



**APPLICATION GUIDE**

# **COVID-19 Litigation Support**

**DFF**

**Digital  
Freedom Fund**



## Introduction

This guide covers how to complete the application form for COVID-19 litigation support and provides some tips and best practices to help you as you prepare your application.

In case you have more questions along the way, please reach out to DFF's Programme Officer at [grants@digitalfreedomfund.org](mailto:grants@digitalfreedomfund.org).

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# 01.

## Applicant information

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Next to “full name of applicant” write the name of the contact person for the application.

Next to “organisation”, write the name of the organisation on behalf of which you are applying.

The DFF Programme Officer will provide the application number.

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# 02.

## Context and factual circumstances

### Why we ask

We are interested in funding cases that are built on a clearly identified digital rights issue, with evidence that the issue can be addressed through litigation. For the COVID-19 Litigation Fund, we will only consider applications related to digital rights violations that have been caused by or demonstrably exacerbated by responses to the COVID-19 pandemic. This is why we first want to understand the context and background to the key digital rights issue you want to litigate.

### Recommended length

½ page (1 page maximum) 

### Examples of what we want to see here

(note, these are examples, you do not need to address them all):



The factual scenario/circumstances giving rise to your case.

Details on the (expected) parties to the litigation.

Details on any specific law, practice, action or decision that you seek to challenge through the case.

The key digital rights issues that have arisen or been exacerbated by the response to the COVID-19 pandemic that you want to address through litigation, and why they are important.

A description of why you think it is important that litigation of this case begins now.

The current situation regarding digital rights in the jurisdiction where the case will take place.

When important events leading up to the planned litigation took place.

### What we don't want to see here



The general mission statement of your organisation.

Your litigation strategy (that will come later).

Broader goals and objectives (that will come later).



# 03.

## Long-term impact and benefits to the digital rights field

### Why we ask

We aim to fund cases that will set a precedent the digital rights field can build upon. We want to see that you have thought critically about embedding the litigation in a broader strategy for change related to digital rights and how your case will strengthen the capacity of and collaboration within the digital rights field.

### Recommended length

½ page 

### Examples of what we want to see here



The long-term impact describes the wider change for digital rights that you hope to see through the litigation and other relevant activities. For example, “more individuals are protected against unjustified government surveillance.”

An explanation of how the change to law, policy or society you seek to achieve through the litigation will help set a precedent for the digital rights field.

A plan to either create synergies or maximise benefits from existing synergies between your litigation activities and those of others in the digital rights field.

Demonstration of existing or planned partnerships that will strengthen interconnectedness within the digital rights field.

### What we don't want to see here



Long term impact and litigation objectives that do not clearly link together.

Descriptions that only focus on winning a specific case for the individual, without consideration for wider impact (i.e. “compensation for claimant X” or “defend x in legal suit”).



# 04.

## Concrete objectives for litigation

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### Why we ask

We want to see that your litigation strategy has clearly identified goals.

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### Recommended length

¼ page 

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### Examples of what we want to see here



Your “concrete objectives” state the specific goals you are seeking to achieve through the litigation. These objectives can refer to the enforceable remedy/remedies you have asked for in the proceedings. For example, “a court order preventing x from doing y” or “a declaration that x law is in contravention of y and should be struck out.”

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You clearly articulate the link between your concrete litigation objectives and the long-term desired impact. In other words, you explain how the outcome of the litigation will feed into your broader strategy for change.

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### What we don't want to see here



A description of the general process and activities you will carry out.

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Legal arguments (that will come later).



# 05. Outcome themes

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## Why we ask

We are using a new framework to identify and assess the contribution of digital rights strategic litigation to broader outcomes and impacts. By indicating which outcome themes most closely relate to your litigation, you will help us to better assess the type of impact your litigation will have and how we can better support you should the grant be approved. You can read more about the framework here: <https://digitalfreedomfund.org/support/resources-page/>.



# 06.

## Monitoring progress towards your objectives


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### Why we ask

We want to see that you have thought about how you will assess the progress you are making towards achieving your litigation objectives. We also want to check that you have enough resources to carry out effective monitoring activities. You may like to consider adding space in the budget for this.

