

European Communities

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EUROPEAN PARLIAMENT

# Working Documents

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DOCUMENT 1-442/80

## Report

drawn up on behalf of the Committee on Energy and Research

**on the siting of nuclear power stations in frontier regions**

**Rapporteur: Mrs M. von ALEMANN**



On 11 December 1979 Mr Müller-Hermann and others tabled a motion for a resolution on behalf of the EPP Group, pursuant to Rule 25 of the Rules of Procedure, on the siting of nuclear power stations (Doc. 1-588/79/rev.). On 11 February 1980 Mr Gendebien tabled a motion for a resolution on behalf of his group, pursuant to Rule 25 of the Rules of Procedure, on the establishment of four new nuclear power stations at Chooz (Givet) in the immediate vicinity of the Franco-Belgian border and on the need to avoid the setting up of power stations in the Community's frontier regions (Doc. 1-736/79). The European Parliament referred these motions for resolutions to its Committee on Energy and Research.

By letter of 23 April 1980 the President of the European Parliament, at the request of the Committee on the Rules of Procedure and Petitions, referred Petition No. 32/79 (PE 62.014) on cross-frontier pollution endangering lives in the natural environment to the Committee on Energy and Research for an opinion.

The committee dealt with these three documents in the following report.

On 18 March 1980 the Committee on Energy and Research appointed Mrs von Alemann rapporteur.

It considered this report at its meetings of 10 July 1980 and 23 September 1980; at its meeting of 23 September the motion for a resolution was adopted by 20 votes with 2 abstentions.

Present: Mrs Walz, chairman; Mr Ippolito and Mr Gallagher, vice-chairmen; Mrs von Alemann, rapporteur; Mr Adam, Mr Beasley, Mrs Bonino, Mr Calvez (deputizing for Mr Pintat), Mrs Dekker (deputizing for Mr Capanna), Mr Linde, Mr Linkohr, Mr Müller-Hermann, Mr Paisley, Mr Percheron, Mr Price, Mr Purvis, Mr Rogers (deputizing for Mr Pisani), Mr Sassano, Mr Schmid, Mr Seligman, Sir Peter Vanneck, Mr Veronesi, Mrs Weber (deputizing for Mrs Lizin).

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ANNEXES:

- I. Motion for a resolution (Doc. 1-588/79/rev.)
- II. Motion for a resolution (Doc. 1-736/79)
- III. Petition No. 32/79 (PE 62.014)

The Committee on Energy and Research hereby submits to the European Parliament the following motion for a resolution together with explanatory statement:

MOTION FOR A RESOLUTION

on the siting of nuclear power stations in frontier regions

The European Parliament,

- having regard to the motions for resolutions tabled pursuant to Rule 25 of the Rules of Procedure (Doc. 1-588/79/rev. and Doc. 1-736/79),
- having regard to Petition No. 32/79 (PE 62.014),
- having regard to the report by the Committee on Energy and Research (Doc. 1-442/80),
- having regard to its previous resolutions, in particular
  - on the conditions for a Community policy on the siting of nuclear power stations taking account of their acceptability for the population<sup>1</sup>
  - on the draft Council resolution concerning consultation at Community level on the siting of power stations and on the proposal from the Commission of the European Communities to the Council (Doc. 506/76) for a regulation concerning the introduction of a Community consultation procedure in respect of power stations likely to affect the territory of another Member State<sup>2</sup>,

1. Notes that nuclear installations are being constructed in increasing numbers in border areas;
2. Considers that when nuclear power stations are built in border areas urgently needed Community safety standards must be observed in order to facilitate the necessary concertation at Community level;
3. Calls upon the Commission to urge all Member States to comply forthwith with the provisions of Articles 37 and 41 of the Euratom Treaty;
4. Welcomes the proposal from the Commission of the European Community for the establishment of a Community consultation procedure in respect of power stations likely to affect the territory of another Member State;

