



MINISTRY OF LABOUR
AND SOCIAL JUSTICE



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**Annual Meeting of the Agencies for
Amicable Settlement of Labour Disputes
28-29 May, 2019
Skopje, North Macedonia**

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***THE ANTICIPATORY MAP
OF THE RISKS OF
COLLECTIVE LABOUR DISPUTES***



TYPES OF ALTERNATIVE RESOLUTION OF COLLECTIVE LABOUR DISPUTES IN NATIONAL PRACTICE

- Conciliation
- Mediation
- Arbitration



- The settlement of collective labour disputes is regulated by the Law no. 62/2011, Law on Social Dialogue, republished with subsequent amendments and completions.
- Collective labour disputes are actions initiated to protect the economic, professional or social interests of employees of an organization.



Collective labour disputes can be triggered in the following situations

- (a) the employer or employers' organization refuses to start the negotiation of a contract or collective labour agreement, provided that it has not concluded such a contract or agreement or the previous one has ceased;
- b) the employer or employers' organization does not accept the claims made by the employees;
- (c) the parties failed to reach an agreement on the conclusion of a contract or collective labour agreement by a date jointly decided to conclude the negotiations.



- Employees' right to trigger collective labour disputes in connection with the commencement, conduct and conclusion of collective bargaining is guaranteed by law.
- The employees' claims for whose resolution is necessary the adoption of a law or other normative act can not be the object of collective labour disputes.
- **Collective labour disputes can occur for the defense of collective interests of an economic, professional or social nature.**
 - (1) In collective labour disputes at unit level the employees are represented by the representative trade unions of the unit, according to the law.
 - (2) At the level of the units where no representative trade unions are constituted and the employees have elected the persons who represent them in the negotiations, the same persons represent them in the case of collective labour disputes.
- In case of collective labour disputes, employees are represented by the representative trade union organizations or employees' representatives, as the case may be, participating in the collective bargaining of the contract or collective labour agreement applicable.



- In all cases where there is a prerequisite for the occurrence of a collective labour dispute, the representative trade union organizations or employees' representatives, as the case may be, will notify the employer or employers' organization in writing of this situation, specifying the employees' claims, their motivation and the proposals for settlement. The employer is obliged to receive and record the complaint formulated accordingly.
- The set out requirement is also considered to be met if the claims, the motivation and the proposals for settlement are expressed by the representative trade union or by the elected representatives of the employees on the occasion of the meeting with the representatives of the employer or the employers' organization, if the discussions were recorded in a minutes.
- Employer or employers' organization has the obligation to respond in writing to the trade unions or, in their absence, to the representatives of the employees, within two working days from the receipt of the notification, with the indication of the point of view for each of the claims formulated.



- If the employer or the employers' organization did not answer to all the claims made, or, although replied, the trade unions or employees' representatives, as the case may be, disagree with the stated point of view, the collective labour dispute may arise.
- During the validity of a contract or collective labour agreement, the employees can not trigger the collective labour dispute.
- The collective labour dispute is triggered only after his prior registration, as follows:
 - a) at the unit level, the representative trade union or employees' representatives, as the case may be, shall notify the employer on the occurrence of the collective labour dispute and notify in writing the Territorial Labour Inspectorate in the county where are carrying out their activity the employees of the unit that initiated the dispute, with the purpose of conciliation;



- b) at the level of a group of units, the representative trade union organizations shall notify each member unit of the group of units as well as the employers' organization at the level of the group about the triggering of the collective labour dispute and shall notify in writing the Ministry of Labour and Social Justice with the purpose of conciliation;
- c) at the level of the sector of activity, the representative trade union organizations will notify each unit where there are members representative trade union organizations as well as the corresponding employers' organizations about the triggering of the collective labour dispute and will notify in writing the Ministry of Labour and Social Justice with the purpose of conciliation.



