

Annual Report

2017 – 2019

DFF

Digital
Freedom Fund





Digital rights are human rights



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Director's Note

We are proud to present the Digital Freedom Fund's first annual review, reflecting on our work and that of our partners since DFF's launch in the fall of 2017, through 2019.

DFF was founded on the principle that "digital rights are human rights." We draw attention to and drive action in a rapidly changing world where our rights are being impacted as quickly as evolving technologies are adopted. Simply put, digital rights are human rights applicable in the digital sphere. Beyond the more readily apparent civil and political rights, such as freedom of expression and privacy, new technologies can also impact people's access to socio-economic rights like education, housing, health, and social security.

The idea for DFF came from a 2016 convening of key digital rights actors from across Europe, resulting in a clear wish to increase investment in strategic litigation. When used in tandem with other efforts, such as advocacy and policy work, strategic litigation can help not only to protect our rights, but also to set new standards, essential in times of rapid change.

DFF was therefore founded to contribute to building a world where the digital rights of everyone, including marginalised groups, are robustly protected and advanced through the courts.

DFF supports strategic litigation in two principal ways: by providing financial support for court cases advancing digital rights (including grants for pre-litigation research), and helping actors further hone their litigation skills, while enabling increased collaboration and coordination within the field. We also facilitate pro bono legal support where needed. Our support is currently focused on three thematic focus areas: privacy and data protection; the free flow of information online; and transparency, accountability and adherence to human rights standards in the design and use of technology.

DFF's work has been since the outset, and will remain, a process of iterative co-creation and learning with practitioners and experts across the digital rights field. Over this past period, we have supported work on issues ranging from private censorship, government use of discriminatory algorithms, and the abuse of our personal data, to the use of technology to predict criminal behaviour. We have hosted and convened strategic litigation meetings on the GDPR, artificial intelligence, and how competition regulation can challenge tech giants. This report provides an overview of these and our other activities, while giving an insight into the excellent work of Europe's digital rights litigators and activists.

Though threats abound, we are encouraged to see many wonderful initiatives develop, bringing the field closer together. This fight is starting to get the attention it deserves. Witnessing our partners' ambition, we believe this is a fight we can win. DFF will continue supporting such critical efforts to guarantee our digital rights.

Nani Jansen Reventlow
Director, Digital Freedom Fund

Annual Report 2017–2019

The Digital Freedom Fund supports strategic litigation to advance digital rights in Europe. DFF provides financial support and seeks to catalyse collaboration between digital rights activists to enable people to exercise their human rights in digital and networked spaces.

Credits:

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Strategy & Process

Set up in close consultation with the digital rights field, the Digital Freedom Fund supports partners in Europe to advance digital rights through strategic litigation. DFF does not litigate itself or engage in lobbying, but focuses on leveraging the strong work European organisations and individuals are already doing. We monitor pressing issues on the horizon and listen carefully to the needs of our network while evaluating how best to support digital rights in Europe and beyond.

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“Ensuring that our human rights are protected online is crucial, especially as more and more parts of our lives enter the digital sphere.”

David Kaye, UN Special Rapporteur on Freedom of Expression, DFF Group of Friends

“You cannot rely on legislation – it’s too slow. It’s up to judges to think about the new tech challenges and apply the law. Strategic litigation is needed and there’s lots to do.”

Dorota Głowacka, Panoptikon

## Unite for Digital Rights

The Digital Freedom Fund works closely with digital rights actors across Europe to generate impact through strategic litigation. Following our first strategy meeting in February 2018, we formulated three thematic focus areas for DFF’s work:

1.

**Privacy and data protection**

2.

**Free flow of information online**

3.

**Accountability, transparency and adherence to human rights standards in the use and design of technology online**

## We do this through:



### Community

Our activities around strategic litigation are planned and run in close communication with the digital rights field. These spaces of relevant exchange contribute to building a fruitful digital rights community.



### Consultation

From our launch through to the present day, DFF has been a product of close consultation and field mapping with digital rights actors. The ideas and needs of the network remain the basis of our structure, philosophy and activities.



### Communication

Openness and transparency, drawing on the philosophy of open technology, is a core principle in DFF’s dialogue with its network and grantees, with their input and feedback shaping our priorities and strategy.

The Digital Freedom Fund is a catalyst – we seek to advance digital rights through participation and shared ownership. Supporting and connecting digital rights actors is our strategy for changing the legal, political and social landscape.

# Three Areas of Work

## 1. Funding

DFF provides grants to help litigators win strategic digital rights cases, including:

- Proactive litigation: Initiated by actors in the field, e.g. a constitutional challenge to a national law.
- Defensive litigation: Initiated by a private party or state actor, e.g. defending an individual against prosecution for cybercrime.

We also provide:

- Funding for legal, advocacy, research, and other litigation-related costs.
- Access to pro-bono legal support.

## 2. Research

For litigators wishing to explore a particular issue and make the right decisions ahead of bringing a case, DFF offers pre-litigation research grants. This might, for example, cover a comparative study between EU jurisdictions to define which offers the best conditions for a favourable litigation outcome. These grants are also available to support the gathering of evidence or any other resources required for a robust litigation plan.

## 3. Network

DFF strengthens the work of digital rights lawyers and other actors by facilitating collaborative work and skills development. This includes developing an aligned strategy on digital rights in Europe, and skill-sharing between partners and grantees.

