

# WHAT'S NEW IN GLOBAL MOBILITY & IMMIGRATION

March 2025



**Dear Readers,**

The new act on the employment of foreigners (the Act on the Conditions for the Admissibility of Entrusting Work to Foreigners on the Territory of the Republic of Poland) has been passed and is waiting for the President's signature. It will enter into force on 1 May 2025 and will replace the current provisions of the act on the promotion of employment and labour market institutions.

The new act replicates the existing provisions to a large extent, but it also introduces numerous changes. In the summary below, we have marked the respective changes in colour to make it easier to see their impact:

- **green** - changes that we consider beneficial for employers and foreigners;
- **blue** - changes that are neutral or ambiguous from the point of view of whether they are beneficial;
- **red** - changes that are unfavourable for employers and foreigners or introduce additional formalities/obligations.

We hope you enjoy reading and if you have any questions, please contact us.

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## I. General changes

### 1. New obligations of entities entrusting work to foreigners in Poland

#### (1) Obligation to conclude a written contract with a foreigner

The obligation to conclude a contract in writing with a foreigner will apply to all foreigners – not only those who require a work permit or Special Permission. The agreement will have to be concluded before the foreigner is allowed to work.

The only exception is when a foreigner is entrusted with work that involves serving as a Member of the Management Board, a representative of a limited partnership or a limited joint-stock partnership, or as a commercial proxy holder (i.e. work which requires a work permit for performing a specific function, i.e., the existing type B work permit). In this case, there is no need to conclude a contract.

#### (2) Obligation to provide the authority with a copy of the contract concluded with the foreigner before the foreigner starts work

This obligation will apply to every entity assigning work to a foreigner that obtains a work permit (including foreign entities which obtain a work permit for the purpose of posting an employee to Poland) or whose declaration of entrusting work to a foreigner ("Special Permission") is registered into the register of declarations.

The contract must be submitted to the authority before the foreigner starts their work. The only exception concerns the contract for harvest assistance. In this case, the deadline for submitting the contract is 7 days from the date of entrusting work to a foreigner.

The contracts will have to be submitted to the office using a dedicated IT system for electronic handling of proceedings (see point II.2. below), although it is not clear whether and how this should be done before the system is launched (which according to the draft act may take up to two years). It seems that during this period contracts should be submitted using the currently existing [praca.gov](https://praca.gov.pl) portal.

Violation of this obligation will be considered an offense punishable by a fine. In addition, in the case of a work permit, it constitutes grounds for its revocation and refusal to issue further permits in the future.

#### (3) Obligation to keep a Polish sworn translation of a contract concluded with a foreigner

If the contract with the foreigner is concluded in a foreign language, the entity entrusting the work will be obliged to obtain a sworn translation of the contract into Polish and keep it for the entire period of the foreigner's employment and for at least 2 years from the end of the calendar year in which the contract with the foreigner is terminated or expires (unless separate regulations provide for a longer period).

It is still possible to conclude a contract in a bilingual version, in which case it will not be necessary to obtain a translation.

However, the act does not provide any sanctions for failing to comply with this obligation.

**(4) The obligation to obtain a copy of a passport and a PESEL number certificate from a foreigner**

The Act provides for a clear obligation on the part of entities entrusting work to foreigners to obtain copies of documents containing the foreigner's personal data in order to confirm their identity (including their passport).

The data that must be documented includes, among others, the PESEL number (unless the foreigner does not have it). Hence, if a given foreigner does not present any immigration document from which their PESEL number already results (e.g. a residence card), it will be necessary to obtain a separate certificate of the PESEL number from them.

However, no sanction is provided for violating the obligation to obtain copies of the above documents from the foreigner either.

**(5) Obligation to inform foreigners about the right to join trade unions**

Employers will be required to inform foreigners in writing, in a language that the foreigner understands, about the right to join trade unions. This obligation will apply to both employment contracts and civil law contracts.

However, the Act does not provide for sanctions for violating this obligation.

**(6) Strengthened obligation to inform the Voivode about the foreigner's failure to start / interruption of work based on a Work Permit**

The entity entrusting work to a foreigner who has obtained a work permit will be required to notify the Immigration Office within 7 days if the foreigner to whom the permit applies:

- has not started work within 2 months from the beginning of the validity period of the work permit
- has interrupted work for a period exceeding 2 months
- terminated work earlier than 2 months before the expiration of the work permit validity period.