Conciliation of collective labour disputes

- The complaint to the conciliation of collective labour dispute shall be made in writing and shall include mandatorily the following terms:
 - a) the employer or employers' organization with indication of the headquarters and the contact details;
 - b) the object of the collective labour dispute and its motivation;
 - c) the proof of compliance with the requirements set out above;
 - d) the nominal designation of the persons delegated to represent at the conciliation the representative trade union or, as the case may be, the representatives of the employees.
- Conciliation, mediation and arbitration of collective labour disputes are made only between the parties in conflict.



- The conciliation procedure is mandatory.
- Within 3 working days from the registration of the complaint, the Ministry of Labour and Social Justice, in the case of collective labour disputes at the level of group of units or at the sectoral level, respectively the Territorial Labour Inspectorate, in the case of collective labour disputes at unit level, designates his delegate to participate in the conciliation of the collective labour dispute and communicates the data of the designated person both to the trade union organization or to the representatives of the employees as well as to the employer or the employers' organization.
- The Ministry of Labour and Social Justice, respectively the Territorial Labour Inspectorate, as the case may be, shall convene the parties to the conciliation procedure within a term not exceeding 7 working days from the date of appointment of the delegate.



- In order to support their interests in conciliation, the representative trade unions or, as the case may be, the representatives of the employees designate a delegation consisting of 2 to 5 persons, who will be empowered in writing to participate in the conciliation organized by the Ministry of Labour and Social Justice or the Territorial Labour Inspectorate, as the case may be. The trade union delegation may also include representatives of the federation or trade union confederation to which the trade union organization is affiliated.
- May be elected as delegate of the representative trade unions or, as the case may be, of the employees' representatives any person who fulfills the following conditions:
 - a) has full legal capacity;
 - b) is an employee of the unit or represents the federation or representative trade union confederation to which the trade union organization which triggered the labour dispute is affiliated.



- In order to support his interests in conciliation, the employer or employers' organization designates a delegation consisting of 2 to 5 persons to participate in conciliation by written authorization.
- On the date fixed for conciliation, the delegate of the Ministry of Labour and Social Justice or of the Territorial Labour Inspectorate, as the case may be, verifies the powers of the delegates of the parties and insists that they act to achieve the conciliation.
- The parties' arguments and the outcome of the debates shall be recorded in a minutes, signed by the parties and the delegate of the Ministry of Labour and Social Justice or of the Territorial Labour Inspectorate, as the case may be.
- The minutes shall be drawn up in original, one for each conciliator and one for the delegate of the Ministry of Labour and Social Justice or the Territorial Labour Inspectorate, as the case may be.



- If the outcome of the discussions leads to an agreement on the settlement of the formulated claims, the collective labour dispute is considered to be concluded.
- In cases where the agreement on the resolution of collective labour dispute is only partial, in the minutes shall be recorded the claims on which the agreement was made and those left unresolved, together with the views of each party relating to the latter.
- The conciliation results will be brought to the attention of the employees by those who have made the request for conciliation.



- In order to promote the amicable and with celerity settlement of collective labour disputes, the Office for Mediation and Arbitration of Collective Labour Disputes of the Ministry of Labour and Social Justice will be set up.
- The way of setting up, organization and functioning of the Office for Mediation and Arbitration of Collective Labour Disputes will be regulated by a Government Decision.
- Within the Office of Mediation and Arbitration of Collective Labour Disputes will be established the Body of Mediators and the Body of Arbitrators of Collective Labour Disputes.



- The composition and criteria for adherence to the Body of Mediators and the Body of Arbitrators of Collective Labour Disputes, the competence, attributions as well as mediation and arbitration procedures are established by the Mediation and Arbitration Regulation elaborated by the Office for Mediation and Arbitration of Collective Labour Disputes of the Ministry of Labour and Social Justice, approved by Common Order of the Minister of Labour and Social Justice and the Minister of Justice.
- If the collective labour dispute has not been resolved as a result of the conciliation organized by the Ministry of Labour and Social Justice, respectively by the Territorial Labour Inspectorate, as the case may be, the parties may decide by consensus to initiate the mediation procedure under the present law.
- For the mediation of individual labour disputes are applicable the provisions of art. 73 par. (2) of the Law no. 192/2006 regarding the mediation and organization of the mediator profession, with subsequent amendments and completions.