Our strategic approach is also future-facing: besides working on established issues, we explore opportunities to fund innovative efforts on the cutting edge of digital rights.

## Beyond the Courtroom

Though much of DFF's activity is focused on litigation, we believe the digital rights field can leverage an impact beyond the courtroom that will positively affect society as a whole. That's the "strategic" part of our [strategic litigation](#) support: the acknowledgement that cases are more effective when plugged into wider movements or trends and lead to larger social or structural changes.

This implies a challenge in striking a balance between involved individuals and public interest. A claimant's victory might not send ripples beyond that person's or organisation's own sphere. On the flip side, a case might not end positively, but could nevertheless bring about broader legislative, policy or social change.

That is why DFF's grantmaking criteria favour project proposals showing not only a solid legal strategy, but a wider advocacy element that could include lobbying and media outreach. And that is also why we focus on long-term partnerships, so we can identify opportunities and areas for collaboration that could more effectively form part of a sustained strategic drive across the field.

## Decolonising the Narrative

A key tenet at DFF is that an intersectional approach is required to meet the challenges and threats to human rights in an increasingly digitising society.

Technological change disproportionately affects marginalised groups. Acknowledging that marginalisation is not a state of being, but something imposed upon others by those in power, means in turn that our very tools, outlook, and systems must be fundamentally changed. In other words: we need a [decolonising process](#) for the digital rights field. Rather than focussing on "including" those with disabilities, from minority or indigenous groups, and the LGBTQI+ community, among others, in our existing ecosystem, we need to address the power structures of that ecosystem itself.

A clear route forward is difficult to identify, but the digital rights field is not alone in attempting to broach this topic. As digital rights are human rights, they permeate all aspects of society, meaning the field does not exist in isolation. We can start by placing this concept front and centre in our approach, by continually questioning ourselves, and by learning from and building on the knowledge of others who have initiated decolonising processes in other spaces.

We invite readers and members of our network to share views, critiques and ideas with us, and work together on solutions to catalyse structural change.

# Case Studies

Over the period covered in this report, the Digital Freedom Fund has made 23 grants supporting 37 cases, across 15 jurisdictions. Following are eight representative case studies covering some of the countries, organisations and thematic areas across which we work.



“Feeling that intellectual power and commitment that we have in the network, I started to believe that we can win with internet giants – we only need to try hard enough.”

Participant, 2018 Strategy Meeting

## DFF contributes to cases in a number of ways:



### Single-instance litigation support

This project received a grant for a single instance of litigation.



### Pre-litigation research support

This project received a grant for pre-litigation research.



### Emergency litigation support

This project received a grant for emergency litigation activities.



### DFF expert panel

The grantee directly implemented feedback and/or advice from DFF's external Panel of Experts.



### Field building

The development of this project was supported through discussions and/or brainstorming at a DFF workshop, strategy meeting, or strategic litigation retreat.



### Making connections

The development of this project was supported through advice or introductions that facilitated collaboration with other organisations or contacts.



# defend digitalme

## Country

United Kingdom

## Area

Privacy and data protection

## DFF's involvement



Single-instance litigation support

## Problem

The UK Department of Education collects highly sensitive personal data about students for the National Pupil Database, which is routinely shared with other departments and third parties for academic and commercial use. Some children are labelled as young offenders, disabled, or having mental health issues, and because this data is stored indefinitely these labels can be shared and used throughout someone's lifetime.

## Case

Defenddigitalme is aiming for the UK Information Commissioner's Office or High Court to rule that current data processing practices in the context of the National Pupil Database are in breach of data protection law.

## Wider goal

To ensure, across the UK, that the information stored about students is time-bound and limited and that every family knows how, when, and why their child's data is being collected.

# Digital Republic

## Country

Regional (Bulgaria, Greece, Poland, Portugal and Romania)

## DFF's involvement



Pre-litigation support



Panel of Experts



Making connections

## Area

Free flow of information online

## Problem

Copyright is often used as a means to suppress or censor content online. The EU Information Society Directive allows for exceptions, for example in cases of parody or citation, serving to protect freedom of expression. However, as some EU Member States have transferred this directive into their national law, additional restrictions have been applied, limiting users' rights online, including their right to share information.

## Case

Working with partners in Bulgaria, Greece, Poland and Portugal, Digital Republic will research and then select the most strategic case(s) to challenge the lack of robust exceptions to copyright law. They will seek a ruling that placing further restrictions on the exceptions under the EU Information Society Directive are not permissible.

## Wider goal

To ensure that copyright exceptions are not narrowed to prohibit the rights of internet users across the EU to freedom of expression and access to information.

# ePaństwo Foundation

## Country

Poland

## Area

Accountability, transparency, and the adherence to human rights in the use and design of technology

## DFF's involvement



Single-instance litigation support



Field building

## Problem

There are concerns that an algorithm used by the Ministry of Justice in Poland to allocate cases to judges is biased. Details about the algorithm are kept secret and a lower court in Poland has ruled that the algorithm did not have to be disclosed under freedom of information laws.

## Case

The ePaństwo Foundation seeks to overturn the lower court ruling and oblige the Ministry to share the algorithm underpinning the system, allowing others to analyse and evaluate it.

