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THE RULE OF LAW AND EU BUDGETARY CONDITIONALITY: THE SYSTEMIC IMPLICATIONS OF THE ADVOCATE GENERAL'S OPINION IN CASE C-225/24 (PARLIAMENT V COMMISSION)

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SUMMARY

- The Advocate General's Opinion delivered in Case C-225/24 advances the principled position that the European Commission may not lift the suspension of EU funds previously withheld from Hungary on rule-of-law grounds unless the milestones it defined are fully and effectively satisfied in practice, and unless such a finding is supported by a detailed and verifiable statement of reasons.
- The case extends beyond the specific issue of payments to Hungary. It forms part of the broader evolution of the European Union's rule-of-law framework, particularly in light of the consolidation of the rule of law as a constitutional norm through the jurisprudential strengthening of Articles 2 and 19 TEU and the Charter of Fundamental Rights of the European Union.
- The Advocate General's Opinion recalibrates the limits of the Commission's discretion, emphasising the central role of judicial review and highlighting the democratic and constitutional significance of the duty to state reasons under Article 296 TFEU.
- In a wider perspective, the case illuminates the tension between EU normativity and geopolitical realities, and may have precedential importance for the future application of rule-of-law conditionality, as well as for the reconciliation of budgetary legal certainty with constitutional value protection.

In Case C-225/24 before the Court of Justice of the European Union—brought by the European Parliament against the European Commission—the Opinion of the Advocate General can be regarded as a milestone in the development of the Union's rule-of-law framework. In her Opinion delivered on 12 February 2026 (Ćapeta, 2026), Advocate General Tamara Ćapeta proposed that the Court annul the Commission's decision adopted in December 2023, which lifted the earlier suspension of EU payments destined for Hungary. The core of the Advocate General's reasoning is that the Commission may not authorise disbursements from the Union budget to a Member State unless the pre-defined rule-of-law conditions are fully satisfied, have entered into force, and are effectively applied in practice. Moreover, the Commission must provide a detailed statement of reasons for its decision not only vis-à-vis the addressee Member State but also vis-à-vis Union citizens as a whole. The broader significance of the

Opinion lies in the way it simultaneously reinforces the legal enforceability of the rule of law at EU level and draws attention to accountability relations between EU institutions, in particular between the Commission and the Parliament, in the protection of the rule of law.

Pursuant to Article 252 TFEU, an Advocate General's Opinion is not binding on the Court. In practice, however, the Court's judgment frequently follows—partly or substantially—the Advocate General's analysis, or at least incorporates key argumentative moves developed therein. In the present case, a set of doctrinal issues has moved to the fore—most notably the limits of administrative discretion and the standard governing the duty to state reasons—which may materially shape the direction of the Court's reasoning. Judgments are typically delivered in the months following the publication of the Opinion.

This study offers a comprehensive analysis of the significance of the Advocate General's Opinion within the broader context of the EU rule-of-law architecture. It first identifies the Opinion's systemic implications, and then explains how the rule of law has increasingly become a de facto constitutional norm of the Union in recent years. The analysis then examines the boundaries of the Commission's discretion and the role of judicial review, with particular attention to how far the Court may go in reviewing the Commission's evaluative assessments in the present case. The study also addresses the democratic dimension of the duty to state reasons, as emphasised by the Opinion, and explores how the logics of institutional balance and principal–agent relations surface in the dispute—that is, how the relationship between the Parliament and the Commission is structured in the application of rule-of-law mechanisms. A separate section assesses the potential legal effects of annulling the contested Commission decision for the implementation of the Union budget and for legal certainty. Finally, the concluding analysis evaluates to what extent the instruments designed to protect the rule of law should be understood as primarily legal or political in nature, and how the EU's value-centred normative project is placed under tension by geopolitical realities.

