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# **FROM OMERTÀ TO THE MAXI TRIAL: EVOLUTION OF THE SICILIAN MAFIA AND THE LEGAL ARCHITECTURE OF ANTI-MAFIA PROSECUTION IN ITALY**

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## **ABSTRACT**

In today's world, organized crime poses a serious threat to the rule of law and democratic systems globally. One of the most famous groups from criminal organizations is the Sicilian Mafia, also called as Cosa Nostra. This organization is based in Sicily region of Italy and engages in activities such as extortion, drug trafficking, murder and political interference. Overtime the Mafia became a kind of parallel government. A key factor in the Mafia's success is the concept of Omertà, known as the 'Code of Silence'<sup>1</sup>. According to this code, it prohibits individual to give any kind of information about the Mafia to the police or the government agencies. Anyone who breaks this code would face harsh penalties, often including death sentences. This created a culture of fear, making it unlikely for witness to come forward and testify against the organization. A significant turning point in the fight against the Sicilian Mafia was marked by a historical moment known as the Maxi Trial in Palermo, where 475 Mafia members<sup>2</sup> were prosecuted. The trial, led by Judges Giovanni Falcone and Paolo Borsellino<sup>3</sup>, resulted in over 100 life sentences, marking an important milestone in the battle against the Sicilian Mafia.

**Keywords:** Organized Crime, Sicilian Mafia, Cosa Nostra, Omertà, Rule of Law, Maxi Trial, Anti-Mafia Laws, Witness Protection.

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<sup>1</sup> Diego Gambetta, *The Sicilian Mafia* (Harvard University Press, 1933) 45

<sup>2</sup> Alexander Stille, *Excellent Cadavers* (Vintage, 1995) 115

<sup>3</sup> John Dickie, *Cosa Nostra* (2004) 289

## Introduction

### **1.1 Meaning of Organized Crime**

Organized crime is defined<sup>4</sup> as a highly structured and coordinated type of criminal activity performed by a group of people who strategically work together with the main intention of achieving financial gains through illegal means. Unlike normal crimes committed by individual people, organized crime involves a highly systematic process with well-defined roles and responsibilities. In most cases, such criminal organizations work within an established leadership system, also known as the “boss system<sup>5</sup>,” where the top leadership directs the operations of the lower-level members. In addition, such organizations are highly disciplined and secretive, ensuring that their operations remain concealed from law-enforcement agencies. Violence, intimidation, and threats are also used as tools for controlling the operations of the organization, silencing those who are against them, as well as protecting the criminal activities from law-enforcement agencies. In addition, corruption is another major aspect involved in the operations of such organizations, where they often try to influence politicians, law-enforcement officers, as well as administrative officials, to ensure the smooth execution of the criminal activities. Organized crime is especially risky because it establishes an atmosphere where fear and insecurity dominate the society. The people are too afraid to report the committed crimes to the relevant authorities. This is where the system is weakened, resulting in the erosion of the rule of law. In some instances, the organized criminals attain political power through the bribery of public officials. This can result in the formation of another government within the state. In such cases, the criminals can indirectly make some political decisions, hence conducting their activities without the interference of the law. Another important consequence of the activities of an organized crime group is observed in the economic sphere. The enormous amounts of money earned through various illicit activities such as the trade in narcotics, extortion, smuggling, and gambling are often invested in legitimate businesses through the process of money laundering<sup>6</sup>. This way, the criminal organizations not only maintain the secrecy regarding the source of their income but also extend their influence in the legitimate sphere of the economy. One of the best examples of organized crime is the Sicilian Mafia, which is prominent in the city of Palermo, located in Italy. During different periods of history, this criminal organization succeeded in controlling the judiciary, law enforcement agencies, and even the government. It is believed that the history of the Sicilian Mafia can be traced back

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<sup>4</sup> Letizia Paoli, *Mafia Brotherhoods* (Oxford University Press, 2003) 12

<sup>5</sup> Salvatore Lupo, *History of the Mafia* (Columbia University Press, 2009) 112

