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# The 2022 Global Philanthropy Environment Index Ireland

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## QUICK FACTS

**Legal forms of philanthropic organizations included in the law:** Association, Company Limited by Guarantee, Endowment, Limited Liability Company, Society, Trust

**Five main social issues addressed by these organizations:** Basic Needs, Early Childhood Education, Higher Education, Housing and Economic Development, Religion

**Average time established by law to register a philanthropic organization:** 61-90 days

**Average cost for registering a philanthropic organization:** USD 0

There is currently no cost to register a charity in Ireland. The registration process, run by the Charities Regulatory Authority, is still in its infancy although a key performance indicator of the Regulator is to improve registration times for completed applications.

**Government levels primarily regulating the incorporation of philanthropic organizations:** Central/Federal Government

### Philanthropic Environment Scores:

Year	Ease of Operating a PO	Tax Incentives	Cross-Border Philanthropic Flows	Political Environment	Economic Environment	Socio-Cultural Environment	Overall Score
<b>2022 GPEI</b>	4.73	4.25	4.25	4.00	3.80	4.50	4.26
<b>2018 GPEI</b>	4.67	4.25	4.25	4.00	N.A.	4.50	4.33

**Source:** Indiana University Lilly Family School of Philanthropy, 2022 *Global Philanthropy Environment Index*

## Key Findings

### I. Formation/Registration, Operations, Dissolution of a Philanthropic Organization (PO)

*The three indicator questions in this section pertain to the laws and regulations governing philanthropic organizations (POs). The scoring questions for this category cover three aspects of regulations: (A) formation and registration; (B) operations; and (C) dissolution.*

Question One: To what extent can individuals form and incorporate the organizations defined?

<b>Score: 4.7</b>
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Individuals are generally free to form organizations in Ireland without state approval. For philanthropic organizations (POs), there are no minimum capital requirements or registration processes other than those required by the nature of the entity created. Thus, if the PO is formed as a corporation, it must register with the Companies Registration Office. However, if the PO is unincorporated and is formed by way of a constitution or a set of rules, no registration or approval process is required from an establishment perspective. The Irish Constitution, *Bunreacht na hÉireann*, guarantees individuals the freedoms of association, expression, and assembly. In the interests of public order, the freedom to form associations is regulated for organizations that pursue certain purposes prohibited by section 18 of the Offences against the State Act 1939. Such unlawful organizations would include those established for the promotion or encouragement of treason, violence, criminal or terrorist offenses, or the obstruction of justice. The treatment of charities differs from other POs. The Charities Act 2009, which came into force on October 16, 2014, regulates charities and requires all charitable organizations to register with the Charities Regulatory Authority (CRA). The CRA has the power to refuse registration to those organizations that fail to meet the statutory definition for charitable purposes or the public benefit test. While there is provision to charge an annual registration fee for all charities—proportionate to the size and turnover of the charity—none applies to date. It is an offense to hold an organization out as a charity unless it is registered with the CRA and registration with the CRA is a prerequisite to seeking charitable tax exemption from the Irish Revenue Commissioners (Revenue).

Question Two: To what extent are POs free to operate without excessive government interference?

<b>Score: 4.5</b>
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Irish law does not impose onerous governance rules on POs, and organizations enjoy freedom to run their own internal affairs. Prior to the Charities Act, the nonprofit sector developed voluntary codes to encourage better governance standards among POs. Charities require prior approval from the Charity Regulator before altering their governing instruments and must show compliance with a new Charities Governance Code in their 2021 reports. While POs are free to engage in a wide range of lawful activities, charities are more restricted than other POs in undertaking unrelated trading or political activities. No restrictions are placed on the ability of POs to contact and cooperate with colleagues in civil society, business, or government sectors, both within and outside the country. Irish POs are also permitted to participate in networks and to use the Internet and all forms of social media. While the government does not impose restrictions on any of these forms of communication,

broadcast media restrictions do apply and can affect certain POs. Section 10(3) of the Radio and Television Act 1988, for example, provides: "No advertisement shall be broadcast which is directed towards any religious or political end or which has any relation to an industrial dispute." Advertisements for certain charities (such as The Irish Catholic newspaper and the Catholic bookseller, Veritas) have been banned, resulting in calls for legislation revision. PO reporting and auditing requirements depend on the legal form. The Charities Act 2009 dictates the reporting requirements for unincorporated charities; incorporated charities reporting requirements are governed by the Companies Act 2014. Legislative amendment is pending but leaves an unsatisfactory financial reporting environment in the interim. All registered charities must file an annual activity report with the Charities Regulator, regardless of their legal form.

