# TRAINING PROSPECTIVE LEGAL PRACTITIONERS TO WORK WITH TRANSLATORS AND INTERPRETERS: A QUALITATIVE STUDY

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ABSTRACT: Students of Law are well advised to gain an understanding of legal English for their legal career. Importantly, teaching units in legal English can also contribute to an awareness of the complex interface between translators and interpreters and the legal system. In this investigation, the potential of teaching activities to educate future lawyers in the intricacies of these professions is unlocked. An initial questionnaire with open-ended questions was administered to students studying for the Master's Degree in Law and Legal Practice at the University of Burgos, Spain. The questionnaire explored knowledge of the profession of legal and sworn translators and interpreters. The results revealed low levels of familiarization with the translation profession among students and they did not even know about the regulations that govern their work. Different classroom activities were conducted to educate and inform future lawyers about the tasks and roles of these language professionals. By the end of the course, a qualitative change in students' perceptions of the work of legal and sworn translators and interpreters was evident. The introduction of foreign language courses and comparative law in legal training with specific activities focused on legal and sworn translation and interpreting can therefore be of immense assistance in crystallizing an awareness of the role of specialized linguists in the legal profession.

Keywords: legal translation, sworn translation, lawyers, legal practice, legal English

La formación de futuros profesionales del derecho para trabajar con traductores e intérpretes: un estudio cualitativo

**RESUMEN:** A los estudiantes de Derecho se les aconseja adquirir conocimientos en inglés jurídico para desarrollar su carrera profesional en este campo. En este sentido, la enseñanza del inglés jurídico puede contribuir a generar concienciación

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sobre la compleja interfaz que existe entre los traductores e intérpretes y el sistema jurídico. El objetivo de este estudio es demostrar cómo una asignatura de inglés jurídico puede contribuir a concienciar a futuros profesionales del Derecho sobre la labor del traductor e intérprete en estos ámbitos. Para ello, realizamos un cuestionario inicial con preguntas abiertas a estudiantes del Máster en Acceso a la Abogacía de la Universidad de Burgos (España) sobre el grado de conocimiento que tenían sobre la profesión del traductor e intérprete jurídico y jurado. Las respuestas demostraron un nivel de familiarización con la profesión muy bajo e incluso un desconocimiento de la normativa que rige el trabajo de los mismos. Durante el desarrollo de las clases se realizaron diversas actividades con el objetivo de enseñar e informar a los futuros profesionales del Derecho sobre las tareas asociadas a la profesión del traductor e intérprete. Tras la finalización de las clases pudimos comprobar un cambio cualitativo en la percepción del traductor e intérprete jurado y jurídico por parte de los estudiantes. Apostamos por lo tanto por la introducción de asignaturas de idiomas y derecho comparado en la formación de juristas con actividades específicas sobre la traducción e interpretación jurídica y jurada que ayuden a crear conciencia sobre la labor de los lingüistas especializados en este ámhito.

PALABRAS CLAVE: traducción judicial, traducción jurada, abogados, abogacía, inglés jurídico.

# INTRODUCTION

Experienced legal experts know the implications of the right to interpretation and translation services of the accused in criminal proceedings who cannot understand the language of the court. These professionals are also aware of the different directives and national laws that regulate the provision of these services. In fact, the first explicit mention to the fundamental right to an interpreter can be found in Art. 14. 3 (a) of the International Covenant on Civil and Political Rights of 1966 (Jimeno Bulnes, 2009). The right of those charged with criminal offences "to be informed promptly, in a language which [they] understand and in detail, of the nature and cause of the charge against [them]" can also be found in the European Convention of Human Rights (Art. 55 c). Moreover, the Statute of the International Criminal Court, signed in Rome in 1998, regulates the right to an interpreter and to translation services in great detail, in both the instruction phase and the oral hearing, as does the European Arrest Warrant. In Spain, the country where this research is conducted, the Constitution neither sets out the right to an interpreter nor to a translator in legal proceedings, but constitutional jurisprudence has repeatedly acknowledged the binding nature of that right, in reference to the above-mentioned international instruments, among others (Jimeno Bulnes, 2009).