<sup>6</sup> United Nations Office on Drugs and Crime (UNODC), *Report on Organized Crime* (2010)

to the nineteenth century, when the government's control over different regions in Sicily was low, and security was minimal. During this period, the Mafia came to be accepted by the people of these regions because it started to offer "protection services," which were much needed in the Palermo region. After the time this protection turned into blackmail. Omertà, also known as the "code of silence" was one of the most important rules that kept in Mafia in power. This was not spoken and this rule show that said people couldn't work with the police or testify against Mafia members in court. Anyone who broke this rule was subject to severe punishment, including death. This was a rule that ensured that witnesses remained silent, and law enforcement agencies were unable to gather enough evidence against the Mafia. During the later decades of the twentieth century, the Sicilian Mafia's influence extended further in terms of political corruption and international criminal activities. They started dictating votes during elections and were involved in financing some politicians who were willing to protect their interests. During the 1970s and 1980s, the Sicilian Mafia got involved in international drug trafficking, particularly heroin trafficking, which increased their wealth and extended their criminal network around the world. This extended their activities from a local criminal organization to a global criminal network.

## **1.2 Emergence of Mafia in Italy**

In southern Italy, particularly Sicily, government control was quite low in the 18th and 19th centuries<sup>7</sup>. In local areas such as villages, government agencies such as police and courts did not operate effectively. Whenever conflicts arose, or a crime was committed, people could not get quick justice from the government. This led to a point where people had to turn to other groups for protection, and eventually, these groups became more powerful and formed what was later known as the "Sicilian Mafia". The role of agriculture in Sicily's economy and land distribution also contributed to the formation of the mafia. The large landholdings were owned by rich landowners who mostly lived in cities and not in villages. The landowners hired intermediaries<sup>8</sup> to manage the land and pay rent. The intermediaries gradually gained power and influence. Without government control, some of them even resorted to intimidation and violence to gain control over the population and formed the initial structure of the mafia. At the same time, there were issues of poverty and unemployment in Sicily. This meant that many were not employed, and this created an opportunity for mafia groups to recruit them. The mafia

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<sup>7</sup> John Dickie, *Cosa Nostra* (2004) 23

<sup>8</sup> Diego Gambetta, *The Sicilian Mafia* (1993) 76

groups were offering money and a sense of belonging to these unemployed individuals, and this attracted many young men. The mafia groups then gradually transformed from protection groups to criminal groups. Although there was Unification in Italy in 1861, the government could not fully control the southern areas. This created an opportunity for the mafia to grow in power. The mafia used intimidation and violence, and the 'code of silence' known as "Omertà" to ensure that they remained in control and did not collaborate with the law. Therefore, the rise of the mafia in Italy can be attributed to the lack of state authority, the land ownership structure, the economic situation, and the culture of fear, which enabled the mafia to establish deep roots in Sicilian society.

### **1.3 Research Methodology**

The main aim of this research is to understand the origin of the Sicilian Mafia in Italy, especially in Sicily. It is important to note that the main aim of this research is to investigate the various factors which contributed to the origin of the mafia. Moreover, this research seeks to understand the concept of Omertà and how it contributed to the success of the mafia in controlling the Italian population. Another aim of this research is to understand the evolution of the mafia, especially with the introduction of organized criminal activities. It is important to note that the research seeks to understand the efforts made by the Italian government to control the mafia, especially through the "Maxi Trial of Palermo". The basis for the research is qualitative and descriptive in nature. The research is mainly based on the secondary sources of data, such as books, journals, research articles, and historical facts related to the subject matter of organized crime in Italy.

The research also focuses on the significant legal developments and judicial processes, such as the Maxi Trial of Palermo, to assess the approach taken by the Italian legal system in dealing with the issue of mafia organizations. The historical facts and developments are used to create an understanding of the emergence and growth of the mafia in Italy.

## **Concept of Omertà**

### **2.1 Meaning of Omertà**

Omertà is the term used to describe the "code of silence" followed by the Sicilian Mafia and people living in mafia-dominated areas in Sicily<sup>9</sup>, Italy. According to this code, the people

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<sup>9</sup> Diego Gambetta, *The Sicilian Mafia* (1993) 45

living in those areas should not help the police and government authorities in any way and should not disclose any information to them, even if they witness any criminal activity or become victims.

