# The Informal Europeanization of EU Member State Immigration Policies

## Silvia Cavasola

### Abstract

For years the EU has been fostering a common policy to integrate immigrants. Yet, whether its efforts have progressively created something like a homogeneous European model of integration remains an open question. An analysis of the approach to immigrant integration in the EU member states that receive the largest immigration flows, as well as of EU initiatives to promote greater policy harmonization among its member states, shows that partial convergence in national integration strategies is linked more to interstate emulation and parallel path development than to proactive EU legislation on the matter. This trend can be referred to as a process of "informal Europeanization".

**Keywords**: *EU member countries / Immigration / Integration of foreigners / Citizenship / Third country nationals (TCNs) / European Union / Europeanization*

# The Informal Europeanization of EU Member State Immigration Policies

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## Introduction

The last fifteen years have witnessed an unprecedented growth of activism on migration issues on the part of the European Union (EU). This comes as no surprise, as the period has coincided with a massive intensification of migration flows towards the Union. The steady growth of both legal and illegal entries into the territory of EU member states has led to the perception that immigration is one of the crucial challenges of the century, the management of which requires the development of new tools and frameworks of action.

Starting from the 1999 European Council in Tampere, Finland, attention has been devoted to a specific category of immigrants, *long-term residents.* Providing for their integration in host societies is considered a priority both for effective protection of their rights and for social cohesion. Since Tampere, the European Union has accordingly been trying to produce a common and coherent framework for action. In the meantime, however, the member states have continued to develop their own immigration policies. The specific ways in which each of them has done so often refer to models or regimes of integration, such as the "assimilationist" model or the "multiculturalist" one. These different approaches are rooted in historical legacies as well as political, economic and social factors, and therefore have historically tended to vary across member states. Recent developments show that some degree of convergence has nonetheless occurred. What remains to be assessed is the extent and the causes of such convergence? Is the European Union acting as a centripetal force driving member states towards a shared integration policy framework? Are we witnessing the emergence of something like a European model of integration?

It seems reasonable to expect that the higher the immigration rates in one country, the more salient the internal debate on integration policies. Thus, the following analysis focuses on the EU member states that are most exposed to immigration flows: Germany, France, the United Kingdom, Italy, the Netherlands and Spain. A review of the immigrant integration models of these countries is likely to provide significant insight into whether progress toward convergence at the EU level is taking place or not.

The paper is divided into three sections. The first deals with the differences between national integration regimes and the recent pattern of convergence. The second section discusses the impact of the EU in fostering change. The third and last section addresses the question of whether convergence has progressed far enough to make it possible to speak of a single integration model for all EU countries.

## 1. National integration regimes: patterns of change

*1.1. Immigrant integration yesterday: differentialism, assimilationism, multiculturalism*

France, Germany, Italy, Spain and the United Kingdom have the largest number of foreign-born residents on their territory. Taken together, those countries account for 75% of the total foreign-born living in the EU.[1] When considering countries in relative terms, though, the Netherlands stands out for the impressive foreign presence on its soil, with the proportion between its relatively small population and foreign residents higher than that of all of the above mentioned countries, with the exception of Spain.

|  | Total population | Foreign born residents | % on population |
|---|---|---|---|
| **Germany** | 82,002,356 | 6,127,771 | 7.5 |
| **France** | 64,366,894 | 4,992,168 | 7.8 |
| **UK** | 61,595,091 | 4,603,792 | 7.5 |
| **Italy** | 60,045,068 | 2,984,091 | 5.0 |
| **Spain** | 45,828,172 | 4,057,197 | 8.9 |
| **Netherlands** | 16,485,787 | 1,383,615 | 8.4 |

Source: Eurostat, *Demography report 2010.*[2]

In the literature on immigration, national integration regimes are generally understood as lying on a continuum whose extremes are represented by "differentialism" and "assimilationism". The former has traditionally been associated with the German regime, the latter with the French one. Differing sharply in terms of citizenship acquisition rules and public conceptualisation of minorities, the two have generally been perceived as alternative models rooted in the history of each country.[3]

Up to a few years ago, ethnicity was the criterion determining access to citizenship in Germany. Only individuals of German origin were entitled to request citizenship. This regime revolved around the principle of *jus sanguinis* (right of blood), namely the right based on parental citizenship.[4] In France, by contrast, ethnicity played a marginal role, as citizenship was (and still is) understood as a right accruing to people showing loyalty to democratic and republican values. The criterion was consequently the place of residence, according to the so-called *jus solis* (right of soil).

