

ORGANIC LAW

1987

ORGANIC LAW OF THE BANCO DE PORTUGAL

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CHAPTER 1

Nature, head-office and purpose

Article 1

The Banco de Portugal, hereinafter called the «Bank», is a public law juridical person with administrative and financial autonomy and the nature of a public enterprise.

Article 2

The Bank shall be governed both by the provisions of this ordinance and by the regulations to be approved for the enforcement thereof as well as by all relevant legal provisions governing the activity of credit institutions.

Article 3

1. The head-office of the Bank shall be in Lisbon, with branches or agencies in all the capitals of the administrative districts.
2. The Bank may open branches or agencies in other places, as deemed necessary.

Article 4

The Banco de Portugal is the central bank of the Portuguese Republic; in such capacity and within the context of the national economic and financial policy and in order to ensure the development of the country, it will be the Bank's duty to control the internal monetary equilibrium and the external solvency of the currency.

CHAPTER II

Capital and reserve funds

Article 5

The original capital of the Bank shall be 200 million Escudos, allocated to it by State.

Article 6

1. The Bank shall have a reserve fund with no fixed ceiling formed out of any net profits made in each financial year, distributed in accordance with Article 69.
2. In addition to the fund referred to in the preceding number, the Board of Directors may establish other funds and provisions required to meet depreciation risks or losses to which certain types of values or operations may be particularly liable.

CHAPTER III

Currency issue and reserve assets

Article 7

The Bank shall have the exclusive right to issue banknotes which shall be legal tender and a compulsorily accepted universal medium of exchange.

Article 8

1. The notes of the Banco de Portugal considered to be in circulation shall be those issued by the Bank and delivered to third parties which continue to be held by such third parties until the period for exchange of those notes provided for in Article 10 has elapsed.

2. The liability of the Bank shall be confined to the notes in circulation without prejudice to the provisions of Article 11.

Article 9

1. The denominations and plates of the notes shall be submitted by the Bank for the Government's approval and their description shall be published in the Official Gazette (Diário da República).
2. The notes shall bear the date of issue and the *facsimile* signatures of the Governor or his substitute and of a Vice-Governor or an acting member of the Board on that date.

Article 10

1. The Board of Directors shall fix and announce the period for the exchange of bank-notes of any denominations or plate to be withdrawn from circulation.
2. At the end of the period referred to in the preceding number, the notes shall cease to be legal tender and shall be deducted from circulation but the Bank shall be bound to exchange them over the subsequent period of twenty years.

Article 11

1. Five years after the expiry of the period established for the exchange of the notes, the Bank shall transfer to the credit of a special account to be opened in its books the amount of the notes which were not redeemed.
2. The said account shall be kept as a fund out of which the Bank will effect the payment of such of the above notes as will be presented for exchange or refund within a period of fifteen years as from the date of that transfer.

Article 12

1. The State shall issue metal coins including commemorative coins.
2. The face value of such metal coins and the amount of their issue shall be established by agreement between the State and the Bank to be published in the Official Gazette.
3. The State shall put metal coins into circulation only through and upon request of the Bank.

Article 13

1. The currency issue of the Bank, comprising the notes in circulation and other sight Escudo-liabilities, shall be the object of an annual financial programme to be reviewed quarterly which will provide for the sequence of such issue and its developments so as to coordinate the management of the reserve assets and the credit to be granted by the Bank with the stabilization requirements and the economic development.
2. The programme referred to in the preceding number shall be prepared in close collaboration with the Finance Ministry.

Article 14

1. The reserve assets referred to in the preceding Article shall comprise:
 - a) gold coin and bullion;
 - b) special drawing rights of the International Monetary Fund under the conditions to be agreed upon with the State;
 - c) credits corresponding to payment orders issued by bodies of reputed credit on banks domiciled abroad and credits receivable at call or within one year and represented by the balances of accounts opened with such banks or with international monetary organizations or institutions;

- d) cheques issued by bodies of reputed credit on banks domiciled abroad; drafts and certificates of indebtedness payable at call or within one year, accepted or subscribed, respectively, by banks domiciled abroad; Treasury bills or other similar foreign government bonds, due or falling due within one year;
- e) securities representing the share in the capital of international monetary organizations under Article 34.