Question Three: To what extent is there government discretion in shutting down POs?

<b>Score: 5.0</b>
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The governing body of the relevant PO can voluntarily terminate its activities in line with its governing documents. If the entity is a charity, then the *Cy Près* doctrine will apply. This doctrine developed as a common law doctrine but is now incorporated into Ireland's statutory regulation of charities under section 47 of the Charities Act 1961, under which the CRA will frame a scheme transferring any remaining charitable assets of the dissolved organization to another charity whose purpose is as near as possible to that of the original organization, so that these assets remain in the charitable sphere. Under the Charities Act 2009, the CRA has the power to remove charities from the Register of Charities when those organizations become "excluded bodies" within the meaning of the Act, at which point they will cease to be charities—but not cease to exist. An excluded body is one whose purposes are: (a) unlawful; (b) contrary to public morality; (c) contrary to public policy; (d) in support of terrorism or terrorist activities; or (e) for the benefit of an organization, membership of which is unlawful. The CRA must consult with the Irish police force prior to exercising this power. The CRA must provide reasons for revoking the registration of a charity, and these reasons are required to be published in the Register. A PO that has been formed as a company can also be involuntarily terminated by being struck off the Companies Register under the Companies Act 2014. An involuntary strike off arises at the instigation of either the Registrar of Companies—should the PO fail to file returns—or the Revenue Commissioners. A compulsory winding up of a corporate PO can also occur if either a creditor or a member of the PO petitions the High Court. The resulting procedure of such a petition is regulated by statute. Common grounds for such a petition include instances when a company is unable to pay its debts or where it is just and equitable to wind up the company under section 569 of the Companies Act 2014.

## II. Domestic Tax and Fiscal Issues

*The two questions in this section pertain to laws and regulations governing the fiscal constraints of giving and receiving donations domestically.*

Question Four: To what extent is the tax system favorable to making charitable donations?

<b>Score: 3.5</b>
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Tax incentives for donations are primarily limited to charities rather than POs more generally. In the case of individual (as opposed to corporate) charitable donations, it is the charity that will reap the tax benefits of the donation, rather than the individual taxpayer. Revenue administers the Charitable Donation Scheme which allows tax relief on qualifying donations made to ‘approved bodies.’ If an individual donates EUR 250 (USD 307) or more in a year, the approved body can claim a refund of tax paid on that donation. If a company donates EUR 250 (USD 307) or more in a year, the company can claim a tax deduction as if the donation was a trading expense. Qualification as an approved body is an additional requirement to being registered with Revenue as a tax-exempt charity.

In practical terms, a donation will qualify under the Charitable Donation Scheme if it is:

- a payment of at least EUR 250 (USD 307) made in a single year;
- a payment of less than EUR 1 million (USD 1.2 million) made in a single year;
- in the form of money, designated securities, or a combination of money and shares; and
- not repayable.

Tax relief is restricted to 10 percent of total income for the year if there is a connection between the donor and the approved recipient body. A donor is “connected” with an eligible charity if he or she is an employee or member of either that charity at the time of donation or of another approved body that is associated with the charity. There are some limits on the amounts that can be donated for tax relief purposes in a given tax year. First, the aggregate of donations to an approved body or bodies in any tax year from 2013 onwards cannot, for tax relief purposes, exceed EUR 1 million (USD 1.2 million).

In practical terms, the relief on an eligible donation is calculated by grossing up the donation at the specified rate, currently 31:1, so the donation is multiplied by 100 and divided by 100 minus 31 to arrive at the grossed-up amount. The approved body is deemed for the purposes of the relief to have received the grossed-up amount net of tax deducted at the specified rate.