Broadly speaking, in Germany ethnicity represented an important tool for defining immigrants residing on German territory. Members of minority ethnic groups were

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[1] Eurostat, *Demography Report 2010. Older, more numerous and diverse Europeans*, Luxembourg, European Union, 2011, p. 48, http://epp.eurostat.ec.europa.eu/cache/ITY_OFFPUB/KE-ET-10-001/EN/KE-ET-10-001-EN.PDF.
[2] Ibidem, p. 49.
[3] Rogers Brubaker, *Citizenship and Nationhood in France and Germany*, Harvard: Harvard University Press, 1992.
[4] This was the argument used in the controversy over Alsace-Lorraine against France: that most of the inhabitants of the region had German blood. France, on the other hand, claimed that notwithstanding their German origins, most of those people "felt" French and were willing to be part of the French republic.

considered as not belonging to the country and legally referred to as "guest workers".[5] In France, on the contrary, the very notion of "minority" was (and still is) questioned, as the state interacts with individuals directly, and not through their membership of a group (ethnic, cultural, religious, etc.).

Until recently, Italy and Spain shared Germany's preference for the *jus sanguinis* as the juridical principle regulating their regimes for granting citizenship. In both cases, the choice had its roots in a broader national strategy aimed at preserving ties with the vast number of Italians and Spaniards who emigrated between the end of the 19th century and the first half of the 20th Century. Naturalization on the basis of residence required long bureaucratic procedures. Easier conditions for acquiring citizenship were granted only to those who could prove blood ties (descendants of emigrants) or enjoyed "cultural proximity" (in Spain, for example, Spanish-speaking Latin Americans benefited from such a privilege because they were deemed to share "language and culture" with Spanish citizens).[6]

The Netherlands and the United Kingdom also preferred an ethnicity-based approach to the integration of immigrants. However, unlike Germany, Italy or Spain, the two countries made ethnicity a reason not for negative, but for positive discrimination by law. In other words, the British and Dutch immigration regimes were premised on the assumption that cultural differences should be preserved. This variant of differentialism is based on a conceptualisation of the individual rights of immigrants as inextricably linked to public recognition of their ethno-cultural affiliations, as well as strong *jus solis* elements in naturalization laws. Unsurprisingly, this approach to integration is most often referred to as "multiculturalism".

## 1.2. Immigrant integration today: patterns of convergence

Until around ten years ago, such categories as differentialism, assimilationism and multiculturalism still captured radical differences among various national approaches. The policy adjustments that have occurred since then, however, have changed the picture to the extent that those categories have lost much of their explanatory potential. Today, integration regimes feature a notable degree of similarity, with scholars claiming that a path of general convergence towards a single and uniform model, notably the assimilationist one, is taking place.[7]

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[5] Simon Green, "Citizenship Policy in Germany: The Case of Ethnicity over Residence", in Randall Hansen and Patrick Weil (eds), *Towards a European Nationality. Citizenship, Immigration and Nationality Law in the EU*, Basingstoke [etc.], Palgrave, 2001, p. 26-29.
[6] María Bruquetas-Callejo et al., "Immigration and Integration Policymaking in Spain", in *IMISCOE Working Papers*, No. 21 (April 2008), p. 9,
http://imiscoe.socsci.uva.nl/publications/workingpapers/documents/WP21-MigrationpolicymakinginSpain.pdf.
[7] Christian Joppke, "Beyond National Models: Civic Integration Policies for Immigrants in Western Europe", in *Western European Politics*, Vol. 30, No. 1 (January 2007), p. 1-22,
http://dx.doi.org/10.1080/01402380601019613. See also Han Entzinger, "The Rise and Fall of Multiculturalism: The Case of the Netherlands", in Christian Joppke and Eva Morawska (eds), *Toward Assimilation and Citizenship: Immigrants in Liberal Nation-States*, Basingstoke, Palgrave Macmillan, 2002 (Migration, Minorities and Citizenship series), p. 59-86.