Failure to comply with the above obligations will be an offense punishable by a fine from PLN 500 to PLN 5,000.

Similar obligations already exist under current law, but the respective periods triggering the obligation are now 3 months instead of 2.

**(7) Processing of personal data for a period of 2 years following termination**

The entity employing the foreigner should process his/her personal data for a period of 2 years from the end of the calendar year in which the legal relationship that was the basis for the foreigner's employment was terminated or expired. After this period, the processing of data should be discontinued (i.e., the documents containing the data should be destroyed).

Longer data processing will be possible if separate regulations provide for this - such regulations include, for example, the regulations on maintaining personnel files, which require their storage for a period of 10 years from the end of the calendar year in which the employment ceased. Hence, it is worth storing documentation regarding the legality of employment of a foreigner working under an employment contract in his/her personal files, so that the obligation to destroy it arises at the same time as the obligation to destroy the rest of the files.

## **2. Work permit exemption for part-time study graduates**

The exemption from the work permit requirement will be extended to foreigners - graduates of higher education studies at Polish universities, regardless of whether the studies are conducted on a full-time or part-time basis.

Currently, such an exemption applies only to graduates of full-time studies.

## **3. New restrictions on the possibility of performing work by foreigners in Poland**

### **(1) Prohibition of work during stay in Poland based on certain types of residence permits**

Currently, a foreigner can perform work in Poland as long as they have the right to work (e.g., a work permit) and any form of legal residence, with a few exceptions. Only the following types of residence rights cannot be combined with work (even if the foreigner holds a work permit):

- Polish visa issued for the purpose of tourism (purpose designation "01"), or
- Polish visa issued for the purpose of temporary protection (purpose designation "20"),
- A so-called temporary residence permit due to circumstances requiring a short-term stay (very rare in practice).

After the new regulations are implemented, a foreigner's stay in Poland will not be allowed to be combined with employment (even if the foreigner holds a work permit or another document authorizing work) if their residence is based on, among others:

- (1) A so-called passport stamp confirming submission of a residence application, if the foreigner was not authorized to work directly before submitting this application (this restriction is already in force today);
- (2) A so-called temporary residence permit due to circumstances requiring a short-term stay (very rare in practice; this restriction is already in force today);

- (3) A Polish visa issued for the purpose of:
  - tourism (purpose designation “01”; this restriction is already in force today),
  - temporary protection (purpose designation “20”; this restriction is already in force today),
  - visiting family or friends (purpose designation “02”; this is a new restriction),
  - study in a form other than studies (purpose designation “11”; this is a new restriction),
  - medical treatment (purpose designation “14”; this is a new restriction),
  - so-called “other purpose” (purpose designation “23”), unless the foreigner holds a Pole’s Card (Polish Karta Polaka).
- (4) A visa issued by another Schengen country, regardless of the purpose (this is a new restriction);
- (5) Visa-free travel (only for citizens of certain countries that can be designated in the list announced by the Ministry of Labour; this is a new restriction).

The new "prohibited" residence titles will exclude legal employment of a foreigner in Poland after the new regulations come into force, even if they were issued before the new regulations came into force. Hence, if a foreigner intending to work in Poland after the new regulations' entry into force already has one of the above residence titles, then a new, appropriate residence title should be obtained while there is still time to do so.

## II. Changes regarding the rules for issuing Work Permits and Special Permission - general

### 1. Change in types of work permits

The new act introduces new types of work permits in place of the existing ones:

- 1) Work permit for a Polish entity entrusting work to a foreigner - will replace the existing type A permit.
- 2) Work permit for performing a specific function - will replace the existing type B permit.
- 3) Work permit in connection with the posting of a foreigner by a foreign entity to the territory of Poland - will replace the current type C, D and E permits.
- 4) Work Permit for seasonal work - will exist as before.

### 2. Complete digitalisation of proceedings for legalization of employment of a foreigner

The proposed law provides for the full digitization of procedures related to obtaining work permits and entries of declarations of entrusting work to a foreigner into the register of declarations.

Once digitalisation is implemented, all applications, clarifications, appeals, complaints, documents, and other correspondence related to these matters will be submitted only

in electronic form. Decisions, notices, summonses, information and other letters issued in these matters will also be delivered only in electronic form.