<sup>1</sup> OJ No. C 28, 9.2.1976, p. 12

<sup>2</sup> OJ No. C 183, 1.8.1977, p. 56

5. Calls upon the Commission and Council to supplement this proposal with a binding regulation to cover cases where no agreement is reached between states following the consultation procedure;
6. Underlines the vital role which the Commission has to play in this connection;
7. Welcomes the fact that conventional power stations are included in the Commission proposal of 17 May 1979 ;
8. Calls for a uniform procedure throughout the Community for the application of the 'polluter pays' principle in the case of trans-frontier environmental effects caused by power stations;
9. Expects negotiations to be initiated with third countries bordering on the Community in order to arrive at agreements in line with the intra-Community procedures;
10. Calls upon the Commission and Council to take appropriate steps immediately to strengthen Community safety standards and to harmonize them at the highest possible level and, if necessary, to harmonize health protection standards;
11. Points out that the above procedures must be supplemented by procedures for fully informing and involving the population in good time and at all stages;
12. Calls upon the Commission to submit an annual report to Parliament concerning experience of the application of Article 37 of the Euratom Treaty and the regulation on the Community consultation procedure;
13. Instructs its President to forward this motion for a resolution and the report of the committee to the Council and Commission.

EXPLANATORY STATEMENTPreliminary note

1. To avoid misunderstandings, it may first be pointed out that this report does not contain arguments for and against nuclear energy; it deals with problems raised by the planning and construction of nuclear installations in border areas.

1. Present situation

- 1.1. General notes

2. In a comparatively densely populated continent such as Europe, sites for industrial installations have to satisfy particularly severe criteria.

Existing and projected nuclear installations are often located in border regions. According to a list drawn up by the Commission of the European Communities on 17 May 1979<sup>1</sup>, 33 of the units in operation under construction or projected within the Community (some 25% of the total number) were less than 40 kilometres from national borders, 15 of these units being less than 10 kilometers from the border.

3. One possible explanation for this phenomenon is to be found in one of the many criteria for the siting of nuclear power stations: these installations have a high coolant requirement and are therefore, where possible, sited on large rivers or arms of the sea, which often constitute borders between states.

This is not just an internal Community phenomenon. Similar clusters of power stations can be found on both sides of Community borders, for example with Switzerland, Czechoslovakia, East Germany and across the Sound to Sweden.

- 1.2. Transfrontier environmental effects

- 1.2.1.

4. Emissions from a nuclear power plant can be subdivided into (1) continuous, (2) occasional and (3) theoretically possible effects:

The continuous emissions include

- the continuous release of small quantities of radioactive substances
- the discharge of waste heat into the atmosphere, which can affect the microclimate (formation of fog, alternation of the precipitation and temperature gradients)
- the discharge of waste heat and the extraction of water from international water courses, which can affect all riparian areas downstream of the power station.

<sup>1</sup> COM (79) 269 final

5. The occasional effects include recurring minor incidents, for example, brief increased release of radioactivity into the atmosphere or waste water.
6. The theoretical effects are found from accident calculations, up to and including the maximum credible accident, with the associated extensive release of radioactivity. This can result in contamination with considerable risk for life and limb within a certain area.

#### 1.2.2.

7. Depending on the site these three types of environmental effects can cross frontiers. They will then affect the population of at least two states.

### 2. Present legal position and proposals for improvement

#### 2.1. Legal basis at Community level

8. The choice of site for nuclear installations in the present legal situation is a matter for the individual state, but Title Two, Chapter II of the Euratom Treaty contains provisions on Community health and safety. In particular, the first paragraph of Article 37 of the Treaty states that each Member State has to provide the Commission with such general data relating to any plan for the disposal of radioactive waste in whatever form as will make it possible to determine whether the implementation of such a plan is liable to result in the radioactive contamination of the water, soil or airspace of another Member State. Under the second paragraph of Article 37 the Commission has to deliver an opinion within 6 months, after consulting a group of experts.
9. This procedure has not however produced any satisfactory results: it is usually not carried out until the final stage of construction<sup>1</sup> when most of the important decisions are already irrevocable. Only in one Member State is there a law requiring this procedure to take place before the licence to build is granted (in another Member State the procedure has to be initiated before building starts). The Euratom Treaty does not provide for legal proceedings in the event of an unfavourable opinion, so that the requirement under Article 37 of the Treaty is merely formal in character.