## Wider goal

To set a precedent that algorithms used by public bodies are subject to freedom of information laws, providing greater transparency and accountability to ensure they comply with human rights standards.

# Gesellschaft für Freiheitsrechte and epicenter.works

## Country

Germany and Austria

## Area

Privacy and data protection

## DFF's involvement



Single-instance litigation support



Field building



Making connections

## Problem

The EU Passenger Name Record (PNR) Directive obliges airlines to collect and share personal, and sometimes sensitive, data of travellers with government authorities. The data is mined and processed, including by algorithmic systems, to profile and label travellers on the basis of whether they might be involved in a terrorist offence or serious crime. The potential bias and inaccuracy of the data processing means the number of potential criminals caught is disproportionately low compared to the much larger number of innocent people who are wrongly flagged and detained.

## Case


GFF and epicenter.works argue that this data collection amounts to mass surveillance and could lead to discrimination and further violations of the right to privacy. They seek to have the PNR Directive struck down on this basis.

## Wider goal

To prevent illegal mass surveillance of people travelling in and out of Europe, and demonstrate to the authorities and the wider public that this type of mass data processing is illegal and violates human rights.



# Hungarian Civil Liberties Union (HCLU)

| Country | Area                        | DFF's involvement                                                                                                    |
|---------|-----------------------------|----------------------------------------------------------------------------------------------------------------------|
| Hungary | Privacy and data protection |  Single instance litigation support |

## Problem

Domestic law on surveillance in Hungary does not require individuals who have been subjected to surveillance measures to be notified of that fact. That means there are no adequate safeguards in place to find out about or challenge unwarranted surveillance.


## Case

HCLU are pursuing litigation on three interrelated cases, two in Hungary and one at the European Court of Human Rights, arguing that there is no effective remedy against unlawful surveillance in Hungary.

## Wider goal

Creating a legal environment more conducive for human rights defenders and activists to challenge surveillance, particularly where it has violated freedom of expression and the right to privacy.

# Open Knowledge Foundation Germany

| Country | Area                            | DFF's involvement                                                                                                |
|---------|---------------------------------|------------------------------------------------------------------------------------------------------------------|
| Germany | Free flow of information online |  Emergency litigation support |

## Problem

Copyright law is being used by the German government to suppress documents published online, which have been legally obtained through freedom of information requests and contain information important for the public interest.

## Case

The [Open Knowledge Foundation Germany](#) is seeking a ruling that copyright law cannot be used to prevent the online dissemination of public documents obtained through freedom of information requests.

## Wider goal

To set a precedent that copyright law should not be used to prevent or deter activists and journalists from publishing the products of their investigative work.

# Open Rights Group

## Country

United Kingdom

## Area

Privacy and data protection

## DFF's involvement



Pre-litigation support



Field building



Making connections

## Problem

The personal data of internet users is shared across a vast ecosystem of advertising technology companies in real time, without users' informed consent or knowledge about who has access to their data and how it is used.

## Case

[Open Rights Group](#) carried out research, mapping, outreach and engagement to develop a network, and plan for coordinated complaints to Data Protection Authorities across the EU to challenge the AdTech industry.

## Wider goal

To transform how online advertising works, including ensuring that real and informed consent is obtained from users when their data is used.

# Panoptikon Foundation

## Country

Poland

## Area

Free flow of information online

## DFF's involvement



Single-instance litigation support



DFF expert panel



Field building

## Problem

Without explanation Facebook removed pages belonging to Społeczna Inicjatywa Narkopolityki (SIN), an organisation helping drug users with harm-reduction techniques, cutting off their most important means of communication with those they aim to support.

## Case

[Panoptikon Foundation](#) is challenging this "private censorship" by Facebook. They claim that, given the power big tech platforms have in deciding what can be shared over the internet, individuals should be able to enforce their right to free expression against such companies.

## Wider goal

To change corporate policies on content moderation towards a fair, transparent, and regulated system, and to promote a debate about private censorship on public speech and the disproportionate power of tech giants.



# A coalition of NGOs, the Dutch trade union federation and two citizens, led by the Public Interest Litigation Project (PILP-NJCM) and Platform Bescherming Burgerrechten

## Country

The Netherlands

## Area

Accountability, transparency, and the adherence to human rights in the use and design of technology

## DFF's involvement

 Single-instance litigation support

 Field building

 Making connections

## Landmark ruling!

A court in The Hague concluded in early 2020 that the SyRI system's use was a violation of the right to privacy, marking an important step towards protecting some of society's most vulnerable groups.

## Problem

The System Risk Indication (SyRI) is a risk-scoring algorithm that relies on vast pools of personal and sensitive data from across public bodies to identify those likely to commit benefits fraud. SyRI is criticised for being biased, discriminatory, intrusive, and inaccurate.

## Case

The coalition argue that the legislation underlying the use of SyRI is a violation of human rights and EU law. This is one of the first cases in Europe to challenge state use of "predictive policing" risk-scoring software, and could have implications for the widespread challenge of such technologies in policing and other areas.

## Wider goal

To prevent privacy and other human rights violations and limit the processing of data for use in risk-scoring. A broader goal is to generate public debate and raise awareness about how human rights issues deriving from SyRI and other predictive policing tools concern all citizens.