Digitalisation will not be implemented immediately upon entry into force of the law. Authorities will have two years from the law's enactment to adapt their information systems. Until the systems are fully adjusted, it will still be possible to submit applications and other letters to authorities as well as for authorities to issue decisions and other letters in paper form.

### **3. Stricter rules for refusal of work permits (regardless of type)**

#### **(1) New grounds for mandatory refusal of a work permit / Special Permission**

The authorities will be obliged to refuse to issue a work permit / Special Permission in particular in the following additional situations - the legislator intended these additional grounds for mandatory refusal to issue a permit as means to eliminate abuse and instances of circumvention of the law:

- 1) the entity entrusting work to a foreigner has been established or acts in order to facilitate the entry of foreigners into Poland,
- 2) the foreigner is to work for an entity other than the one applying for the work permit (i.e., on an outsourcing basis), unless the entity assigning work is a temporary employment agency,
- 3) the user employer or the entity to which the foreigner is to be posted does not in fact conduct activities justifying the assignment of work to the foreigner.
- 4) within a period of 2 years prior to the submission of the application, the entity entrusting the work hindered the inspection of the legality of employment of foreigners,
- 5) work start date indicated in the work permit application is later than 12 months following the date of submitting the application (this applies only to work permits, not Special Permissions),
- 6) within 2 years before submitting the application, the entity entrusting work obtained a work permit / Special Permission, and the foreigner entered Poland but, without justified reasons, did not perform work in Poland (this applies only to work permits, not Special Permissions).
  - the act does not specify how the above premise will be examined. It seems that the information in the ZUS (social security) registers, as well as notifications submitted by the employer itself, will be crucial.

#### **(2) New grounds for examining whether the application for a work permit / Special Permission was submitted under abusive conditions (e.g., without the intention to actually entrust the foreigner with work)**

The new law provides that the voivode (regional governor) may investigate the following circumstances to determine whether an application for a work permit has been submitted under conditions of abuse (by an entity established or operating with the purpose of facilitating the entry of foreigners into Poland):

- 1) the ratio of the number of notifications submitted by the entity assigning work regarding foreigners not starting work to the total number of work permits and Special Permissions obtained by that entity.
- 2) the ratio of the number of applications submitted by the entity for the issuance of work permits / Special Permissions to the total number of persons employed by the entity.
- 3) the number of foreigners who received work visas on the basis of work permits / Special Permissions obtained by the entity entrusting work.

### **III. Changes to the work permit for a Polish entity entrusting work to a foreigner (former type A permit)**

#### **1. Additional requirement for granting a work permit - minimum working time of at least ¼ of a full-time position**

The new act introduces an additional condition for the issuance of a work permit – the foreigner's working hours must be no less than 1/4 of full time and no more than full time.

#### **2. Removal of Labour Market Test**

The new law abolishes the so-called "labour market test," i.e. the requirement to submit a statement from the local labour office confirming the lack of available local workers along with the application for a work permit.

Instead, the new regulations introduce "protected professions" lists that can be adopted in particular districts. Work permits will not be issued for occupations included on these lists. Practically, this means that if an employer submits a work permit application for a foreign worker in an occupation that is on the protected professions list in the county where the foreigner is supposed to work, the application will be denied.

The Minister of Labour (in a regulation) will specify the cases in which the authorities will be able to issue a work permit despite the occupation being on the "protected professions" list. The draft of this regulation indicates that exceptions will for now apply only to Turkish citizens who have been legally employed in Poland for at least 4 years (this is due to an international agreement between Turkey and the EU).

#### **3. Priority rules for processing work permit applications (so-called "fast-track")**

Currently, the regulations do not provide any priority rules for processing work permit applications. They only allow the Minister of Economy to issue a regulation determining

a list of entrepreneurs whose applications should be processed first. However, such a regulation has never been issued.

After the new regulations come into force, the priority rules for processing work permit applications for a Polish entity entrusting work to a foreigner will be regulated directly in the law. These applications will be processed in the following order:

- 1) applications for work permits for entities included in the list of entrepreneurs performing economic activity in Poland of significant importance for the national economy,
- 2) applications for subsequent work permits for the same Polish employer and the same foreigner (provided that the working hours and salary are not lower than those in the current permit, and the application is submitted during its validity period),
- 3) applications for work permits for a foreigner who will work in a profession included in a list of occupations with staffing shortages (such a list can be determined by the Minister responsible for labour, in agreement with the ministers responsible for the economy and internal affairs, by regulation).
- 4) other applications.