2. The Bank may include in its reserve assets any other kind of foreign assets, as it may deem appropriate, namely the credit granted by the Bank to the State corresponding to the gold tranche of its quota in the International Monetary Fund.

3. The assets mentioned in number 1 *c)* and *d)* of this Article shall be payable in a currency with guaranteed external convertibility, in special drawing rights or in other international units of account.

4. The assets referred to in number 1 shall be entered in the accounts in accordance with the procedures recommended by the International Monetary Fund.

Article 15

The part of the Bank's currency issued above the level of the reserve assets must be wholly covered by the following assets:

- a) credits granted to the State, originating from the operations indicated in Articles 23 through 25;
- b) the Bank's commercial portfolio securities;
- c) credits obtained from loans granted to credit institutions under Article 33, No. 1 *c)* and *d)* of this Organic Law;
- d) metal coins kept at the Bank's own vaults and safes;
- e) Escudo cheques owned and held by the Bank for the time required for collection thereof;
- f) credits obtained from the Bank's intervention as agent of clearing and payments systems of monetary areas;
- g) securities issued by monetary funds of monetary areas, acquired by the Bank in accordance with the provisions of agreements with the State.

CHAPTER IV

Functions of the central bank

SECTION I

General provisions

Article 16

As central bank, it shall be the responsibility of the Bank, under the direction of the Finance Minister, to perform the duties as Banker of the State, financial consultant to the Government, director and controller of the monetary and financial policy, manager of the available foreign assets of the country and intermediary in international monetary relations.

Article 17

The Bank shall ensure the centralization and compilation of the monetary, financial and exchange statistics deemed necessary for the pursuance of an efficient policy in these fields.

Article 18

The Bank shall also promote forms of cooperation among different financial institutions e.g., through the centralization of services and technical resources.

Article 19

It shall also be incumbent upon the Bank to ensure the establishment and operation of clearing houses for credit instruments.

Article 20

The Bank shall supervise the activity of the money, financial and exchange markets.

Article 21

The duties of the Bank concerning the supervision of the activities of credit, auxiliary credit and quasi-banking institutions shall be defined by agreement with the Finance Ministry.

SECTION II

Duties as Banker of the State

Article 22

1. The Bank shall be the Banker of the State.
2. For the purpose of No. 1 above, «State» shall mean the public services of the central and local governments.

Article 23

1. The Bank may open an account free of charge in favour of the State up to the equivalent of 10 per cent of the current revenue collected in the previous year and entered in the General Accounts of the State, under headings 01 through 08.

2. All the State's drawings from the said account shall be effected solely in connection with the budget revenue of the corresponding financial year and should be repaid at or before the end of such year.

Article 24

The Bank may grant to the State, through the appropriate credit operations, the funds required by the State to subscribe capital stock of international organizations operating mainly in the monetary, financial and exchange fields.

Article 25

1. In addition to the cases referred to in the two preceding Articles, the ceiling of the credits to be granted by the Bank to the State shall depend each year on the definition, by the organs responsible for the country's economic policy, of the public financing needs which will be adjusted to the programme referred to in Article 13.

2. The credit to the State referred to in the preceding number shall only include direct or indirect credit granted to public services of the central and/or local governments.

SECTION III

Monetary and financial policy

Article 26

It shall be the responsibility of the Bank as director and controller of the monetary and financial policy:

- a) to regulate the operation of the respective markets;
- b) to direct and control the activity of credit, auxiliary credit and quasi-banking institutions in order to adjust such activity to the guidelines for monetary and financial policies.

Article 27

1. To regulate the money and financial markets, the Bank may adopt the general measures required to ensure the coordination of the activities of such markets with the objectives of the economic policy as defined at the highest level.

2. In order to achieve these objectives, the Bank may, inter alia, take any or all of the following measures:

- a) fix the discount rate and other rates for the Bank's operations;
- b) define the quantitative and qualitative principles applicable to its credit operations;
- c) determine the composition of the cash holdings and other coverage assets of the monetary institutions and establish the minimum percentages which such holdings shall represent in relation to the corresponding liabilities.

Article 28

In order to direct and control the activity of the credit institutions, the Bank shall be especially responsible for:

- a) laying down the guidelines for the action of such institutions;
- b) setting the regime of interest rates, commissions or any other forms of remuneration for the operations effected by credit institutions or by any other bodies intervening in the money and financial markets;
- c) establishing the conditions to which the lending operations of the credit institutions shall be subject;
- d) ensuring the centralization services of credit risks and information.