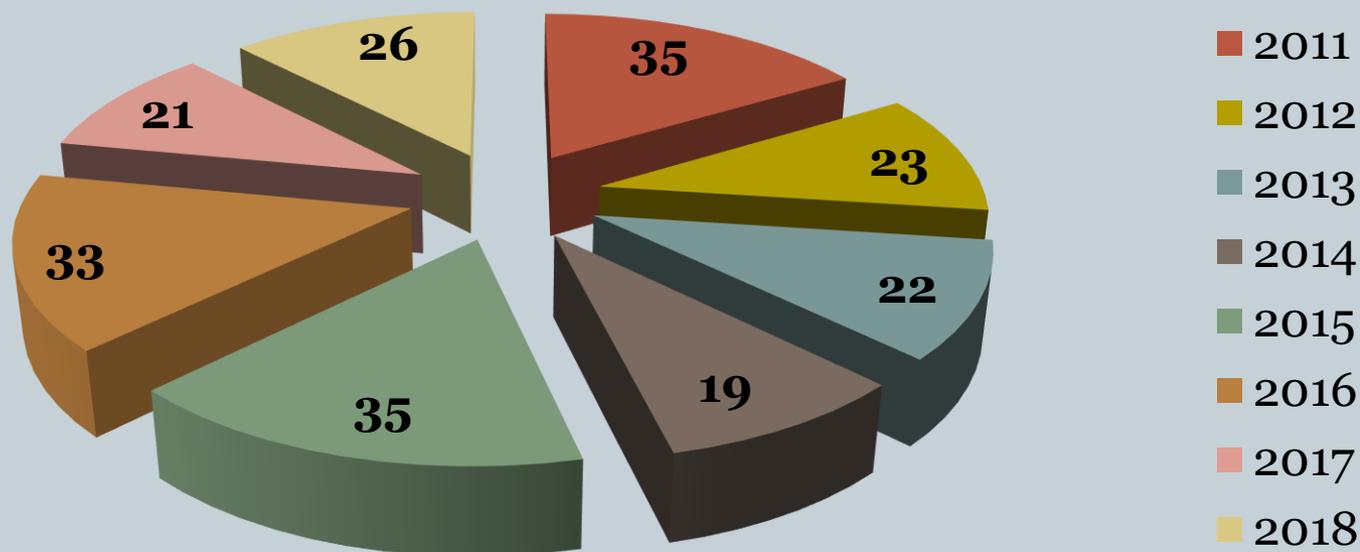
- Throughout the duration of a collective labour dispute, the parties to the dispute may decide by consensus that the formulated claims shall be submitted to the arbitration of the Office for Mediation and Arbitration of Collective Labour Disputes of the Ministry of Labour and Social Justice.
- The arbitral decisions made by the Office for the Mediation and Arbitration of Collective Labour Disputes of the Ministry of Labour and Social Justice are mandatory for the parties, shall complete the collective labour contracts and constitute enforceable titles.
- The mediation or arbitration of a collective labour dispute is mandatory if the parties decided on this by mutual agreement before or during the strike.