The list of entrepreneurs conducting business in Poland that is of significant importance to the national economy will be created by the Minister responsible for the economy. It will be available on the ministry's website. It will include entrepreneurs benefiting from support:

- 1) investments of significant importance to the economy on the basis of regulations issued pursuant to Article 19 (2) of the Act of 6 December 2006 on the principles of development policy,
- 2) new investments (on the basis of the Act of 10 May 2018 on supporting new investments),
- 3) for investment projects of strategic importance for the transition to a net-zero emission economy (within the meaning of the Act of 7 July 2023 on the preparation and implementation of investments in the National Data Processing Centre).

The inclusion of a particular employer in the list and its removal from the list will occur automatically as a consequence of receiving or losing public support in accordance with the above regulations.

In addition to the highest priority in the processing of applications for work permits, the inclusion of an entrepreneur in the list will also result in priority in the processing of visa applications and applications for temporary residence and work permits for the purpose of performing work for that employer.



#### IV. Changes to the work permit in connection with the posting of a foreigner by a foreign entity in the territory of the Republic of Poland (former type C, D and E permits)

##### 1. Changes to the conditions for granting a work permit to a posted employee

The new act modifies the conditions for granting a work permit for a delegated employee in a way that may in practice make it more difficult for foreign entities to obtain such permits. The new provisions provide in particular for the following conditions:

(1) Requirement to employ a foreigner abroad before posting can begin

A foreigner should already, in the period preceding the posting, perform work abroad for a foreign entity that intends to post him to Poland.

(2) Requirement of the posted foreigner having employee status

The posted foreigner should be an "employee" of the entity posting him to Poland (which may raise doubts as to the admissibility of posting foreigners employed on a basis other than an employment contract in the country of origin).

(3) Requirement of vertical capital ties between the sending entity and the Polish receiving entity - applies to intra-corporate postings (former type C permit)

The change in the definition of capital links between the sending entity and the Polish receiving entity indicates that after the change in the regulations, these links will only include vertical links (i.e. one of the entities is a direct or indirect owner of shares in the other entity) or common members of the management board in the number of at least 50%, and will not include horizontal links - between "sister" companies.

(4) Requirement of the existence of a direct service agreement concluded by the entity posting the foreigner - applies to postings for the purpose of providing services

A work permit for an employee posted to Poland to provide services in Poland may only be issued if the service is an "export service" and is provided by an entity employing a foreigner. The service will not have the status of "export" if the entity providing it has a branch or other form of organized activity in Poland. Practical difficulties in demonstrating compliance with this requirement may also exist in situations where the service is provided on the basis of an agreement concluded with the client by another entity from the capital group, and not by the entity employing the foreigner itself.

## V. Changes regarding the statement on entrusting work to a foreigner (Special Permission)

### 1. Changes in the scope of employment modifications not requiring a submission of new Special Permission

#### (1) New changes in terms and conditions of employment exempt from the requirement to submit new Special Permission

After the change in regulations, the following changes in the terms and conditions of employment will additionally be possible without the requirement to obtain a new document:

- change of registered office, place of permanent residence, name or legal form of the user employer
- change of the foreigner's job position, while maintaining his existing duties,
- an increase in working hours or the number of working hours per week or month specified in the Special Permission, up to a maximum of full time.

Until now, the above changes required obtaining a new document.

#### (2) New changes in conditions requiring the submission of new Special Permission

After the change in regulations, the following changes in the terms and conditions of employment will require a new document to be obtained in advance:

- a change in the contract being the basis for the performance of work (e.g., from a civil law contract to an employment contract),
- change of user employer to another.

Previously, the above changes were possible without the requirement to obtain a new Special Permission.

### 2. Clarification and extension of the deadlines for submitting information about the commencement / non-commencement of work by a foreigner based on the Special Permission

As is the case currently, the entity entrusting work to a foreigner will be required to notify the local labour authority (starosta) who entered the declaration into the registry about the commencement or non-commencement of work by the foreigner. The new regulations change and clarify the deadlines for submitting these notifications.