However, even though legal professionals may be fully aware of the regulations on the right to translation and interpreting, they tend to be less aware of the labyrinth of legal and sworn translation (Alcalde Peñalver and Pajares Nievas, in press). Compared with other fields, the profession of the legal and sworn translator and interpreter is not known unless you have needed the services of one of these professionals in the past (Way, 2016: 1010). Therefore, even though, as we have previously stated, legal professionals tend to be familiar with the regulations regarding the right to an interpreter and to translation, they usually do not know where to find them or know of the practices that regulate the profession of these linguists with whom they will be working. This ignorance is, as Tryuk (2004: 86) explained, partly because "dans l'opinion publique l'interprétation communautaire est considérée comme un domaine strictement non-professionnel, exercé par des interprètes naturels, sans formation quelconque en langues ni en interprétation." Moreover, as Way (2016:1010) stated "the traditionally subservient position of the legal translator in communicative acts has led to poor self-concept and a lack of projection and respect for the profession in general." This author also mentions a further reason for this situation, related to the fragmented nature of the profession, as most legal translators work on a freelance basis and remain invisible to their final recipients. It is therefore of the utmost importance to develop the current state of knowledge on translation and interpreters in these areas.

Students taking undergraduate and postgraduate degrees to become lawyers should study legal English not only in terms of parsing terminological and grammatical aspects. We justify our study on the basis that emphasis should be placed on legal situations that require the work of translators and interpreters that future lawyers may have to negotiate. In view of our previous experience as translators and interpreters with law firms and other legal professionals, we consider that students, after completing an undergraduate course of studies in law and having then gained a master's degree that permits them to become lawyers in Spain, would have little knowledge of the profession of the translator and interpreter and of the situations in which they might become involved. Thus, in our opinion, a course on legal English that explains the profession of the legal and sworn translator and the interpreter would allow students to gain awareness of the need to work with professional linguists and how to combine the work of these linguists with their own professions in the field of law.

After reviewing the abundant literature on the topic, we administered an initial questionnaire with open questions to students of the Master's Degree in Law and Legal Practice of the University of Burgos, to test the level of their knowledge on the profession of the legal and sworn translator and interpreter. The results revealed low levels of familiarization with the translation profession among students and almost no knowledge of its *modus operandi*. We therefore proposed a series of teaching activities that combine specific language content in the legal field with other activities, helping students to gain further insight into how they may interact with language professionals in their future work as lawyers.

#### ENGLISH IN THE TRAINING OF LEGAL PRACTITIONERS IN SPAIN

Due to continuous globalization and the internationalization of many activities, a capability to employ English as a tool for communication in the field of law is a competence that allows future professionals to acquire "the ability to gain meaningful

employment, or to become self-employed, to maintain employment and to be able to move around the labour market" (Working Group on Employability, 2009: 5). As Rogerson-Revell states (2007: 105) "the mobility of Europe's boundaries and the people within them, together with growing opportunities for cross-border trade, adds to the complexity of language use across Europe." Thus, the need for both translation and interpretation in these contexts requires the growing intervention of highly specialized language professionals (Lara Aguado, 2016).

There has been a lot of debate over whether translators in specific fields should be experts with advanced language skills or translators with expertise in the subjectmatter. In a recent study forming part of his final assignment for his master's degree, in 2013, Pajares Nievas (2015: 189-193) designed a questionnaire for sworn translators with several questions focused on medical-legal documents. One of the questions showed a text explaining why medical or legal translators would be more suitable when translating a hybrid text from both fields. The translators were then asked to choose one of 4 options: (1) a translator with medical knowledge; (2) a translator with legal knowledge; (3) a health professional with expertise in languages and translation; and, (4) other options. Surprisingly, 39% of translators opted for the last option and among other proposals, suggested hiring translators to work in collaboration with experts from the aforementioned fields or even suggested hiring translators with expertise in both areas. Only 14% of the participants opted for the third option and considered that, even with advanced language skills, a health professional was not the best solution for this kind of task. The European Union also emphasizes the concept of "lawyer linguist" with a combination of language skills and specific knowledge in the field of law, since a high level of specialization is required. Nevertheless, there is no easy answer to the question of how much law a translator needs to know and collaboration between the two fields should be encouraged, as Mayoral Asensio (2005) observed, to benefit from the potential that translators could have as active assistants in the legal process.