1. The constitutional and institutional significance of the Advocate General's Opinion

Advocate General Ćapeta's Opinion offers a particularly sharp lens on the institutional operation of the EU's rule-of-law mechanisms. In broader terms, the Opinion aligns with a jurisprudential and doctrinal trajectory according to which EU values—most notably the rule of law—are not merely political declarations but concrete legal obligations, the enforcement of which is a shared responsibility of the Union institutions (Lenaerts, 2020). In this dispute the European Parliament took an unusual step: it brought an action against the Commission—widely described as the "guardian of the Treaties"—arguing that the Commission failed to comply with the very rule-of-law conditions it had itself laid down. This initiative highlights the systemic importance of the case, as it is exceptional for the Parliament—representing Union citizens directly—to seek judicial enforcement of rule-of-law requirements vis-à-vis the executive branch (Pech and Platon, 2018). The Opinion confirms that the Commission cannot sidestep the application of rule-of-law standards on the basis of political or pragmatic considerations, because its decisions remain subject to judicial scrutiny and can be annulled if unlawful.

According to the Advocate General, the Commission cannot lift financial measures unless the conditions are genuinely satisfied in practice; otherwise, the protection of the Union's financial interests and the credibility of the rule-of-law conditionality architecture are undermined. The conditionality regime must not be reduced to a formality or become an instrument of political bargaining; it must be applied against objective legal benchmarks. The Opinion also implicitly criticises aspects of the

Commission's earlier approach to rule-of-law enforcement. The literature has noted occasions on which EU institutions, including the Commission, displayed postponement or inconsistency in enforcing rule-of-law principles (Pech and Platon, 2018; Kelemen and Pavone, 2023). In that context, Ćapeta's Opinion may mark a turning point: if the Court follows the Advocate General's reasoning, it will strengthen the proposition that tying EU financial instruments to rule-of-law conditions creates real legal constraints that cannot be handled flexibly on the basis of political expediency.

Systemically, the Opinion is significant because it reinforces the EU's toolkit of constitutional oversight over Member States. It sketches the boundary at which judicial intervention becomes justified in order to protect EU values against administrative discretion. This fits within the broader trend in which, in response to the Hungarian and Polish rule-of-law crises, the Court has acted more decisively to protect foundational EU values (Lenaerts, 2020; Pech and Platon, 2018). The present dispute is therefore not an isolated event but part of a longer process of consolidating the EU's capacity to enforce rule-of-law requirements. Because the Parliament's initiative places the Commission's evaluative assessment before the Court, the case may open a new chapter in the institutional operation of rule-of-law mechanisms. This dynamic evolution suggests that the EU legal order is capable of enforcing its values internally, if necessary by accepting—and juridifying—inter-institutional conflict (Craig and de Búrca, 2020).

2. The rule of law as a constitutional norm of the Union

The rule of law has been among the Union's values since the Treaties (Article 2 TEU). For a long time, however, it functioned more as a political guideline and as part of accession conditionality than as a directly enforceable legal norm. Over the last decade, this has changed fundamentally. The rule of law has increasingly become a de facto constitutional norm of the Union, and breaches can be sanctioned through institutional action and, crucially, through judicial enforcement by the Court (Lenaerts, 2020). A key step in this trajectory was the development of the Court's case law, above all the judgment in ASJP (Case C-64/16). There the Court held that Article 19(1) TEU requires Member States to provide effective judicial protection, which entails judicial independence, thus establishing a direct link between the quality of national justice systems and the EU legal order (Pech and Platon, 2018). Building on that precedent, subsequent judgments confirmed that judicial independence and fair trial requirements are EU-protected principles, and that violations raise issues of EU law (Lenaerts, 2020).

This judicial development ran parallel to political struggles within the Union—between the Commission and the Council on the one hand, and "recalcitrant" Member States on the other, most prominently Hungary and Poland. While Article 7 TEU provides a political mechanism to address serious rule-of-law deficiencies, its unanimity-related constraints rendered it practically difficult to use effectively (Craig and de Búrca, 2020). The Union therefore developed additional tools: in 2014 the Commission introduced a rule-of-law framework based on structured dialogue, and in 2020 it adopted Regulation (EU, Euratom) 2020/2092 establishing a general regime of conditionality to protect the Union budget in the event of generalised rule-of-law deficiencies. At this point it is important to distinguish two doctrinally and procedurally different regimes: the budget-protection conditionality mechanism under Regulation 2020/2092, and the horizontal "enabling condition" logic of Charter compliance within the Common Provisions Regulation (EU) 2021/1060 (CPR), which operates as a precondition for access to cohesion funding.