# Our Activities

Aside from our principal work supporting strategic litigation to advance digital rights, the Digital Freedom Fund engages in three broad areas of activity.

First, we facilitate workshops, allowing for collaborative strategy and case development – for example, our strategic litigation retreats. Second, we select certain pressing themes – like the impact of artificial intelligence on human rights – to explore through various projects. And third, we develop concrete resources, such as litigation toolkits, to aid peers in the field. Developed in close communication with our partners – and delivered with the help of the gifted facilitation of [Aspiration](#) – these activities are designed to support the digital rights field in responding to urgent needs as well as identifying and preparing for upcoming pitfalls and opportunities.



“Learn how to break down, decompose, and understand platform tech, so as to challenge the power structure within, and deliver social justice.”

Participant, Litigating Algorithms

## JOINT TABLES

### Strategy Meetings

At DFF's annual strategy meeting every February, experts, activists and litigators from throughout the digital rights field look back and plan ahead.

For our first edition in 2018, more than 30 participants spent two days mapping existing work being done across the field in Europe, and coming up with strategies to build on these efforts. Issues were covered from government surveillance and algorithmic profiling to net neutrality, copyright and online content restrictions, while concrete steps were identified to foment further collaboration going forward.

2019's meeting had a greater geographical and thematic diversity, with 48 organisations represented. Participants reflected on the past year's crucial developments – from police use of facial recognition to the first GDPR litigation experiences – and worked deeply on issues like AI, AdTech, net neutrality and copyright. Questions were posed on how we could sustain and scale, tell better stories to engage different audiences, build synergies between advocacy and litigation, and ensure ethical funding. An additional day was spent with the UN Special Rapporteur on extreme poverty and human rights, with participants providing input on his thematic report on the digital welfare state and its human rights implications.

We're always humbled and greatly appreciative of the time and energy invested by participants to make the annual strategy meeting such a useful gathering. Not only is it a crucial tool for DFF to continue learning from our peers and planning on how best to support them, but we hope it provides a unique space in which individuals and organisations working in digital rights can pool ideas, creativity, resources and energy and synchronise efforts towards the greater goals that concern us all.

### Strategic Litigation Retreats

One way in which DFF supports skill-building and skill-sharing is through [strategic litigation retreats](#). Two were held in 2018 in partnership with SHARE Foundation, in Montenegro and Serbia. There, litigators from across Europe engaged with crucial aspects of successful strategic litigation, workshopped ongoing cases, and strengthened collaboration. Removed from their daily routine, participants could acquire a fresh perspective in a collaborative environment. Each one brought a case they were working on to the common table, enabling them to strategise and plan together with the others through group work, plenary discussion and knowledge sharing over thematic and practical topics. Cases comprised a range of digital rights issues, from website blocking and surveillance to challenging data retention regimes. One participant called it a “great and enriching experience that gave me practical tools for future use,” while another said how the retreat “itemised how litigation strategy is but one piece of the advocacy puzzle.”



## THEMATIC DIVES

### Competition Law

Since DFF's first strategy meeting in 2018, competition or antitrust law has been a recurring topic, with many of our partners raising it as a valuable area for skill building. Following up on these requests, we hosted a training session at the end of 2019, complemented by an international panel discussion and a set of keynote talks. Participants learned of the possibilities competition law has to offer in comparison with other frameworks like the GDPR. The training unpacked the concepts and information contained in [our publication](#) "A Short Guide to Competition Law for Digital Rights Litigators," which provides an overview of the main principles of EU competition law and how they are applicable and enforceable in relation to the digital sector. Responding to the needs assessment conducted at the 2019 meeting, DFF plans to build on this topic with a second workshop in spring 2020.

### GDPR

One of the most prominent digital rights developments in recent years has been the EU's 2018 General Data Protection Regulation. This led to promising initiatives as well as some early wins for the greater protection of our personal data. First claims have been brought against major online platforms over data consent and the AdTech ecosystem, and fines have been levied on corporations such as Google. However, we are only beginning to see ways in which the regulation can be operationalised by strategic litigators.

DFF has been closely communicating with its network to see how to best identify and take advantage of opportunities, and support partners in GDPR-related litigation. This included the sponsoring of a three-day meeting co-hosted by Access Now and noyb – European Center for Digital Rights – in Vienna in May 2019 on effective enforcement actions under the GDPR, and a [follow-up meeting](#) in Berlin later in the year to further strategise around litigation opportunities. Participants joined from across Europe to consider GDPR litigation at field level as well as feed back on a nascent framework DFF is developing to help prioritise litigation goals under the GDPR.

### Artificial Intelligence

Advanced algorithmic systems are already determining many aspects of our lives, from job applications to police profiling. There is great potential in strategic litigation for challenging the negative human rights impact of the creeping use of AI. However, we are yet to see litigation activities on this topic garner speed. DFF is seeking to help lower the threshold for litigators to step in and help safeguard our human rights when AI is at play.

In January 2019, a ["virtual strategy design jam"](#) was held by DFF to explore potential litigation scenarios related to the use of AI in law enforcement. Participants developed blueprints for potential strategic cases, exploring a range of claimants, legal avenues, evidence gathering, and remedies to limit human rights harms resulting from the use of such technology by the police and judiciary, while aiming to secure greater accountability in this rapidly evolving area. The topic was picked up again at the 2019 DFF strategy meeting, with participants from 48 European organisations working on digital rights focusing on areas requiring further research and exploration.

