

Annual Report

2020



Digital
Freedom Fund



Annual Report
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2020

DIGITAL RIGHTS
ARE HUMAN
RIGHTS



Annual Report 2020

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.

This report was published in Berlin, Germany in 2021.

Credits:

Nani Jansen Reventlow speaking at re:publica 2015
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Annual Report Digital Freedom Fund 2020

Director's Note

Our first annual report last year reflected on a productive first period for the Digital Freedom Fund. We reported on digital rights initiatives that would continue throughout 2020, notably case support and field building on diverse topics like competition law, the ramifications of artificial intelligence (AI), and more. But above and beyond our continued work in such pressing areas, 2020's particular challenges added urgency and complexity.

The spread of the COVID-19 pandemic, as well as bringing enormous social and economic issues and a crushing loss of human life, posed a grave crisis to digital rights. Many governments resorted to tech-solutionism to tackle an unprecedented situation. New threats have included invasive "Corona apps" or the abuse of emergency laws to expand digital surveillance. Thermal scanners arrived in airports, workplaces, and schools, and AI has been used to allocate health resources. Now with global vaccination rollouts, other issues are affecting digital rights, for example, access to the vaccine and immunity "passports".

As any organisation, DFF had to quickly adapt to the new landscape. That meant finding new ways not only of working together as a team, but of connecting with our field, and finding novel means to provide support. Litigation gatherings and strategic meetings continued, but online, and we leveraged this as an opportunity to connect more litigators across the globe.

With rapid turnaround thanks to our wonderful team and funders, we established a dedicated COVID-19 Litigation Fund to support strategic litigation challenging the digital rights impact of pandemic response measures. Digital rights practitioners were not alone in suffering from difficult working scenarios, with home schooling and other issues thrown into the mix. Yet many of our community rose to the challenge impressively quickly, identifying avenues for impactful litigation. Through the Fund, we provided nearly EUR 600,000 of grants supporting seven litigation projects and up to 22 instances of litigation. This marked the first time DFF has provided grants for long-term litigation support. Building on this experience, we will offer long-term grants for all cases starting 2021.

The pandemic has dominated, and given new direction to, many of our core digital rights issues. At the same time, we are of course retaining focus on other important areas of work. For example, we built on groundwork done in 2019 by continuing to develop a decolonising process for the digital rights field with our project partner EDRI. In the wake of the Black Lives Matter protests, more attention has fallen upon issues at the intersection of racial and social justice and digital rights. Additional to this process, we are excited to be initiating a programme for developing litigation, policy, and advocacy work in this area.

Read more about this, and many other updates from 2020, in the pages of this report. One thing the current crisis has shown us is how resilient and dedicated the digital rights field is, and how unexpected problems can spur creativity and passionate resistance. Only by listening carefully and building strong relationships with our partners across the field can we ensure we're in the best shape to support digital rights in a rapidly changing world.



Nani Jansen Reventlow
Director, Digital Freedom Fund

The background of the page is a complex, abstract pattern. It features a teal-colored upper section and a yellow lower section, separated by a horizontal line. The pattern consists of numerous thin, overlapping lines and shapes that create a sense of depth and movement. The lines are primarily horizontal and vertical, but some are diagonal, creating a grid-like structure. The overall effect is a modern, geometric design.

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What is DFF?

The Digital Freedom Fund advances digital rights in Europe through supporting strategic litigation. With all our activity designed in close consultation with digital rights actors, DFF exists to support and leverage the impressive work of the existing field. Beyond creating and implementing grants, workshops, and resources, we also carefully monitor current and emerging trends, so we can best strengthen and advance digital rights in Europe, and beyond.

“DFF has the capacity to create events that bring us all together, they want to bring in the right people and the people who need to exchange, and let them deal with their own issues and agenda, helping to make sure it’s a free, open, and creative environment. DFF are a facilitator that helps projects be created”

–2020 survey respondent

“It was almost a desert before Digital Freedom Fund”

–2020 survey respondent

Keeping Digital Rights in Sight

DFF has devised three thematic focus areas for our work:

1. Privacy and data protection

2. Free flow of information online

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

We do this through:



Community

Our activities are planned and run in close communication with the digital rights field, providing spaces of relevant exchange contributing to building a fruitful digital rights community.



Consultation

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



Communication

Openness and transparency through technology is a core principle in DFF’s dialogue with our network and grantees. Their input shapes our strategy.

Founded in 2017 in response to calls from the digital rights field, the Digital Freedom Fund’s role is as a catalyst, facilitator, and supporter. We have listened and continue to listen carefully to activists, litigators, and organisations on the forefront of the battle to preserve and advance digital rights across Europe. Our annual strategy meeting is one exemplary opportunity where the sector can flag issues, call for support, and otherwise help us plan our activities in line with the DFF Theory of Change. For each event we share agendas in advance, and always request and take on board feedback afterwards. We remain open to your views and suggestions at any time. Feel free to drop us a line at: info@digitalfreedomfund.org.

Three Areas of Work

1. Funding

DFF provides grants to help litigators bring 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, and access to pro-bono legal support.

2. Research

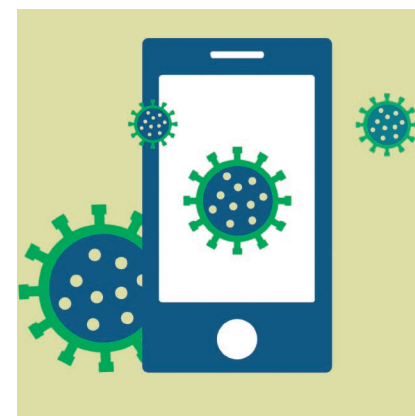
DFF offers research grants to litigators keen to explore a particular issue ahead of bringing a case. This might, for example, cover a comparative study to see which EU jurisdiction is most conducive to a favourable outcome. These grants can also be used to support evidence and resource gathering to facilitate a strong plan for litigation.

3. Network

DFF strengthens the work of digital rights actors through facilitating collaborative work and skills development. This includes honing an aligned strategy on digital rights in Europe, and skill-sharing between partners and grantees. This is also future-facing: besides working on established issues, we explore opportunities to fund innovative efforts on the cutting edge of digital rights.

Highlighted Activities

Developed in close communication with our network, our activities include organising meetings, seminars and workshops to foster collaborative strategy and case development; selecting specific themes to explore through various projects; and developing concrete resources such as toolkits to aid peers. Here are some examples, with a focus on 2020.



COVID-19

With the arrival of the pandemic in 2020, it was clear the digital rights issues we were already discussing would be exacerbated by the new conditions. Increased surveillance, tracking of populations with little regard to privacy, and the worsening of social divides were all compounded by a greater digital reliance due to lockdown, and rapid digital responses from governments under pressure. DFF quickly launched a COVID-19 litigation fund to support cases related specifically to digital rights in the pandemic context. Two grant application calls took place in June and September, and DFF approved grants supporting seven projects covering up to 22 instances of litigation. [More on p.48.](#)



Decolonising

In summer 2020, the Black Lives Matter protests in the USA brought issues of systemic racism into the worldwide spotlight like never before. This echoed discussions we had been undertaking with our community on how to initiate a process of decolonising the digital rights field. The topic bookended our year, with much discussion at our February strategy meeting and a dedicated workshop in December. [More on p.18.](#)



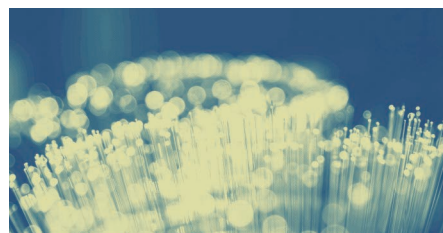
Digital Welfare

As access to social services gets increasingly pushed online, algorithmic biases, problems of access, and other issues are threatening human rights. Since early 2019 DFF has been discussing with the field what can be done. In early 2020 we distilled these conversations into the foundation of a litigation strategy. The result was a document laying out a vision for strategic litigation on the digital welfare state. [More on p.32.](#)



Artificial Intelligence

We are only now starting to see litigation activities related to the automated processes that govern aspects of our lives from health to job applications, policing, and finance. After strong work in 2019, we continued into 2020 with a highlight being our October workshop, entitled "AI in the Time of COVID-19." [More on p.24.](#)



Competition Law

As tech giants further consolidate their dominance in light of the pandemic, competition law remains a promising framework for litigating to protect digital rights. After our first training on the topic in December 2019, a needs assessment showed many participants required further support. Hence, we held a second competition law workshop in June 2020. [More on p.28.](#)



Strategic Litigation Retreats

In mid-November, DFF coordinated a four-day virtual strategic litigation retreat. The format built on previous retreats held in 2018 in Montenegro and Belgrade, but was revised for an online format. The focus of this format is to create a co-learning environment where participants can enhance their strategy for specific cases. Workshopped cases included litigation challenging unfair algorithmic management and classification of gig workers, internet shutdowns in Belarus, and targeted surveillance of lawyers' digital communications in Ukraine. There was also a case utilising the GDPR to facilitate access to information for victims of historical abuse. To help replicate the retreat aspect of the event, DFF experimented with new social activities such as a virtual cook-a-long and an online music concert. Look out for more in the future!