The Court confirmed the compatibility of the conditionality regime with the Treaties in 2022, rejecting the annulment actions brought by Hungary and Poland. Those judgments clarified that the Union may act to protect its financial interests where systemic rule-of-law deficiencies exist. Taken together, these developments underscore that the rule of law is no longer merely declaratory; it has become a normative requirement that EU institutions can enforce, if necessary by imposing constraints on Member State autonomy (Scheppele and Morijn, 2024).

A central rationale in this constitutionalisation has been the idea that the unity and primacy of EU law require Member States to ensure independent and impartial courts, since only then can EU law be applied effectively and uniformly (Pech and Platon, 2018). This has become a structural component of the Union's constitutional identity. As Koen Lenaerts has argued, future integration must rest on firm values—particularly respect for the rule of law—because the rule of law secures the principle that no one stands above the law in the Union (Lenaerts, 2020). That logic is also reflected in the Court's interventions in cases concerning Polish judicial reforms, where it issued concrete obligations backed by financial penalties—steps that would have been difficult to imagine earlier.

Against that backdrop, Ćapeta's Opinion represents a further consolidation of the rule of law as an EU constitutional norm. By requiring full compliance with rule-of-law criteria and a robust statement of reasons in a concrete budgetary decision, the Opinion integrates rule-of-law requirements into the Union's financial constitution. The message is clear: the rule of law is not merely an accession condition or a political aspiration, but a foundational constraint that must also guide everyday EU governance, including the management of cohesion and development funding (Craig and de Búrca, 2020). In this sense, the Opinion strengthens the doctrinal basis for the Parliament's attempt to hold the Commission accountable for rule-of-law enforcement failures—illustrating that rule-of-law protection has become an inter-institutional constitutional duty (Scheppele and Morijn, 2024; Kelemen and Pavone, 2023).

3. The Commission's discretion and the limits of judicial review

As the Union's executive, the Commission enjoys significant discretion in the implementation of EU law and policies, including in the management of EU funds. Traditionally, the Court affords deference to Commission assessments in complex domains—such as competition, budget implementation, or the administration of structural funds—intervening only where there is a manifest error of assessment, a misuse of powers, or an overstepping of competence (Craig and de Búrca, 2020). The present dispute turns precisely on where the boundary of that discretion lies when rule-of-law requirements are at stake. The Parliament's action effectively argues that the Commission departed from its own pre-defined conditions to such an extent that the departure becomes legally blameworthy, potentially raising concerns about the misuse of discretion. The Advocate General confirms that the Commission's discretion is not unlimited: authorising payments without actual fulfilment of conditions constitutes unlawfulness because it contradicts the relevant EU rules and their objectives (Scheppele and Morijn, 2024).

The Opinion identifies concrete deficits in the Commission's assessment. It criticises the Commission for accepting judicial-independence related reforms as fulfilled without a substantive statement of reasons, even though the relevant measures had not yet entered into force or demonstrated effective operation in practice. It also argues that the Commission insufficiently engaged with subsequent national legislation that could hollow out the purpose of the reforms. In the Advocate General's view, such shortcomings exceed tolerable administrative error: the Commission disregarded the conditions it

had itself established, thereby triggering the need for judicial control (Craig and de Búrca, 2020; Kelemen and Pavone, 2023). Put differently, discretion cannot be exercised in a manner that undermines the very objectives for which the discretion exists—here, the protection of the Union budget and the integrity of rule-of-law conditionality (Craig and de Búrca, 2020). Where that occurs, judicial review becomes necessary to ensure compliance with legal boundaries.

The case also raised the allegation of misuse of powers, in that the Parliament suggested the Commission lifted the freeze for political reasons rather than on the basis of objective legal criteria. While the Advocate General did not find the evidence sufficient to establish misuse of powers, the allegation highlights a recurring dilemma: to what extent may political considerations shape Commission action where EU law sets clear conditions? Some scholarship suggests that in recent years the Commission has at times practised "supranational forbearance" by delaying or softening enforcement for political reasons (Kelemen and Pavone, 2023). Such an approach, however, is difficult to reconcile with the Commission's Treaty-based duty to ensure compliance with EU obligations, including rule-of-law commitments (Pech and Platon, 2018). The Opinion thus underscores that discretion cannot operate as a vehicle for diluting rule-of-law requirements: if the Commission departs from binding conditions, judicial review is the mechanism for correction.