#### 2.2. Bilateral agreements

10. Independently of the Community, certain Member States have entered into agreements with one another and with third countries relating either to the provision of information or consultation at various stages in the planning, construction and operation of nuclear installations. They range from the provision of information on questions of siting, to agreements on safety in the case of emergencies and catastrophes. This includes, for example, the comparison of actual nuclear power stations from the point of view of safety.

<sup>1</sup> COM (79) 269 final



In view of the need for a common European energy policy taking account of environmental requirements and the safety of the population in the areas concerned, a Community consultation procedure is essential in the planning and construction of power stations, particularly nuclear stations; a regulation is also needed in the event that no agreement is reached after the consultation procedure has been concluded.

### 2.3. National legislation

11. The legal position of the citizens, communities, businesses etc. affected by a siting decision is distinguished by differences at national level between the Member States, reflecting the differing legal structure and background of the individual Member States. The public-law provisions of the administrative and procedural law apply only within the territory of the state itself.

The population on both sides of the border need to be fully informed in good time about plans for nuclear installations which can affect neighbouring regions.

### 2.4. The Commission proposals for a Community consultation procedure

12. Recognizing that consultation of Member States about sites near borders was urgently needed, in 1976 the European Parliament took an initiative (Walz report)<sup>1</sup>, aimed at the development of a Community siting policy. The Commission, however, only took up the initiative to a limited extent, proposing a Community consultation procedure with no arbitration mechanism in the event of a continuing lack of agreement<sup>2</sup>. The Council considered even this to be premature and merely emphasized the need for a more intensive exchange of information at Community level<sup>3</sup>.
13. On 17 May 1979 the Commission submitted to the Council an updated version of the explanatory memorandum accompanying the draft proposal for a Council regulation on the introduction of a Community consultation procedure in respect of power stations likely to affect the territory of another Member State<sup>4</sup>.
14. To ensure that Member States were adequately informed about the effects which might be produced by power stations in neighbouring Member States, it was proposed that a Community consultation procedure should be set up in respect of all those aspects not covered by Article 37 of the Euratom Treaty.

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<sup>1</sup> OJ No C 28 of 9 February 1976, p.12

<sup>2</sup> OJ No C 31 of 8 February 1977, page 3; and European Parliament resolution on that subject, OJ No C 183 of 1 August 1977, page 56.

<sup>3</sup> OJ No C 286 of 30 November 1978, page 1

<sup>4</sup> COM (79) 269 final

15. The main elements of this Community consultation procedure were to be as follows:

- When a Member State considers that the carrying out of a power station project of another Member State is likely to affect its national territory, it can request the Commission to apply the consultation procedure in respect of this power station,
- the Member States responsible for the power station project must then provide the Commission with the necessary data to permit the Commission to assess the possible effects across the frontier,
- with the assistance of a group of experts from the Member States, the Commission will examine this data and deliver its opinion to the Member States concerned.

16. In comparison with a bi-or multilateral procedure or case-by-case contacts between the countries concerned, a Community procedure offers the following advantages:

- it gives a guarantee of impartiality and ensures the maintenance of a uniform level of assessment throughout the Community while taking account of the local factors of each site;
- it is likely to increase the confidence of frontier populations in electricity generating stations,
- it allows advantage to be taken of experience gained in the treatment of similar cases in other Community regions,
- it can be of service to the Member States, in cases where the technical problems are complex and where the Member States would welcome the provision of further expertise.
- it can contribute to the resolution of divergent views between Member States on a particular project,
- it is more effective than an ad-hoc multilateral dialogue in the case of power station siting on international waters,
- it constitutes a good point of departure for the negotiation of agreements on admission to the procedure by third countries bordering on the Community.

2.5.0. Necessary amendments to the Commission proposal

17. The Community consultation procedure proposed by the Commission does not contain any arbitration mechanism for the event of continuing lack of agreement<sup>1</sup>,

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<sup>1</sup> OJ No C 31 of 8.2.1977, page 3; European Parliament resolution on this, OJ No. C 183 of 1.8.1977, page 56.

As already explained in the Walz report, there must be provision for an arbitration mechanism in the event that no agreement is reached in the consultation procedure. An arrangement of this type could be made by

- amending the Commission proposal for a Council regulation on the introduction of a Community consultation procedure in respect of power stations likely to affect the territory of another Member State or
- including an extra provision in Article 37 of the EURATOM Treaty

In view of the problems of amending an international treaty, an amendment to the Commission proposal (arbitration procedure) is preferred.