A first observable trend is the inclusion of at least some elements of *jus soli* in *naturalization laws*. Beside France, the United Kingdom and the Netherlands have been pioneers in this shift. More recently, however, Germany and Spain have also shortened the period of residence needed before an immigrant can apply for citizenship. Moreover, both countries have simplified application procedures. In Italy a reform introducing some *jus soli* elements seems to be close to approval in parliament.[8]

A second interesting trend is the introduction of *naturalization ceremonies* in which would-be citizens swear an oath of allegiance and are formally welcomed by host societies. These ceremonies are conceived as a way of stressing the symbolic importance of becoming a citizen. Participation in such ceremonies has been mandatory in the United Kingdom since 2004 and in France and the Netherlands since 2006.

The parallel introduction of *integration programmes* is another significant element of convergence. Imposed on immigrants upon or even before arrival, these programmes are a means of introducing immigrants to the language and culture of the host society.[9] Depending on the country, they are optional or mandatory, and administered either at the local level (in Spain)[10] or at the national level (in the other five countries). In all cases, though, participation provides an important gateway for acquiring citizenship.

Last but not least among the convergence trends is the adoption of *language tests* as a condition for citizenship acquisition. Here, the only exception is Italy. In written form in some cases (the Netherlands, the United Kingdom), and oral in other cases (France, Germany, Spain), language tests serve the purpose of ensuring that immigrants have the main tool for integrating into the host country: an (at least) elementary knowledge of the local language. In the United Kingdom and the Netherlands, the test also includes questions about the country's culture and lifestyle.

All the above trends point to national integration regimes converging on some critical aspects of immigrant integration policies. What remains to be seen is whether the EU can be considered as the main actor imparting such a centripetal drive on national policies of immigrant integration.

## 2. The impact of the EU on national integration regimes

The 1999 European Council in Tampere was the first to formalize the idea that immigrants had to be accorded stronger guarantees of their basic rights:

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[8] Even the President of the Republic has publicly declared himself in favour of it. See for example the speech after a meeting with a delegation of the Federation of Evangelical Churches in Italy, on 22 November 2011, http://www.quirinale.it/elementi/Continua.aspx?tipo=Discorso&key=2316.
[9] Sergio Carrera, "A Comparison of Integration Programmes in the EU: Trends and Weaknesses", in *CEPS Challenge Papers*, No. 1 (March 2006), p. 2-10, http://www.ceps.eu/book/comparison-integration-programmes-eu-trends-and-weaknesses.
[10] Although in 2004 Spain's Socialist Party allocated a budget for integration programmes also at the national level (María Bruquetas-Callejo et al., "Immigration and Integration Policymaking in Spain", cit., p. 20-22), most work is still done at the regional level.

The European Union must ensure fair treatment of third country nationals who reside legally on the territory of its Member States. A more vigorous integration policy should aim at granting them rights and obligations comparable to those of EU citizens.[11]

The Tampere plan on immigrant integration revolved around three main principles. The first was that the EU should *guarantee freedom and security* to third country nationals legally residing in the territory of the member states. *Non-discrimination*, that is, the possibility for residents to take active part in the economic and social life of host societies was the second principle. The third principle concerned the *legal status of long-term residents*. For this particular category of individuals, the Council called for the definition of a special status, that was to be approximated to that of member state nationals, as well as the possibility of acquiring citizenship of the host member state.[12]

