

**DFF****Digital  
Freedom Fund**

The Digital Freedom Fund (DFF) supports partners in Europe to advance digital rights through strategic litigation. This is one of a series of case studies, which highlight the work of DFF's grantees working to protect digital rights.

## Key actors

### **Spoleczna Inicjatywa Narkopolityki**

(Civil Society Drug Policy Initiative, "SIN")

SIN is a Polish civil society organisation, which provides drug education and supports drug users by cautioning against the harmful effects of psychoactive substances. SIN want to change prohibition-based drug policies. Their content is often viewed by young people who are active on social media but perhaps less likely to take advice from experts or teachers. SIN's focus is on harm reduction, as recommended by the United Nations and the World Health Organization.

### **Panoptykon Foundation**

The Panoptykon Foundation is a Polish civil society organisation that works to protect freedom and human rights in the context of emerging technologies and growing surveillance online. Panoptykon analyses threats resulting from surveillance practices, intervenes in the cases of abuse, develops alternative legislative solutions, stimulates critical reflection and encourages action for change. Panoptykon is providing legal support to SIN and is running communication and advocacy activities around the case.

## SIN v. Facebook

Case facts at a glance

### **Case name:**

Spoleczna Inicjatywa Narkopolityki v. Facebook Ireland Limited (SIN v. Facebook)

### **Co-ordinating NGO:**

Panoptykon Foundation

### **Pro bono legal team representing SIN:**

Wardyński & Partners

### **Court:**

District Court in Warsaw, Poland

### **Submitted to the Court:**

7 May 2019

### **Case goal:**

Change corporate policies on content moderation through judicial decisions and legislation.

## Background to the case

SIN set up a Facebook page in 2011, which they used to promote activities, organise events, manage volunteers and respond to requests for support. They also set up a private Facebook group where members could seek advice about the side effects of specific drugs and pills.

In March 2018, without explanation, Facebook removed SIN's Facebook pages and groups. SIN asked for the ban to be lifted but Facebook ignored the request and then blocked the page. In January 2019, one of SIN's accounts on Instagram, a subsidiary of Facebook, was also removed.

It is not clear whether the page was blocked because of a Facebook algorithm or flagged by a third party. SIN believes a Facebook content moderator misjudged the page because of the association with drugs.

On 7 May 2019, SIN, supported by the Panoptykon Foundation, filed a lawsuit against Facebook. SIN want their page and accounts reinstated and to receive a public apology from Facebook.

“ **We had one of the most popular online services providing information and warnings about drug use. We provided otherwise publicly available information, and spent a lot of time curating the community and carefully censoring any seemingly illicit information.**

SIN representative

## Achieving fair content moderation policies and increased transparency

Panoptykon is seeking relief for SIN through strategic litigation, alongside an advocacy and awareness raising campaign to highlight the issues around private censorship and online speech raised by this case. As well as supporting SIN, Panoptykon is advocating for content removal to be based on clear and easily accessible rules, and for users to have the right to effectively contest the decision. Panoptykon hope that this case will lead to:

- A change to existing regulation, both on the EU and domestic level, to provide for legal remedies allowing users to challenge censorship decisions before a court.
- The creation of external, independent controls over content removal decisions, either by judicial means or by another independent body.
- Private companies creating more transparent and fair due process rules for content moderation.
- Users feeling empowered to challenge over-removals by contributing to the larger debate about private censorship.

“ We hope that the impact of our lawsuit against Facebook will be felt by other online platforms and will prompt them to change their policies to be fairer and include due process rules.

Dorota Głowacka, Panoptykon

## Censorship, power and free speech

This case relates to a larger debate about private censorship over public speech posted on social media platforms. These platforms allow people and organisations to exercise their right to freedom of expression, but content moderation decisions are often invisible to users. This lack of transparency means private companies wield enormous power over how individual users share and access information.

The case of SIN v. Facebook is an example of how an organisation can use strategic litigation to argue that private companies respect their rights to free speech and fair process. SIN's actions, and Panoptykon's support for the case, has the potential to empower other users to bring claims against private censorship online.

“ We want to show how important Facebook is these days for disseminating information, especially for smaller organisations with no or limited resources.

Łukasz Lasek, pro bono lawyer



## DFF's support



### Financial assistance

DFF provided financial assistance to Panoptykon to support their litigation and campaigning activities on the SIN case. As well as providing litigation support, Panoptykon has produced advocacy materials, such as a website and animated video, which are fostering awareness about censorship by private companies.



### DFF's expert panel

In the course of the grant application process, Panoptykon received feedback from two members of DFF's panel of experts. The experts were able to provide suggestions that informed legal arguments in the case.



### Litigation retreat

Panoptykon attended a litigation retreat in Montenegro co-organised by DFF and the SHARE Foundation. The retreat was a valuable opportunity to build skills and knowledge to produce effective legal, advocacy, and communications strategies in a collaborative environment.

“ DFF's support has allowed us to make a really extensive communication and advocacy campaign around the case that wouldn't have been possible otherwise.

Dorota Głowacka, Panoptykon