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### Recommended length

¼  to ½ page 

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### Examples of what we want to see here



Examples of sources and methods you will use to check progress towards your objectives, such as court judgements, media reports, interviews, mapping or tracking tools, etc.

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A summary of any monitoring and evaluation processes used by your organisation that you can use to support the project.







# 07.

## Process for claimant and/or forum selection

### Why we ask

We want to see that you have thought critically about the best forum to litigate before and the appropriate claimant to represent in order to help achieve the pursued objectives and maximise impact.

### Recommended length

¼  to ½ page 

### Examples of what we want to see here



A description of the different forum options (including regional, international and apex courts) and claimants that you have considered.

A brief summary of why the chosen claimant and forum are the most appropriate.

Information about public opinion in the chosen jurisdiction.

A summary of ongoing activities or previous precedent in the chosen jurisdiction concerning the issue you are addressing with the litigation.

A description of the remedies the forum can provide, and the likelihood of them being granted.

A clear link to your overall litigation objectives.

### What we don't want to see here



A one word yes/no answer with no description.

Forum selection determined solely on convenience (there is no problem with litigating in the forum closest to where you are based, but please explain why you consider this most appropriate).



# 08.

## Description of litigation instances

### Why we ask

We want to see that you have assessed and planned how long the whole project may take and that you are requesting enough funding to support you through all possible instances of litigation. This can include referrals to regional courts and appeals by the other party to a ruling in your favour.

### Recommended length

¼  to ½ page  (depending on number of instances)

### Examples of what we want to see here



A numbered list stating each possible instance in the likely order of progression with a name/description for the type of court/forum for each instance.

An estimate of the likely timeline (even just in rough form based on what you know now) for a decision in each instance and important deadlines in between instances (for appeals, etc).

An estimate of the overall timeline if all possible instances of litigation are taken.

A description of the instance at which you think you are most likely to achieve your litigation objectives.



# 09.

## Litigation arguments

### Why we ask

We want to see that you have critically thought through the pros and cons of different legal arguments and chosen the arguments that will increase your chances of achieving your objectives.

### Recommended length

Up to 1 page 

### Examples of what we want to see here



A summary of the specific legal arguments you will make.

A description of how your legal arguments will be framed.

A clear link showing how your arguments will contribute towards achieving the objectives of the litigation.

A summary of who you have consulted (i.e. in-house lawyers, external lawyers, experts) in developing your legal strategy.

A description of how your legal arguments might evolve between instances of litigation.

### What we don't want to see here



Detailed legal analyses of different laws and frameworks.

Detailed arguments on an aspect of the case that does not relate to digital rights.



# 10.

## Other activities within Europe related to the subject matter of your litigation

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### Why we ask

We want to support applicants that are building on, not copying or re-creating, what is already happening in the digital rights field in Europe. If you haven't already, spend some time reaching out to other organisations in the field to see if anyone else is working (or planning to work) on the subject matter of your litigation. In what way does your planned litigation build upon, complement, or relate to these activities? If there is existing litigation, policy advocacy or media campaigns, have you considered ways to incorporate this existing work into your wider advocacy and collaboration strategy?

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### Recommended length

½ page 

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### Examples of what we want to see here



A description of the steps you have taken to identify other activities in Europe on the subject matter of your litigation.

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A summary of other key activities in Europe on the subject matter of your litigation.

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A consideration of how your planned litigation builds upon or complements these other activities.



# 11.

## Required evidence and/or research

### Why we ask

We aim to support cases based on sound legal arguments and backed up with strong evidence. This is why we want to know about the evidence gathering and research you have already done, and whether it is enough to achieve your litigation objectives. Where you need resources to help with your research, make sure that you have included this in the budget.

### Recommended length

Up to 1 page 

### Examples of what we want to see here



Research activities that directly relate to the litigation (i.e. collection of evidence or legal research to inform your legal arguments).

A summary of the evidence and research needed to strengthen your legal arguments.

A description of the research you have already done and evidence you have already gathered.

A description of the research and evidence you still need to gather, and how you will gather it.

Information on external experts you have approached to provide evidence or expert testimony.