Article 29

Not later than April 30 of each year, the Bank shall submit to the Council of Ministers, through the Finance Minister, a report on its intervention in the money, financial and exchange markets during the preceding year.

SECTION IV

International monetary relation

Article 30

The Bank shall be the exchange authority of the Portuguese Republic and, except as otherwise expressly provided for by law, no external payments may be effected without its prior authorization.

Article 31

The Bank shall be responsible for:

- a) defining the principles governing gold and foreign exchange operations in order to protect the national currency;
- b) setting the ceiling to the gold and foreign exchange assets which the institutions authorized to deal in foreign exchange can hold in deposit;
- c) setting the exchange rates and publishing them daily. The Bank may delegate its authority as regards the exchange rates for notes and coins.

Article 32

The Bank may, either in its own name or on behalf of the State and for the account and by order of the latter, enter into clearing and payments agreements or any other contracts for the same purpose with public or private similar institutions domiciled abroad.

CHAPTER V

Operations of the bank

Article 33

1. In accordance with the monetary, financial and exchange rate policy guidelines as defined at the highest level, the Bank may carry out any operations justified by virtue of its capacity as central bank namely, the following:

- a) To rediscount and discount drafts, certificates of indebtedness, invoice statements, warrants and other similar credit instruments, within a period not exceeding one year and under the conditions to be laid down by the Board of Directors;
- b) To buy and sell securities issued by the Portuguese State;
- c) To grant loans to credit or quasi-banking institutions for periods not exceeding one year in such forms as the Bank may deem appropriate, secured by:
 - i) Gold coin and bullion;
 - ii) Treasury bills and other securities issued by foreign States and listed on the stock exchange in major financial markets;
Securities issued by the Portuguese State;
 - iv) Securities issued by other national public-law juridical persons with the same privileges and guarantees of public-debt securities;
 - v) Shares and bonds issued by national or foreign private law juridical persons listed on the stock exchange.
 - vi) Drafts and certificates of indebtedness payable in the country or abroad in national or foreign currency;
- d) To open current-account credits in favour of credit institutions guaranteed by securities issued by the Portuguese State;
- e) To take deposits from the State and from credit and quasi banking institutions;
- f) To take deposits of securities issued by the State and held by credit institutions;
- g) To carry out all and any operations in gold and foreign exchange;
- h) To issue securities for a term not exceeding one year with the aim of intervening in the money market;
- i) To carry out any other banking operations not specifically forbidden by this Organic Law.

2. The Bank may, in the modes it deems advisable, pay interest on deposits or on debits on current account in the following instances:

- i) Cases envisaged in *e)* of the foregoing number;
- ii) Cash reserves of credit institutions;
- iii) Operations with international foreign organizations within the scope of international cooperation in the monetary, financial and exchange fields;
- iv) Reciprocity envisaged in bilateral agreements or contracts concluded by the State or the Bank;
- v) Cases expressly stipulated in multilateral clearing and payments agreements.

Article 34

The Bank may subscribe capital stock of foreign or international institutions with monetary or exchange duties and participate in their corporate bodies.

Article 35

The Bank shall not:

- a) rediscount, in the country, credit instruments from its own commercial portfolio;
- b) deal in stock exchange operations which are not intended for immediate settlement, even for the account of others;
- c) grant credits without collateral or with guarantees offered under terms which run contrary to the provisions of this Organic Law;
- d) promote the establishment of credit institutions or any companies nor subscribe the capital stock of those bodies except in the case of companies when envisaged in this Organic Law, when authorized by special provision or on account of repayment of credits but in no circumstances as a partner with unlimited liability;
- e) underwrite risks or insurance policies, in the latter case when the Bank is the insurer;
- f) purchase or sell goods except for the repayment of credits or due to the exercise of its functions;
- g) own real estate apart from the buildings required for its business or for welfare purposes except on account of private composition with debtors, assignment of property by debtors, public auction or other legal means of fulfilling the obligations or intended to ensure such fulfilment, in which cases the Bank should make arrangements for the settlement of such assets as soon as possible.

