense and the provision of information openly, enabling citizens to obtain it easily in order to protect their interests and make appropriate decisions. Transparency is therefore the opposite of ambiguity and secrecy (Boudiaf, 2012, p. 160).

Dr. Sami Al-Toukhi defined transparency as the administration's commitment to involving citizens in the management of public affairs conducted for their benefit and on their behalf, while adopting all procedures and measures necessary to provide citizens with truthful data and information concerning its plans, activities, operations, legality, budgets, deliberations, and the factual and legal reasons underlying its decisions. It also entails clarifying mechanisms for holding the administration accountable for shortcomings and violations and recognizing a general right of access to administrative information and documents at no cost, as a general rule (Belhadji Ahmed, n.d., p. 71).

Section Two: Importance of the Principle of Transparency in Administrative Activity

Transparency in administrative activities and actions embodies, strengthens, and consolidates communication mechanisms between the administration and citizens, thereby promoting openness. It constitutes a safeguard for citizens because it enables them to understand how administrative work is conducted.

Transparency in administrative actions serves as a working charter and a source of mutual trust between the administration and citizens. It contributes to the ethical conduct of administrative activity and creates a favorable perception of the administration among citizens. This was reflected in the correspondence of the Ministry of the Interior and Local Authorities dated 14 November 2012, addressed to wali governors, delegated wali governors, daïra heads, and presidents of municipal people's assemblies, under the title of a ministerial circular concerning improvement of relations between the administration and citizens and the rehabilitation of administrative public services.

The circular observed that the quality of services provided by administrative structures remained below expectations, causing concern among public authorities and frustration among users of administrative public services. It identified shortcomings such as inadequate attention to citizens' concerns, favoritism, nepotism, and bribery, all of which widened the gap between the State and citizens.

The circular identified deficiencies in the reception of citizens and the handling of their concerns and requests. Some officials did not receive citizens; others provided negative responses; citizens' requests and complaints were sometimes not followed up, damaging the credibility of the administration; and some local officials delegated reception duties to subordinates who often lacked the qualifications and capacities necessary to deal appropriately with citizens' requests and concerns (Ministry of the Interior and Local Authorities, 2012, Ministerial Circular No. 2102).

The circular also noted continuing bureaucratic and clientelist practices in some administrative bodies, including requesting documents and procedures not required by applicable laws and regulations, delays in processing citizens' requests, and resorting to suspicious or unlawful practices through informal networks seeking to influence the processing of applications.

These practices prevent citizens from adequately appreciating the efforts made by public authorities to improve public services and reinforce negative perceptions of public administration. The absence of transparency in dealings with citizens consequently undermines the credibility of the administration.

Transparency also drives all forms of oversight. The administration cannot effectively be held accountable unless its actions and activities are transparent. Citizens are thereby able to identify administrative decisions and detect potential errors or negative practices, which expands public oversight of administrative activity. Transparency enables the administration to disclose the legal and factual reasons underlying its administrative decisions (Boudiaf, 2012, p. 163).

The practical implementation of transparency is one of the most important instruments of administrative development and of improving administrative performance. It clarifies the relationship between the administration and citizens and contributes to the realization of an important principle: administrative democracy.

Section Three: Applications of the Principle of Transparency in Algerian Law

Transparency as a legal principle has been incorporated into various laws and regulations. Article 52 of the current Algerian Constitution guarantees freedom of expression, which includes the right to information in its broad sense, namely citizens' right to obtain information through different media, whether written, audio, or visual. Administrative information in its specific sense is a logical consequence of transparency because the administration is required to inform citizens of their rights and duties by disclosing its activities and operations, publishing information, and communicating decisions, deliberations, statistics, and other administrative documents relevant to citizens.

Law No. 12-07 on the Wilaya provides that the deliberations of the Wilaya People's Assembly must be held in public sessions and that the agenda must be posted immediately after the assembly is convened at the entrance to the deliberation hall, in designated public notice areas, and on the website of the wilaya or assembly, as well as at the wilaya headquarters and the municipalities under its jurisdiction (Law No. 12-07, 2012).

Under Article 11 of Law No. 11-10 concerning the municipality, the Municipal People's Assembly must take all measures necessary to inform citizens about local affairs through available information and communication media (Law No. 11-10, 2011, Article 11). Under Article 14 of the same law, citizens may consult and obtain copies of extracts from municipal deliberations and municipal decisions. Municipal sessions are public, and the agenda of each session must be posted in the meeting hall and in places designated for the public. Executive Decree No. 16-190 established the procedures for consulting extracts from municipal deliberations and municipal decisions (Executive Decree No. 16-190, 2016).