The Parliament's argument is further reinforced by the fact that on the same day as the contested decision, the Commission maintained the withholding of payments under the Recovery and Resilience Facility (RRF), considering rule-of-law milestones not fully fulfilled in that framework. The juxtaposition raised a coherence problem: how could the Commission treat judicial-independence reforms as sufficient under one financial regime while judging them insufficient under another? For the Parliament, this discrepancy suggested inconsistency in decision-making that might strengthen the suspicion of political motivation.

Ultimately, the dispute illustrates a core feature of EU constitutional governance: the Commission's executive discretion does not exempt it from operating within the constraints of EU law. The Court has demonstrated its readiness to review and, where appropriate, annul Commission acts when they amount to an overstepping of discretion (Craig and de Búrca, 2020). This is a central element of the Union's checks-and-balances system: rule-of-law protection requires that even high-level policy decisions remain subject to legal control when they threaten common values or violate legality.

4. The democratic dimension of the duty to state reasons

A central feature of the Advocate General's reasoning is the emphasis on the Commission's duty to state reasons. Under Article 296 TFEU, EU institutions must provide clear and intelligible reasoning indicating the essential considerations on which an act is based. This is not a mere formality; it guarantees reviewability and safeguards the right to effective judicial protection (Craig and de Búrca, 2020). Where an institution—here, the Commission—fails to provide sufficiently detailed reasons, it undermines the rights of those affected (the Member State and, indirectly, Union citizens) and erodes the rule-of-law requirement of accountability in the exercise of public power.

Advocate General Ćapeta stresses that the Commission failed to explain why it considered its earlier conditions (set in 2022) to have been fulfilled when, at the end of 2023, it authorised disbursements to Hungary. This omission is not merely a technical defect; it raises concerns about the democratic accountability of the Union executive (Craig and de Búrca, 2020; Lenaerts, 2020). In the absence of

adequate reasoning, the decision risks appearing arbitrary or based on hidden considerations—an appearance that the Parliament and the public can legitimately contest. From the perspective of democratic legitimacy, it is crucial that Union citizens—represented by the Parliament—can understand why a Member State receives EU funds when those funds had previously been withheld on rule-of-law grounds. Meeting the duty to give reasons is what enables transparency and trust: if the Commission's steps are traceable and logically supported, democratic oversight—particularly by the Parliament—can function effectively (Scheppele and Morijn, 2024).

The Opinion therefore treats the lack of adequate reasoning not simply as a procedural irregularity but as a deficit in democratic accountability. The contested act concerned the expenditure of public money and thus implicated a broader public interest. In that context, insufficient reasoning can foster the perception of an opaque inter-institutional bargain between the Commission and the Hungarian government, thereby weakening the legitimacy of EU governance (Craig and de Búrca, 2020). Conversely, if the Court follows the Advocate General and requires a strict standard of reasoning, it may strengthen democratic control in the EU. The Parliament effectively demanded ex post justification; judicial enforcement of the duty to give reasons would pressure the Commission to produce more robust rationales in future sensitive cases. The duty to state reasons sits at the intersection of legality and democracy: it ensures that legal norms are not displaced by opaque bargaining or bureaucratic discretion (Craig and de Búrca, 2020). In that sense, the Opinion also reminds the Commission that in the Union, executive power is exercised under conditions of accountability to citizens.

5. Institutional balance and Commission accountability

The conflict embodied in Case C-225/24 is a distinctive manifestation of institutional balance in EU governance. The Union's functioning is shaped by both separation of powers and institutional cooperation: the Commission serves as guardian of the Treaties and the primary executive actor, whereas the Parliament plays a central role in democratic oversight and legitimacy (Craig and de Búrca, 2020). Ordinarily, the Commission and Parliament operate as partners: the Parliament sets legislative and budgetary frameworks, and the Commission implements them. Here, however, the Parliament concluded that the Commission deviated from jointly articulated value commitments, and the system's corrective mechanisms were activated. The Parliament pursued judicial enforcement of its oversight function, illustrating that checks and balances operate also between EU institutions (Scheppele and Morijn, 2024). The availability of an institutional action before the Court indicates that EU law deliberately provides a forum for constitutional resolution of inter-institutional disputes.