Notifications of a foreigner's starting work will have to be made within 7 days from the date of the foreigner's work start date, and notifications of a foreigner's not starting work will have to be made within 14 days from the date of the foreigner's work start specified in the registry of declarations.

For comparison, the current regulations provide a 7-day deadline, which in both cases is counted from the day the work start date is specified in the registry of declarations.

Violation of these obligations will be punishable by a fine.

**3. New obligation to inform the authority about the foreigner's failure to take up/terminate work on the basis of the Special Permission before the end of its validity**

An employer who has obtained registration of a declaration of entrusting work to a foreigner (Special Permission) will have an additional obligation to notify the authority that the foreigner will not undertake work or has completed work before the date of completion of work specified in the declaration.

Currently, such an obligation does not exist. As a result of such notification, the registration of Special Permission will be cancelled by operation of law. However, the draft does not provide any penalties for violation of this obligation.

**VI. Changes to visas and temporary residence permits (amendments to the Law on Foreigners)**

**1. Priority rules for processing visa applications and applications for temporary residence and work permits (so-called „fast-track”)**

**(1) New priority rules for visas**

The new regulations introduce new priority rules in the processing of work visa applications.

The Consul will consider them taking into account the priority of the following two categories of foreigners:

- those who are going to perform work for the entities included in the list of entrepreneurs performing economic activities of significant importance to the national economy in Poland, or
- those who are going to perform work in a profession included in the list of professions with personnel shortages.

Both categories will be given equivalent priority. Applications submitted by other foreigners will not be given priority.

Importantly, the above priority rules only apply to the order in which visa applications are considered, but do not establish any privileged access to booking visa appointments. In practice, however, booking a visa appointment is often the most time-consuming stage of a foreigner's visa application.

**(2) New priority rules for temporary work and residence permits (Single Permit)**

The law also introduces priority rules for applications for temporary work and residence permits. In case of these applications, the priority rules will be the same as for work permits for a Polish entity entrusting work to a foreigner discussed above.

## 2. **Elimination of the labour market test for residence and work permit (Single Permit) applications and EU Blue Cards**

The new regulations - as in the case of work permits for a Polish entity entrusting work to a foreigner - provide for elimination of the requirement to conduct a labour market test and submit it for the purpose of granting a Single Permit and Blue Card.

In place of the abolished labour market test requirement, the new regulations provide that individual counties may adopt lists of “protected” occupations for which no residence and work permits (Single Permit) or Blue Cards will be issued (see paragraph III.2. above). The new regulations also provide exceptions to this rule.

## 3. **New notification obligations for employers hiring a foreigner on the basis of a Single Permit**

After the change in regulations, an employer who hires a foreigner on the basis of Single Permit will have a new obligation to notify the Immigration Office of the foreigner's loss of work within 15 working days of the event.

Under the present law, such an obligation applies only to the holder of the Single Permit decision (the foreigner).

In addition, an employer who hires a foreigner on the basis of Single Permit will have a new obligation to notify the Immigration Office of the following circumstances within 15 working days of their occurrence:

- change of the registered office, place of residence, name or legal form of the entity entrusting work to the foreigner,
- transfer of the employer or part thereof to another employer,
- transfer of an employing establishment or part thereof to another,
- conclusion of an employment contract instead of a civil law contract,
- change of the job title while maintaining the scope of its duties, or
- increase in working hours with a proportional increase in salary.

Under the present law, neither the employer nor the foreigner is formally obliged to do so.

However, the new act does not provide sanctions for violation of these obligations.

## **VII. Changes to compliance enforcement and sanctions for violations**

### 1. **Strengthening the control rights of the State Labour Inspectorate and the Border Guard**

The new regulations extend the rights of the State Labour Inspectorate and the Border Guard with regard to their inspections of the legality of employment of foreigners.

Once the new act comes into force, the authorities will be able to conduct inspections without prior notice (currently, at least 7 days' notice is required).

In addition, the authorities will be able to conduct inspections of the legality of employment of foreigners in parallel with other inspections underway at a given company.

## 2. Increase of maximum fines for offenses to be imposed by means of a ticket

The new regulations will allow the Border Guard and the State Labour Inspectorate to impose fines for offenses related to the employment of foreigners in the form of a ticket of up to PLN 10,000 (within the limits of their statutory threat).