#### 2.5.1. The 'polluter pays' principle

18. The 'polluter pays' principle, which is recognized in all Member States and at Community level as a basic rule for the prevention and control of damage and, where necessary, arrangements for compensation, must also be applied in the case of transfrontier environmental effects resulting from power stations. It is essential that those affected in the neighbouring state can put forward their views on prevention and protection to the operator of the source of the risk or the state or competent authority.

#### 2.5.2. Relationship to third countries

19. In relation to third countries bordering on the Community, the Commission is required under Chapter X of the EURATOM Treaty and, where applicable, Article 203 of the EURATOM Treaty, to enter into agreements with these third countries as far as possible in line with the internal Community procedures.

#### 2.5.3. Uniform safety standards

20. It is particularly in the case of nuclear installations that the maximum level of safety is required. The population, especially in border regions, has been frequently disturbed in the past by reports of allegedly lower safety requirements for nuclear installations in neighbouring states. Every country should therefore have an interest in seeing that the maximum possible level of safety is achieved in neighbouring countries. Uniform criteria and standards are therefore to be drawn up and applied in the field of reactor safety and the prevention of catastrophes.

#### 21. Opinion on the motions for resolutions

Where the rapporteur has been able to endorse the requirements, they have been incorporated in this draft motion for a resolution.

ANNEX I

**MOTION FOR A RESOLUTION (Doc. 1-588/79/rev.)**

tabled by Mr VERGEER, Mr MÜLLER-HERMANN, Mr ESTGEN,  
Mr VANDEWIELE, Mr HERMAN, Mr O'DONNELL, Mr BERSANI,  
Mrs WALZ, Mr van AERSEN, Mr FISCHBACH, Mr SÄLZER,  
Mr FUCHS, Mr Konrad SCHÖN, Mr RINSCHÉ, Mr von WOGAU,  
Mr TINDEMANS, Mr SPAUTZ, Mr BLUMENFELD, Mr NOTENBOOM,  
Mr CLINTON, Mrs MAIJ-WEGGEN, Mr SCHALL, Mr RYAN,  
Mr CROUX and Mr LANGES

on behalf of the Group of the European Peoples' Party  
(Christian-Democratic Group)

pursuant to Rule 25 of the Rules of Procedure

on the siting of nuclear power stations

The European Parliament,

- perturbed by the attitude of Member States to the provisions of the EAEC Treaty, particularly the legal requirements arising from Article 103 of that Treaty,
  - having regard to the decision by the Court of Justice of the European Communities in Case 1/78 of 14 November 1978,
  - concerned that a reduction in or even a total waiver of the rights and duties accruing to the Member States from the EAEC Treaty can only have negative consequences for the Community,
  - having regard to the resolution of the European Parliament in its report on the 'Siting of nuclear power stations'<sup>1</sup>,
1. Considers that when new nuclear power stations are to be built near internal borders, consultations should take place at Community level in order that the views of neighbouring countries can be taken into account;
  2. Regards participation by the Commission in the consultation process at Community level as essential;
  3. Instructs its President to forward this resolution to the Council of Ministers and the governments of the Member States.

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<sup>1</sup>OJ No. C 28, 9.2.1976, p. 12

**MOTION FOR A RESOLUTION (doc. 1-736/79)  
tabled by Mr GENDEBIEN**

**pursuant to Rule 25 of the Rules of Procedure**

**on the establishment of four new nuclear power  
stations at Chooz (Givet) in the immediate vicinity  
of the Franco-Belgian border, and on the need to  
avoid the setting up of power stations in the  
Community's frontier regions**

The European Parliament.

having regard to the fact

- that the EDF (French Electricity Board) is at present preparing to set up four new PWR nuclear power stations with a total capacity of 5,200 megawatts at Chooz in the Givet tongue, a narrow strip of French territory only a few kilometres wide which deeply penetrates Belgian territory;

- that such a concentration of nuclear plants at a distance of two kilometres from the frontiers of a neighbouring State and on the banks of the Meuse, an international waterway, must inevitably have serious effects on the environment, regional development and water conditions in the Meuse in the two States concerned;