Universities also play an important role when training law students. As previously stated, language skills and collaboration are essential, if we wish future lawyers to be aware of the work carried out by translators and interpreters. Albert Einstein once said that "setting an example is not the main means of influencing others, it is the only means," with which we are in complete agreement. It is necessary thus to show part of the results of a descriptive study conducted to whether current degrees in Spain, the UK, France, and Ireland do in fact include courses focused on language and translation/ interpreting in their Law degrees (Alcalde Peñalver and Pajares Nievas, 2017). Five universities were chosen for each country for the academic year 2016/2017. The results obtained were summarized as described in figure 1.



Figure 1. Comparative analysis of language and translation subjects offered in Law degrees. Adapted from Alcalde Peñalver and Pajares Nievas (2017: 29).

As described in the study carried out by Alcalde Peñalver and Pajares Nievas (2017: 29-30), French universities are on the top of the list regarding foreign languages in general, followed by Irish and Spanish universities. No courses were found in British schools.

When focusing on specific courses mixing foreign languages and law, we observed that French and Irish centres were the ones offering more options to their students. In France, languages such as Spanish, English, German or Italian were the most common ones. In Ireland, the main foreign languages applied to law were French and German. Moreover, students at University College Dublin had also Chinese as an option.

Foreign law courses taught in the language of the legal system studied are very common in Spain. All the universities studied included courses on this area. The UK had also a high percentage of courses but these were offered in foreign centres where a mobility programme was completed.

Spanish universities were the only institutions offering more than half of their courses on Spanish/Catalan law in other languages, which demonstrates the importance that languages have in Spanish syllabuses.

Finally, we observed that the François-Rabelais University is currently offering translation and law courses to its students (Alcalde Peñalver and Pajares Nievas (2017: 24-25).

Although "legal educators have now joined forces with language and translation faculties to provide groundbreaking programs which are going from strength to strength" (Scott, 2016), this is just a first step that must lead to a new path that will contribute to improve academic training and professional practice.

If we move to a different context and focus on the official guides available for legal professionals in various countries, we note the dearth of references to translators and interpreters. There is some mention in the publications listed in table 1 to relationships between lawyers/solicitors and judges, juries, clients, third parties, etc. but they do not refer to the right of translation and interpreting or even to whether these services should be granted. Some of them make a passing mention to legal professionals who should have 'foreign language abilities', if their clients do not speak the language to be used in trial or the whole proceeding. One of them (from Australia) merely indicated that an interpreter may be needed if the client does not speak English.

PUBLICATION	COUNTRY
Criminal Law - Solicitor's Manual	Australia
Rules of Professional Conduct	Canada
A Guide to Good Professional Conduct to Solicitors	Ireland
Guide to the Professional Conduct of Advocates	UK (Scotland)
Indiana Rules of Court. Rules of Professional Conduct	USA

Table 1. Reference guides for legal professionals regulating their duties in different countries

# METHODOLOGY

In this study, a qualitative methodology is followed, as we consider that it allows us to grasp an existing social reality through "people's own words, spoken or written, and observable behavior" (Taylor and Bogdan, 1984: 20). To be more precise, according to Grotjahn's classification of pure and mixed paradigms (1987: 59-60), our research study would be situated in the paradigm of experimental-qualitative-interpretative research, because we begin with an experimental study in which qualitative data is interpreted to move closer to the reality of our area of interest and to propose teaching activities.

Our instrument for the collection of qualitative data was a questionnaire with open questions. The four steps established by Martínez Olmo (2002) were considered appropriate for the preparation of the questionnaire, due to their consistency and thoroughness. According to this author, it is first of all important to describe the information that is needed, including the people from whom we wish to obtain an

opinion. As pointed out above, the objective of the questionnaire was to obtain data on knowledge of the profession of translators and interpreters held by the students of the Master's Degree in Law and Legal Practice at the University of Burgos. The questionnaire was administered to 21 students in the Legal English class that was part of the Lawyer Skills module. Although the sample does not allow us to generalize results at a national level, we consider it a first step to investigate the situation at the University of Burgos and to compare it in future studies with other universities both in Spain and abroad.