Annual Strategy Meetings

Since DFF's founding, our annual strategy meetings have been a place to gather the network and workshop priorities along the lines of our Theory of Change. We had the good fortune to hold our February 2020 edition just before the pandemic forced all meetings online, and many of the issues covered proved to be highly relevant in the new pandemic context. [More on p.16.](#)

Annual Strategy Meeting

Few could have predicted how 2020 would unfold. In February – when we could still meet in person – 60 digital rights experts from our network gathered for our third annual strategy meeting. Little did we know how our discussions would become ever more relevant in light of the COVID-19 pandemic.

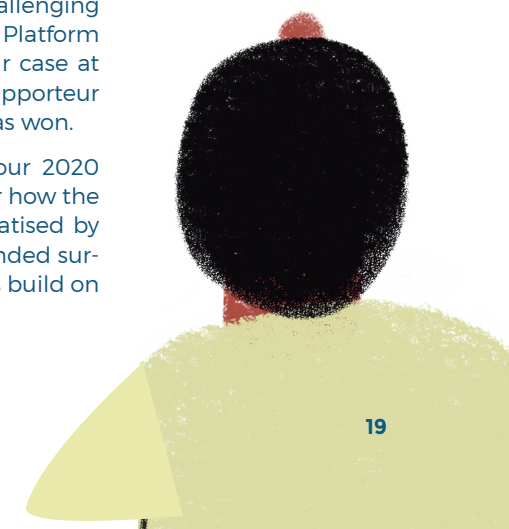
Over three days we dove into topics from artificial intelligence and algorithms to the climate struggle and labour rights. Case studies examined facial recognition technology and algorithmic misuse, private censorship and adtech reform, and a consultation on AI and human rights led to plans for further investigation.

With the climate crisis at tipping point, we explored the junction where environmental issues and digital rights meet. Conversations looked at the two fields' intersection – in surveillance of activists, and smart monitoring of energy consumption. The digital welfare state provided food for discussion too. We explored how to litigate against digital monitoring, profiling, and punishment of marginalised populations seeking state support. Decolonising the digital rights field is a giant task, which has prompted our reflection for some time now. Here, space was held to challenge our own embedded bias, and brainstorm how to move forward in dismantling systemic oppression, while creating a digital rights landscape truly inclusive from the ground up.

Besides offering an opportunity for peers to interact, our annual strategy meeting sparks new action and informs DFF's activities. It enables us to hone our focus areas and advance new ones. It also provides the chance to listen to the topics litigators feel are necessary for skill building or specific grant making. Outcomes have included further litigation meetings focused on specific thematic work, which in turn have spawned cases. What's more, DFF has developed resources based on conversations at strategy meetings, such as our model ethical funding policy and guide to competition law. These meetings are invaluable for listening and exchanging, to understand how DFF can better support the field.

Finally, the meetings have been golden opportunities for litigators to explore collaboration on cases. This has sparked cross-border litigation projects such as that of Germany's Gesellschaft für Freiheitsrechte and Austria's epicenter.works on a data protection challenge. Also, the NGOs challenging a Dutch risk assessment system (SyRI), PILP and Platform Bescherming Burgerrechten, found an ally for their case at our 2019 meeting, when they invited UN Special Rapporteur Philip Alston to submit an amicus brief. The case was won.

Rich experiences and fruitful outcomes marked our 2020 strategy meeting – though we were soon to discover how the digital rights landscape would be further problematised by the pandemic. Follow-ups in today's reality of expanded surveillance, control, and increasing online life can thus build on the fantastic work achieved here.



Decolonising the Digital Rights Field

“One of the major assumptions is that there’s a kind of universal user who is not racialised, is not marked by gender, sex, or class.”

—Ruha Benjamin, Professor of African American studies at Princeton University

“This history is not your fault, but it is absolutely your responsibility.”

—Nikki Sanchez, academic, Indigenous media maker and environmental educator

Since early 2020, the Digital Freedom Fund and European Digital Rights (EDRi) have begun working on a decolonising process for the digital rights field. After a year when Black Lives Matter protests brought greater public focus to systemic racism, and COVID-19 exacerbated difficulties for oppressed communities, the work has taken on even more urgency. But what does “decolonising” mean, why is it important — and what are we doing about it?

Decolonising Explained

In our pursuit of a more just society, in which the rights of marginalised groups are protected, we cannot overlook the systems that perpetuate this injustice. That’s why the Digital Freedom Fund, along with EDRi, is initiating a decolonising process for the digital rights field.

In her TEDx talk, “Pedagogy of the Decolonising”, Quetzala Carson explains colonisation as “when a small group of people impose their own practices, norms and values [taking away] resources and capacity from indigenous people, often through extreme violence and trauma.” But decolonising is not only about formerly colonised territories – all our societies have been constructed upon unequal hierarchies, appropriation, and abuses of power.

To create a truly equitable future we must therefore dismantle this embedded racism and oppression. Of course, this includes our own field of digital rights. But does the relatively new digital world also suffer from historic, endemic problems? The short answer is yes.

“Algorithms are just opinions embedded in code,” says data scientist Cathy O’Neil. There’s a common, mistaken assumption that technology is neutral. Yet the apps, algorithms, and services we design reflect a conceptualisation of the “average” user. If designers are predominantly male, privileged, able-bodied, cisgender, and white – as they are in Silicon Valley – so, generally, is the imagined user.

Talk of “decolonising” doesn’t (just) mean ensuring representation of diverse groups in the technological workforce. The core is that our very technology is built on data that reflects systemic racism, sexism, classism, and other forms of oppression. This has real-life consequences. It could relate to how a bank algorithm measures a person’s eligibility for an account or loan, or how an app monitors health to calculate insurance premiums. In such ways discriminatory AI systems strengthen already existing, unequal power structures.

Unless a conscious effort is made, systems built on such data will replicate such historical preferences. For this, we need a digital rights field that is aware of these problems and properly equipped to tackle them. Though we cannot, from our position, take on all of society and its power structures, we can begin with the digital rights field, where we hope to begin to make a change.

Ground Work

Though the task of decolonising the digital rights field seems gargantuan, DFF and EDRi are driven by the vision of a different future which has emerged through our conversations with stakeholders.

The need for change has been observed in recent years. We have seen a lack of representation in the field of many of the people whom we're seeking to protect. The (near) absence of people who are racialised, queer and trans, working class, and with a disability affects our work and perspectives more than we can know. It creates blind spots which compromise our ability to effectively uphold the digital rights of all in society, particularly those of the most marginalised.

Limited engagement with communities outside Europe also means missing out on necessary learning to understand the rapidly changing global picture – how technology is advancing and how digital rights everywhere are attacked and defended. A wider perspective is at stake here too, concerning the extractive nature of surveillance capitalism. We stand to gain more if we situate our fight within a much longer trajectory of dismantling colonialism, with data relations the new commodity of our time.

Concretely, this problem shows itself in our own work. Even our most pivotal tools have no answers for the most serious issues facing marginalised communities. So far, data protection, privacy rights, and the GDPR have been of limited use in protecting against group-based threats and the potential for discriminatory algorithmic profiling. The mechanisms work well for informed and privileged individuals, but less so for others, for whom data protection was not modelled. We cannot talk about harmful technologies based on skewed design if we don't recognise that the same critique also applies to our own legal tools.

So the need for change goes beyond changing the people in the room. It's about ensuring that all our different kinds of experience are reflected and valued in the field – in our tools, work, and approach.

Algoracism

The discriminatory use of algorithmic decisions based on people's historic data and decision patterns has led to the coining of the term "weblining." It refers to to the 1930s real estate practice in the US of redlining, by which African American families were prevented from moving into white neighbourhoods. Nowadays datasets record nearly every aspect of our lives, informing decisions on us as employees, consumers, and clients. Labels assigned to individuals and indicating supposed reliability or potential value can cross over into many aspects of life and affect access to a vast range of services.