According to this code, people should remain silent<sup>10</sup> if they witness any criminal activity by the mafia. Reporting criminal activities to the police and courts, as well as disclosing any information to the law enforcement agencies, is considered to be a betrayal of the mafia. Due to this fear, many people remain silent, which helps the mafia protect its members and carry out their activities without any interference from the law.

## 2.2 Purpose of Omertà

"Omertà" is the code of silence derived from Italian Mafia culture. It means people do not disclose anything to outsiders, including the police, about the crimes they have committed also strictly prohibits members and even ordinary people from cooperating with law enforcement authorities or disclosing many information about criminal activities. It is based on the principles of loyalty, secrecy and fear, where individuals are expected to neither report crimes nor assist in investigations, regardless of the circumstances. The primary purpose of Omertà is to protect the organization from detection, ensure internal discipline, and maintain control over society by creating an atmosphere of intimidation. Any violation of this code is considered as serious act of betrayal and is often punished with severe consequences, including death<sup>11</sup>. As a result, Omertà acts as a powerful tool that hinders the criminal justice system by preventing the collection of evidence and discouraging witnesses from testifying, thereby allowing organized crime groups to operate with relative impunity.

1. It keeps everything a secret so that outsiders, especially the police, do not get any information.
2. It demands loyalty among the members, and no one is allowed to disclose anything about the group.
3. It keeps the entire group safe by remaining silent so that the police do not catch them.
4. It creates trust among the members because everyone knows no one is going to disclose anything.
5. It demands strict adherence to the rules because the fear of punishment is severe.

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<sup>10</sup> Letiza Paoli, Mafia Brotherhoods (2003) 78

<sup>11</sup> Alexander Stille, Excellent Cadavers (1995) 102

6. It is believed that if no one discloses anything, the police will not be able to prove anything.
7. It is believed to show courage to follow the code.

### **2.3 Impact on Society**

This has a very negative impact on society as a whole because it conceals the truth and shields criminals from justice. When people do not speak out against what is wrong, crimes like violence, corruption, and criminal activities continue unchecked and unpunished. This is a blow to the justice system as a whole because the justice system relies on information and witnesses to act against criminal activities. This way, innocent people continue to suffer while criminals roam free. Another significant impact of Omertà is that it destroys trust and causes a lack of social progress in a country as a whole. When people become too silent and too scared to speak out against what is wrong, people stop trusting each other and stop trusting in fairness and honesty in society as a whole. People may become too comfortable with crime in society, which is a bad thing in the long run. Omertà causes people to lose their moral courage as well and become too scared to stand up for what is right.

### **2.4 Omertà worked as a Psychological Weapon**

Omertà was an effective psychological tool because it instilled fear in the minds of the members. The members were afraid of the punishment that could be given to them, even to the point of death, for breaking the code of silence. This fear in turn, controlled the actions and behaviour of the members. The fear controlled them to the point that even if they wanted to speak the truth, they were not able to because of the fear in their minds. This fear became so intense in the long run that the members thought it was safer to remain silent. It also had an impact<sup>12</sup> on the psychology of the members because it made them think that remaining silent was a sign of loyalty, while speaking out was a sign of betrayal. This made them feel guilty for speaking the truth and proud for remaining silent. This, in turn, made them control themselves, and Omertà became not only a physical control but also a psychological one<sup>13</sup>.

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<sup>12</sup> Alexander V. Orlova, "Italian Anti-Mafia Laws," *European Journal of Crime* (2008) 210

<sup>13</sup> John Dickie, *Mafia Republic* (2013) 56

## **Evolution of the Sicilian Mafia**

### **3.1 Origin in 19<sup>th</sup> Century**

Omertà actually came into existence in the 19th century<sup>14</sup> in Sicily. The conditions in Sicily were not very stable during that period. The people of Sicily had very little faith in the government and the law and order of the land. The government and the law and order of the land were not very strong during that period. The government was actually in the hands of foreigners. Therefore, the people of Sicily developed a culture of having faith in their own kind and protecting themselves. This actually led to the formation of secret societies like the Sicilian Mafia. Omertà is an important part of the code of conduct followed by the Mafia. The main reason for the formation of Omertà is not only the commission of crimes but also the need for survival in a place where the government and law and order were not very strong.

