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QUICK FACTS

Legal forms of philanthropic organizations included in the law: Association, Cooperative, Corporation, Foundation, Limited Liability Company

Five main social issues addressed by these organizations: Arts and Culture, Basic Needs, International Causes, Youth and Family, Social Services

Average time established by law to register a philanthropic organization: 31-60 days

Average cost for registering a philanthropic organization: USD 50

In Austria, philanthropic organizations (POs) form a very heterogeneous group in terms of their legal status because there is no specific legal form for POs. Instead, various types of legal entities can claim public benefit status (nonprofit status) and are thus eligible for specific tax alleviations. In order to qualify for this status under Austrian tax law, organizations are required to primarily pursue “public benefit, charitable, or religious purposes”, which is verified by the fiscal authorities. In fact, more than 99 percent of the approximately 125,000 POs are organized as registered associations. This legal form does not require much administrative effort regarding establishment, annual reporting, or accounting. Despite their high prevalence, associations are not an important economic force in Austria, as most are very small and do not even have paid employees, and many are active in sports, culture, and recreation. The remaining 1 percent of POs is composed of about 500 organizations incorporated as private-limited or public-limited companies, or as cooperatives. In addition, there are 700 charitable foundations (Meyer, Neumayr, Pennerstorfer, & Vandor, 2017, p. 284).

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
2022 GPEI	5.00	4.50	4.00	4.50	4.00	4.00	4.33
2018 GPEI	4.57	4.00	4.20	4.60	N.A.	4.70	4.41

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?

Score: 5.0

The vast majority of POs in Austria are organized as registered associations. This legal form does not require much administrative effort regarding establishment. It costs about EUR 30-50 (USD 36-60) to register an association, and no minimum capital is required. In order to start its activity, the association does not need an explicit confirmation from the association authority. Rather, if the association authority does not prohibit the establishment of the association in writing within four weeks after receipt of the notification of establishment, the association can begin its activities. With regard to charitable foundations, they can be founded under two different laws: under the Law on private foundations and under the Law on federal foundations and funds. Foundations under the Law of private foundations have a minimum capital requirement of EUR 70,000 (USD 85,053), and they may obtain public benefit status through the Austrian tax law. The minimum capital requirement for foundations under the Law on federal foundations and funds is EUR 50,000 (USD 60,752) and they are public benefit by law. Overall, POs are not restricted from pursuing any legal purpose as long as they pursue (exclusively and immediately) public benefit, charitable, or religious purposes. While only those private foundations that met the criterion of directness such as if they were operationally active themselves could obtain public benefit status until 2015, now private foundations that are not directly active—for example that only provide funding—have also been able to obtain public benefit status.

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

Score: 5.0

There has been no change since 2018. For more information, please see the 2018 Austria Country Report available here: <https://scholarworks.iupui.edu/handle/1805/16692>

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

Score: 5.0

There has been no change since 2018. For more information, please see the 2018 Austria Country Report available here: <https://scholarworks.iupui.edu/handle/1805/16692>

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?

Score: 5.0

Until 2009, there were hardly any income tax incentives for donations in Austria. Only since then has the law allowed individuals and legal entities to deduct donations of up to 10 percent of their taxable income or profit from the income tax (no absolute minimum or maximum threshold). Private individuals can only deduct monetary donations, but legal entities can also deduct donations in kind. However, tax benefits apply only to donations to POs that meet certain criteria. First, POs have to contribute to the public good, to emergency relief, to development aid, or to animal and environmental protection, or to collect donations for one of these purposes. The law also includes POs that engage in research and education or, under specific conditions, arts and culture. Second, POs have to be accredited by the Ministry of Finance, which requires them to have existed for at least three years, to undergo audits, and to ensure that their administrative costs do not exceed 10 percent of the donations received. POs that meet these criteria are registered on a publicly accessible list with the Ministry of Finance. Donors can thus always check whether donations to a particular PO are eligible for tax relief or not. In addition, tax benefits also apply to donations to organizations that are listed with the Ministry of Finance by law. Among them are museums and universities. In 2020, approximately 5,900 POs were registered with the Ministry (Fundraising Verband Austria, 2020). For donors, the process of receiving tax benefits for donations is clear and predictable. The administrative burden for the donation-receiving PO, however, is very high. If donors wish to deduct their donation from income tax, they need to give permission to the recipient POs to inform the tax authorities of the amount of their donation and their name and date of birth. In 2020, about one third of all donations made (about EUR 750 million, or USD 911 million) were tax deducted. While the average amount donated per individual donor is EUR 124 (USD 150), the average amount deducted is EUR 221 (USD 269).