Finance	With ever-increasing automation of financial services, it is not only the right to privacy that's under threat. Access to financial services, such as banking and loans, can be a decisive factor in a person's ability to pursue economic and social wellbeing. Denial of credit to marginalised groups based on discriminatory algorithms therefore impacts upon their economic, social, and cultural rights.
Health	As more and more actors move into the health data space, a failure to protect sensitive data can endanger rights to social protection, healthcare, work, and non-discrimination. It may deter individuals from seeking diagnosis or treatment, which in turn undermines efforts to prevent the spread of a pandemic like COVID-19.
Immigration	As part of the UK government's "hostile environment" policy, for example, Home Office immigration officials can access immigrants' health profiles to aid evaluation of their status. That means a person might avoid getting medical help if doing so could affect their status, even potentially resulting in detention and deportation. In this way, automatic data profiling on immigrants can have an impact on rights and access to services.

These are just a few examples of the drastic real-life consequences of algorithmic discrimination.

Pacing Change

Of course, decolonising must first happen within ourselves. In our 2020 February strategy meeting, sessions explored how we could unlearn deeply held biases and re-educate ourselves. We discussed how to acknowledge privilege and work to change the system from a position of power. And we reflected upon how to actively start conversations with people about these difficult issues.

We started early in the year with a process of listening and learning. In March 2020, we began speaking to organisations, collectives, activists, and others currently outside the digital rights field to understand how they engage with digital rights issues. Similar conversations were then held with organisations and funders within the field, to discover how they engaged with the digital rights of marginalised groups, like people of colour, LGBTQI people, people with a disability, and refugees. What processes of change have they seen work?

Global mainstream news in summer 2020 took a break from COVID-19 to display powerful images, videos, and op-eds about the Black Lives Matter protests in the United States responding to horrific police brutality and the murder of unarmed Black civilian George Floyd. Discussions about systemic racism broke out worldwide, throwing such decolonising work into the limelight.

In the now established pandemic tradition, we convened online in December 2020 with 30 participants for an online gathering on the topic. We began by collectively envisaging a decolonised digital rights field. If together we built one in which all groups have their voices heard, working to protect the digital rights of all, what would it look like? And what could it achieve? This thought exercise was an integral launch point for working out the building blocks to get us there.

Our conversations led on to planning the design phase – in which we collectively design a decolonising programme for the field. We finished a profoundly thought provoking year with many practical suggestions and deeper questions for further reflection.

Our next task is to harness the image of the design phase from this gathering, the over 50 individual conversations we had over the past months, and learnings from other decolonising processes. This includes taking into account some of those deeper questions and other preparation needed before

starting with this next phase of the work.

We are operating in a difficult and adverse context where power imbalances and inequalities are growing. We will not get there alone. Social change is hard work. But our work in 2020 has left us galvanised to continue striving towards our collective vision.

We are deeply grateful to everyone who made time to engage with us on these challenging questions, particularly during such a trying year. We are especially grateful to those whose personal identity is at the centre of this conversation, considering the energy it requires. And we recognise how much work there is still to do – anyone who wishes to be part of the conversation is very welcome.



Future Thinking

Knowing there is a long way still to travel in this decolonising process, DFF will continue this work in 2021. In addition to this, and again in partnership with EDRI, we are beginning a collaborative process to examine racial, social, and economic justice in the digital age – “Digital Rights for All”. From a needs assessment with organisations working in these fields, we will work with actors interested in moving “offline” issues into the digital context. This will be done through strengthening skills, and by developing a corresponding advocacy, litigation, and policy strategy through a series of workshops and consultations. Keep an eye out on our blog and other channels to stay abreast of this crucial line of work.

All About AI

Though artificial intelligence today is more about algorithms than cyborgs, it has a huge impact on human rights. Since early 2019, DFF has followed this theme in consultation with the digital rights field, to define issues and evaluate how to respond strategically. The COVID-19 pandemic has accelerated the rollout of new technology by governments, bringing into sharper focus the need to regulate how AI is developed, procured, and used.

"I really find hearing from other litigators in this space enriching simply because there are so few colleagues even at home who are deep in these challenges and because exposure to the various laws and iterations of opportunities available in other jurisdictions helps me think through what's possible and reasonable to expect in [my country]"

—2020 AI in the Time of COVID-19 meeting participant

That's why, in October 2020, DFF held a three-day workshop building on our previous work on this theme. AI in the Time of COVID-19 gathered participants at the forefront of challenging state use of automated decision-making systems (ADMs). The aims were to map out technologies adopted in pandemic response, draw lessons from successful cases, and identify next steps and best practice for related litigation and advocacy.

Though COVID-19 responses have differed from country to country, a commonality was governments turning to technological solutions to monitor populations and enforce safeguarding. Yet even pre-pandemic, data-driven technologies, particularly ADMs, were already governing increasing areas of public life, from healthcare to law enforcement. To authorities, such automation has been a seemingly cost-effective solution amid rising spending and cuts to social services. With a quick response needed to the unprecedented crisis, then, governments could push out COVID-19 technologies without scrutiny, despite far-reaching human rights consequences. Some issues identified by participants at our workshop were:

01.

A rise in surveillance

Facial recognition and other cutting edge tools are often used to invade privacy and exert excessive control over populations.

Repercussions of error rates

Faulty assumptions can be multiplied through their interrelation with other systems. For example, labelling of certain individuals as "at risk" could affect access to services.

02.

03.

Algorithmic bias

Racial, gender, and class bias embedded in technological design is reproduced, for example through how certain types of people or communities are deemed to be "at risk".

Failure to carry out impact assessments

The rush to deploy solutions owing to pandemic urgency meant procedural checks were not carried out.

04.

05.

Lack of transparency and oversight

Often tools are provided by private companies, whose proprietary protection means less accountability even than state actors.

Disparate impacts

ADMs reproduce and exacerbate existing structures of inequality, for example through risk assessment, labyrinthine processes, and dehumanising services.

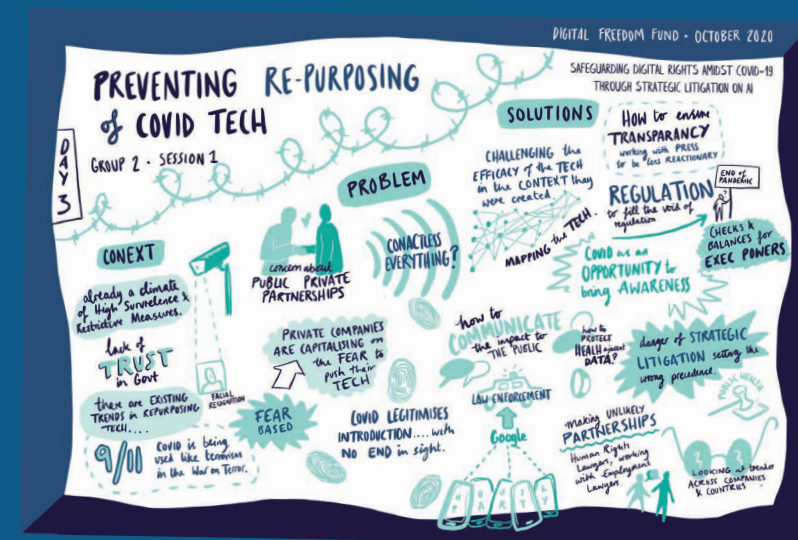
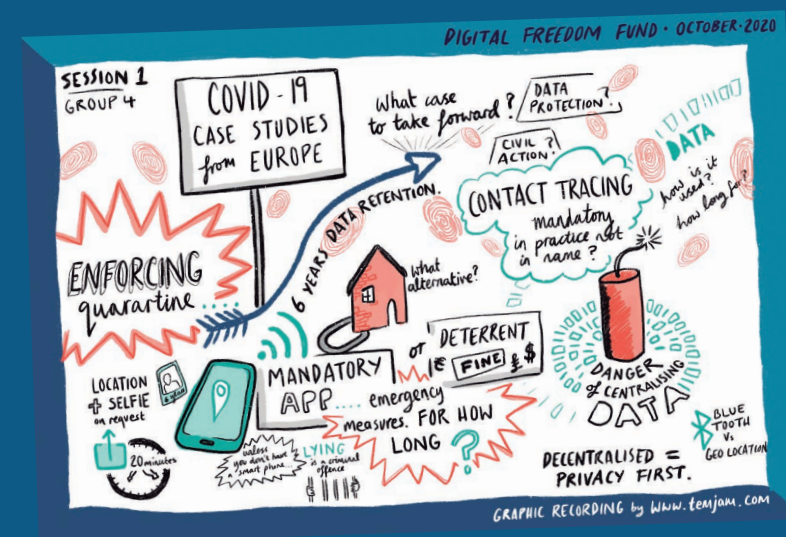
06.

The pandemic prompted an explosion of new digital tools—from symptom trackers to contact-tracing applications—and repurposing of existing technology in service of population health management. We mapped some of these tools, highlighting the common risks posed to fundamental rights, and how these might be challenged through strategic litigation. Both in and outside Europe, participants noted that widespread tech use was often touted as the only viable strategy. Yet, unchecked, many fear “tech solutionist” measures erode individual freedoms and compound existing inequalities.