### What we don't want to see here



Research activities not related to the current litigation.

Detailed legal analyses of different laws and frameworks.



# 12.

## Broader advocacy strategy

### Why we ask

When assessing applications, we look to see if the applicant has considered the advantages of a broader advocacy strategy around the litigation, where needed in collaboration with partners that can offer expertise not present with the applicant themselves. This can include activities like advocacy and media outreach.

### Recommended length

1 page 

### Examples of what we want to see here



A brief summary of your planned advocacy objectives and activities.

Activities that link clearly to your overall project aspirations and objectives.

Clear links between the planned litigation and complementary advocacy and outreach activities you are already doing as an organisation/individual.

Evidence that you have identified others in the digital rights field working on this or related issues, and that you have considered if collaboration would help achieve your litigation objectives.

A description of other partners or allies you will work with (media, academics, government contacts, etc).

A summary of potential forums, events or platforms (including online, like websites) you can use to amplify the goals of your project.

A description of how you will sustain the momentum of your advocacy activities between multiple instances of litigation.

### What we don't want to see here



Activities not related to the litigation.



# 13.

## Key risks and/or weaknesses

### Why we ask

We would like to support organisations that show they have thought objectively and critically about any possible risks entailed in their planned litigation, and have a plan in place for mitigating these risks. If you haven't already done a risk assessment, we would recommend you do one now.

### Recommended length

½ page

### Examples of what we want to see here



Consideration of at least three risks/weaknesses, and steps you will take to mitigate these risks/weaknesses.

Types of risk could include: physical risk to the parties involved (including the claimant, witnesses, lawyers, organisational staff), risk of setting a negative legal precedent, risk of unforeseen costs arising, etc.

Weaknesses could include: a lack of expertise, the timing of the litigation (such as other political or social events drowning out the case), a lack of partners for collaboration, etc.

### What we don't want to see here



Less than three risks/weaknesses are considered.

A response that says there is no risk associated with the litigation.



# 14.

## Appropriateness of litigation in this case



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### Why we ask

We want to see that you have actively taken onboard the findings of your risk assessment before deciding to go ahead with litigation. This is why we ask you to justify pursuing litigation despite the risks you have identified (rather than another activity that may entail less risk, for example).

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### Recommended length

¼  to ½ page 

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### Examples of what we want to see here



A consideration of other possible ways to achieve your broader aspirations, and a justification for why you still think litigation is the better option.







# 15.

## Follow-up activities if objectives are achieved

### Why we ask

We want to support cases where your involvement carries on even after a ruling is made. We want to see that you have considered how you and/or your partners will pursue the necessary follow-up needed to give concrete effect to the positive judgment obtained.

### Recommended length

¼  to ½ page 

### Examples of what we want to see here



A follow-up plan that incorporates collaborative elements.

A detailed strategy and plan for implementation that will follow from a positive judgement (i.e. what work will need to be done to see the decision enforced?).

### What we don't want to see here



A strategy that focuses solely on winning the case as an end in itself, without consideration of the follow-up needed to ensure wider impact for the digital rights field.





# 16.

## Follow up activities if objectives are not achieved

### Why we ask

We favour applicants that have considered the possible negative effects of an unfavourable ruling, and put in place steps to mitigate these effects. We also support applicants that can show how it is possible to turn a loss in court into a win on other fronts (for example, public debate or policy change).

### Recommended length

¼  to ½ page 

### Examples of what we want to see here



A critical consideration of the possible negative effects of an unfavourable ruling at any stage of your litigation.

A summary of steps you will take to mitigate any possible negative effects.

A consideration of how the litigation can still create positive wider impact, even in the case of a loss.

### What we don't want to see here



A strategy that focuses solely on achieving your objectives through winning the case.



# 17.

## Team biographies

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### Why we ask

We want to see that the team for the litigation is well resourced and has suitable expertise to successfully work on the subject matter of the planned litigation. This is why we ask you to provide a brief description of all the key staff members that will work on this project, focusing in particular on their role and tasks, and how their expertise makes them suitable for carrying out this role.