Note that the master's program has a total of 90 ECTS credits and its objective is to impart professional training to future lawyers and to prepare them for the national test that they have to pass to qualify as lawyers and for their subsequent affiliation to the relevant professional association. The national test has been held in Spain since 2014 following the approval of Law 34/2006, of 30<sup>th</sup> October, on the admission to the legal profession of lawyers and court lawyers. Before the implementation of the Degree in Law, in accordance with the Bologna process, law students could directly join the professional association of lawyers in Spain to exercise the profession after a *licenciatura*, which consisted of a 5-year undergraduate degree in Law. In the current system, after studying a *grado* (4-year undergraduate degree), students need to complete the master's degree and pass the national exam, before they can exercise the profession. So, 22 year-old graduates holding a *licenciatura* are no longer able to exercise the profession, unlike 23-year old graduates holding a master's qualification and having passed the national exam (Serraller, 2016).

Martínez Olmo (2002) considers that the wording and choice of the type of questions should come after this first step, when collecting data through a questionnaire. The types of questions that can be distinguished, open or closed, depend on the type of research that is conducted. Open-ended questions allow for broader responses and are easier to construct, but their analysis takes a long time and the number of response categories can be infinite, while requiring more time on the respondent's part. These types of questions are used when the subject under investigation is not known in detail, so the possible answers may not be limited beforehand, which the respondents might give. In our case, we considered that these three questions would allow us to obtain general information as a starting point, to prepare a teaching proposal for raising awareness of the profession of legal translators and interpreters in the justice system. The four questions of our questionnaire were based on four thematic areas: (1) familiarization with the work of the translator and interpreter in the legal field, (2) differences between sworn and legal translation and interpreting, (3) the nature of their profession and (4) the regulations that govern it. The corresponding questions to these thematic areas were as follows:

- 1. During your studies in Law, did anyone ever talk to you about the work of the translator and interpreter in the legal field?
- 2. Do you know the differences between a legal translator, a legal interpreter, a sworn translator and a sworn interpreter?

- 3. Do you know what translators and sworn translators are needed for? How would you define their work?
- 4. Are there any regulations that govern the work of translators and interpreters in the legal field?

When using a questionnaire, it is important to write an introductory text and instructions that explain the purpose of the study, thanking respondents for the participation and ensuring the data confidentiality. In our case, the introduction was done orally in class and we explained each of the aspects mentioned by the author. Finally, it is of particular relevance to take care over the formal aspects of the questionnaire. In our case, the questions were presented in a professional format and in a logical order.

We followed a process of deductive reduction for the categorization of the information, through a series of categories based on the questions in the survey. This process also facilitated the comparison of information, showing the differences and similarities between the responses of each participant. At no point was it necessary to use a qualitative data analysis program, because of the reduced sample of our study. The use of an Excel table was sufficient to classify all the information that we obtained from the questionnaires.

#### ANALYSIS OF RESULTS

Although we decided against the inclusion of the diagnostic evaluation that we conducted in the classroom before starting with the activities that are explained in the next section, it should be mentioned that the English level of eight students was no higher than B1 (Common European Framework of Reference for Languages). Moreover, none of the students had a level higher than B2. In addition, in this diagnostic evaluation, they were asked in the open-question survey whether English was in their opinion important for the profession of the jurist. Among the responses, 16 students considered that English was a necessary competence to find a job and to develop their professional career more fully, although five considered that it was unimportant, because everything was translated into Spanish and it was not one of the necessary competences to be a good lawyer. Regarding the question on what they hoped to learn in the subject, they all mentioned English terminology and legal phraseology as the main aspect.

The responses to the questionnaire on the profession of legal translators and interpreters revealed a very low level of familiarization with the profession. In response to the first question, ten students said they had never been told about the work of professional linguists in the legal field during their studies, and five said that they only knew about their work because of the parties and others in a court case who may need a translator or interpreter (and in subsequent answers, they revealed little or no knowledge of the difference between these two functions). Moreover, five said that they had heard about it in a module during their degree course and another person knew of it, because he had attended a court case with an interpreter. These results show that 47.6 % of the students completing this master's degree, who had already gained an undergraduate degree in Law, had little or no knowledge of the work of translators and interpreters in the legal sphere.

As for the second question on the differences between a sworn legal translator and a sworn legal interpreter, 100% of the students stated that they did not know the difference and just two mentioned that the difference between a translator and interpreter was in the written and oral form, but were unsure of their respective roles.