DFF co-hosted a litigators' meeting with the [AI Now Institute](#) in November, building on the Institute's "Litigating Algorithms" series. Taking place at Mozilla's Berlin office, it brought US and European litigators with experience in challenging algorithmic decision-making through the courts together with those interested in doing so. Besides sharing best practices, participants brainstormed new case ideas and identified concrete plans for next steps.

DFF's Legal Adviser Jonathan McCully has also joined forces in his capacity as a 2019-2020 Mozilla Fellow with technologist Aurum Linh, also a Mozilla Fellow, to [develop a tool](#) to help build stronger litigation on AI and human rights and create greater fairness, transparency and accountability standards in the future. The tool is being developed through regular consultation with relevant partners and intended audiences and is due to be published in the second half of 2020.



"The retreat changed the whole way I think about strategic litigation: strategy and proactively planning is as – if not more – important as just getting on with the litigation."

Participant, Montenegro litigation retreat

## RESOURCES

### A Model Ethical Funding Policy for NGOs

In an era when civil society organisations are increasingly under the microscope, NGOs have to be cautious regarding the funds they accept. Accepting money from the corporate sector, or dealing with unsolicited donations can be a minefield. That's why, with several partners, DFF has produced a comprehensive, easy-to-use model policy for NGOs on ethical funding.

The team of partners collaborating with DFF comprised Civil Liberties Union for Europe, European Center for Constitutional and Human Rights, the European Centre for Press and Media Freedom, and Ben Wagner. Pro bono help was provided by Orrick, Herrington & Sutcliffe LLP and the Cyrus R. Vance Center for International Justice.

The Model Ethical Funding Policy is available on our website [digitalfreedomfund.org](https://digitalfreedomfund.org), under "Resources", covering all problematic questions related to NGO funding, under a Creative Commons license so interested organisations can adapt it into their own specific and useful reference tool.

### Measuring the Impact of Litigation

The impact of strategic litigation can be hard to measure, as it seeks change in a complex ecosystem of law, policy and society. Challenges to the evaluation of litigation work include the length of time the litigation can take, and a lack of sufficient resources and specialist tools in the sector, among others.

To respond to this gap, DFF has worked with an independent evaluation consultant to produce an impact measurement framework for strategic litigation, with a focus on digital rights. This framework moves beyond traditional indicators to assess broader outcomes and impacts both during and after the strategic litigation has concluded. It consists of three features: a set of typical impacts and outcomes; a method for collecting and analysing data using a methodology called "outcomes harvesting"; and a set of evidence principles to help users select high quality evidence to support their evaluation.

The impact framework incorporates the feedback from several digital rights organisations and funders. DFF now plans to pilot and use this resource over the coming years.

### Strategic Litigation Toolkits

During our strategy process, members of our network identified a need for greater skill-building and skill-sharing in the digital rights field. We responded by running a number of "strategic litigation retreats" where litigators could workshop, build strategies, and plan around their cases. At the retreats, participants were enthusiastic about the idea of developing strategic litigation toolkits with resources to guide digital rights litigators in their cases from start to finish – and DFF is working to make it happen.

The first step in producing the toolkits was to engage an external consultant to identify the field's needs and map the relevant tools already in existence that could be helpful. Based on these recommendations we are now ready to develop the toolkits themselves. As always, collaboration with our partners will ensure the development of a current and relevant resource.

### Competition Law and Digital Rights

As well as transforming consumption, digital innovation has changed how companies compete. With a change to a platform-based economy, firms are competing less for user demand, and more to become the dominant force in each market.

With the support of the NetGain Partnership, DFF worked with Aaron Khan, a barrister from Brick Court Chambers in London, to publish a "Short Guide to Competition Law for Digital Rights Litigators". The Guide provides an overview of EU competition law, compares avenues to take in face of possible infringements, and investigates ways litigators can become more involved in advocacy around the topic.



**All resources mentioned can  
be found on our website:  
[www.digitalfreedomfund.org](https://www.digitalfreedomfund.org)**

# Holding Strong Worldwide

The DFF community has taken our message to some far-flung places, reminding us that our rights matter, every moment, everywhere.





# Governance

## FUNDERS

DFF is currently supported by Open Society Foundations, Adessium Foundation, Luminate, Fondation Nicolas Puech, and Ford Foundation. Project support has also come from the Democracy and Media Foundation, Mozilla, Netgain/ Media Democracy Fund, and the Renewable Freedom Foundation.

## BOARD

### **Raegan MacDonald, Head of EU Public Policy at Mozilla (Chair)**

Originally from Canada, Raegan is based in Brussels, Belgium, where she leads Mozilla's Public Policy work in the EU. She has years of experience working as a manager, advocate, campaigner, funder and policy expert in the field of technology and human rights. Raegan has previously worked at Access Now and is a board member of EDRI.

### **Atanas Politov, Europe Director of Pro Bono at Dentons (Vice Chair)**

Atanas is based in Budapest, Hungary, where he coordinates Dentons' pro bono work across continental Europe. Atanas is also responsible for Dentons Europe's diversity and inclusion policies.