The three principles were restated and integrated on several occasions. In 2002 the European Council in Seville called for a redoubling of efforts aimed at developing a consistent policy for the integration of lawfully resident immigrants.[13] In 2003 the European Council in Thessaloniki called on the Commission to present an annual report on the integration of immigrants in Europe, and urged the establishment of common basic principles for integration.[14] Such basic principles were laid down the following year in Brussels.[15] They consist of eleven very broad points meant to "assist Member States in formulating integration policies by offering them a simple non-binding but thoughtful guide".[16] Much emphasis has been put on the idea of *integration as a two-way process*, involving efforts on the part of the immigrants, who are required to learn and subscribe to the core values of the EU, as well as on the part of the host societies, which are expected to open up space for accommodating the needs and legitimate demands of the newcomers.

In 2005 the EU launched the five-year Hague action plan on immigration.[17] Integration of immigrants featured high on the agenda. A fund for integration was set up, with the recommendation to member states to develop language and civic orientation courses for immigrants. When the Hague plan expired, a new multi-year scheme for the 2010-2015 period was worked out in Stockholm.[18] The Stockholm plan reiterated the crucial role of member state language services, while insisting that integration efforts should be made in all areas of public and social life.

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[11] European Council, *Presidency Conclusions*, Tampere, 15-16 October 1999, par. 18, http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/00200-r1.en9.htm.
[12] Ibidem.
[13] European Council, *Presidency Conclusions* (13463/02), Seville, 21-22 June 2002, par. 28, http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/72638.pdf.
[14] European Council, *Presidency Conclusions* (16238/1/04), Thessaloniki, 19-20 June 2003, par. 31; 33, http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/76279.pdf.
[15] The *Common Basic Principles for Immigrant Integration Policy in the European Union* were adopted on 19 November 2004. See *Justice and Home Affairs 2618th Council Meeting* (14615/04), Brussels, 19 November 2004, p. 19-24, http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/jha/82745.pdf.
[16] Ibidem, p. 16.
[17] The Hague Programme (COM(2005) 184 final), in *Official Journal* (C 236), 24 September 2005, http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52005PC0184:EN:HTML.
[18] The Stockholm Programme (2010/C 115/01), in *Official Journal* (C115), 4 May 2010, http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:115:0001:01:EN:HTML.

When attempting to assess the impact of the EU on national integration regimes, it is essential to note that all EU initiatives on the matter pertain to a policy area that the Treaty of Lisbon refers to as one "of shared competence".[19] National policymaking should be restricted to areas in which the Union has not previously exercised its competence, meaning that, at least in theory, the EU has a large room for manoeuvre in this field. However, a closer look at the nature of EU initiatives reveals that in very few cases only has the EU been able to make full use of its powers.

Of the rare cases in which the EU has succeeded in spearheading policy reform, the Council Directives of 2003 and 2005 deserve mention. The former introduced automatic long-term residence permits for individuals having resided for five years or longer on a member state's territory,[20] while the latter laid down the basic rules for granting the right of family reunification.[21] However significant, these achievements are more the exception than the rule. Most of the time, the EU has limited itself to playing an advisory role, with progress depending on the goodwill of member states.

There are several reasons for the limited role the European Union has played in shaping national integration regimes. The first is the lack of enforcement power, the second is the vagueness of its guidelines, the third an over-reliance on states' practices, and the fourth the absence of monitoring and evaluation mechanisms.

Due to the *lack of enforcement powers*, EU principles have no concrete legal force. EU guidelines are structured as non-binding measures aimed at assisting member states in defining their own policies.[22] The guidelines are formulated as (very) general principles from which national policymakers can (but need not) draw inspiration. The fact that neither the Commission nor the European Parliament (EP) have any significant role makes it easier for the member states to act independently of one another.

The second reason for the European Union's limited impact lies in the *vagueness of its guidelines*. Documents produced in the framework of EU Council meetings generally contain neither rules nor policy priorities, but rather broad ideas that stand behind policy formulation. The notion of integration as a two-way process is exemplary in this regard.[23] The European Union has provided no specification as to how such mutual efforts should be translated into practice, or even of how the notion itself should be understood. The result is that the room for interpretation is so broad as to make the recommendation void in practice.