Drawing from participants’ own lessons of combating harmful uses of ADMs in public life, we published a report that offers recommendations to consider for strategic litigation. Strategies range from utilising procedural and administrative legal tools, such as freedom of information and General Data Protection Regulation (GDPR) data subject requests, to rhetorical and framing choices, like bringing human experience front and centre to move judges. Challenges ahead were grouped into the following categories:

1. Convincing courts
2. Preventing the repurposing of COVID technologies for other usages
3. Solving technological inequalities
4. Tackling machine and human bias

Clearly these issues are an integral part of DFF’s wider examination of AI that has been going on since early 2019, but the COVID-19 pandemic has thrown them into even sharper focus. One bright side noted is that the crisis’s cross-border nature means litigation strategies can also be shared and reproduced region-wide. As always, together with the digital rights field, DFF will continue to monitor this area closely, so do get in touch to be more involved.



Discussions from the workshop provided the basis for a published report summarising key takeaways. Many thanks to report authors Kate Sim and Nahema Marchal, both doctoral candidates at the Oxford Internet Institute. This project was made possible thanks to the support of the Foundation for Democracy and Media. All relevant resources and the full report are available on our website.

In Competition

Competition law is a framework with potential for strategic litigators, which has made it a key topic for us since our inception. Among our activities in 2020 was a workshop bringing practitioners together to discuss how best to use competition law to defend and advance digital rights.

“The workshop was an excellent opportunity to observe what other civil society organisations are working on and try to involve them more in future advocacy efforts so as to join forces”

**–Participant, 2020
Competition Law
Workshop**

Background

One key problem point for digital rights is the trend of companies buying other firms already holding vast data stores. Competition regulators are finally starting to act. The high-profile case of Google acquiring FitBit – plus masses of sensitive health data from users – was investigated by the European Commission and the Australian Competition and Consumer Commission (ACCC).

Work by these two regulators should be welcomed as a progressive step to adapt competition law frameworks to digital economies of scale. This can pave the way to a competition regime better encompassing people's rights, signalling further opportunities for civil society to intervene and support regulators.

Another seismic shift was Germany's highest court ruling in June 2020 that Facebook had abused its market dominance to illegally harvest data. The court determined that, as Facebook occupies a dominant social media position, for many users, giving up Facebook means giving up their online connections.

With the COVID-19 context pushing our lives ever more online, it is urgent we find ways to ensure regulators have the legal and political mechanisms needed to protect privacy, competition, and human rights.

Contributing to the Conversation

Since DFF's beginnings, work on competition law has been called for by our network, leading to the publication of our “Short Guide to Competition Law for Digital Rights Litigators” and a fruitful workshop in December 2019 in Brussels. Participants from Europe, the US, and Latin America, explored how digital rights litigators can harness the competition law framework to further work on issues such as data protection and freedom of expression. We also identified topics valuable for further work, built on in 2020.

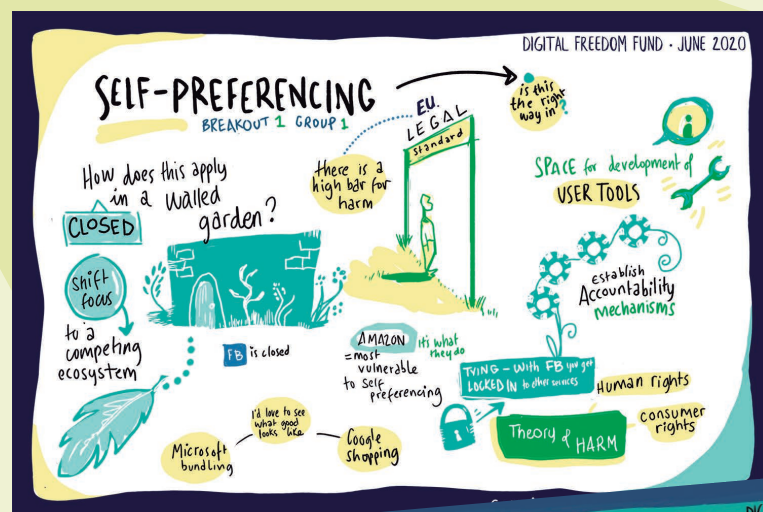
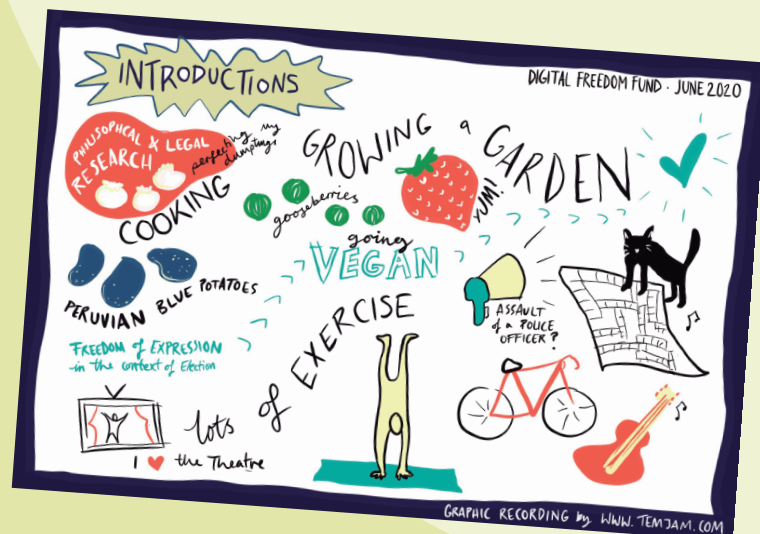
In June 2020, competition law was the topic of DFF's first wholly virtual event. During the two-day event, participants debated how competition law interacts with digital rights issues, such as data protection and freedom from discrimination. Case ideas were formulated around scenarios like intermediaries privileging their own products and services, or online platforms leveraging access to user data to abuse their dominant position.

Attendees also identified ways to strengthen the regulatory capacity of European bodies. In June, the European Commission launched two consultations to seek views on the Digital Services Act package and on a new competition tool. Our workshop participants drafted a response, urging the Commission to keep digital rights in focus.

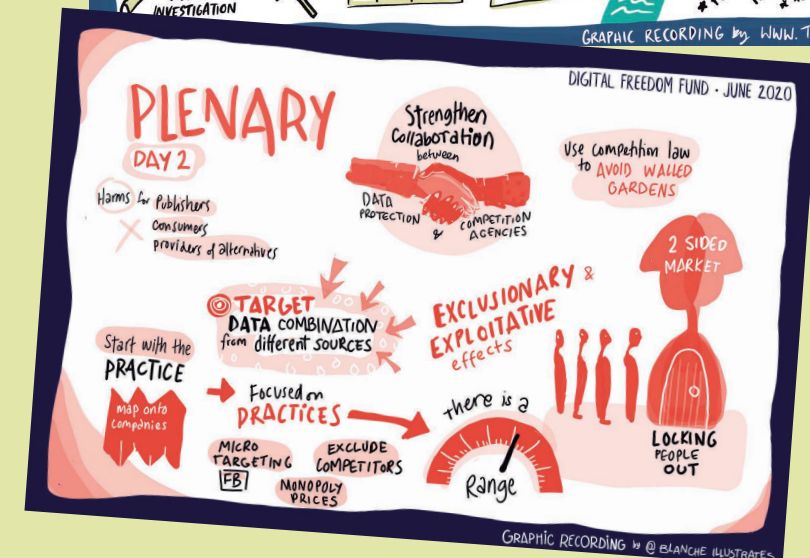
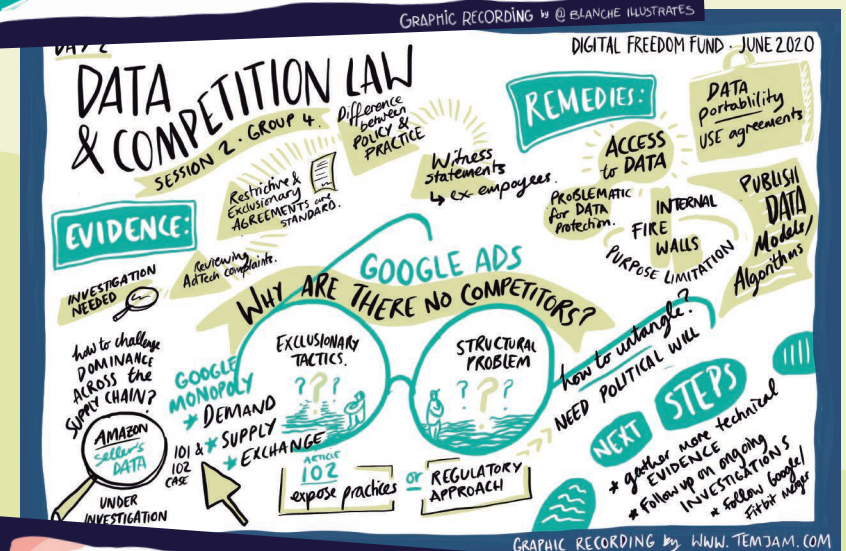
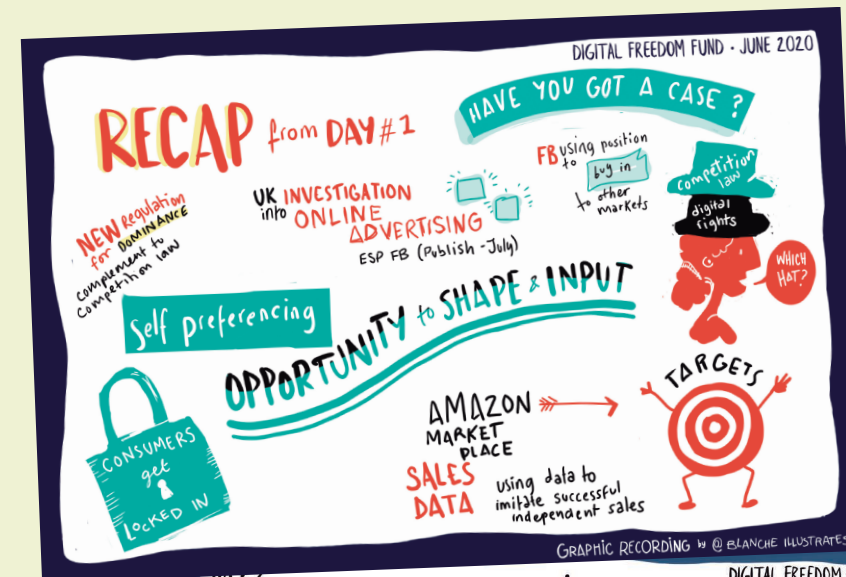
Equally important, some concluded that competition law actually wasn't the right framework to tackle certain issues – a key learning itself. Now, building on feedback, DFF is mapping next steps, along with the possibility of offering dedicated support for litigation in this area.