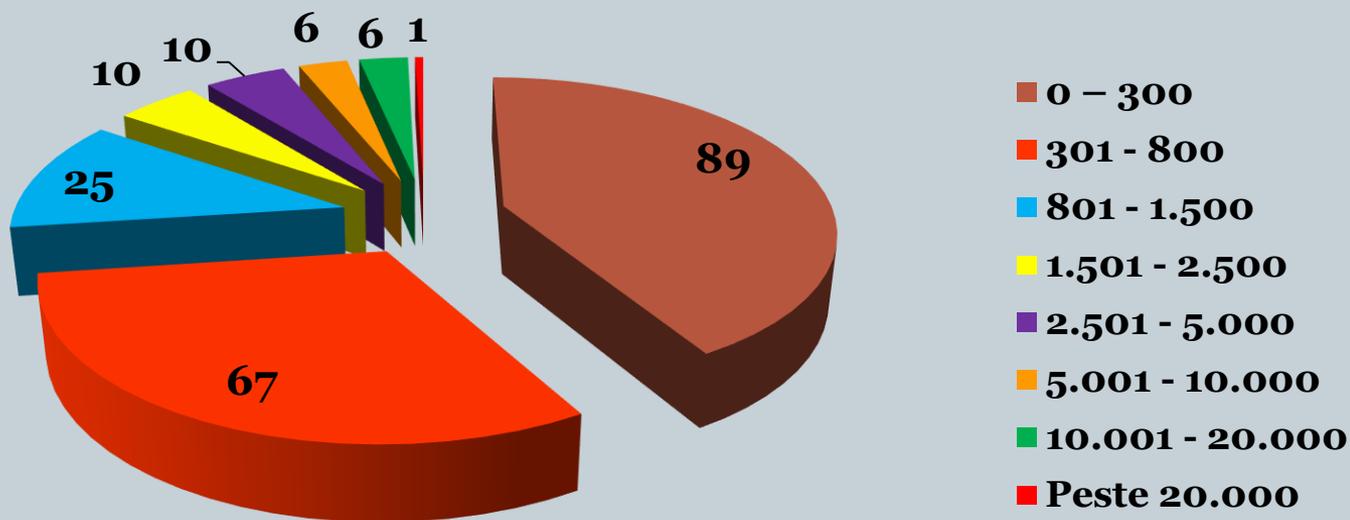
Table of collective labour disputes
2011-2018

YEAR	2011	2012	2013	2014	2015	2016	2017	2018
Total Disputes	35	27	22	19	35	33	21	26
Disputes closed	11	9	10	5	9	13	2	8
Disputes open	24	14	10	9	20	18	15	16
Disputes partially closed	0	4	2	5	6	2	4	2

Number of disputes registered between 2011-2018



**Number of collective labour disputes according to the size
of the enterprise where the collective labour dispute
occurred between 2011-2018**





- Compared to the presented ones, the Ministry of Labour and Social Justice through the Social Dialogue Directorate seeks to implement an ***Anticipatory Map of the Risks of Collective Labour Disputes***.
- In order to increase the capacity to defusing the social tensions generated by collective labour disputes (usually associated with major negative economic effects), it is necessary to know in advance the potential conflicting situations in the field of industrial relations.
- The possibility of making such a "Map" is given by the analysis of the types of collective labour disputes that have occurred in the national economy in recent years.



Thus, we have:

- ❖ ***collective labour disputes with relatively "regular" character***
 - As a rule, those related to the negotiation of collective labour contracts (eg Mittal Steel, Dacia Pitești).
 - Such disputes can be anticipated on the basis of the collective labour contracts registered at the level of the Territorial Labour Inspectorates, within which the dates of expiry of the validity of the respective collective labour contracts are mentioned.
 - Corroborating this data with the history of the disputes generated by collective bargaining, we can estimate with a relatively high degree of accuracy the existence of a potential conflict risk.



❖ ***collective labour disputes so-called "systemic"***

- generated by a strength resistance of the trade union structures that systematically are using the collective labour dispute as a means of pressure ***associated with a monopoly position*** in a particular field to gain advantages in the negotiations (eg Metrorex);