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[19] Consolidated version of the Treaty on the Functioning of the European Union, in *Official Journal* (C 83), 30 March 2010, p. 51-52, http://eur-lex.europa.eu/JOHtml.do?uri=OJ:C:2010:083:SOM:EN:HTML.
[20] Adopted as Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents, http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32003L0109:EN:HTML.
[21] Even though the adopted Directive 2003/86/EC is now being challenged by the European Parliament before the European Court of Justice. See Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification, http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32003L0086:EN:HTML.
[22] See quotation referred to in footnote 16.
[23] European Council, *Presidency Conclusions*, Tampere, 15-16 October 1999, cit., par. 18.

Another factor reducing the Union's impact on national integration policies is its *dependence on member states' practices.* Interstate exchange of experiences and practices is explicitly called for in all EU documents as a method for reforming integration policies.[24] Yet, promotion of best practices remains on an abstract level as no specific best practice worthy of emulation is ever singled out. Thus, there is no guarantee that national integration programmes go in the direction (vaguely) indicated by the European Union.[25] States are encouraged to draw examples from other states' practices, irrespective of whether such practices feature elements that may be viewed as illiberal.[26]

Both vagueness and reliance on best practices are closely related to another problem accounting for the European Union's lack of incisiveness: the difficulty in working out *effective monitoring mechanisms.* The vaguer the goals, the harder it is to determine whether or to what extent they have been achieved. No EU monitoring body has been created to this end.[27] The Union even struggles to ascertain whether the financial resources it allocates to support national integration schemes are used in keeping with its guidelines. The 2004 fund for integration[28], for instance, is not subjected to any review procedure despite the fact that it represents a major financial source for national governments to develop their immigration regimes.[29]

In sum, in spite of the growing involvement in integration matters in the last fifteen years, the European Union has had only a limited impact on reform of national integration policies. For the most part, the limits are self-imposed. The lack of enforcement powers is obviously a major factor explaining the Union's relatively modest role, but it is hardly the only one. The structuring of EU propositions, which are painfully vague and lack originality (dependence on state practices), ultimately undermines EU efforts to generate a centripetal drive towards convergence. The only instances in which the European Union has made the member states feel its weight concern the five-year limit to the time a government can deny naturalization applications and the rules governing family reunification. Admittedly, neither issue is of secondary importance. Yet, these achievements do not suffice to speak of an EU-led comprehensive reform process of national integration regimes.


## 3. Integration regimes: between national schemes and informal Europeanization

The analysis above leads to the conclusion that the European Union can hardly be considered a crucial actor in orientating national policies of immigrant integration towards convergence. Still, convergence has taken place in a number of areas, from

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[24] Ibidem. See also The Stockholm Programme, cit., par. 6.1.5.
[25] Sergio Carrera, *A Comparison of Integration Programs in the EU*, cit., p. 19-20.
[26] For example the introduction of civic and language courses, mandatory for immigrants upon or before arrival. See Christian Joppke, "Beyond National Models …", cit.
[27] Except for the European Union Agency for Fundamental Rights (FRA) - established by the Council Regulation (EC) No 168/2007 of 15 February 2007 - which however is more a human rights agency than an immigration office. On the lack of effective monitoring, see also Sergio Carrera, *A Comparison of Integration Programs in the EU*, cit.
[28] Of the Hague Programme.
[29] Sergio Carrera, *A Comparison of Integration Programs in the EU*, cit.

naturalization law to integration programmes, citizenship ceremonies and language tests. What to make of this? What is the force behind policy convergence in such countries as Germany, France, Italy, the Netherlands, Spain and the United Kingdom?

The answer is *interstate learning and emulation*. Since the early 2000s there has been a progressive increase in exchanges of experiences and best practices among EU states. Cross-national policy reports and international conferences on integration that delve into the experiences of individual member states have become ever more frequent.[30] Assessing the achievements and failures of national immigration policies is now a standard practice for national policymakers involved in reviewing and upgrading their own strategies. As discussed above, interstate emulation is strongly recommended by the European Union, yet in terms that are too vague for such a recommendation to be considered consequential. Interstate emulation takes place on an intergovernmental level only, and outside the EU framework.