CHAPTER VI

Functions as Government Cashier and Depository of the Treasury

Article 36

The Bank, as Government Cashier and Depository of the Treasury in the administrative districts, shall be subject to the legal provisions governing the duties and powers of such services.

Article 37

- 1. In its capacity indicated in the preceding Article, the Bank shall be responsible for the receipt, delivery or transfer of funds, for the account of the Treasury, at the Bank's head-office, branches and agencies.
- 2. All expenses incurred with the transfer of funds for the purpose of this Article shall be paid by the Bank.

Article 38

The accounts of the State for which the Bank is responsible shall be subject, as regards writing-up and examination, to the regime of the remaining accounts of the State.

CHAPTER VII

Management and auditing of the bank

SECTION

General provisions

Article 39

The organs of the Bank shall be the Board of Directors, the Board of Auditors and the Board of Consultants.

Article 40

1. The Board of Directors shall be formed by the Governor, who shall be the Chairman, by three Vice-Governors and by seven to nine Directors.

2. The members of the Board of Directors shall perform their duties by renewable periods of five years, and may exercise their functions on temporary commission.

3. The five-year period shall terminate on the date of the approval of the accounts for the preceding financial year.

Article 41

1. The Governor, Vice-Governors and Directors of the Bank shall be appointed by the Council of Ministers following a proposal made by the Finance Minister.

2. The Governor and the Vice-Governors when designated or elected to the exercise of functions in the sovereign bodies of the Nation, may be replaced by Directors appointed for the purpose under the preceding number.

Article 42

1. The Board of Auditors shall be formed by four members, three of them appointed by the Minister of Finance and the Plan and one by the employees of the Bank.

2. From the members appointed by the Minister of Finance and the Plan one shall be the Chairman of the Board of Auditors, who has the casting vote, another shall be selected among the members of the Executive Boards or Boards of Directors of public-sector credit institutions and the third shall be a chartered accountant.

Article 43

1. The members of the Board of Auditors shall perform their duties for three-year renewable periods.

2. The duties as member of the Board of Auditors may be performed jointly with other professional duties of its members.

Article 44

1. The Board of Consultants shall comprise the Governor of the Bank, who shall be the Chairman, and the following members:

- a) The Vice-Governors and Directors of the Bank;
- b) the members of the Board of Auditors;
- c) a representative of the Government Department responsible for the economic planning;
- d) a representative of the Ministry of Agriculture and Fisheries;
- e) a representative of the Ministry of Industry and Technology; a representative of the Ministry of Internal Trade;
- g) a representative of the Ministry of External Trade;
- h) a representative of the Ministry of Transport and Communications;
- i) a representative of the Ministry of Social Equipment;
- j) a representative of the special credit institutions and of savings banks;
- k) a representative of the nationalized commercial banks;
- l) a representative of the nationalized insurance companies.
- m) a representative of each of the Autonomous Regions of the Azores and Madeira, to be appointed by the Regional Government concerned.

2. Whenever deemed convenient, the Board of Consultants may invite other institutions or certain sectors of activity to be represented thereat, with no voting power, and recommend to the Government the appointment of officials competent in the matters dealt with by the Board.

SECTION II

The Board of Directors

Article 45

1. The Board of Directors shall be responsible for all the acts required to achieve the purposes assigned to the Bank by this Organic Law.
2. The Board of Directors may, by means of a minute, delegate powers to one or more of its members or to other employees and authorize the sub delegation of such powers by establishing, in each case, the relative limits and conditions.

Article 46

1. It shall be especially incumbent upon the Governor or his legal substitute:
 - a) to represent the Bank;
 - b) to act on behalf of the Bank at foreign or international organizations;
 - c) to supervise the coordination and stimulation of the activities of the Board of Directors and to call the meetings of the Board;
 - d) to take the chair at any meeting of committees formed by members of the Board of Directors;
 - e) to direct the work the meetings which he chairs;

- f) to initial the general books, for which purpose a facsimile of his signature may be used;
- g) to act in all other matters for which he is particularly responsible by legal or contractual provisions.

2. The Governor may, by means of a minute of the Board of Directors, delegate on one or more of the Vice-Governors or Directors part of the powers and duties referred to in the preceding number.