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

Score: 4.0

In Austria, all organizations that qualify for the public benefit status under the Austrian tax law are eligible for specific tax alleviations. These are granted regardless of whether the PO receives charitable donations or not. In order to qualify for the public benefit status, organizations are required to primarily pursue—exclusively and immediately—“public benefit, charitable or religious purposes”, which is verified by the fiscal authorities each year.

Organizations with public benefit status enjoy numerous tax exemptions. They are exempt from:

- Real estate transfer tax and the real estate registration fee when receiving real estate free of charge;
- Property tax if they use the property for charitable purposes;

- Corporate income tax;
- Municipal tax if they are active in the fields of health care, elderly care, handicapped, families, children or youth; and
- Foundation entrance tax of 2.5 percent when receiving voluntary contributions (in Austria about 80% of all foundations do not have public benefit status but are private-benefit foundations).

This list is not exhaustive, as the tax exemptions for POs are numerous (also including income tax and value added tax) and some of them are quite complex (as there are many exceptions from POs' tax exemptions). Representatives of POs, civil servants, and tax advisors have often called for simplification of the relevant laws. Another challenge for POs is the legal uncertainty of whether an organization qualifies for the public benefit status under the Austrian tax law in a given year. The tax authorities check only at the end of the year whether the public benefit status is given. If not, claimed tax benefits have to be paid back. In order to provide POs with sufficient legal certainty, they claim that the status of the tax benefit be determined ex-ante by an individual legal act, e.g., an assessment notice. Overall, all POs are allowed to receive support from private donors. However, unlike other types of POs, political parties must disclose all donations of EUR 2,570 (USD 3,123) or more.

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?

Score: 4.0

There are no restrictions for donors in Austria on sending cross-border donations. Such donations do not need to be approved, are not taxed, and can support a wide range of activities. Regarding tax incentives, there is no difference whether the PO receiving the donation is resident in Austria or in another European Union (EU) or European Economic Area (EEA) country (or in a country where administrative cooperation with Austria exists). This is because Austria's position within the EU requires Austria to adopt a 'comparability' approach to ascertain whether a gift to a PO in another EU/EEA country is entitled to tax relief. POs based in these foreign countries thus have to fulfill all legal requirements that a resident PO in Austria has to fulfill. If a donor wishes to deduct donations from income tax, the foreign-based PO receiving the donation (or legacy) must be registered with the Austrian Ministry of Finance. In order to become registered, the PO has to fulfill a number of requirements, which need to be confirmed by an auditor. These include that the PO has to pursue one of the purposes that are eligible for tax deductions of donations (as already mentioned in Question 5) for a least three years and that it is only allowed to undertake ancillary economic activities. In case the foreign-based PO is a charitable foundation, there is an additional requirement that administration costs are not allowed to extend 10 percent of the donated sum. This approach has the advantage that once a foreign-based PO is registered, other donors can rely on the registered status to support the tax relief. However, due to the difficulties of establishing comparability, very few foreign-based entities are registered under this approach. Apart from these

regulations regarding cross-border donations within the EU/EEA, there is little tax support for cross-border giving to other countries (Kalss, 2020; OECD, 2021).

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

Score: 4.0

POs operating in Austria are allowed to receive cross-border philanthropic donations without any restrictions. The receipt does not need to be approved and cross-border donations are not taxed. If donations exceed EUR 15,000 (USD 18,226), however, they must be reported (per laws combating money laundering and the financing of terrorism). In the case of donations from abroad, problems sometimes arise when the donor wants to deduct the donation from income tax. For this purpose, the PO must fulfill the necessary requirements in the country of origin of the donation. Often, this requires proof of the PO's public benefit (nonprofit) status in Austria. However, since there is no assessment notice on the public benefit (nonprofit) status in Austria (as explained above), the tax deduction of the donation is not always possible (More-Hollerweger et al., 2014).

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?

Score: 4.0

The relationship between government and the philanthropic sector is usually categorized as a corporatist partnership regime. POs play an important role in social service delivery, and the production of these services is largely financed by public funds. At the same time, it is common practice that POs are involved in the process of drafting legislation. Though there is no legal obligation to involve POs, it is a well-established practice to invite POs active in the field concerned to submit comments on bills. The motivation for involving them is primarily to build a broader consensus, to learn about and avoid possible caveats of the law, and to improve its acceptance. In 2017, when a new government coalition between the People's Party of Austria (ÖVP) and the far-right Freedom Party of Austria (FPÖ) took office, this practice of informally involving POs in the lawmaking process was largely abandoned. The new government refused to engage in a structured dialogue with POs. In addition, the government repeatedly discredited POs in public (especially those working with refugees, but also others) and undermined independent media. Also, it used funding as a means of power and made cuts to funding affecting critical and diversity-oriented POs. For this reason, the international network CIVICUS downgraded Austria's status in the civic society rating in November 2018 from an 'open' to a 'narrow' civic space. Likewise, Austria was downgraded in several categories of the Human Freedom Index (HFI) from 2016 to 2018 (namely in 'Civil society entry and exit' and 'Civil society repression'). In 2019, the coalition collapsed, and under the subsequent coalition between the People's Party (ÖVP) and the Green party (since 2020), relations with the philanthropic sector have gradually improved. For this reason, CIVICUS upgraded Austria's status in the civic society rating from narrowed to open in 2020. Overall, Austria ranks among the