Question Five: To what extent is the tax system favorable to POs in receiving charitable donations?

<b>Score: 5.0</b>
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POs registered as tax-exempt charities receive significant tax exemptions for charities from the following taxes: Income Tax; Corporation Tax (in the case of companies); Capital Gains Tax; Deposit Interest Retention Tax (DIRT); Capital Acquisitions Tax; Stamp Duty; and Dividend Withholding Tax. To be eligible, a PO must first apply to the CRA for charitable status before making an application to Revenue for charitable tax exemption. The Charities Act definition of charitable purpose, while expanding the common law definition, coincides with previous Revenue practice, deliberately excluding certain purposes (e.g., promotion of human rights and sporting activities) that Revenue has not recognized as meriting charitable tax exemption. Section 7 of the Charities Act expressly provides that when deliberating upon any charitable application for tax exemption, Revenue is not bound by any determination of the CRA as to whether a purpose is for the public benefit or not. In

principle, this means that the CRA could register a body as charitable and yet Revenue could refuse its tax-exempt status. Revenue and the CRA have agreed and published common requirements for charities to ease the likelihood of differing approaches. Section 848A of the Taxes Consolidation Act 1997 provides for a scheme of tax relief for certain “eligible charities” and other “approved bodies” with respect to donations received on or after April 6, 2001. A charity may apply for authorization as an “eligible charity” under the provisions of this scheme after it has been granted exemption from tax by Revenue for a period of not less than two years. A VAT Compensation Scheme aims to reduce the value added tax (VAT) burden on charities and to partially compensate for VAT paid by charities. The scheme applies to VAT paid on expenditure on or after January 1, 2018 and is capped at EUR 5 million (USD 6.1 million). Specific reliefs from VAT also apply in certain circumstances, such as humanitarian aid and medical equipment supply.

### III. Cross-Border Philanthropic Flows

*The two questions in this section concern laws and regulations governing the fiscal constraints of giving and receiving cross-border donations. The scoring for these questions pertains to the donor and receiving entities.*

Question Six: To what extent is the legal regulatory environment favorable to sending cross-border donations?

<b>Score: 4.0</b>
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Cross-border charitable donations can be sent without incurring additional costs. There is no mandatory routing of foreign funding through government channels. Cross-border donations are not, however, eligible for the same tax incentives as domestic donations unless they are sent to a resident charity of either the European Economic Area (EEA) or the European Free Trade Association (EFTA) that has been specifically recognized by Revenue as tax equivalent to a domestic charity. As part of its efforts to comply with the Financial Action Task Force’s (FATF) Recommendations, Ireland has strengthened its anti-money laundering and the financing of terrorism (AML/FT) interdiction apparatuses with the enactment of the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 and the Criminal Justice Act 2013, both amended by the Criminal Justice (Money Laundering and Terrorist Financing, Amendment) Act 2018. These Acts address, inter alia, customer due diligence provisions and other preventive measures, which have been brought into line with FATF’s recommendations. In 2012, the Irish financial services industry issued guidelines intended to prevent the use of the financial system for money laundering or the financing of terrorism and expanded upon the provisions of the 2010 Act.

Question Seven: To what extent is the legal regulatory environment favorable to receiving cross-border donations?

<b>Score: 4.5</b>
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EU law guarantees free movement of capital between member states and non-discrimination on grounds of nationality in the cross-border tax treatment of PO funds. To this end, the Charities Act 2009 recognizes EEA-established POs that meet the Irish statutory test for charitable purposes and requires them to apply for registration. A charity established in an EEA or EFTA state may seek a

determination by Revenue as to whether it would qualify for the exemptions, provided that it had taxable income in Ireland. To date, Revenue has recognized 10 UK-based charities.