A range of competition law resources including videos and factsheets is available on our website.

Day 1



Day 2



Digital Welfare

Over the past decade, welfare services worldwide have been pushed online, leading to numerous violations of human rights. From invasive surveillance and data security infringement to discrimination by algorithm, this rapidly evolving landscape demands a response. DFF supports strategic litigation and research to help protect and advance the human rights of society's most marginalised in their access to crucial services.

“Digital welfare state” refers to the use of digital systems in social protection, including through the provision of benefits and other forms of assistance in various departments.

–DFF Digital Welfare Report 2020

“Welfare” is a catch-all, often politicised term referring to the state provision of services like income support, housing, education, and health to members of society. Digital tools can help improve access. But we must push back against tools that are poorly designed, replicate bias, or are misused for illegal purposes.

Common Issues

Governments argue that digital tools increase efficiency and transparency, save tax money, and improve wellbeing. But resultant problems come from big cuts in government spending, imposition of demanding and intrusive conditions for access, mass processing of sensitive personal data, and obfuscation of how decisions are made.

Services can be contingent on ownership of a relatively new smartphone. Chatbots and complex, opaque websites can be confusing, especially for users with less time and digital literacy. Also, internet access is not universal, and welfare recipients in many jurisdictions are simply unable to access online portals to manage their welfare provision or challenge decisions made against them. And then, algorithms are often based on discriminatory data and result in the exclusion of certain people and groups, such as aggressive automatic debt-collecting systems that focus on primarily low income areas of high immigration.

Furthermore, many digital tools are designed, built, and sometimes run by private entities, who can avoid the accountability expected of authorities.



Road to Action

Against this shifting and complex digital backdrop, how can we ensure human rights are protected and advanced? It's no easy feat, but in recent years, we have already seen the powerful impact that strategic litigation can have in enforcing people's digital rights. Last year, for example, DFF supported a case against an automated Dutch system, which pre-emptively detected the likelihood of individuals committing benefits fraud. The court found that the system had infringed human rights.

Since early 2019, the Digital Freedom Fund has been discussing with litigators, activists and technologists how the digital welfare state impacts upon human rights, and what can be done. Early 2020 saw our collaboration with De Argumentenfabriek (The Argumentation Factory) distil these conversations into the foundation of a litigation strategy.

The result was a document laying out a vision for strategic litigation on the digital welfare state. It sets out general principles helping stakeholders build cases by identifying potential human rights violations. The principles also help them strategically evaluate the potential of cases.

The document lays out concrete, short-term litigation objectives around five thematic focus areas: entitlement, human-centred technology, equality, data and privacy protection, and redress. The results are based on the shared priorities of stakeholders – and are therefore not intended to be exhaustive.

The litigation strategy aims to inspire deeper conversations on how strategic litigation can be used as part of a broader campaign to counteract the harms of the digital welfare state.



Our joint vision, developed in conversation with stakeholders, is structured as follows:

Litigation should be aimed at advancing equality...

... by ensuring that digital systems do not exclude people otherwise entitled to social protection.

... by ensuring digital systems are non-discriminatory by design.

... by ensuring that all individuals have access to basic rights, such as education, housing, water, food, and health care.

Litigation should be aimed at protecting human dignity...

... by ensuring that those who are vulnerable or living in poverty get the human care and assistance they need.

... by ensuring digital systems increase the self-determination and agency of those in need.

... by ensuring that individuals can meaningfully engage and express their point of view in decisions affecting their well-being.

... by ensuring that individuals do not unlawfully lose protection of their privacy and data protection rights in exchange for social protection.

Litigation must be aimed at improving the welfare system...

... by ensuring that digital systems are used to protect and promote individuals' ability to exercise their right to social protection.

... by ensuring digital systems are aimed at removing obstacles between social protection and people who need it.

... by addressing fundamental flaws in the welfare system rather than mere technical failures.

Stakeholders also came up with specific objectives for strategic litigation, focusing on several areas:

01.

Entitlement to social protection, both in terms of rights, and access.

The guarantee of **human-centred technology** that focuses on beneficiaries' needs.

02.

03.

A push for **equality**, against discrimination, and safeguarding against digital systems that surveil, penalise, and stigmatise.

Strengthening **privacy and data protection**, by advancing individuals' ability to exercise their rights in welfare contexts, maximising transparency in automated decision-making, and advancing public accountability in social protection.

04.

05.

Ensuring **redress** for any rights violations caused by automated decisions in this context.

The litigation strategy was developed by DFF in collaboration with De Argumentenfabriek (The Argumentation Factory), in conversation with diverse groups from the European digital rights field. To see the full strategy document, visit our website. As the context continues to change, so our conversations and activities must respond. We welcome any further input and views from those interested in the topic.



Case Studies

“The bottom-up approach of DFF is what should inspire donors who fund digital activism.”

—Survey respondent, 2020

In 2020, the Digital Freedom Fund made 21 grants supporting up to 37 cases, across eight individual jurisdictions and three European regional projects. Following are six representative case studies covering some of the countries, organisations, and thematic areas across which we work.

DFF contributes to cases in a number of ways:



Litigation Track Support

This project received a grant for litigation across multiple instances.



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.



COVID-19 Litigation Fund

This project received a grant through the COVID-19 Litigation Fund.

Digital Rights Ireland

Country	Ireland
Area	Privacy and Data Protection
Problem	Ireland recently deployed a “Public Services Card” – an ID card with an electronic chip letting the government store people’s personal data (including photos). Digital Rights Ireland say the system has no legal basis and that it is in breach of European and Irish data protection law. It requires people to trade data and privacy for access to essential services they’re already legally entitled to.
Case	Submission of a mass action complaint to the Irish Data Protection Commissioner.
Wider goal	To halt the use of the Public Services Card and protect the personal and image data rights of the population of Ireland.
DFF involvement	  

Kaldamukov, Dinev, Bliznakova & Mandazhieva (KDBM)

Country	Bulgaria
Area	Privacy and Data Protection
Problem	In 2019, the Bulgaria National Revenue Agency servers were hacked, compromising personal data of approximately six million people. DMBK believes the hack was partly due to deficient security practices and technical infrastructure, and that the Agency violated European law by not informing affected people about which data had been compromised.
Case	Collective action against the National Revenue Agency on behalf of the affected, demanding new technical and organisational measures be introduced in line with European data protection standards.
Wider goal	To push Bulgarian public institutions to prioritise information security and introduce personal data processing practices in line with EU standards. And to demonstrate to Bulgarian society that digital rights matter and can be protected through judicial redress against the state.
DFF involvement	

Foxglove

in collaboration with the Joint Council for the Welfare of Immigrants (JCWI)



In August 2020, ahead of the court hearing, the UK government announced it would halt use of the algorithm and implement a full review of the system.