Executive Decree No. 88-131 regulating relations between the administration and citizens provides in Article 8 that the administration must inform citizens of regulations and measures it adopts through appropriate means of publication and information. Article 9 requires the administration to publish regularly instructions, circulars, memoranda, and opinions of concern to citizens. These provisions are complemented by the Minister of the Interior and Local Authorities' decision of 4 September 1988.

Executive Decree No. 13-381, defining the powers of the minister attached to the Prime Minister responsible for public service reform, provides in Article 2(9) for encouraging the development of e-government through the introduction and generalization of modern information and communication technologies. This constitutes an important achievement of transparency and makes it a prominent component of administrative reform.

An instruction issued by the minister responsible for public service reform on 11 November 2013 concerning the implementation of public-service reform measures emphasized urgent and common measures across sectors aimed at modernizing public services and qualitatively changing the way they are organized and operated.

Among the strategic measures was the simplification of administrative procedures, particularly by publishing, clearly and comprehensibly, the list of documents required for each procedure or public service and by providing modern means of communication and information—such as a toll-free telephone line, website, and email—to guide citizens and prevent unnecessary travel and avoidable obstacles.

With regard to improving reception, the instruction required administrations to prepare suitable facilities equipped with the necessary amenities to ensure proper reception and visitor comfort, and to provide an information system for visitors, including notice boards and signs (Instruction on Public Service Reform, 2013).

Regarding citizens' complaints, an instruction issued by the Ministry of the Interior and Local Authorities on 31 December 2013 addressed the examination and processing of petitions and complaints. It noted that many complaints did not receive adequate attention, while others were handled ineffectively due to weak coordination and follow-up.

The instruction therefore required accuracy in processing citizens' complaints, whether submitted by post or through websites. The unit responsible for handling petitions and complaints, referred to in Telegram No. 2906 of 8 October 2013, was subject to continuous monitoring by the Chief of Staff. It was also required to have sufficient human and material resources to process citizens' requests effectively and follow them up in coordination with the relevant departments, with appropriate and timely responses provided under the supervision and responsibility of the Chief of Staff (Ministry of the Interior and Local Authorities Instruction, 2013).

For example, a wilaya-level call-center unit was established in Tiaret, with a dedicated fax number to facilitate communication with citizens, together with an obligation to respond to all concerns referred to the unit and deal with them as quickly as possible (Tiaret Wilaya, 2015).

Repealed Presidential Decree No. 15-247 concerning public procurement and public-service concessions provided in Article 5 that public procurement is governed by principles including equality of treatment of candidates and transparency of procedures (Presidential Decree No. 15-247, 2015).

Transparency in public procurement is reflected, among other things, in the requirement to publish tender notices in the press so that all interested parties can obtain the specifications, as well as enabling bidders to attend the opening of bids. Publication and attendance at bid openings aim to ensure the greatest possible degree of transparency.

The principle of transparency is particularly important for protecting public funds and combating corruption in public procurement, one of the sectors involving substantial public expenditure and therefore particularly vulnerable to financial and administrative corruption (Law No. 01-06, 2006, Article 1). Clear and public procurement procedures and stages help ensure that public funds are preserved and spent in pursuit of the public interest. Transparency is also closely connected with the other principles governing public procurement.

Law No. 23-12 on public procurement represents the new legal framework establishing the general rules applicable to public procurement in Algeria, replacing the system previously governed by Presidential Decree No. 15-247. The law seeks to strengthen transparency, combat corruption, and establish the principles of freedom of access to public procurement and equality in the treatment of bids (Law No. 23-12, 2023, Article 5). Its principal innovations include freedom of access to public procurement, equality in the treatment of candidates, transparency of procedures, digitization throughout the procurement process, and the establishment of a National Public Procurement Council as a regulatory and advisory body contributing to the control of public expenditure and economic efficiency.

Article 5 provides that, in order to ensure the efficiency of public procurement and the proper use of public funds, the conclusion of public contracts is subject to the relevant principles. Freedom of competition cannot be achieved without the highest possible degree of transparency in public procurement (Law No. 23-12, 2023, Article 46).

Accordingly, announcing the conditions of competition in advance places all persons wishing to contract with the administration on an equal footing when submitting their bids, without discrimination, in accordance with the principle of equality. They may also consult tender offers through newspapers and other publications or through electronic websites (Law No. 23-12, 2023, Article 46).