Ireland is a non-reciprocal partner in the Transnational Giving Europe project (TGE). Operating at a European level, TGE is a practical solution to support a beneficiary located in a foreign country with all the tax advantages in the country of residence of the donor. Donors can give their gifts to the national TGE partner that transfers the gift to the foreign beneficiary and provides all the national fiscal advantages to the donor. This enables income tax deductible gifts for foreign donors and tax efficient fundraising campaigns in other TGE countries. Ireland facilitates tax efficient inward donations to Ireland but does not facilitate outward gifts to other EU members.

For US tax equivalency purposes, the US International Grantmaking Project covers Ireland. Section 23(A)(2) of the Electoral Act 1997 provides that a third party—including POs—may not accept a “foreign donation” for political purposes. The Act imposes restrictions and onerous reporting obligations on “third parties” (including POs) who accept donations over EUR 100 (USD 123) for “political purposes” while imposing a blanket ban on overseas donations and very severe limits on domestic donations. The problem is that “political purposes” is so broadly defined by the Act that it can include the general advocacy work of a wide range of human rights and other organisations. Amnesty International Ireland found itself in the spotlight in 2015 when it received a foreign donation from the Open Society Foundations for its My Body, My Rights campaign. In 2017, the Standards in Public Office Commission (SIPO) ordered Amnesty to return the monies after finding the donation was prohibited under Section 23(A)(2) of the 1997 Electoral Act after deeming it to be a donation for political purposes. Amnesty said the purpose of the donation was to fund Amnesty’s 2016 campaign to increase public support for repealing the Eighth Amendment and collaborate with other groups working on access to safe and legal abortion. No referendum on the Eighth Amendment was planned or had been called when the donation was claimed it was made. In an action seeking judicial review of SIPO’s decision before the Irish High Court, the matter was resolved on the basis that SIPO accepted that the process leading to the adoption of its 2017 decision was procedurally flawed.

#### IV. Political Environment

*The four indicator questions in the next three sections concern the political context, economic conditions, and socio-cultural characteristics that influence the environment for philanthropy.*

Question Eight: To what extent is the political environment favorable for philanthropy?

<b>Score: 4.0</b>
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Collaboration between the government and the philanthropic sector exists in Ireland. A history of such formal collaboration was established with the creation of a community and voluntary pillar in Ireland’s Social Partnership Governance Model in 1997, which saw PO representatives join business, government, and trade union representatives to agree on an economic and social progress program for Ireland. With the collapse of social partnership during the 2007–2008 financial crisis and the severe public funding cuts to charities that ensued, the economic climate threatened the sustainability of a number of POs and forced them to seek other forms of funding outside of the state. Since the early 1990s, politically, the nonprofit sector has worked constructively with the government to advocate for the introduction of a proportionate yet robust regulatory system for charities—a goal

achieved only in 2014 with the implementation of the Charities Act 2009. Paradoxically, governance scandals in the charity sector forced the government to find the resources to establish the Regulator and to give it investigatory powers. The Irish government is currently developing a policy on philanthropy. It commissioned a report on the Landscape of Philanthropic Giving in Ireland in 2020, and the outcome of this report's findings on the role of philanthropy in the charitable sector—including a definition of philanthropy, an analysis of the scale and scope of philanthropic giving, and a discussion of the motivations of philanthropists—is awaited.

Question Nine: To what extent are public policies and practices favorable for philanthropy?

<b>Score: 4.0</b>
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There is a strong state support for national and international philanthropy in Ireland. Budget 2021 allocated EUR 867 million (USD 1.1 billion) to Ireland's Official Development Assistance (ODA) program, an increase of approximately EUR 30 million (USD 37 million) on the amount pledged in Budget 2020. Approximately EUR 571 million (USD 702 million) was allocated through the Department of Foreign Affairs and Trade. Another EUR 159 million (USD 195 million) was funneled through the EU Development Cooperation Budget Share, with the rest allocated through other government departments. The increase in ODA in Budget 2021 will bring the total ODA allocation to 0.42 percent of projected GNI in 2021, still short of Ireland's 0.7 percent target. At a national level, there is a need for government to follow through on its commitment to develop a new national policy on philanthropy to both encourage and create a culture of large scale, strategic philanthropy. Reforms are needed to encourage this type of giving. Benefacts research shows that Ireland has been slow to institutionalize giving: there are some 164 entities (including memorial trusts) devoted to philanthropy, or one per 30,000 Irish citizens. Most Irish philanthropies are small, with only 12 distributing funds in excess of EUR 1 million (USD 1.2 million) per annum (according to Benefacts data). Government provides grant funding and supports to Philanthropy Ireland, Charities Institute Ireland, and the Social Innovation Fund to support their work in the areas of philanthropy and social innovation. In the absence of the right policies in place, however, the opportunity to gather income, other than that taken in tax for good causes, is being lost. Donors and funders of POs are free to support any philanthropic cause or organization without government pressure in Ireland.