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### Recommended length

One short paragraph per staff member





# 18.

## Description of external legal team

### Why we ask

We aim to foster a strong pro bono culture in Europe and do not want to help create an ecosystem in which resource-light digital rights activists are being charged full corporate rates by law firms. If an applicant engages outside counsel, DFF will generally prefer that outside counsel work on the litigation *pro bono*.

### Recommended length

½ page 

### Examples of what we want to see here



A clear justification for working with external lawyers (i.e. no in-house legal experts, in-house lawyers are not allowed to file cases in court, they are best qualified to litigate the matter, etc).

A description of specific actions taken to secure external lawyers working pro-bono, or at a reduced, capped or fixed fee, and what has been agreed with the external lawyers.

If paying full fees, a clear explanation for why it was not possible to get a reduction.

### What we don't want to see here



General statements about the specific context being difficult to find lawyers who will work for reduced fees.

A request for commercial rate fees without a detailed justification.



# 19.

## Additional comments about the budget

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### Why we ask

We want to see that you have done a final check that the expenses you are asking for are fully explained and justified in the application. This is a chance for you to go back and check your budget again. In case any expenses are not elaborated in the application you can explain them here for clarity.

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### Recommended length

¼ page 

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### Examples of what we want to see here



Confirmation that you've checked the budget and are happy that all expenses are fully justified in the application.

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Confirmation that the budget includes funding for all possible instances of litigation that might be needed to achieve your litigation objectives (including referrals to regional courts and possible appeals by the other party).

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An explanation of any expenses in the budget that may need clarification. For example, you might like to flag expense lines you want to discuss further (for increasing/ decreasing).



# 20.

## Is DFF support necessary?

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### Why we ask

We aim to support strategic litigation cases to advance digital rights. In fact, we will often ask you to increase certain budget lines to ensure the litigation is properly resourced. However, we also do not want to help create an ecosystem in which already well-resourced organisations and law firms are getting more funding for work they could already do with support from others. In this section, you can summarise the different avenues of support you have considered (for example, academics to support research, pro bono legal support, or more collaboration with other experts in the digital rights field for communications and advocacy), and where DFF can support can add extra value.

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### Recommended length





# 21.

## Security and communications protocol

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### Why we ask

We do a risk assessment of all applications to help ensure the safety of all those involved in the application and the project, should the grant be approved. We ask you to respond to some questions to help us assess whether there are any vulnerable parties involved, so we can establish an appropriate communications protocol. In case you have your own preferences or security concerns, you may also list them here (for example, using only encrypted communications to talk about the application). DFF staff are contactable over PGP encrypted email or Signal Private Messenger.

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### Recommended length

¼ 



# 22.

## Further information


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### What to write here

Here you can add any further information you deem relevant that did not fit into the other sections of the application. You can leave this section blank if it is not relevant.

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### Recommended length

Maximum ½ page 






# 23. Appendices

## Why we ask

We have designed this application form so that, if completed fully, we will not need any further information from you in order to assess the merits of your application. However, there may be situations where related documents and links will help elaborate or support your application. Therefore, you can list the documents you are sending along with the application here. You can leave this section blank if it is not relevant.

## Recommended length

Maximum ½ page 

## Examples of what we want to see here



A numbered list with a brief (no more than one sentence) description of each document appended.

Examples could include, draft legal documents, your litigation strategy for the case, your advocacy strategy for the case, memoranda of understanding with other organisations who will be involved in the litigation, documents proving the urgency of deadlines mentioned in the application, etc.

## What we don't want to see here



General organisational strategy documents.

Research and strategy documents in languages other than English (instead provide English summaries if you think it is useful).

# About the Digital Freedom Fund

The Digital Freedom Fund supports strategic litigation to advance digital rights in Europe. With a view to enabling people to exercise their human rights in digital and networked spaces, DFF provides financial support for strategic cases, seeks to catalyse collaboration between digital rights activists, and supports capacity building of digital rights litigators. DFF also helps connect litigators with pro bono support for their litigation projects. To read more about DFF's work, visit: [www.digitalfreedomfund.org](http://www.digitalfreedomfund.org).

For questions concerning the application process, please contact:  
[grants@digitalfreedomfund.org](mailto:grants@digitalfreedomfund.org)