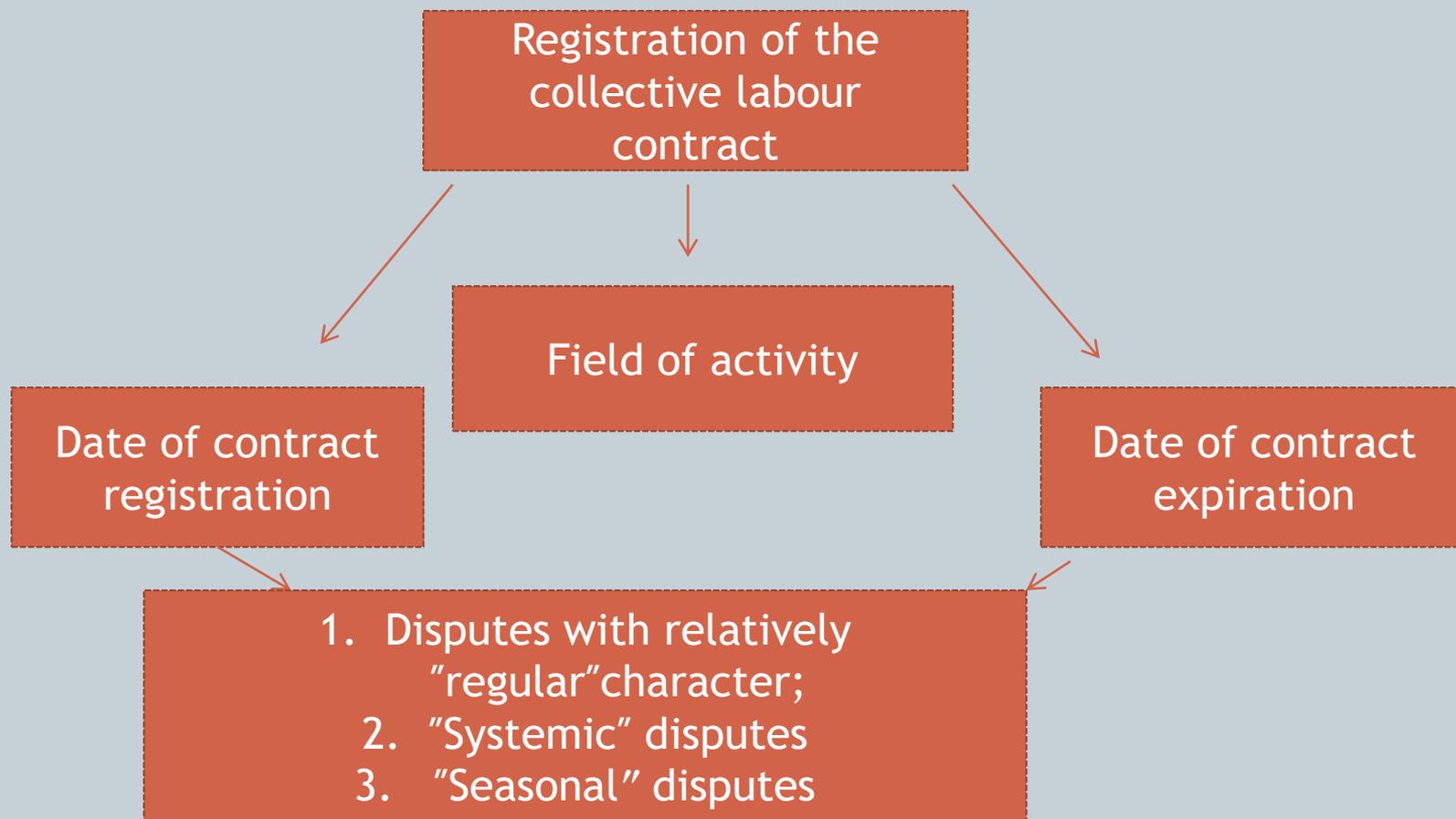
❖ ***"seasonal" collective labour disputes***

- are the collective labour disputes related to budgetary sector, which usually take place in the periods precedent to the adoption of the state budget (eg education, health);