Article 47

1. If absent or unable to perform his duties, the Governor shall be represented in the following way and order:
 - a) by the senior Vice-Governor or, in even circumstances, by the oldest in age;
 - b) by the senior Director or, in even circumstances, by the oldest in age.
2. The rule for substitution mentioned in the preceding number shall apply to the vacancies, if any.

Article 48

1. The Governor, or his substitute, shall have a casting vote at all meetings which he chairs and may suspend the implementation of the decisions taken by the Board of Directors which, in his judgement, run expressly against the law or the interests of the country.
2. The suspension shall always be notified to the Finance Minister and shall be considered withdrawn, should the said Minister not confirm it within eight days after its application.

Article 49

1. Each Director shall be responsible for one or more sectors comprising one or more sections of the Bank.
2. The allocation of sectors shall not waive the duty incumbent upon all the members of the Board of Directors, to supervise and become acquainted with the general affairs of the Bank and to submit proposals concerning any of them.

Article 50

1. The Board of Directors shall meet regularly at least once a week and extraordinarily whenever convened by the Governor.
2. *In* order to make valid decisions, the Board meetings must be attended by the absolute majority of the members in office not considering as such those who may be absent owing to the exercise of their duties outside the area of influence of the head-office or due to illness.
3. The decisions of the Board shall be taken by a majority of the members present; abstentions shall not be allowed.

Article 51

1. The Board of Directors may be divided into standing or temporary executive committees as deemed necessary to the decentralization and good operation of the services.
- 2_ The Board of Directors may delegate part of its powers to the executive committees.

Article 52

1. All matters dealt with at the meetings of the Board of Directors and of the executive committees shall be indicated summarily but clearly in the respective minutes.

2. The minutes must be signed by all the members of the Board of Directors present at the meeting and shall be underwritten by the secretary of the Board.
3. Participants at the meeting may dictate a summary of their interventions to be recorded in the minutes and may vote «defeated» as to the decisions with which they disagree.

Article 53

Appeals in the general terms of the law may be filed at the Supreme Administrative Court against all and any final and executory decisions taken by the Board of Directors, by the executive committees or by the employees of the Bank, in use of the powers delegated by the said Board.

SECTION III

The Board of Auditors

Article 54

1. The Board of Auditors shall be responsible for:
 - a) following the operation of the Bank and the observance of the laws and regulations applicable thereto;
 - b) examining the periodic statements submitted by the Board of Directors during its term of office;
 - c) making recommendations on the budget, the balance sheet and the annual accounts;
 - d) examining the books, vaults and safes of the Bank whenever it deems convenient, subject to the relevant security measures;
 - e) drawing the attention of the Board of Directors to any matters which it deems should be considered, and making recommendations on any subject which has been submitted to it by the same organ.
2. The Board of Auditors may be assisted by experts especially appointed or engaged for the purpose, or by specialized auditing companies.

Article 55

1. The Board of Auditors shall meet regularly once a month and extraordinarily whenever meetings are called by its Chairman.
2. To be effective, the decisions of the Board of Auditors shall require a quorum of the absolute majority of its members in office.
3. The decisions of the Board of Auditors shall be taken by majority vote of the attending members, no abstentions being allowed.
4. The provisions of Article 52 shall apply to the minutes of the Board of Auditors.
5. The members of the Board of Auditors shall be entitled to a monthly fee to be established by the Finance Minister.

Article 56

The members of the Board of Auditors may attend the meetings of the Board of Directors and shall have a merely consultative vote: the presence of one of them in rotation shall be compulsory at regular meetings.

SECTION IV

The Board of Consultants

Article 57

The Board of Consultants shall have powers to make recommendations on:

- a) the programme referred to in Article 13 and any revisions thereof;
- b) the annual report on the intervention of the Bank in the money, financial and exchange markets;
- c) the problems deliberately submitted to its consideration by the Board of Directors.

Article 58

Committees to study specific problems may be created within the Board of Consultants in accordance with internal regulations to be established by it.

Article 59

General Meetings of the Board of Consultants will be held regularly once in every three months; extraordinary meetings may be called at the request of a third of its members or by the Governor of the Bank.

SECTION V

Employees

Article 60

1. The employees of the Bank, including the members of the Board of Directors, shall be subject to the rules of the labour contract.
2. The provisions of the labour contract on dismissals as well as those which run counter to the legal provisions concerning directors of public enterprises shall not apply to the members of the Board of Directors.