Conclusion: Findings and Recommendations

At the end of this study, several conclusions and recommendations may be formulated that could contribute to changing both the image and the reality of relations between the administration and citizens.

Findings

The study of the relationship between the administration and those who deal with it, particularly citizens in general, shows that this relationship is, by its nature and essence, inclined toward a lack of harmony because of the different positions occupied by the two parties and, in particular, their differing objectives and purposes.

With regard to the fundamental principles governing the relationship between the administration and citizens, which are primarily explicit constitutional provisions, implementation of the principle of administrative neutrality enhances the credibility of the administration and realizes equality in rights and duties. Applying transparency in dealings with service users contributes to eliminating bureaucracy. Substantively, however, the relationship has two different or opposing dimensions.

The first is a regulatory dimension, in which the administration appears as an authority that commands and prohibits and constrains the citizen's will. Under such circumstances, it cannot expect the citizen's approval. At best, it is required to reduce its regulatory procedures to the minimum necessary to achieve the purpose of its actions, namely the protection of public order, thereby avoiding allegations of abuse of authority that frequently accompany such functions.

The second is a service dimension, in which the administration plays a positive role and provides services to the general public. In this context, it must make every effort, first, to provide public services in the best possible manner and, second, to ensure equality in access to those services.

Nevertheless, citizens generally perceive the administration as constantly falling short and tend to focus on what has not been achieved, regarding it as evidence of administrative deficiency and failure.

This unfavorable reality has recently been reflected in the increasing number of protest movements across many parts of the country. In many cases, these movements reflect individuals' desire to express dissatisfaction with the administration generally, as much as they reflect actual violations. In our view, however, the negative image can be mitigated through the following recommendations.

Recommendations

- The two parties should first understand and accept the other as a reality and recognize the necessity of dealing with it on that basis.
- The administration should eliminate marginal burdens that distract it from its genuine role and mission, namely serving citizens and the public interest, and should focus on managing public services rather than distributing wealth and benefits. This would help eliminate the prevailing culture of dependency in citizens' relations with the administration.
- The professional and material conditions of public employees should generally be improved so that they can devote themselves fully to their professional duties.
- The administration should improve its image among citizens by explaining that its regulatory procedures are intended to protect public order.
- Administrative dealings with citizens should reflect a humane approach, recognizing that citizens are the weaker party in this relationship.
- Citizens should be given the impression that they are the ultimate purpose of the administration's existence, through following up their concerns and responding to them. This does not necessarily mean that every concern can be resolved or settled.
- Complainants and persons submitting grievances should be protected from retaliation by the administrations against which complaints are made, so that citizens are encouraged to use complaints as a source of information for the administration.
- Public employees should be protected from the influence of pressure groups and the surrounding social environment by safeguarding their dignity and protecting them from abuses arising from their affiliation or professional conduct. Misleading complaints or complaints involving defamation of employees should, however, be dealt with firmly so that the complaint mechanism remains focused on useful and constructive matters.
- The position of mediator should be generalized across all public administrations dealing with the public, and the most competent and honest employees should be selected for it, with sufficient powers to follow up citizens' interests.
- Since the issuance of Decree No. 88-131 regulating relations between the administration and citizens, the legislator has not issued further implementing regulations explaining the decree or clarifying its applications. Because it is a general decree governing all administrations rather than a specific administration, it is recommended that it be elevated to the status of a law.
- Legal texts governing relations between the administration and citizens should be based on comprehensive prior studies of these relations rather than being adopted only after events, disturbances, or protests. Citizens should participate in decision-making because they are directly concerned with the relationship and are best placed to understand their daily problems and difficulties when dealing with public services.
- Public employees should also be involved in decision-making through consultation because they are closest to citizens in practical terms, unlike legislators and political actors.

Finally, the relationship between the administration and citizens, particularly in Algeria, is influenced by multiple factors—psychological, social, historical, and political—and is therefore a reflection of the reality of society in its various dimensions.

This study is consequently no more than a single perspective on one dimension of this relationship. The relationship requires further approaches and multidimensional analyses in order to understand it from different angles. Put simply, it reflects the “political stratification” of society; in other words, it reflects the existence of the state itself. Its close connection to the state is captured by Adam Smith’s statement that societies should not simply be classified as economically developed or underdeveloped; rather, there are administratively developed societies and administratively underdeveloped societies.

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