The case also highlights that delegation of powers entails requirements of control and accountability. From this perspective, Member States and Union citizens constitute the ultimate source of delegated authority, and the Treaties empower the Commission (as an "agent") to protect the Union budget and enforce common values. Where the agent fails to comply with the mandate's conditions, the principal seeks to correct the deviation. Here, the Parliament acted as the principal's representative, arguing that the Commission did not exercise its mandate consistently with rule-of-law conditionality (Kelemen and Pavone, 2023). This shows that institutional balance is not static; it is produced through ongoing contestation and control (Craig and de Búrca, 2020). The Parliament, as the direct representative of citizens, effectively demanded compliance with the legal conditions attached to delegated authority.

Principal–agent tensions in rule-of-law enforcement have surfaced before, though often less directly. When the Commission for years refrained from deploying rule-of-law tools against Hungary or Poland, the Parliament repeatedly urged action and even contemplated litigation over Commission inaction (Pech and Platon, 2018; Scheppele and Morijn, 2024). In that vein, the Parliament brought Case C-657/21 (Parliament v Commission) concerning the Commission's alleged failure to apply Regulation 2020/2092. These developments suggest that the Parliament increasingly positions itself as a guardian of EU values and is willing to use institutional litigation to hold the executive to account. Inter-institutional conflict thus need not signal dysfunction; it can express the corrective operation of constitutional checks. The Advocate General's Opinion—and any subsequent judgment—may therefore be understood as strengthening constitutional control over the Commission and confirming the Parliament's standing to act in defence of EU values even against the executive (Kelemen and Pavone, 2023).

This logic should not be reduced to institutional rivalry. It reflects a deeper constitutional claim: that the ultimate source of legitimacy in the Union lies in the political community of citizens, represented by the Parliament. By litigating against the Commission, the Parliament conveys the democratic conviction that EU values cannot be reduced to the object of bureaucratic bargaining. Judicial proceedings ensure that such disputes are decided within legal constraints. The broader lesson is that institutional balance is dynamic: in order to protect common values, institutions may "correct" each other through legal mechanisms, thereby reinforcing the Union's constitutional integrity (Craig and de Búrca, 2020).

6. The legal effects of annulment and budgetary legal certainty

If the Court follows the Advocate General and annuls the Commission's December 2023 decision, the consequences for the implementation of the Union budget would be unprecedented. The primary legal effect would be the re-suspension of payments under the relevant operational programmes until the Commission—now guided by the Court's judgment—properly establishes compliance with the rule-of-law conditions. In practical terms, Hungary would lose access to the approximately EUR 10.2 billion that became claimable following the contested decision. A further issue concerns any amounts already disbursed: in principle, annulment removes the legal basis retroactively, potentially opening the door to financial corrections in order to protect the Union's financial interests, pursuant to Treaty obligations and the Financial Regulation. However, such recovery would be extraordinary and practically difficult, while also politically contentious.

EU law recognises that the Court may, for reasons of legal certainty, maintain certain effects of an annulled act (Article 264(2) TFEU). If it opts for annulment, the Court is likely to take budgetary and macroeconomic consequences into account. Budgetary legal certainty requires predictability for both Member States and final beneficiaries (Craig and de Búrca, 2020). It is therefore plausible that the Court would seek to avoid disproportionate harm to final beneficiaries (e.g., municipalities or civil-society actors) resulting from shortcomings attributable to the Member State's government. Similar considerations also inform the design of conditionality, which aims—at least in principle—to minimise harm to end recipients (Scheppele and Morijn, 2024).

At the same time, legal certainty must be balanced against the credibility of rule-of-law conditionality. If the Court were to over-prioritise financial stability and effectively immunise unlawful disbursements, the normative force of conditionality could be weakened. The credibility of the regime depends on enforceability and the possibility of real consequences (Scheppele and Morijn, 2024). A

balanced approach is therefore likely: the Court may deliver a strong legal message that rule-of-law criteria must be taken seriously while managing transitional effects in budget execution. One conceivable option would be annulment combined with a temporary maintenance of effects to allow the Commission to adopt a new decision supported by adequate reasoning and a robust compliance assessment (Craig and de Búrca, 2020).