Previously, the maximum amount of the fine that the Border Guard and the State Labour Inspectorate could impose in the form of a ticket was PLN 2,000 (and imposing a higher penalty required submitting a motion for punishment to the court).

## 3. Increase of maximum penalties for offenses related to employment of foreigners

The new regulations provide stricter criminal provisions related to the employment of foreigners.

A comparison of the new and current sanctions is shown in the table below.

Offence	The sanction (fine) provided in the draft of an Act	Current sanction (fine)
Illegal entrustment of work to a foreigner	PLN 3,000 – PLN 50,000 + The rule of a fine of not less than PLN 3,000 for 1 foreigner	PLN 1,000 PLN – PLN 30,000
Illegal performance of work by a foreigner	PLN 1,000 – PLN 5,000	PLN 20 – PLN 5,000
Leading a foreigner to perform work illegally as a result of misleading, exploiting a mistake, taking advantage of official dependence or incapacity to properly comprehend the action undertaken	PLN 6,000 – PLN 50,000 + The rule of a fine of not less than PLN 6 000 for one foreigner	PLN 3,000 – PLN 30,000
Demanding a financial benefit from a foreigner in exchange for taking action to obtain a work permit or other work authorization document	PLN 6,000 – PLN 50,000 + The rule of a fine of not less than PLN 6,000 for one foreigner	PLN 3,000 – PLN 30,000
Leading another person to entrust a foreigner with illegal work by means of a deception, exploitation of a misconception, or incapacity to	PLN 6,000 – PLN 50,000 +	PLN 3,000 – PLN 30,000

reasonably comprehend an act performed	The rule of a fine of not less than PLN 6,000 for one foreigner	
Violation of the obligation to provide the foreigner with a translation of the contract before signing it (if applicable)	PLN 1,000 – PLN 3,000	PLN 200 – PLN 2,000
Violation of informational obligations to the governor relevant to the content of the work permit	PLN 500 – PLN 5,000	PLN 100 – PLN 5,000
Violation of informational obligations to the starost concerning the statement on entrusting work to a foreigner (Special Permission)	PLN 500 – PLN 5,000	PLN 20 – PLN 5,000
Violation of the obligation to conclude an agreement with a foreigner specifying the terms of rental or lending of accommodation in writing	PLN 500 – PLN 5,000	PLN 200 – PLN 2,000
Entrusting work to a foreigner directed to perform work by an entity that is not an employment agency	No less than PLN 6,000 + The rule of a fine of not less than PLN 6,000 for one foreigner	No less than PLN 3,000

#### 4. New offences

- (1) **Violation of the obligation to provide the authority that issued the work permit or registered the statement in the registry (Special Permission) with a copy of the contract concluded with a foreigner in Polish through the praca.gov. system before entrusting him with work**

There is a fine of PLN 1,000 - PLN 3,000 for this offence.

- (2) **Violation of the obligation to store the aforementioned contract for the entire period of employment and for 2 years from the end of the calendar year in which the contract with the foreigner was terminated or expired (unless a longer period is stipulated by separate regulations)**

There is a fine of PLN 1,000 - PLN 3,000 for this offence.

- (3) **Conclusion of a lease agreement with a foreigner performing seasonal work with a rent that is excessive in relation to his net salary**

There is a fine of PLN 200 – PLN 2,000 for this offence.

**(4) Directing a foreigner to work for and under the direction of another entity on a basis other than a contract providing for the performance of temporary work**

There is a fine of PLN 3,000 – PLN 5,000 for this offence.

**5. Depenalization of violation of the obligation to conclude a contract with a foreigner in writing**

Currently, the regulations impose a fine ranging from PLN 200 to PLN 2,000 for violating this obligation, but only in relation to entities with a registered office (residence, branch, establishment, or another organized form of activity) in Poland, which are exempt from the obligation to have a work permit for foreign workers.

Although during the parliamentary work phase, it was initially planned to penalize such actions for all entities entrusting work and foreigners for whom a work permit or a Special Permission had been obtained, the current wording of the law removes the penalty.

**GLOBAL MOBILITY&IMMIGRATION**

We advise on all global workforce mobility matters, including immigration, tax and social security issues. Our practical solutions are based on years of experience.

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