Country	United Kingdom
Area	Privacy and Data Protection; Accountability, transparency, and the adherence to human rights in the use and design of technology
Problem	In mid-2019, the media revealed the UK Home Office had been using an algorithm/automated computer system for five years to process visa applications. The claimants argue that the algorithm entrenches inaccurate and unfair decision making, and subjects visa applications of people from certain countries to extra scrutiny.
Case	A claim against the UK government demanding regulations that ensure fairness, transparency and accountability in use of the algorithm.
Wider goal	To induce the UK government to introduce regulations ensuring fairness, transparency, and accountability in relation to all data-driven decision making.
DFF involvement	

Gesellschaft für Freiheitsrechte (GFF)

in collaboration with Médecins du Monde

Country	Germany
Area	Privacy and Data Protection
Problem	In Germany, undocumented migrants are at risk of privacy violations and deportation if they try to access healthcare services. This is because the social welfare office is obliged to share personal data of undocumented migrants with immigration authorities.
Case	Supporting a number of affected people in legal action, seeking that current data reporting be ruled unconstitutional as it breaches rights to privacy and to health of undocumented workers.
Wider goal	To enable undocumented migrants in Germany to access healthcare without fear of deportation.
DFF involvement	

Open Rights Group, Civil Liberties Union for Europe, and Panoptikon

Country	EU-wide
Area	Privacy and Data Protection
Problem	Internet users' personal data is shared across a vast ecosystem of adtech companies in real time, without users' informed consent or knowledge on how data is accessed and used.
Case	Coordinated litigation, advocacy, and campaigning activities to put pressure on European data protection authorities to investigate and enforce action against the online advertising industry.
Wider goal	To transform the online advertising industry so it respects human rights, including by giving users effective control over how data is used for advertising.
DFF involvement	  

Worker Info Exchange

Country	EU-wide
Area	Privacy and Data Protection
Problem	"Gig workers" are in a vulnerable position, misclassified as self-employed and denied the right to a minimum wage, as well as to freedom from discrimination and unfair dismissal. Their vulnerability is exacerbated by digitisation, with intensive algorithmic management and surveillance of their work. Uber refuses to make available personal data of drivers or to provide transparency of algorithmic management as required by law. Uber is thus preventing its drivers from collectively bargaining or claiming their employment rights.
Case	Complaints to European data protection authorities to challenge Uber's failure to provide this information. First, research will be carried out in order to select the optimal cross-border/cross-jurisdiction strategy to take litigation.
Wider goal	To allow gig workers to easily access and use data about their work so they can effectively organise and collectively bargain against gig employers for better pay, and push local authorities for fairer regulation.
DFF involvement	  



In difficult times it's important to celebrate our successes. These are cases, supported by the Digital Freedom Fund and highlighted in our last Annual Report, which reached positive milestones in 2020.

defenddigitalme

Background The UK Department of Education is collecting sensitive data about students for the National Pupil Database, data which is routinely shared with third parties, and leading to abuses, including long-term negative labelling of children.

Results Based on 2019 complaints by defenddigitalme and Liberty, the UK Information Commissioner's Office audited the Department. It was found in October 2020 to have broken the law in mishandling the National Pupil Database containing details of every school pupil in England. The Department is now under pressure to align its practices with privacy and data protection standards.

Gesellschaft für Freiheitsrechte

Background The EU Passenger Name Record (PNR) Directive obliges airlines to collect data from travellers and share with authorities, which has led to profiling, detentions, and other infringements.

Results In the first half of 2020, GFF passed a major hurdle in litigation challenging the PNR Directive when German courts asked the EU Court of Justice to examine its legality. If it's ruled illegal, then the practice will have to stop across the EU. Proceedings will continue.

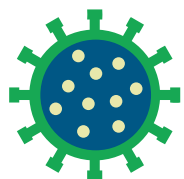
Open Knowledge Foundation

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

Results In Germany, a regional court ruled in favour of the Open Knowledge Foundation, finding that the sharing of a state-produced report did not infringe copyright. This is an important precedent against governments using copyright to restrict sharing of official information online. As part of a wider advocacy campaign, 45,000 people requested the report in question and signed on to the wider campaign.

COVID-19 Litigation Fund

Beyond a public health crisis, the COVID-19 pandemic has also been a crisis for digital human rights. The rollout of monitoring tools like tracing apps, wrist bands, and even drones has been accompanied by censorship regulations claiming to fight misinformation. While urgent response was required, the context enabled these and many other measures to be pushed through rapidly, with little or no legal oversight. Once in place, these measures are more difficult to dial back. Marginalised communities, already hit harder by both the virus itself and restrictions to control it, are also disproportionately affected by harmful consequences of tech rollouts.



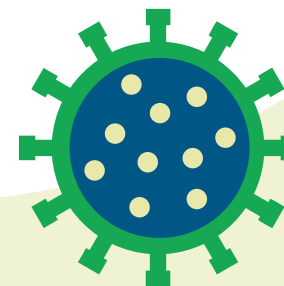
At DFF, we believe strategic litigation is a core tool for upholding rights to privacy, data protection and more, ensuring equality of access to information online, and pushing back when tech evades human rights standards. Especially at a time of crisis, it's crucial that we use tools at our disposal to protect our hard-won, yet fragile, rights as citizens.

This is why, with the support of Open Society Foundations, Luminate, and the Sigrid Rausing Trust, DFF created a dedicated COVID-19 Litigation Fund. To help activists and litigators move fast in challenging such violations, two application windows were opened in June and September 2020. The Fund was a first for DFF in terms of providing grants for litigation across multiple instances.



Amid great uncertainty, we are happy to have been able to support in some way the wonderful organisations and initiatives working to shape a digital rights landscape rapidly shifting under the weight of the pandemic and its consequences. Here follow descriptions of the seven cases supported.

"We must be attuned to the trade-off between framing emerging issues as a COVID-issue versus grounding them in existing frameworks of civil liberties/injustice"

–Participant, 2020 AI in the Time of COVID-19 meeting



Big Brother Watch


Country	United Kingdom
Area	Privacy and Data Protection; Accountability, transparency, and the adherence to human rights in the use and design of technology
Problem	Thermal scanning has expanded in pandemic times to places like airports, schools, workplaces, and retailers. The concern is that unlawful and unevidenced use could lead to unnecessary violations of data protection rights, contributing to further invasive surveillance that violates other rights, such as the right to education and freedom of movement.
Case	A claim in the UK High Court against a data controller using thermal scanning technology, to confirm that thermal scanning results are "personal data" under data protection law, that impact assessments are needed before scanners are used, and that the technology must be created and implemented in line with data protection law.
Wider goal	To ensure an approach to pandemic surveillance, and particularly thermal scanning, that is more led by evidence, respecting of rights, and safeguarding of data protection. To set a precedent confirming that other rights are indirectly violated by the imposition of thermal scanning.
DFF involvement	 

Civil Liberties Union for Europe

with Access Now and member organisations across 12 EU countries

Country	Bulgaria, Belgium, Croatia, Germany, Hungary, Italy, Ireland, Lithuania, Slovenia, Spain, Sweden, and Poland.
Area	Privacy and Data Protection; Accountability, transparency, and the adherence to human rights in the use and design of technology
Problem	Governments rolling out contact tracing and other monitoring tools without due observation of data protection and privacy.
Case	A variety of litigation actions – freedom of information requests, data protection authority complaints, and litigation before domestic/regional courts – to stop use of COVID-19 apps not respecting privacy and data protection rights. The litigation is also aimed at ensuring impact assessments are carried out in relation to such apps, and that there is more transparency around their development and use.
Wider goal	To prevent European governments from using the COVID-19 pandemic as a pretext for normalising expanded digital surveillance technologies. To ensure citizens can access public health apps that are not disproportionate, unlawful, or unnecessarily intrusive.
DFF involvement	  

Gesellschaft für Freiheitsrechte

Country	Germany
Area	Privacy and Data Protection
Problem	As exams were shifted online during the pandemic, some German universities began to use proctoring software to monitor students taking their exams. This software may violate fundamental rights by processing a large amount of personal data, including identity, location, and videos, for example of the student's room. Due to the pandemic situation, students do not have a real and meaningful choice to opt out of monitoring.
Case	Litigation in Germany against one or more universities using this proctoring software for online exams. The aim is a ruling that processing personal data through automated online proctoring software is unlawful.
Wider goal	To stop German universities, employers and other institutions from using automated online proctoring software, instead adopting less intrusive, privacy-friendly alternatives, such as open-book exams.
DFF involvement	 