## V. Economic Environment

Question Ten: To what extent is the economic context favorable for philanthropy?

<b>Score: 3.8</b>
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Ireland has a long history of philanthropy with a strong tradition of charitable giving and has traditionally been perceived as a generous nation. Over the past five years, Ireland has ranked consistently in the top 10 countries on the World Giving Index in terms of the percentage of people who donate money, volunteer time, or help strangers. In 2011, Ireland ranked as the number one nation for giving donations, with 79 percent of those surveyed donating money in the previous month. By 2019, this fell to 69 percent, and Ireland dropped to 7th in the rankings. Yet, recent Irish research based on CSO household budget data over a 30-year period (from 1987 to the most recent survey in 2015) reveals a concerning trend: a downfall in both the number of households giving to charity and the value of donations (Breen, Carroll, & Quinn, 2021). In 1987, 79 percent of all respondent

households donated to charity during their two-week survey window. By 2015, this figure had halved. Year on year, the number of donating households consistently declined to 38 percent in 2015. The trends in the average donation amount are only marginally better: donation value grew between 1987 and 2004 before falling dramatically between 2004 and 2015, back, in fact, to levels not seen since the 1980s (adjusted for inflation). It is hard to clearly pinpoint the factors driving these trends. They could be symptomatic of post-Celtic Tiger boom and bust Ireland. Equally, it could indicate that Irish people, as a nation, are simply less generous than their forebearers when it comes to charity. The COVID-19 pandemic, in closing down large parts of the Irish economy, has also affected public fundraising and placed additional demands on POs in the service provision field. It is too early to judge the full impact of the pandemic on Ireland's economy and philanthropic sector, but the economic consequences are likely to play out over the coming years in terms of less available state funding.

## VI. Socio-Cultural Environment

Question Eleven: To what extent are socio-cultural values and practices favorable for philanthropy?

<b>Score: 4.5</b>
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Inter-sectoral collaboration is common, particularly between the POs and the state in the areas of education, health, housing, and social welfare. POs act as public service providers, heavily funded by the state: EUR 5.9 billion (USD 7.2 billion) in 2018, according to Benefacts. This corporatist relationship has resulted in extensive government social welfare spending and a sizeable nonprofit sector, based on numbers employed (in excess of 165,000 persons). Several infrastructural organizations exist to support the development of the national philanthropic capacity: Philanthropy Ireland, the Charities Institute Ireland, and the Wheel seek to build capacity and professionalism in POs. Additionally, Benefacts, a nonprofit established in 2014 with government and philanthropic support, maintains and publishes a nonprofit database derived from publicly available sources augmented by voluntary disclosures. The database, focused on nonprofit entities established for public benefit, however constituted, aims to better assist the government, nonprofit sector, and stakeholders in order to understand the objects and performance of POs by providing reliable and rich empirical data on the sector for the first time.

## VII. Future of Philanthropy

*These questions are used to provide a general picture of the future of philanthropy in this country as well as recommendations to improve the philanthropic environment.*

Current state of the philanthropic sector

Informal, non-institutionalized philanthropy is prevalent in Ireland. Culturally, Irish people are generous by nature, and ad hoc public collections in aid of good causes are common. The sector (comprised of 32,841 nonprofits, of which approximately 10,000 are registered charities) is not yet well-organized. The greater focus of the Charities Act 2009 on financial reporting, good governance, and higher fundraising standards is spurring professionalization, but room exists for further improvement.