In the third question, a higher consensus was reached, as 90.4% of the responses from students recognized the need for translators and interpreters when a party in the proceedings could not understand the language. Two responses stated that translation or interpreting was required so that a decision from another country could be validated in Spain, and that this needed to be done by one of the translators from the Ministry of Foreign Affairs, European Union and Cooperation.

Finally, regarding regulation of the roles of translators and interpreters, 33% of students admitted no familiarity with any of the laws that mentioned their roles, and 25% said they knew some regulations existed but could not name them. Among the responses with some specific legislation, the following need to be mentioned (some answers included a few laws, hence the differences of percentages). 38% of responses cited the Spanish Civil Procedural Act. Indeed, according to Section 143 of this law on the intervention of interpreters, when a person who cannot understand Spanish or the official language of the regional community in which the suspected person is questioned or the statement is given, or when they have to be informed of a legal decision, the court clerk, with the authorization of the court, may empower any person familiar with the language in question to be an interpreter. This requires that person to take an oath or to affirm that they will try to produce a faithful translation. The second paragraph of this article states that the provision of interpretation services in cross-border disputes shall be guaranteed for any person who does not understand Spanish or the official language of the region, under the terms established in Law 1/1996, of 10th January, regulating Free Legal Assistance. The proceedings in these cases shall be recorded, and they shall include the texts in the original language and their translation into the official language, which shall also be signed by the interpreter. The Law of Free Legal Assistance also appeared in 14% of the responses. A total of 9.5% of the collected responses mentioned Private International Law without giving any more specific details, and the same percentage was found for the Spanish Law 29/15, on international legal cooperation. In its sixteenth additional provision, this law regulates the criteria for official translations and interpretations. The same percentage of answers was also found for the Spanish Constitution, although the right to a translator and interpreter is not expressly established in it. 19% of all responses included the Spanish Law of Criminal Procedure, which mentions the right to be freely assisted by an interpreter.

In conclusion, we may say that students need to be kept fully aware of the importance of English, as in fact there were still five students in the class who did not

consider it necessary for their profession to know the language, while the others were still at a level that had to be developed further to achieve a more independent use of the language. However, this situation made it even more possible to raise awareness of the importance of legal professionals working with professional translators and interpreters in their field, and therefore to make their work known. The results show that almost fifty percent of the students had never heard of the profession of these linguists, and none of them knew the difference between their work, nor were they clear about the rules that exist in relation to their tasks. We therefore considered that the activities that we describe in the following section would generate positive results in the training of these future lawyers and their collaboration with translators and interpreters in the field of law.

HOW TO RAISE AWARENESS AMONG FUTURE LAWYERS: TEACHING PROPOSAL

In this section, we will explain the different teaching activities that we conducted to raise awareness among the students of our research into the profession of translators and interpreters in the legal sphere.

Following the results that showed the low level of familiarization with the profession of translators and interpreters in the field of law, we decided to start first of all by clearly stating the difference between legal, court, and sworn translatorsinterpreters. The aim was to provide a clear framework both for law professionals working in this field and for future students who will do so to make these differences more transparent for them:

- Legal translators. Professional translators specializing in the translation of legal documents (general law, procedural law, administrative law, etc.; Gutiérrez Arcones, 2015; Mayoral Asensio, 2004).
- Court translators and interpreters. Professionals who work with both legal (sentences, decrees, etc.) and non-legal documents (reports, invoices, e-mails, etc.) and in legal procedures (phone calls, police interrogations, etc.) under the umbrella of legal proceedings and trials (Gutiérrez Arcones, 2015; Lobato Patricio, 2009).
- Sworn translators and interpreters. Professional linguists who have been certified by the Spanish Ministry of Foreign Affairs, European Union and Cooperation and are duly authorized to translate and to interpret all types of texts and conversations. Their translations are official and must follow the guidelines established by the Language Interpreting Office.

There is, in fact, a legislative vacuum in relation to the training that the translator or interpreter must have to work in the legal sphere, since not all translators and interpreters working in this field hold the certification of the Ministry of Foreign Affairs, European Union and Cooperation. Therefore, these freelance professionals in many cases need no specific qualification to work as linguists, aside from their knowledge of the language pairs with which they work. This inconsistency in qualifications generates a lack of professional entity in the figure of the translator and interpreter, which contributes to a large extent to the widespread lack of recognition and familiarization with the work of law professionals.