Gesellschaft für Freiheitsrechte

Country	Germany
Area	Privacy and Data Protection
Problem	In Germany, public health insurance providers will soon begin transferring anonymised health data of millions of people to institutions for research. However, the security standards for the storage and transfer of this data are too weak, meaning high risk of privacy breaches. Additionally the concern is that data of people in marginalised groups, such as those suffering from rare diseases, can be re-personalised by research institutions.
Case	Litigation in Germany against one or more health insurance providers aimed at ensuring greater security over how health data is shared with research institutions, and allowing insured people to object to use of their data.
Wider goal	To improve security standards and retention periods for health data generally, and strengthen the rights of marginalised groups (such as those with rare diseases) to oppose the processing of their data by third parties. To increase public awareness that health data can be used for the good of society without sacrificing data privacy and security.
DFF involvement	 

La Quadrature du Net

Country	France
Area	Privacy and Data Protection
Problem	In March 2020, France introduced an emergency law imposing a strict lockdown on the whole country. People who did not comply were subject to fines and even jail time. Authorities recorded data on lockdown infringements in a criminal record database previously used only for driving offences, violating French and EU data protection standards.
Case	Litigation before the Conseil d'État to overturn the French government's expansion of the criminal record database to include COVID-19 lockdown infringements.
Wider goal	To ensure that, in France, personal data of people who break the law is collected only for limited and specific purposes, meeting French and EU data protection standards.
DFF involvement	 

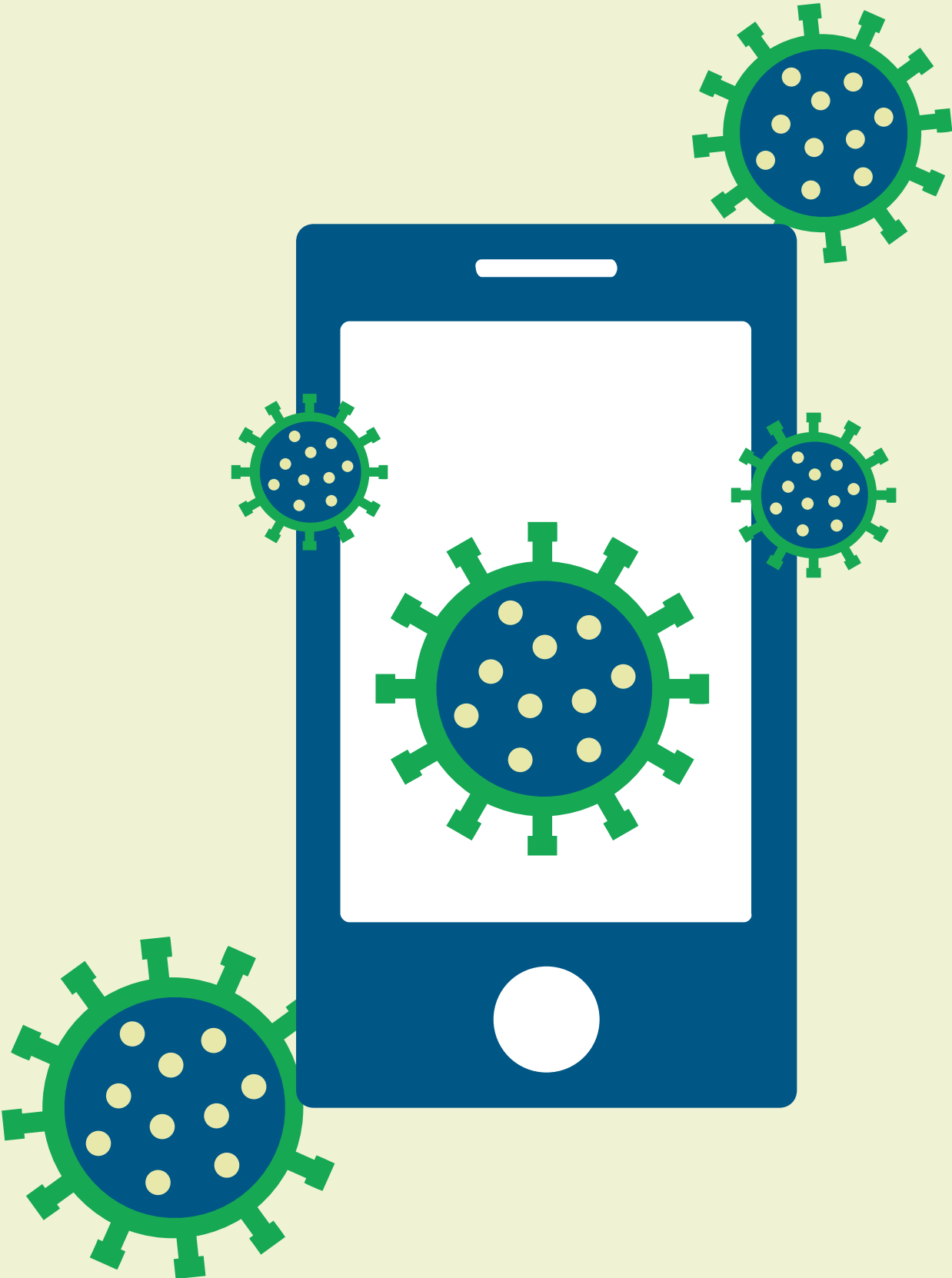
Open Knowledge Foundation

Country	United Kingdom
Area	Privacy and Data Protection; Accountability, transparency, and the adherence to human rights in the use and design of technology
Problem	Due to the COVID-19 pandemic many educational institutions in the UK have moved exams online and are turning to remote proctoring as a monitoring solution. This potentially results in a number of intrusive and discriminatory impacts, including the collection of personal data through room scanning and tracking cookies, unfair algorithms used to identify students and analyse their behaviour, and data security risks.
Case	Open Knowledge Foundation are taking litigation against a number of institutions using remote proctoring software to prevent its use until the data rights and equality issues are resolved.
Wider goal	To set a precedent, during the COVID-19 pandemic and beyond, showing that remote proctoring and monitoring software should not be used unless it does not violate data protection and equality rights.
DFF involvement	 

Women’s Link Worldwide

in collaboration with
Women on Web

Country	Spain
Area	Free flow of information online
Problem	Spanish authorities blocked the website of Women on Web (WOW), a non-profit organisation sharing information on safe medical abortions. This coincides with an increase in barriers faced by women and girls when accessing sexual and reproductive health services because of pandemic restrictions.
Case	Litigation to challenge the blocking of Women on Web’s website. Additionally, requesting courts recognise access to information on sexual and reproductive health services, including during the pandemic, as a key part of rights to abortion and to information.
Wider goal	To ensure information about sexual and reproductive health services, including access to abortion, is freely available on-line in Spain. That means all women can have accessible, high quality, and non-discriminatory information on sexual and reproductive rights and services like access to abortion via telemedicine. To ensure that the protection and promotion of the free flow of information online includes women’s rights.
DFF involvement	 



Taking on Big Tech



The Fight for Digital Rights, DFF's first ever Speakers Series ran Nov-Dec 2020. Featuring preeminent names from the antitrust and competition law field, it explored the key role of competition law in protecting digital rights. You can find full video and audio on our site, but here are some tasty teasers.

“

For German Facebook users there is a direct impact for they now have the choice of their data not being collected.

The reason these platforms are data-machines is that's the core of their business model.

Exploiting consumers by Big Tech is an abuse of dominance.”

Miriam Buiten



Did Germany really just outlaw Facebook's business model?! Understanding the impact of the Federal Supreme Court decision

Dec 3, 2020

Niamh Dunne



Enforcing competition laws How to raise public interest concerns and make complaints count

Nov 19, 2020

“

Market power plus harm to a digital right equals abuse of dominance.

Is more competition actually going to help, is it going to force GAFAM (Google, Apple, Facebook, Amazon, Microsoft) to have greater respect for the digital rights of their users?

These companies are completely under-regulated as publishers, threatening elections and democracies.”



“A fine of 5 billion for tech giants is nothing. When the Google Shopping case outcome was announced, Google shares dropped 3% that day. They were up 6% by week's end.

We have to move from financial sanctions to behavioural remedies.

Use competition law not as a tool against one particular company, but as a tool which can devise rules.



Reining in Big Tech
How competition law can help protect digital rights

Nov 26, 2020

Thomas Vinje



Learning from landmark Microsoft and Google Shopping cases
What do they mean for Big Tech today?

Dec 10, 2020

“The Microsoft case turned the European Commission into the leading anti-trust authority on the face of the earth.

The digital anti-trust cases have become more important because these issues are not just economic issues, they are social-political issues that go right to the heart of democracy.