Some of the important points regarding the origin of Omertà are:

- Lack of trust in the government and law and order of the land:
- The need for self-protection:
- Rise of secret societies:
- Fear of being punished:
- Acceptance of Omertà by the public

### **3.2 Mafia during the Fascist Period**

During the regime of Benito Mussolini<sup>15</sup>, who ruled from 1922 to 1943, the Italian government took very strict measures against the Sicilian Mafia. Mussolini was of the opinion that only the government should hold power, and no other group or entity should be granted such privileges. The Mafia's dominance in the region, especially in Sicily, was viewed as an open challenge to Mussolini's regime. In order to remove the Mafia threat, Mussolini appointed Cesare Mori, also known as the "Iron Prefect," who was granted extra powers to take extreme measures against the Mafia. He used strict measures such as mass arrests, searching people's homes, and even torturing people to extract confessions from Mafia members. Thousands of Mafia suspects were arrested and locked away in prison, while many others fled to different countries to escape persecution. As a result of the strict measures taken against the Mafia, the activities of the Mafia were reduced significantly, and for some time, the Mafia was almost destroyed.

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<sup>14</sup> Salvatore Lupo, History of the Mafia (2009) 45

<sup>15</sup> Christopher Duggan, The Force of Destiny (2008) 389

However, the Mafia did not completely die off. Rather, it adjusted to the situation by becoming underground and less visible. It remained quiet and waited for the right time to come back into power. While the fear instilled by the Fascist government was high, it did not eliminate the roots of the Mafia in society. Ultimately, this time period shows that while force can weaken these groups, it can never completely eliminate them if the social conditions that caused them to come into existence remain the same.

### **3.3 Post – World War II Revival**

After the World War II, the Sicilian Mafia staged a strong revival<sup>16</sup>, especially in Sicily. During the war, many government structures were destroyed, and after the war, there was confusion, poverty, and no proper law enforcement. It is during this time that the Mafia staged its revival. During this time, people were fighting to survive, and the Mafia helped them, which resulted in the revival of the Mafia.

Some of the main points related to the revival of the Mafia after the World War II are:

- Lack of government control after the war
- Poverty and unemployment
- Return of the original Mafia members
- Indirect support from the Allied forces
- Strong influence in politics and society

In conclusion, it is evident that the Mafia took advantage of the situation after the World War II and staged its revival. It is also evident that the Mafia is one powerful organization in society.

### **3.4 Drug Trade and Violence in the 1970s – 80s**

The Sicilian Mafia also found itself involved in the international drug trade<sup>17</sup>, particularly in heroin. The 1970s and 1980s saw a significant change in the activities of the Mafia. Their activities changed from small-scale crime in Sicily to international crime. Sicily, particularly Palermo, found itself becoming a major centre in the drug trade. Drugs were being exported to other countries such as the United States. The money from drug trade made the Mafia richer than before. However, this also led to violence among the members of the Mafia. Different factions of the Mafia were involved in internal conflict over control of the drug trade. This

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<sup>16</sup> Paul Ginsborg, *A History of Contemporary Italy* (2003) 212

<sup>17</sup> Alexander Stille, *Excellent Cadavers* (1995) 120

conflict is known as the Mafia Wars. The most violent of these was the Second Mafia War. During this time, hundreds of people, including those from other factions of the Mafia, police, and judges, were killed. Powerful leaders such as Salvatore Riina used fear and violence to control others. Bombings, assassinations, and killings in public places were common.