From this angle, the case also illustrates the risks created by deficient Commission reasoning in the first place. Had the Commission complied rigorously with its own conditions at the outset, the prospect of disruptive annulment and uncertainty for beneficiaries would be far smaller. In that sense, annulment could ultimately serve stability in the long run by signalling to the Commission that insufficiently grounded decisions carry legal and budgetary risks (Kelemen and Pavone, 2023). The broader lesson is that rule-of-law enforcement and budgetary stability should not be treated as antagonistic; they must be aligned. The Court's judgment —whatever its precise form—will become a precedent for reconciling these principles in future cases.

7. The tension between legal and political enforcement

The implications of Case C-225/24 extend beyond the immediate dispute and illuminate a fundamental dilemma in the Union's value-protection strategy: to what extent can the EU rely on legal instruments to enforce the rule of law, and where do such efforts encounter the limits of political and geopolitical realities. The Union has gradually constructed a stronger legal toolkit for rule-of-law protection—through legislation, case law, and institutional procedures—yet the practical deployment of these instruments repeatedly collides with political constraints (Scheppele and Morijn, 2024).

A frequently cited example is the Polish recovery plan episode, where parts of the literature argue that in 2022 the Commission approved the plan while key judicial reforms remained incomplete, influenced by Poland's geopolitical importance as a partner in the context of Russia's war against Ukraine (Sadurski, 2022). This illustrates how geopolitical considerations can press against the Union's normative commitments. In a similar vein, political bargaining in the Council has sometimes been linked to outcomes in rule-of-law disputes, including the strategic use of veto threats. Against this background, it is understandable why the Commission may have acted more flexibly; yet from a legal standpoint such flexibility can weaken the credibility of rule-of-law conditionality (Kelemen and Pavone, 2023).

The approach embodied by the Parliament and the Advocate General points in the opposite direction: it insists that EU values are not negotiable and that the Union's long-term cohesion depends on uniform application of common rules (Pech and Platon, 2018). The EU's normative project has always operated under tension with political reality. The present case shows that law alone cannot resolve every conflict: even a strong judgment for the Parliament would have primarily normative and precedential significance, while deeper change often depends on domestic political developments. Poland's post-2023 political trajectory is a clear reminder that elections can sometimes deliver outcomes that EU legal instruments struggled to achieve on their own.

This does not diminish the importance of legal tools. Rather, it suggests that EU value protection rests on the interplay of legal mechanisms and political will. The Advocate General's Opinion and the forthcoming judgment may clarify how far legal constraints can and should go in protecting foundational values (Lenaerts, 2020). If the Court annuls the Commission decision, it will establish a precedent that political considerations cannot override binding rule-of-law conditions, thereby strengthening the Union's

normative credibility. Yet geopolitical realities will not disappear; institutions and governments will continue to weigh context, crises, and strategic priorities. The key challenge for the Union is to manage the tension between its value-centred constitutional identity and the constraints of geopolitical environment (Sadurski, 2022).

One plausible route toward managing this tension is to align EU pressure with domestic political change. Rule-of-law instruments tend to be most effective where they coincide with political incentives and mobilised domestic actors, either within Member States or at EU level (Scheppele and Morijn, 2024). The final outcome of Parliament v Commission will therefore be revealing: it will show whether judicial review can meaningfully correct deviations produced by political bargaining. If the Court sides with the rule of law robustly, it signals that even in difficult times there are legal minimum standards from which the Union will not depart. If the Court does not grant the Parliament's action, observers may infer that the judges, explicitly or implicitly, were attentive to broader context (Kelemen and Pavone, 2023; Scheppele and Morijn, 2024).

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In sum, the tension between the EU's normative identity and geopolitical reality is likely to remain a structural feature of the Union's evolution. Advocate General Ćapeta's Opinion constitutes a particularly vivid manifestation of that tension: it articulates, in legal terms, the demand that the European Union operate not only declaratorily but also at the level of concrete budgetary decisions as a rule-of-law community. Whether and how this demand will be realised will depend on an ongoing constitutional dialogue between EU institutions and Member States. Legal instruments cannot by themselves resolve every political conflict; without them, however, the normative foundations of EU governance would erode. The central question is therefore not whether the tension between normativity and realism can be eliminated, but whether the Union can channel that tension in a manner that strengthens the rule of law and consolidates its constitutional identity.

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