Technically, this practice of emulation[31] is referred to as "voluntary policy transfer".[32] The definition points to a phenomenon by which positive and negative results of existing policies or administrative arrangements in one time and/or place are used as a "lessons learned" in the development of policies or administrative arrangements in another time and/or place.[33] The process is often driven by policy failure.

The cases of Germany and the United Kingdom provide evidence that this process can work in both directions from the ends of the differentialism-assimilationism continuum. Whereas in Germany failure to integrate the large Turkish community has led to the relaxation of the terms for citizenship application, in the United Kingdom the process of citizenship acquisition has been toughened through the introduction of the language and culture test aimed at containing the progressive ghettoization of British society.

As recalled above, the European Union has encouraged interstate learning processes in most of its official documents. Yet, the Union has also failed to define what is to be considered a "best practice" and to spell out what type of initiative it would sponsor.[34] Convergence has therefore not been the product of an EU-led process of harmonization. Nor has it been the consequence of a process of penetration, in which failure to conform to a common model produces externalities. For example, there is hardly any trace of the idea of "integration as a two-way process" in any of the integration initiatives (integration programmes, language and culture tests) mentioned above.

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[30] An emblematic example is the debate on multiculturalism, which from 2001 featured a cross-national dialogue involving France, Germany, the UK, Italy, Spain, the Netherlands. "Nicolas Sarkozy declares multiculturalism had failed", in *The Telegraph*, 11 February 2011, http://www.telegraph.co.uk/news/worldnews/europe/france/8317497/Nicolas-Sarkozy-declares-multiculturalism-had-failed.html.

[31] Colin J. Bennett, "What Is Policy Convergence and What Causes It?", in *British Journal of Political Science*, Vol. 21, No. 2 (April 1991), p. 215-233.

[32] David Dolowitz and David Marsh, "Who Learns What From Whom: a Review of the Policy Transfer Literature", in *Political Studies*, Vol. 44, No. 2 (June 1996), p. 343-357.

[33] Ibidem, p. 344.

[34] For example, there is hardly any trace of the idea of "integration as a two-way process" in any of the analyzed countries' initiatives on integration (integration programs, language and culture tests).

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The introduction of similar or common measures in previously different integration regimes can be conceptualised better as a process of *informal Europeanization*. If *formal* Europeanization is deemed to mean the conformity of EU members' practices to EU directives, the informal nature of the convergence phenomenon lies in the fact that convergence is neither planned by EU institutions nor enforced by them. The outcome hinges on the emergence of similar challenges in the countries considered.

The question arises whether it still makes sense to talk about national regimes. Does convergence justify the dismissal of the whole idea of "national integration regimes" in favour of something like a "European integrationist model of integration"? For the time being, the answer is no. Convergence has only affected some aspects of immigrant integration policies. More structural elements concerning permanent residents, such as voting rights or the possibility to run for public office, continue to differ significantly across EU member states.

Sure enough, the clear-cut opposition between integration models (assimilationism vs. multiculturalism/differentialism) has become obsolete. One can no longer talk of "pure" models, as some of their main defining characteristics no longer exist (for instance, the *jus sanguinis* is now not the only criterion for naturalization in differentialist regimes). More caution is needed then when categorizing integration regimes. Nonetheless, the differences between national integration regimes are still such that it is not possible to speak of a uniform European model of immigrant integration.

Standard classifications of national integration regimes are in need of amendment rather than outright replacement or elimination. In the last fifteen years, the phenomenon of convergence has broadly reflected similar circumstances. While it is reasonable to expect that EU member states will continue to be confronted with common challenges, their domestic conditions - particularly of members of the crisis-ridden Eurozone - are so different that diverging patterns are as likely to emerge as converging ones. The crux of an *informal* Europeanization process is after all precisely that of being more prone to setbacks and reversal.

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