top 15 countries according to the HFI. That said, there have been repeated investigations of members of the Austrian government for corruption, and it remains to be seen how these will affect the relationship between government and the philanthropic sector.

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

Score: 5.0

The Austrian government—the current one as well as the governments before—explicitly supports a culture of philanthropy. In the government programs of recent periods, there have been repeated projects to promote private philanthropic engagement, in particular to promote volunteering, private philanthropic donations, and the activities of charitable foundations. From an international perspective, a large proportion of the population in Austria is involved in philanthropic giving, but the amounts donated are very small in relative terms. Furthermore, Austria has a barely developed sector of charitable foundations. In order to promote philanthropic engagement in these fields, several laws have been passed in recent years. For example, the 2009 law on the tax deductibility of donations (which has been extended several times since then) and the 2015 law on public benefit (*Gemeinnützigkeitsgesetz*) were passed to improve the framework conditions for charitable foundations. In the current government program, the tax deductibility of donations is to be further extended (to POs in the education sector), and numerous incentives are to be provided for volunteers and POs in which volunteers are engaged. In addition, a coordinating office for volunteering, POs, and charitable foundations is to be established. Overall, there is a consistent national policy for the development of philanthropy and the philanthropic sector, which is developed in close exchange with representatives of the nonprofit sector and takes into account the needs of the sector.

V. Economic Environment

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

Score: 4.0

The current economic situation is strongly influenced by the effects of the COVID-19 pandemic. Austria experienced three COVID-19 lockdowns in 2020 and 2021, and it is not yet clear when the country will be able to return to normality, nor how severe the decline in economic growth will be by the end of 2021. POs in almost all fields were severely affected by the measures to fight COVID-19, most of all by contact restrictions and the lockdowns. In response to the pandemic, the Austrian federal government initiated a nonprofit fund to grant affected POs a fixed-cost subsidy. The resources from the fund have proven their worth, although the fund as a whole was set up somewhat late in the course of the pandemic. As regards private donations, 70 percent of adults living in Austria did not change their donating behavior during the first wave of the COVID-19 pandemic (March-May 2020). According to a population survey conducted in August 2020, it was mainly those people who felt strongly affected by the pandemic (in financial, professional, or health terms) who changed their donation behavior (Litofcenko et al., 2021). Interestingly, while half of them decreased the amount donated, the other half increased their donations. A survey of POs that fundraise revealed that most POs have not suffered from a decline in fundraising income but have managed to offset the loss of street fundraising (due to contact restrictions) with income from new online fundraising tools. To sum up, economic conditions are somewhat unstable, but it does not seem that they will have a negative

impact on individual or institutional philanthropy. Rather, POs have become much more visible and recognized for their important role in fighting the pandemic, and this increased recognition could lead to improved conditions for the philanthropic sector. What is more, the forecasts for economic development after the end of the lockdowns are optimistic and give hope for an economic upswing.

VI. Socio-Cultural Environment

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

Score: 4.0

In Austria, the cultural heritage based on philanthropic values is not very pronounced. The prevailing view is that the state has to take care of the needy—and not philanthropy. This is also reflected in the corporatist welfare system, according to which POs provide a large part of all social services and these are predominantly financed by public funds. Philanthropic donations, on the other hand, play a minor role in PO funding; on average, only 9 percent of the sector's income comes from this source. Philanthropy is perceived as a supplement rather than a substitute for government activity. There is a general understanding of what POs do and the philanthropic sector is perceived as important to society, trustworthy, and accountable. In 2018–2019, however, the reputation of the sector suffered from a smear campaign and attacks of the government (see above). Surveys among citizens have shown that people's trust in POs indeed declined in 2019. Due to the important role in providing the population with health and social services during the COVID-19 pandemic, however, the recognition of the sector has increased again. Although there is no distinct philanthropic tradition in Austria, there are a number of philanthropic infrastructure organizations that are driving the development of the philanthropic ecosystem. Among them are umbrellas, academic centers, foundations, and think tanks, and they support social business organizations, enhance the conditions for charitable foundations, or promote venture philanthropy, social impact bonds, and philanthropic investment. Likewise, there are initiatives that promote inheritance donations and provide training and education in the field of fundraising. As mentioned above, these organizations have been successful in lobbying for implementing new laws that encourage philanthropic behavior, and it is anticipated that this course will continue and that social-cultural values favorable for philanthropy will rise.