The theoretical explanation was combined with practical exercises and texts with examples that allowed students to learn new terminology and false friends, and to compare different systems, to understand that translation in the field of law is not just about finding equivalent terms, but about finding one that conveys the same meaning in the other language or even giving an explanation in the case of non-existent concepts or institutions.

## Student group presentations on related topics

After the introduction on the differences mentioned in the previous section, students were asked to deliver group presentations on the following topics: legal translation, sworn translation, differences between the work of a legal translator and interpreter, differences between legal practice as a lawyer in Spain and in the UK, differences between legal practice as a lawyer in Spain and in the USA, Directive 2010/64/EU on the right to interpretation and translation in criminal proceedings, and careers in law/languages. These subjects were chosen, because we considered that they allowed the students to search for answers to the questions that were raised in the initial questionnaire, as well as to continue acquiring legal terminology and learning about the European directive that none of them had mentioned.

When working on these topics, students consulted specific bibliography that allowed them to acquire knowledge of the work of translators and interpreters in different areas of law and to know the differences between legal and sworn translation. Following the presentations, the other students asked questions that were answered in great detail by the groups presenting the topics, which generated discussion on the work of linguists in this field.

### Participation of students as legal interpreters at mock trials

An interesting attraction of this master's program is the participation of students with different roles in mock trials presided over by a professional judge. The novel aspect this year was the introduction of interpreters in the criminal trials both for a witness and for one of the accused parties. To do so, some of the students acted as bilingual interpreters, orally translating the exchanges between the judge's instructions and the questions from the lawyers representing the different parties. This exercise gave them first-hand experience of the difficulties that court interpreters face, as it is not merely a matter of knowing the two working languages well, but also of knowing specific techniques of court interpretation, in this case liaison-interpreting, to be able to perform a satisfactory job. After completing these activities and asked in class about the same questions that we showed in the initial questionnaire, students were able to give extensive answers on the work of translators and interpreters and even defended the need to contract professionals. Their admiration for the work of linguists increased, because they were aware of the difficulties that it entailed. We fully endorse Jimeno Bulnes (2007: 180-181) who affirmed that "this interaction between Law and Language is very necessary," and a "basic minimum linguistic training must be promoted in legal spheres." When legal experts are made aware of the complexities of translation of different concepts between different legal systems and countries, they also understand better the magnitude of the responsibility that these expert linguists have in the lives of many people who would be unable to communicate without their services (Hale, 2007).

#### CONCLUSIONS

This qualitative study has sought to establish the level of familiarization with the work of translators and interpreters among students following a Master's degree in legal studies. It has also proposed some teaching activities to help to raise awareness of the importance of languages and collaboration with professional linguists in this field.

After a preliminary literature review of the topic, it became evident that little or no importance is attached to language skills in law degrees in Spain, probably due to the fact that most courses are focused on national law. In fact, some of the students of our course still believed that English would not be necessary at all in their future professional life. We consider that even though a proficient command of a language might not be required in the legal field, our students should at least be aware of the importance that it might have in certain cases. Translation and interpreting services are not always necessary in trials, but we should be prepared for situations when they are and know what steps to take.

The results of our questionnaire have shown that students were unaware of the differences between legal and sworn translation and interpreting, nor were they clear over the regulatory framework for that profession. We therefore proposed a series of teaching activities that included theory on the topic combined with activities on legal terminology and phraseology with oral presentations and even the participation of students as interpreters in mock trials. After the end of the legal English study module, we were able to verify a qualitative change in student perceptions of the work of legal and sworn translators and interpreters.

We believe that the introduction of language and comparative law courses in the training of lawyers with specific activities on the profession of the legal and sworn translator and interpreter can make a major contribution to heightened awareness of the important role that specialized linguists have in this field. Translators in the field of law cannot afford to be experts in all subjects and law specialists are unlikely to be fortunate enough to have the same language skills as those professionals. So, an interdisciplinary combination will move towards improvements in the rights of people likely to benefit from their skills. We believe that initiatives of this type will

not only strengthen the legitimacy of language professionals but will also promote greater familiarity with the profession of translators and interpreters and will help law students to become aware of the situations they are likely to encounter in their professional life.

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