## **The Maxi Trial**

### **4.1 Background of the Trial**

The background of these famous Mafia trials, especially the Maxi Trial, can be found in the increased level of violence and power of the Sicilian Mafia in the 1970s and 1980s. When the Mafia began to get involved in drug trafficking and became extremely violent, the Italian government understood that strong legal action was needed. Judges, police officers, and investigators started working together to find evidence and break the silence (Omertà) that had kept Mafia members safe for so long. The testimony of former Mafia members who decided to talk and become informants, known as "pentiti," was the most important thing that led to the trial. People like Tommaso Buscetta told the police about how the Mafia worked, how it was set up, and what its rules were. With this information, the police realized that the Mafia was not just a group of criminals, but a well-organized group. Judges, such as Giovanni Falcone and Paolo Borsellino, played a significant role in preparing the trial<sup>18</sup>, gathering evidence, and making sure that the trial would take place.

Some of the key points regarding the background are:

- Rise in Mafia violence and drug trade
- Government decision to take legal action against Mafia
- Violation of Omertà by Mafia members in the form of informants (pentiti)
- Significance of judges like Falcone and Borsellino
- Need to prove Mafia as an organized system

### **4.2 Conduct of the Trial**

Here are the elements of the Conduct of the Trial in simple terms:

1. The trial was the Maxi Trial, held between 1986 and 1992 in Palermo.
2. A high-security courtroom was set up to accommodate hundreds of Mafia suspects.
3. The trial viewed the Mafia as an organized system rather than as criminals.

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<sup>18</sup> Alexander Stille, *Excellent Cadavers* (1995) 115

4. The trial was well protected by police and military personnel due to the threat of violence.
5. The judges, such as Giovanni Falcone and Paolo Borsellino, presided over the trial<sup>19</sup>.
6. The trial also involved Mafia informers such as Tommaso Buscetta, who provided vital information about the Mafia code.
7. The trial was aimed<sup>20</sup> at proving the existence of the Mafia as an organized system and the code of silence known as Omertà.
8. The coordination between the judges, lawyers, and investigators was excellent in order to deliver justice.

### 4.3 Role of Judges

The judges have played a vital role in the fight against the Mafia during the Maxi Trial. Their activities were not limited to the general functions of the court. Rather, it required courage, intelligence, and dedication on their part. The following are the major points related to the role of the judges:

- **Leadership of the Trial:** The judges, such as Giovanni Falcone and Paolo Borsellino, were the key persons who planned the entire trial.
- **Collection of Evidence:** The judges collected evidence from the police, investigators, and informants (pentiti) for the case.
- **Destruction of Omertà:** The judges encouraged the members of the Mafia, such as Tommaso Buscetta, to testify against the other members.
- **Safety of the Judges:** The judges called the police for protection because the Mafia was after them.
- **Application of Law:** The judges used their legal knowledge to decide that the Mafia was a criminal organization and not just a group of criminals.
- **Sincerity of the Judges:** Even though the Mafia tried to bribe them, the judges stayed honest.

The judges were the most important people in the whole trial. It would have been impossible to fight the Mafia without the judge's bravery, intelligence and commitment.

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<sup>19</sup> Giovanni Falcone, Things of Cosa Nostra (1999) 34

<sup>20</sup> Palermo Maxi Trial Judgement (1987)

#### **4.4 Role of Pentito Witness**

The pentiti witnesses, that is, the Mafia members who decided to cooperate with the state, became one of the most valuable factors of the success of the Maxi Trial. Due to the testimony of the witnesses, the authorities received the opportunity to obtain some preliminary knowledge about the secretive life of the Mafia hidden under the veil of Omertà. For instance, thanks to the testimonies of Tommaso Buscetta, a witness who exposed hundreds of murders committed by the Mafia members, judges such as Giovanni Falcone and Paolo Borsellino could organize cases effectively. Thus, it is necessary to note that the pentiti witnesses were very useful for both building effective cases and inspiring other witnesses to speak out. Thanks to the pentiti witnesses' testimonies, the Mafia members' criminal system was revealed to the public. In this sense, the pentitos were essential in breaking the power of the Mafia and in making the Maxi Trial one of the most important in the fight against organized crime in Italy.