### **Nicole Rose Nieman, Development Consultant (Treasurer)**

Nicole is an international development consultant based between South Africa and Europe. She has a legal and finance background and currently advises several philanthropic entities.

### **Simone Peek, Lawyer and Partner at bureau Brandeis (Secretary)**

Simone is a lawyer and partner at bureau Brandeis in Amsterdam. Her practice focuses on complex cases and investigations on financial law, regulatory enforcement disputes, risk management and compliance. She previously worked for Clifford Chance in Amsterdam and Washington D.C.

### **Fieke Jansen, PhD candidate at Cardiff University and independent consultant**

Fieke is based in Amsterdam, The Netherlands. She researches the impact of data-driven processes on society at Cardiff University's Data Justice Lab and also works on data-based investigations, human rights, privacy and digital security. In addition, she is a Mozilla Public Policy Fellow 2019-2020.

### **Rupert Skilbeck, Director at Redress**

Rupert is specialised in human rights law and international criminal law and has directed strategic litigation around the world. He is the Director of Redress, a UK-based organisation dedicated to ending torture and seeking justice for survivors worldwide, and previously was the Litigation Director at the Open Society Justice Initiative.

### **Karmen Turk, Litigation Attorney and Partner at Pan-Baltic TRINITI**

Karmen is a partner at the Pan-Baltic TRINITI Law Firm, based in Estonia. She has expertise in AI regulations, human rights, intellectual property and media law. Karmen co-ordinates the Dynamic Coalition of Freedom of Expression and Media on the Internet of the UN Internet Governance Forum.

### **Jiefan Hsu, Independent Finance Consultant/Quant**

Jiefan is an independent finance consultant based in Amsterdam. She mainly works for pension funds and financial institutions in The Netherlands and the Caribbean. Jiefan is also a board member of the Volksuniversiteit Amsterdam and advisory board member of the Aruba Growth Fund.

## FRIENDS

The Digital Freedom Fund is thrilled to be associated with three of the world's leading promoters of freedom of expression and digital rights. DFF Friends have no formal governance role, but support DFF's mission to advance digital rights in Europe.

### **David Kaye, UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression**

David is a clinical professor of law at the University of California, Irvine. As a UN Special Rapporteur he has addressed, among other topics, encryption and anonymity, the protection of whistleblowers and journalistic sources, and the roles and responsibilities of private Internet companies.

### **Dunja Mijatović, Council of Europe Commissioner for Human Rights**

Dunja is the Council of Europe Commissioner for Human Rights and the former OSCE Representative on Freedom of the Media. Dunja is an expert on human rights, new media including digitalisation and the Internet.

### **Marietje Schaake, International Policy Director at Stanford Cyber Policy Center**

Marietje is international policy director at Stanford University's Cyber Policy Center, international policy fellow at Stanford's Institute for Human-Centered Artificial Intelligence, and president of the Cyber Peace Institute. She served as a Member of the European Parliament from 2009-19.

## BACKGROUND

DFF was initially developed with the assistance of an Advisory Group consisting of Vera Franz, Morris Lipson, Peter Noorlander, and Rupert Skilbeck.

# How to Apply



The Digital Freedom Fund supports strategic litigation on digital rights in Europe that contributes to advancing human rights in the digital sphere.

## Application Process

### Step 1

Submit a concept note summarising your planned litigation activity.