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

The relationship between the philanthropic sector and the government in Austria is usually categorized as a corporatist welfare regime. POs provide a large part of all social services in Austria, and the production of these services is predominately financed by public funds (via service contracts or subsidies). Philanthropic donations play a minor role in PO funding; on average, only 9 percent of the sector's income comes from this source (Neumayr et al., 2017). This low importance of philanthropic income is related to the weak philanthropic tradition and the fact that there are (so far) very few major donors or charitable foundations. Although almost two-thirds of the adult population donate, they donate only very small amounts compared to the average donations in other Western

European countries. In order to promote a culture of philanthropy, several laws have been passed in recent years, and a number of initiatives have been taken to encourage the development of philanthropy.

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

1. The new government that took office in 2017, a coalition between the People's Party (ÖVP) and the far-right Freedom Party (FPÖ), broke with the tradition of informally involving POs in drafting bills considering their expertise. Instead, they refused to engage in a structured dialogue with POs and repeatedly discredited POs in public (especially those working with refugees, but also others). Also, it made cuts to funding affecting critical POs. Many POs were under enormous pressure and had to spend a lot of resources to fend off the permanent attacks and to make themselves heard somewhere for the interests of their clients. For this reason, the international network CIVICUS downgraded Austria's status in the civic society rating in November 2018 from an 'open' to a 'narrow' civic space.
2. The COVID-19 pandemic and the measures to fight the pandemic have affected the whole philanthropic sector. POs in the field of arts, culture, education, and sports and recreation suffered extremely from the prohibition of all events and the stay-home-order and experienced a sharp decrease in income. POs providing social and healthcare services during the pandemic faced increasing costs due to the provision of necessary protective equipment and training measures and had to handle a number of additional organizational challenges. The demand for their services often persisted or increased with the onset of COVID-19, and some vulnerable clients needed particular support. However, the newly imposed contact restrictions reduced the ability to deliver services, and operations often required complete reorganization. POs reported an increase in costs and a sharp rise in administrative expenses in order to be able to maintain the range of services offered and additional costs for equipment to protect their employees.
3. In order to support POs in the COVID-19 pandemic, the Austrian federal government initiated a nonprofit fund to grant affected POs a fixed-cost subsidy (in addition to a fund for corporations). The creation of this nonprofit fund marks a potentially significant change in the relationship between government and POs. Beyond its mere financial dimension, it is the first regulatory/legislative instrument that has legally acknowledged the nonprofit sector in Austria. It also expressed the federal government's responsibility for POs beyond the distribution of competencies for POs in Austria's complicated federal system.

Future development trends in the philanthropic landscape

There is a predictable decrease of public income, along with an increase of philanthropic income for the philanthropic sector: POs expect to benefit from the enormous wealth which was accumulated by the generations born after World War II and will be transferred in the coming decades. Therefore, it is expected that philanthropic income (e.g., inheritance donations, venture philanthropy, and impact investing) will increase and that charitable foundations and major donors will play a larger role than today. At the same time, it is expected that public funding of POs will decrease, as drastic public austerity measures are expected to follow the multibillion-dollar aid packages to contain the effects of the COVID-19 pandemic.

Three key recommendations to improve the environment for philanthropy

1. The fact that there is no legal form for POs in Austria and no "assessment notice" on the nonprofit status according to Austrian tax law leads to several uncertainties (e.g., regarding tax exemptions, cross-border donations, statistical recording of the sector). Therefore, it is recommended to provide POs with a confirmation of their nonprofit status by means of an individual legal act (assessment or exemption notice).
2. The fight against the effects of the COVID-19 pandemic demonstrated that financial slack and (public) funding instruments that allow POs to use funding more flexibly made POs less vulnerable. It is recommended to draw lessons from this in terms of private and public financing instruments.
3. At the beginning of the COVID-19 pandemic, it was mainly a few large POs that were involved in the government's crisis teams, while many small POs were left out and could not contribute their expertise and were also poorly informed. Against this background, POs are recommended to strengthen their own cooperation and to organize themselves in umbrellas in order to jointly manage resource bottlenecks in case of crisis. It also makes organizations more visible and easier to identify as a contact for social policy.