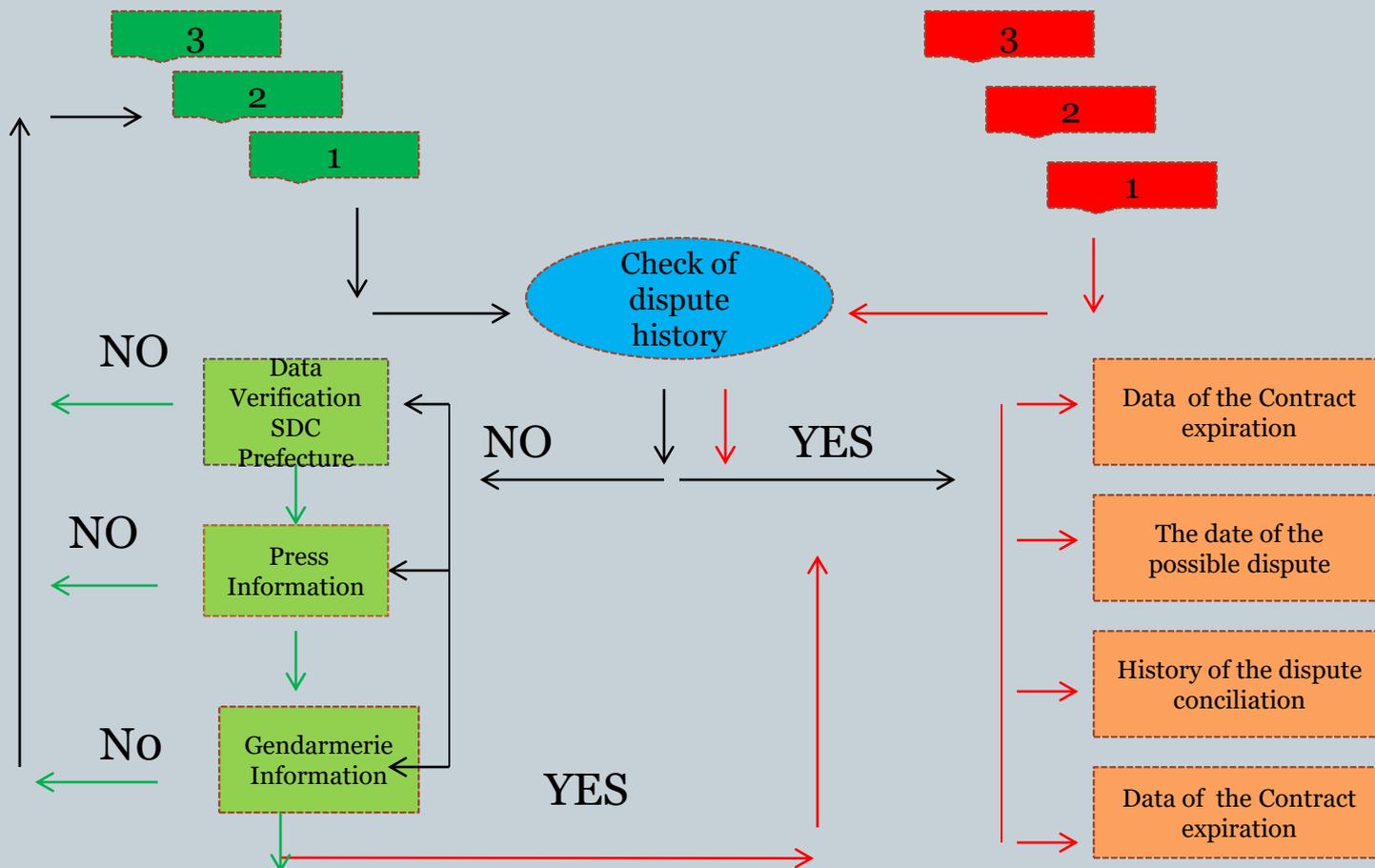
- All these sources of information associated with the data provided by the city halls (approving the possible public protest actions, the territorial social dialogue Commissions, media information as well as information from the Central Authorities (Ministry of Internal Affairs, Ministry of Economy, Ministry of Transport, etc.) as well as from other unspecified sources make it possible the drawing up ***of an integrated procedure for the establishment of a national database that reflects the conflicting risks at national level;***



- The use of all available information will be processed in a unique database at national level, whose integrator will be the Social Dialogue Directorate.
- The understanding of these situations allows an intervention in the early phase of the dispute with a high probability of defusing them;
- We consider that it is possible to carry out “*The National Map of Anticipatory Risks*” through a project with financing by European funds.
- The project involves the development of an information system type “**Platform**” with real-time access and the highlighting of conflicting risk zones.
- The implementation of this objective represents a priority for the Social Dialogue Directorate.



• DATABASE of COLLECTIVE LABOUR CONTRACTS - DATABASE of COLLECTIVE LABOUR DISPUTES





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THANK YOU VERY MUCH!