### Step 2

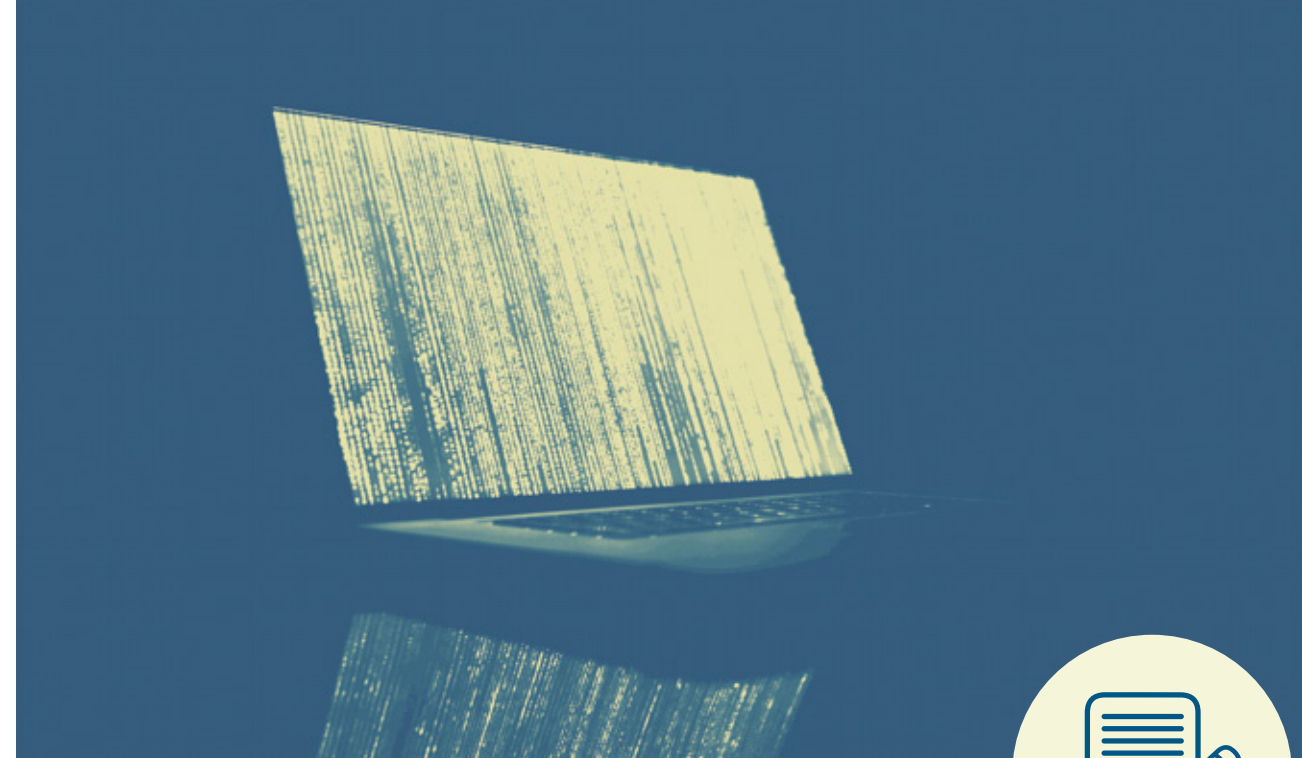

We review the concept note and decide whether to invite you to submit a full application.

### Step 3

Your application will be evaluated with the assistance of our Panel of Experts, based on which we will make a recommendation to the DFF Board.

### Step 4

The DFF Board make the final decision and we notify you of the outcome.



## Applications are received for three types of activities:



### Litigation support, for a single instance

e.g. A constitutional challenge to recently adopted legislation on government surveillance.



### Pre-litigation research

e.g. A comparative study between EU jurisdictions on which offers the best options to address a specific issue.



### Emergency support

e.g. Immediate costs related to filing an appeal on short notice.



## We are particularly interested in applications for strategic cases that:

1.

### **Advance individuals' ability to exercise their right to privacy**

For example, cases that...

Protect and safeguard individuals against unjustified government surveillance.

Clarify the scope of protection of personal data under the GDPR.

Enforce consumers' rights in relation to unauthorised collection and sharing of personal data.

2.

### **Protect and promote the free flow of information online**

For example, cases that...

Challenge the unjustified blocking, filtering and removal of online content, platforms or services.

Ensure online content is protected against the illegitimate use of copyright claims.

Ensure net neutrality and the principle of equal internet access is promoted and respected.

3.

### **Ensure accountability, transparency and the adherence to human rights standards in the design and use of technology**

For example, cases that...

Ensure the respect for human rights in the application of technology by law enforcement, such as in the context of predictive policing.

Maximise transparency in algorithmic decision making and profiling by government and private actors.

Set standards to protect individuals against the discriminatory use of technology.

We also welcome applications falling outside these focus areas if they can contribute to advancing respect for digital rights. Cases need to have the potential for impact extending beyond the parties involved and for bringing about legislative, policy or social change.



## Criteria

Case proposals are welcomed that not only demonstrate a solid legal strategy, but also a broader advocacy strategy around the litigation, with collaboration where needed with partners offering expertise the litigants do not have themselves. This can include advocacy, lobbying and media outreach.

DFF accepts grant applications concerning all Council of Europe Member States.

Find out more about our processes and criteria online at [digitalfreedomfund.org](https://digitalfreedomfund.org), or email: [grants@digitalfreedomfund.org](mailto:grants@digitalfreedomfund.org)



# Financial Reporting

October 2017–December 2019

Since October 2017, DFF has rapidly scaled up operations:



Our total **organisational spending** grew more than twofold, from EUR 493,674 in our first financial year to EUR 1,096,476 in 2019.



**Grantmaking** led spending growth, increasing from EUR 67,595 in 2018 to EUR 510,267 or 47% of the total spending in 2019.



**Field building** and other activities also nearly doubled from EUR 107,727 to EUR 198,065 or 18% of the total spending.



Finally, **operating expenses** grew in a controlled manner, increasing from EUR 299,951 to EUR 388,144 in the same period.

## Financial Management and Outlook

Over the next three years, we aim to stabilise annual spending between EUR 1.5 to 2 million. In line with our goal to maintain a streamlined operation, we plan to do this with moderate staff growth and maintaining operating costs below 40% of total costs.

DFF recognises that financial, and in turn, organisational stability relies on intelligent financial planning. This involves not only developing but also sticking to guidelines. Our three-year financial plan includes:

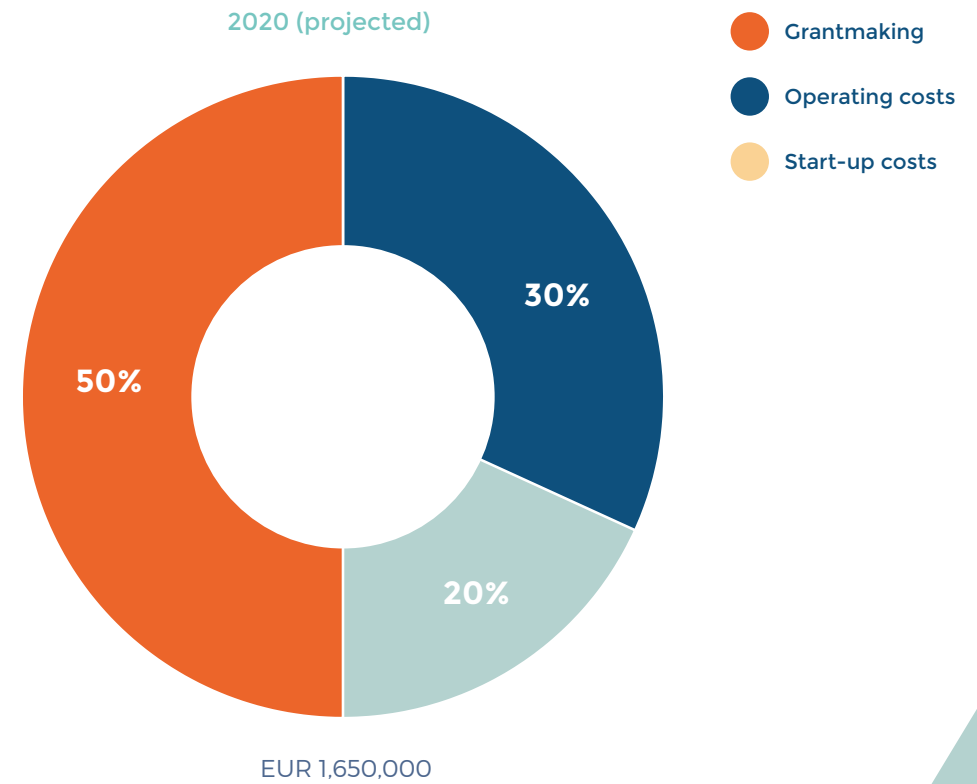
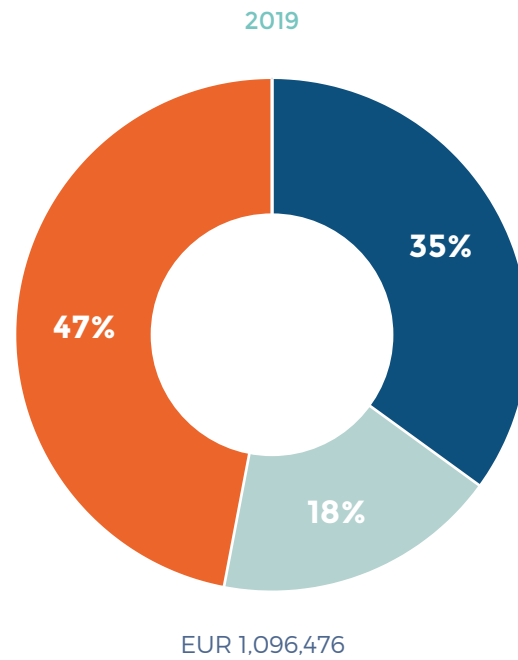
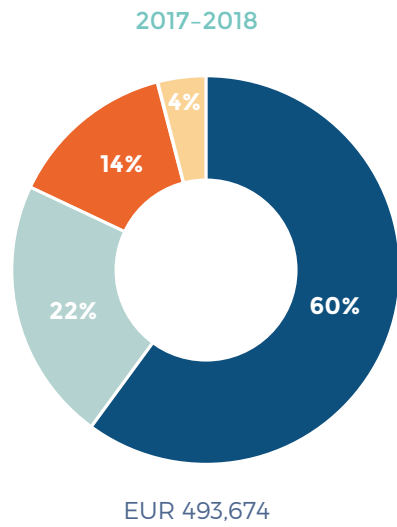
- Setting and maintaining operating ratios:**  
 DFF's goal is to dedicate approximately 50% of spending to grantmaking and keep operating costs below 40%.
- Building operating reserves:**  
 Operating reserves are useful to bridge unexpected liquidity gaps and take advantage of unforeseen opportunities. DFF aims to build reserves equivalent to three months or more of operating costs.
- Undergoing external audit:**  
 Having an external auditor review DFF's accounts assures all of DFF's stakeholders that funds are being managed diligently.
- Diversifying funding sources:**  
 Over-reliance on a small group of donors could cause DFF to lose flexibility in being able to respond to the needs of the digital rights field. DFF seeks out funding from a wide range of sources and particularly looks for new opportunities for unrestricted funding.



"You go to these meetings, and you have great conversations and take away inspiration and knowledge."

Caroline Wilson Palow, Privacy International

## FINANCIAL REPORTING



### Field building events 2018:

1. DFF Strategy Meeting 2018
2. DFF Litigation Retreat – Montenegro
3. DFF Litigation Retreat – Belgrade

### Grants 2018

1. 3 grants; volume of EUR 67,595

### Field building events 2019:

1. DFF Strategy Meeting 2019
2. One Year after the GDPR Meeting
3. Field and Academia Meeting
4. Unlocking the Strategic Litigation Opportunities of the GDPR Meeting
5. Strategic Litigation Meeting: Litigating Algorithms
6. Competition Law Training

### Grants 2019

1. 18 grants; volume of EUR 510,267

## 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.



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Digital rights are human rights



[www.digitalfreedomfund.org](http://www.digitalfreedomfund.org)