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

Austria is characterized by a corporatist welfare regime, within which POs provide a large share of all social and healthcare services. POs have therefore played a central role in fighting the pandemic. They were indispensable as they run nonprofit hospitals and organize hospital transports (e.g., Austrian Red Cross) and because they offer services to protect the most vulnerable groups of society (e.g., people in residential elderly care, homeless people, people affected by domestic violence, unemployed people, handicapped people). POs providing such social and healthcare services during the pandemic faced enormous organizational challenges. The demand for their services often persisted or increased with the onset of COVID-19, and some vulnerable clients needed particular support. However, the newly imposed contact restrictions reduced the ability to deliver services, and operations often required complete reorganization. POs reported an increase in costs and a sharp rise in administrative expenses in order to be able to maintain the range of services offered and additional costs for equipment to protect their employees. In addition to providing social services, larger POs played an important role in the emergency task forces at all levels, notably the Austrian Red Cross. Amongst others, it collaborated with the government in launching an information campaign on the pandemic, was involved in COVID-19 testing and developed and offered a smartphone app for contact tracing. Smaller POs and POs focusing on specific target groups, however, wished to have also been more involved in task forces and decision-making. Informal philanthropy also played a role in the response to COVID-19. Hundreds of initiatives have been launched to assist (elderly) neighbors with such things as grocery shopping, purchasing medications from the pharmacy, etc.

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

- **Online fundraising:** As regards income from donations, most POs managed to make up for losses in philanthropic revenues due to contact restrictions (e.g., those that prevented face-to-face fundraising in the streets). By implementing new online fundraising tools, POs' income generated by online fundraising increased by almost 60 percent on average in the first six months after the start of the COVID-19 pandemic. Umbrella organizations such as Fundraising Austria (FVA) offered workshops to improve online fundraising and provided support for POs to reorganize their fundraising strategies.
- **Digitalization:** There has been a surge in digitalization, and POs achieved enormous learning effects regarding internal organizational procedures and processes. Combined with greater flexibility and spontaneity in activities, this should increase organizational resilience in the future.
- **More online services:** Due to contact restrictions, many POs have reorganized their activities and developed services and products that are offered without physical contact, such as telephone chat groups against loneliness, therapy via video conference, or online guided tours of museums. It is to be expected that some of these services will continue to be offered, as they are particularly beneficial to people with limited mobility or those with care responsibilities.

Impact of COVID-19 on the philanthropic environment

The government has realized the important role POs play in providing stable social services. The good cooperation with governments at the federal and state level and the flexibility of POs were also highly valued. The recognition by the government was indicated by the quick establishment of funding support for POs. The creation of a so-called 'nonprofit fund' for POs hit by the effects of the COVID-19 pandemic marks a potentially significant change in the relationship between government and civil society organizations (CSOs). Beyond its mere financial dimension, it is the first regulatory/legislative instrument that has legally acknowledged the nonprofit sector in Austria. It also expressed the federal government's responsibility for CSOs beyond the distribution of competencies in Austria's complicated federal system. The relationship between the government and POs has improved. Likewise, the important role of nonprofit organizations has become visible for the general public, which has increased the appreciation of POs among citizens.

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

- The increase in POs' visibility and recognition during the COVID-19 pandemic might trigger legislative changes benefitting POs. When the COVID-19 fund for POs was implemented, government realized that it is difficult to define the beneficiaries of the fund because there is no legal form for POs in Austria, and there is no 'assessment notice' about the public benefit (i.e., charitable) status according to the Austrian tax law. Government realized that it would have been easier to make things work if a legal basis for PO would exist. Such a legal basis and a register of all POs would have been helpful to assess the economic damage to the philanthropic sector. Perhaps a lesson can be learned from this, and a law clearly defining the nonprofit status of POs will be implemented (faster).

- The fight against the effects of the COVID-19 pandemic revealed that POs funded by public grants were able to respond more flexibly to new challenges compared to POs funded by public contract services. Also, the fact that public-funded POs do not have many possibilities to generate financial slack made those POs more vulnerable to the crisis. In the long run, this might affect the funding instruments used by public authorities and the funding strategy of POs.
- It is expected that the relationship and trust between the philanthropic sector and the government, but also public administration, will improve.
- Increase in online fundraising: The restrictions imposed during the COVID-19 pandemic, especially telework and the call for cashless payments, have triggered a major digitalization push among the population. People who would never have shopped (or donated) online before did so, and many of them will continue this behavior in the future. Therefore, in the future, POs will reach more population groups via online fundraising than before. Many POs have developed and invested in new distance or online fundraising tools, which they will keep, increasing the revenues from donations via such tools.

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