#### **4.5 Outcome of the Trial**

The Maxi Trial also greatly impacted the war against the Mafia and is considered a historical milestone in the history of Italian law. Hundreds of Mafia members were convicted of crimes such as murder, extortion, and trafficking of drugs. The trial also proved that the Mafia is an organized crime group and not a group of ordinary criminals, which is a significant achievement in the history of law. The leaders of the Mafia, even those considered untouchable, were sentenced to long prison sentences. Some of them were also sent to high-security prisons to prevent them from exerting influence over others. In addition to convictions, the Maxi Trial also contributed to weakening the Mafia by exposing them to the public and increasing the number of pentiti. The Maxi Trial has demonstrated that even a secret society like the Mafia, which relies on fear and codes of conduct known as Omertà, could be overcome through laws and bravery. The success of the Maxi Trial further motivated the development of new initiatives against the Mafia in Italy and highlighted the importance of perseverance and investigation in the fight against the Mafia.

### **Legal Architecture of Anti – Mafia Prosecution**

It is true that not only the trial against the Mafia members but also a new legal structure was needed to deal with the issue of Mafia in Italy. A separate legal structure emerged over time which was made to deal with issues relating to Mafia. The legal structure provided a platform where action could be taken against the Mafia without compromising on the security of the

witnesses. Some of the important aspects regarding the legal architecture are as follows:

- **Special Anti-Mafia Laws:** The laws were enacted to categorize the Mafia as an unlawful association, with membership in the Mafia being an offense.
- **Article 416-bis of the Italian Penal Code:** This law made the membership of the Mafia an offense, as the leaders could be easily convicted.
- **Special Courts with High Security Measures:** The trials, such as the Maxi Trial, were held in high-security courts to ensure the safety of judges, lawyers, and witnesses.
- **Pentiti (Informants):** The legal system provided the criminals with the opportunity to turn against the Mafia, as the Mafia members who turned informants were provided with security.
- **Protection for Witnesses<sup>21</sup>:** The Mafia criminals and their families were provided with security measures to ensure that they did not face any kind of revenge from the Mafia.
- **coordination between Investigators and Judiciary:** The investigators, prosecutors, and judges worked together to ensure the effective collection of evidence.
- **Confiscation of Property:** The laws provided the government with the power to confiscate the Mafia's property<sup>22</sup>.

### **Assassination of Anti – Mafia Judges**

The struggle against the Mafia has also come at a great cost, particularly to judges who have dared to confront them. In the 1980s and early 1990s, some of the prominent anti-Mafia judges who confronted the Mafia were attacked and assassinated by Mafia bosses who sought to protect their interests and maintain fear. The most prominent judges who fell victims to Mafia assassinations were Giovanni Falcone and Paolo Borsellino, who were killed in separate bombings in Palermo, Italy, in 1992. These murders sent a strong message to Italy and the world that the Mafia was willing to go to great extremes to protect themselves. The killings of Falcone and Borsellino produced various impacts, especially on the consciousness of people and the safety of the prosecutors and witnesses that were struggling against the Mafia. The killings also led to the creation of anti-Mafia laws and stronger attacks against the Mafia by the Italian government. Despite their sad nature, the two events were significant because they acted as a catalyst for Italian society in that people joined hands against a common enemy.

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<sup>21</sup> Letizia Paoli, *Mafia Brotherhoods* (2003) 151

<sup>22</sup> Council of Europe Report on Organized Crime (1988)

### **Conclusion**

The fight against the Mafia in Italy is a perfect example illustrating how crime syndicates affect the society and how a strong opposition to them can have positive outcomes. Being founded in Sicily in the 19th century, the Mafia used intimidation and violent methods combined with a principle of absolute secrecy called Omertà to control the population. The revival after World War II and the violence in the 1970s and 1980s proved to be an illustration of the power and brutal behaviour of the Mafia. The mafia wars, murders, and bombings created an atmosphere of terror not only in Sicily but throughout Italy and even beyond its borders. Even though the Mafia is still active nowadays, such actions significantly decreased their influence making them incapable of operating freely while also giving hopes for the citizens about the triumph of justice. All in all, the history of the Mafia and anti-Mafia struggles demonstrates that the principles of secrecy and terror help criminals control the society; however, the courage to tell the truth and the persistence can help save and improve the situation for the better.



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