Those who hold the information and those who hold the card to interoperability have all manner of games they can play.

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. Starting in 2021, we now only accept submissions in response to our calls for applications. Check our website regularly to avoid missing out.

Application Process

Step 1

First choose your grant type and check your eligibility online via our platform.

Step 2

If your eligibility is confirmed, fill out the full application and submit by the deadline.

Step 3

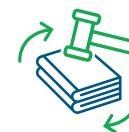
Your application is evaluated with the assistance of our Panel of Experts, based on which, we make a recommendation to the DFF Board.

Step 4

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



Applications are received for three types of activities:



Litigation track support, for multiple instances

For example, a challenge all the way to the European Court of Human Rights against police use of facial recognition technology.



Pre-litigation research

For example, a comparative study between EU jurisdictions on which offers the best options to address a specific issue.



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, or email: grants@digitalfreedomfund.org

Financial Reporting

January 2020 – December 2020

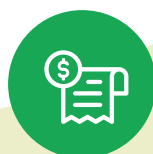
In 2020, we achieved many of the goals laid out in our organisational strategy. We expanded total annual organisational spending by 51% to EUR 1.7 million. Grantmaking and field building spending grew within the target ranges while growth in operating expenses was kept in check.



Thanks to the COVID-19 Litigation Fund, **grantmaking** led growth with a 73% increase compared to 2019.



Even as events were brought online, **field building and other activities** accounted for 15% of total organisational spending, a 28% increase over 2019.



Operating expenses had a paced growth and totalled less than one third of 2020's organisational spending.

Financial Resilience

In preparation for exiting our pilot phase and entering full-fledged operations, we took large strides in building DFF's financial resilience.

Maintaining robust operating ratios

Our goal is to dedicate approximately 50% of our budget to grantmaking and keep operating costs below 40%. This goal was achieved in 2020 with 53% of funding going towards grantmaking while operating costs accounted for less than 33% of spending.

Building operating reserves

Operating reserves are useful to bridge unexpected liquidity gaps and take advantage of unforeseen opportunities. In 2020, we achieved our goal of building reserves equivalent to three months of operating expenses.

Diversifying funding sources

We decreased reliance on our original seed funders by attracting new core and project funding in 2020. We also raised emergency funds from three sources to reinforce grantmaking in response to the COVID-19 pandemic.

Securing unrestricted funding

Unrestricted funding is needed to remain flexible and provide rapid response to the digital rights field. The proportion of unrestricted funding rose from 30% in 2019 to 39% in 2020. Unrestricted funding will increase further in 2021 as a major donor is converting their support from restricted to unrestricted funding.

Engaging the Board in finance

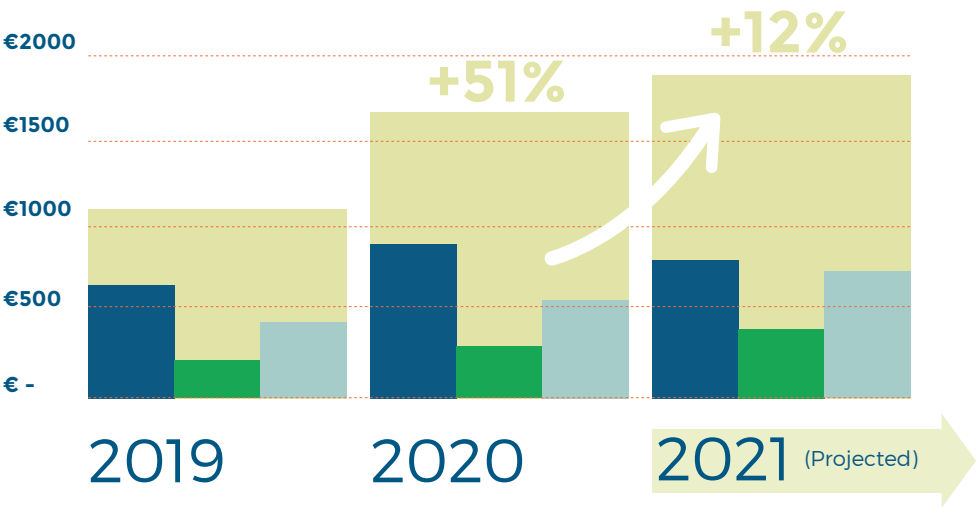
We have an active Board with two financial professionals who make up the Finance Committee and oversee DFF's finances. The Finance Committee is engaged for advice on major issues and planned changes to financial structures, policies and procedures.

Reporting and external audit

We strive for transparency by providing regular updates and reports to our donors and partners. DFF also undergoes an annual external audit which is shared with its funders. Having an external auditor review DFF's accounts assures all of DFF's stakeholders that funds are being managed diligently.

Development of spending

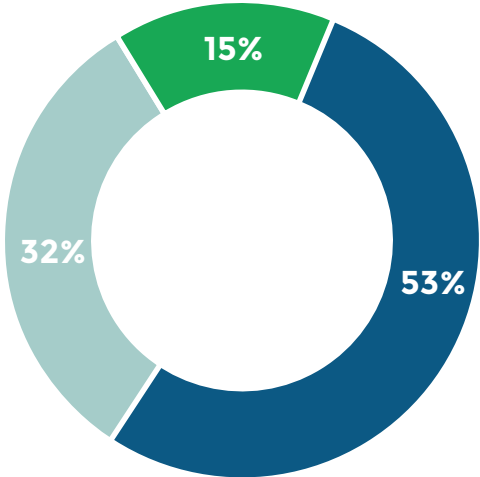
(in 000s of EUR)



- Grantmaking
- Field building
- Operating costs
- Total

2020

EUR 1,654,272



Field building events:

- DFF Strategy Meeting 2020
- Digital Welfare State
- Competition Law Training and Speaker Series
- AI & COVID-19 Workshop
- Strategic Litigation Retreat

Grants:

- 21 grants totalling EUR 882,442

Looking Forward

In 2021, we will focus on increasing the efficiency of financial processes to manage the rising number of transactions. Another priority will be addressing our growing need for cash flow and investment management. Ultimately, DFF aims to use more efficient financial practices to increase the amount of funds available to support the digital rights field.

Taking Stock

Evaluating DFF's pilot phase

With our three-year pilot phase of 2018-2020 drawing to a close, it was time to look at how the Digital Freedom Fund has been doing, and see how to improve support of the digital rights field.

“Before DFF meetings, our work was mostly dependent on personal views. Now we have a bigger network, we are more thoughtful, ask around, take their feedback. It helps to be more strategic in how to deal with our own activities... Many things from the meetings have upgraded the way we think.”

—2020 survey respondent

To provide meaningful answers about our progress to ourselves and supporters, DFF underwent an external independent evaluation in 2020. The core question was how we matched up to our own goals. Our Theory of Change defines DFF's objective as to “further human rights in digital and networked spaces by increasing the number of successful strategic litigation cases and by supporting the contribution of such cases to wider public debates, policies and practices.”

The evaluation was conducted by ODS (Organisation Development Support), whose track record includes legal expertise and supporting international NGOs. An Evaluation Committee, made up of both DFF Board members and core donors, ensured transparency and impartiality.

ODS cast a wide net to gain perspectives, via interviews with over 50 stakeholders. These included grantees, meeting participants, and external experts. Round tables were held with our team and donors.

We were thrilled to receive a “very strong” result. ODS found, in line with our goals, that DFF is uniquely positioned in the digital human rights field. Relevant actors see important added value in our unique blend of grantmaking to support strategic litigation and our field building work. Our events, workshops, and meetings give multiple opportunities for learning and networking. Grantmaking also enriches litigation plans in the application process by providing a space for expert input.

Our strong alignment with the digital rights field was linked to our continuous consultation process and horizon scanning, allowing us to adapt to changing circumstances. We consult stakeholders before, during, and after activities, and have pushed to broaden and deepen the range of participants. In this light we will continue our overall strategy to broaden the field geographically, thematically, and in terms of representation.

Though we're happy to have exceeded our own goals, we won't rest on our laurels. We're addressing two recommendations in 2021 by reforming our application process and commencing long-term litigation support through multiple instances (“litigation track support”). These changes will lighten the burden on applicants, as well as support grantees in pushing cases to the highest courts when necessary.

Thank you to our 50+ stakeholders who took the time to speak to the evaluators, helping us evolve in our mission to support the digital rights field in Europe and beyond.

An independent evaluation found that DFF had met our quantitative goals, by:



Exceeding all goals around promoting pro-bono support.



Achieving satisfaction of at least 75% of participants in field building activities.



More than doubling our goal of 20 grants, with 42 grants during the pilot period.

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.



DIGITAL RIGHTS
ARE HUMAN
RIGHTS





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