- that the quantity, quality and in particular the temperature of the waters of the Meuse, as also their general ecological balance, will be adversely affected by the new power stations, since they will need to be diverted at the rate of at least six cubic metres per second and it is a well-known fact that a 1000 MW reactor with an open cooling circuit discharges every second 40 to 50 cubic metres of water heated by 10°;

- that there is a direct technical and political link between the EDF's plans and the Belgian government's intention to build a large dam on the Houille, a tributary of the Meuse, and situated immediately upstream from the town of Givet;

- that this dam will flood 2,000 hectares of land in France and Belgium, hold 870 million cubic metres of water and require a wall 147 metres high and 23 million cubic metres in volume; that it will lead to the disappearance of an entire village, the village of Vencimont, with its more than 200 houses and 500 people, and that it will also threaten the existence of the Franco-Belgian Ardennes Nature Reserve;

noting that the local inhabitants have been given no information and have not been consulted by the two governments, either about the nuclear project or about the proposed dam, and that no joint surveys of the effects of either project have been undertaken by the two governments;

deploring in general the lack of Community procedures for consultation with the governments involved in the siting of nuclear power stations, and in particular the failure to inform and consult regional and local authorities and populations;

regretting the fact that Article 37 of the EURATOM Treaty has not been implemented, or, if implemented, only with such delay as to be ineffective;

recalling that the abovementioned article provides that 'each Member State shall provide the Commission with such general data relating to any plan for the disposal of radioactive waste in whatever form as will make it possible to determine whether the implementation of such plan is liable to result in the radioactive contamination of the water, soil or airspace of another Member State';

considering

- that certain Community Member States have an obvious predilection for selecting nuclear sites in areas at the boundaries of their territories (e.g. the power stations at Doel on the Belgian-Dutch border, Cattenom on the French-Luxembourg border, Chooz on the Franco-Belgian border, etc.);
- that all the facts set out above are such as to undermine the confidence of citizens in the Community institutions, if the latter remain inactive, and could adversely affect the good relations between the national, regional and local authorities of the various Member States in question;

1. Invites the Commission and the Council of Ministers to take all appropriate measures to have work on the EDF projects in Chooz-Givet suspended immediately;

2. Invites the Commission to approach all Member States with a view to having them implement without delay the provisions of Article 37 of the Treaty establishing the European Atomic Energy Community;

3. Invites the Commission and the Council to adopt, in implementation of the said Article 37, a regulation obliging Member States to provide the Commission with all data concerning plans for the establishment of nuclear power stations at least three years before work is begun on such plans;

4. Invites the Community authorities also to adopt a regulation prohibiting Member States from building nuclear power stations in regions located near the Community's internal frontiers and fixing a distance in kilometres from State frontiers within which the establishment of any nuclear power station is prohibited;

5. Invites the Commission to make an annual report to Parliament on the implementation of the abovementioned Article 37;

6. Instructs its President to forward this resolution to the Commission, the Council of Ministers and the Governments of the Member States.



Petition No 32/79

by Mr Wilfried OSTERKAMP on behalf of  
the Green Party of the Saar

Subject: cross-frontier pollution endangering lives and the natural environment

1. Prompted by the disturbing development of ecologically dangerous industries in France in the frontier areas near Cattenom and Saarguemines, we the under-signed address this petition to the European Parliament, submitting the following complaints, requests and proposals.
2. We appeal to our Parliament to exert pressure on the French Government to put a stop to a form of cross-frontier pollution that places the health of the Saarland population at risk, and to call a halt to further construction work.
3. We protest in the strongest possible terms at the flagrant violation of civil rights by the French Government on the occasion of the peaceful demonstration at Cattenom at Whitsun 1979.
4. If the European Parliament is to serve any purpose at all it must exercise genuine political control over the government bureaucracies in the Member States, which are in league not only with one another but also with the powerful industrial interests of international capital and the industrial trade unions.
5. Overwhelmed by this excessive economic and political power of industry, which has the backing of all the established political parties and is sustained by millions of pounds of the taxpayers' money, the few individuals who try to speak up for the protection of the general public and the natural environment stand no chance whatever.
6. Although we realize that a clear majority of the European Parliament sees our ecological movement as a threat to further economic and industrial growth, we appeal to this Assembly of the representatives of the people, at least to stand up for our political rights as a