Three major recent events affecting the philanthropic landscape between January 2018 and December 2020

- 1) COVID-19 pandemic from March 2020 to date;
- 2) Launch of the Charities Governance Code by CRA in 2018. Charities are due to report on their compliance for the first time in 2021; and
- 3) Fall of the government in 2019 derailing a planned charity amendment act

Future development trends in the philanthropic landscape

In many ways, the outcome of the government commissioned consultation on the landscape of philanthropy in Ireland is awaited. Many ideas have been fed into this process. Independently of this, the Benefacts 2020 Report on Philanthropy in Ireland details that with the departure of the Atlantic Philanthropies, most philanthropic giving in Ireland now comes from Irish philanthropies established in the last 20 years, only a fraction of whom spend more than EUR 1 million (USD 1.2 million) per annum. Philanthropy Ireland's 2018 Report on the Tax Treatment of Charitable Organizations also highlighted that Ireland is an outlier amongst peer nations in that it does not provide a direct tax incentive to the donor. Ireland also relies heavily on income from the public sector compared to international standards. 77 percent of nonprofit revenue in Ireland is derived from the public sector, while the international average is 31 percent. There is thus much room for improvement to support emerging forms of philanthropy, and the government will have many avenues to explore as it plans its new policy in this area.

Three key recommendations to improve the environment for philanthropy

- 1) As at the time of the last report, amendment of the Charities Act is still awaited. Amendment of the Charities Act 2009 and/or the Companies Act 2014 is required to introduce uniform financial reporting standards for charities, which at present differ greatly depending upon whether a charity is incorporated or unincorporated. Incorporated charities can, under company law, file abridged accounts, avail of an audit exemption threshold, and are not obligated to follow the Charities Statement of Recommended Practice when preparing their accounts. In the interim, greater transparency could be ensured by the Charities Regulator publishing the financial statements of unincorporated charities (which account for more than 50 percent of Irish charities). No change to the Charities Act would be required to improve transparency in this manner.
- 2) A new policy of philanthropy in Ireland is urgently needed. The last government policy statement on Philanthropy dates from 2012, and while work is ongoing by the relevant government department, this work needs to be grounded in the empirical research currently being conducted in this field.
- 3) For registered charities, there is room to further build the Charities Register with fuller information on registered charities so that even coverage is provided of both unincorporated and incorporated POs.

## VIII. Philanthropic Response to COVID-19

*These questions are used to provide a general picture of the philanthropic response to the COVID-19 pandemic in this country and recommendations for improving cross-sectoral collaboration.*

Areas where the nonprofit sector and philanthropy are playing a role in responding to COVID-19

Irish POs stepped up chiefly through service provision and support line work. In acknowledging the work of the sector, the Irish government stated, "The Community and Voluntary sector has been a vital part of the response to the COVID-19 crisis, providing critical services and supports to vulnerable members of communities in every part of the country," and, "The community and voluntary sector played a key role in identifying and supporting the vulnerable, and there is a need to look at how such work can be sustained."

Innovation and new trends in the nonprofit sector and philanthropy related to COVID-19 responses

It is hard to answer this question at the moment.

Impact of COVID-19 on the philanthropic environment

It has affected the funding of many organizations that engage in public fundraising. It has forced organization staff and charity trustees to work remotely. In many cases, there have been greater demands made of charity services as a result of the pandemic, and there are certain direct services which are more difficult to deliver under COVID-19 constraints. According to a CRA survey of charities carried out in May 2020 (CRA, 2020), 55 percent of respondents said their charity's finances were uncertain or in difficulty. Of the 71 percent of respondents who said that their charities do fundraise, 90 percent stated that their charities had to cancel or postpone fundraising for 2020.

Anticipated impact of COVID-19 on the philanthropic environment in 2021

There will be a fall in charity reserves in those organizations lucky enough to have reserves. The government announced that a further Stability Fund for Community and Voluntary Organizations top-up of EUR 10 million (USD 12.2 million) will be made available to enable continuity of critical service delivery to vulnerable groups, which will help some organizations in the sector.

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