Article 61

1. The Board of Directors shall make public, in writing, its personnel policy and create the instruments adequate to the correct implementations of such policy.
2. The personnel policy shall be defined after hearing the institutional representative bodies of the employees.

Article 62

1. The Bank may grant loans to its employees to help them purchase, build, enlarge or improve their own houses, under the same terms and conditions to be established for the employees of nationalized credit institutions.
2. The Bank may purchase or otherwise own buildings constructed for welfare purposes.
3. The amounts intended for the achievement of the purposes referred to in the preceding numbers and of other welfare purposes shall be fixed each year by the Board of Directors within the limits established by the Finance Minister and shall form a social and housing fund of the employees of the Bank to be managed by a workers' committee with powers for such purpose.

Article 63

(Revoked).

Article 64

(Revoked).

CHAPTER VIII

Organization of the Bank's departments

Article 65

The Board of Directors shall decide on the structure and operation of the Bank's departments and draw up the necessary internal regulations.

Article 66

The branches and agencies shall be responsible, under the direction, control and supervision of the Board of Directors, for the performance, in their respective areas, of the duties assigned to them.

CHAPTER IX

Budget and accounts

Article 67

1. An operating budget of the Bank shall be drawn up every year.
2. The annual budget shall be submitted to the Finance Minister not later than November 30 of the preceding year.

Article 68

1. Not later than March 31, the Bank shall send to the Finance Minister, for approval, a report, the balance sheet and the annual accounts referred to the last day of the preceding year, after discussion and examination thereof by the Board of Directors, together with the recommendations of the Board of Auditors.

2. Unless a decision to the contrary is given by the Finance Minister, the report, balance sheet and accounts shall be considered approved thirty days after the date of their receipt.

The report, balance sheet and accounts shall be published in the Official Gazette within thirty days after their approval.

Article 69

The net profits of the financial year shall be determined and distributed in the manner to be approved by executive ordinance of the Finance Minister, after hearing the Board of Directors.

Article 70

The Bank shall publish in the Official Gazette a summarized table of its assets and liabilities, indicating the items of the reserves and other cover of the issue, the notes in circulation and the other sight liabilities, as at the close of business on the 8th, 15th, 22nd and last day of each month.

CHAPTER X

General and temporary provisions

Article 71

1. The Bank shall be bound by the signature of two members of the Board of Directors.
 2. The provision of the preceding number shall not apply to the powers of the Governor, of his legal substitute or of whosoever has his delegated powers, to act under the terms of Article 46 *b*).
- The Board of Directors may, by means of a minute, delegate the powers referred to in the preceding number to the members of the Board of Directors or to other employees of the Bank and shall establish in either case the relative limits and conditions.

Article 72

The Bank may request any Government agency to supply to it, directly and free of charge, any and all information required for the performance of its duties.

Article 73

1. Unless when representing the Bank, the members of the Board of Directors as well as all the remaining employees may not be members of the management of other credit institutions or perform any other duties therein.
2. The members of the Board of Directors may not perform any remunerated professional duties outside the Bank or be members of the corporate bodies of any company.

Article 74

In order to pay up in full the capital stock of the Bank, the members of the Board of Directors shall be authorized to withdraw from the reserve fund the amount of the capital stock not yet paid-up.

Article 75

The bank-notes withdrawn from circulation up to the date of publication of this Organic Law shall be received by the Bank for a maximum period of twenty years as from the date of such publication.

Article 76

1. The public debt securities delivered to the Bank under Cause 8, No. 1, of the Contract dated June 29, 1931 shall be included in the credit to the State referred to in Article 25 of this Organic Law.
2. As from the date of entry into force of this Organic Law, the State shall pay to the Bank an amount of 15 million Escudos, until the end of year, in repayment of the securities referred to in the preceding number.

Article 77

The exercise of the management and other duties of the branches and agencies of the Bank shall be defined by internal regulations established by the Board of Directors.

Article 78

1. The Government, following a proposal of the Board of Directors of the Bank, shall issue, through the Finance Minister, the regulations of the Banco de Portugal containing the rules for the implementation of this decree-law.

2. The regulations governing the Bank up to the date of its nationalization shall remain in force with the required adjustments, while this Organic Law is not regulated.

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