minority, which are enshrined in the European Convention on Human Rights and in the various constitutions. The most important element in liberal democracy is the opportunity for any political party to form a parliamentary opposition, and to do so in proportion to the votes cast for it by the electorate. This right is curtailed for the political minorities by an unconstitutional and undemocratic 5% threshold clause in the German electoral laws. The majority parties have used the laws to turn a popular assembly, intended to represent and reflect the current political will of the people, into a power club whose members use their 'parliamentary' householders' right to keep unwanted persons out. Having failed to obtain our rights in our national constitutional court, we count on the libertarian and democratic forces in the European Parliament to ensure that threshold clauses are at least eliminated from the common body of European electoral law.

7. We regard ourselves as a pre-parliamentary Opposition, a political minority which wishes to be heard in Parliament - if only through the voice of a single Member. Attempts to stifle this embarrassing voice will force us to become an extra-parliamentary protest movement. Even then we shall not betray the principle of non-violence, though we shall if necessary make use of the right of resistance which is guaranteed by the constitution.

The ecological and humanitarian movement will set itself against economic dictatorship by the masses. For these masses are not the people, from whom all power in the State should derive; they are manipulated by a bureaucratic and technocratic power élite which will soon achieve its objective - as in the case of independent commercial television - of creating a totally depoliticized and stultified electorate.

8. Since for the above reasons we cannot exercise any influence over the legislative process, we want at least to be able to denounce the violation of existing statutes and to trust the rule of law.

To this end we urge the European Parliament to demand an explanation from the Commission of the European Communities on the Cattenom affair, seeking, if necessary, a judgement from the European Court of Justice.

9. For all its independence and expertise, however, that court is not in a position to ascertain the facts without first seeking a wide variety of expert opinions. The choice of such experts will be of crucial importance in any dispute concerning environmental hazards. We therefore call upon the European Parliament to take preliminary

action by holding without delay a public hearing before its Committee on the Environment of experts who are capable of meeting the requirements laid down in Article 30 of the Euratom Treaty for 'the protection of the health of workers and the general public against the dangers arising from ionizing radiations' on a no less consistently argued scientific basis, and with the same commitment to objectivity, as the thousands of scientists acting for the nuclear industry and nuclear research. Since these highly qualified specialists may be assumed to enjoy, and to wish to continue in their profession, their opinions will not be such as to deprive them of the livelihood on which they and their families depend.

Parliament will also have to be extremely critical of the group of experts chosen by the Commission, as Members of the Commission are appointed by the Member States' Governments and will therefore give economic growth precedence over other interests.

10. We assume, as a matter of course, that at the very least the minimum standards of protection formally laid down in Articles 37 and 38 of the Euratom Treaty have been met at Cattenom, i.e. that Commission experts have considered, and ruled out, the possibility of 'radioactive contamination of the water, soil or airspace of another Member State', and that the Commission has also laid down guidelines with the aim of making infringement of the basic standards impossible.
11. If not even this has been done, we shall demand that penal, disciplinary and political action be taken, because such a state of affairs is inconceivable unless very grave neglect and dereliction of duty has occurred. We hope, however, that the Committee on Petitions will be able convincingly to dispel many of our anxieties and to take effective remedial measures.
12. Finally, while the above questions relate only to monitoring the application of existing European law, we most emphatically urge the Parliament to make the fullest use of its power to lay down effective standards to prevent cross-frontier pollution endangering man's environment, in areas outside the sphere of radioactivity as well. This field has hitherto been dominated by national self-interest and the stark supremacy of the stronger. We know of no more urgent task for a European Parliament. The issues now at stake are apparent from the case of the Franco-American industrial complex at Saarquemines, which will lead to further contamination of our homeland by the emission of toxic lead dust.
13. Whatever happens, we shall not be deterred by our traditional friendship with the people of France, but we shall challenge any government whose policy puts lives at risk and endangers the natural environment within or beyond its national frontiers.

Luxembourg, 17 December 1979

The Green Party of the Saar

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