

# Annual Report

2021

# Director's Note



“DFF has been heavily involved in facilitating the digital rights communities’ collaboration and co-creation of ideas to support strategic litigation in Europe. In addition, we have taken major steps in 2021 to further integrate racial, social, gender, and economic justice initiatives into our main workstreams, and critically self-reflect on our approach to work. Going forward, an anti-oppressive and decolonial framing will be a permanent and prevalent part of our organisational strategy.”

—Mauricio Lazala Leibovich  
Director, DFF

Amid continuing threats to digital rights from many directions, we are proud to support the ongoing efforts of the digital rights community in Europe to advance human rights for those most harmed by the use of technology and interactions in online spaces.

The reasons DFF was established in the first place remain as relevant as ever: to facilitate a stronger and more sustainable field of digital rights litigators and advocates, which in turn will lead to more strategic digital rights cases with potential for positive impact. DFF’s role of grantmaking and field building is providing important added value to the digital rights field and beyond. In 2021 the DFF team grew, adding capacity both in programme and operational support. DFF successfully launched a revised grantmaking process including for the first time litigation track support, providing financial assistance for litigation through multiple instances and long-term, and pre-litigation research support. During the year we approved grants worth more than EUR 600,000 supporting 16 strategic litigation projects, and passed EUR 2 million in total amount granted.

The reporting period was bookended by our fourth annual strategy meeting in February, and a workshop on understanding automated content moderation in December. In between, key DFF activities included another virtual litigation retreat in April; the first two meetings of the second phase of the Decolonising Digital Rights project together with European Digital Rights (EDRi); a workshop in September on effective communications to support litigation; and a six-part speaker series exploring litigation against abuses of the so-called “digital welfare state.”

DFF has also taken major steps in 2021 to further integrate racial, social, gender, and economic justice initiatives into its main workstreams, and critically self-reflect on our approach to work. Going forward, an anti-oppressive and decolonial framing will be a permanent and prevalent part of our organisational strategy. Please browse this report to learn more about our achievements and updates from 2021.

By the end of 2021, DFF entered a transition period with a change in leadership. I’m very thankful to Nani Jansen Reventlow, our founder and first director, for everything she accomplished during the initial years of DFF. I’m stepping into very big shoes indeed, and take my responsibility with humility, the desire to learn and listen, and the passion to drive the organisation through its next chapter.

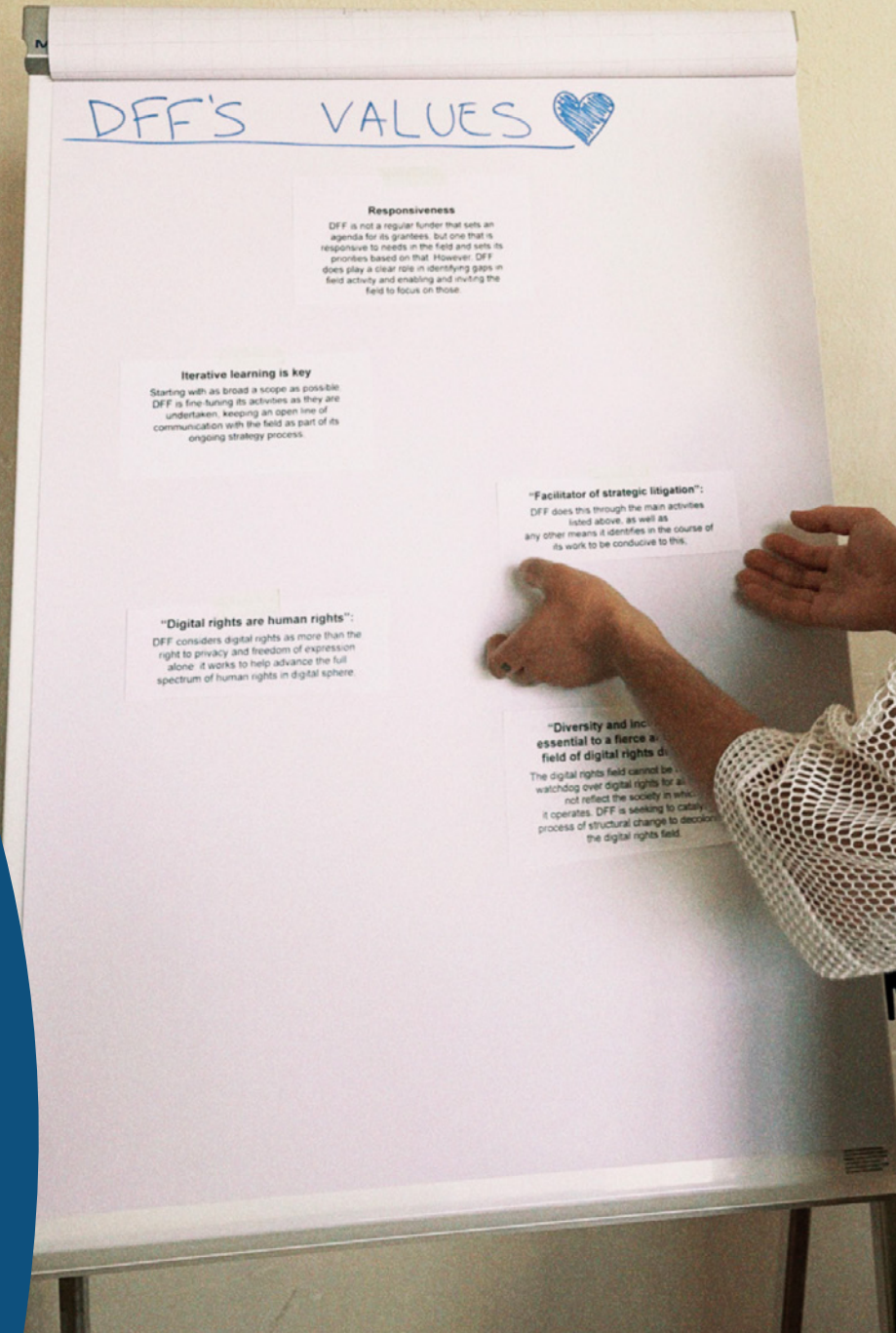
I would like to thank our committed team, and all our donors, supporters, allies and partners for the immense contribution all have made to our impact over the year.

**Mauricio Lazala Leibovich**

# About Us

The Digital Freedom Fund supports strategic litigation to advance digital rights in Europe, by applying decolonising principles to enable the digital rights community to exercise their collective rights in digital and networked spaces. Providing financial support for strategic cases, DFF is well placed to catalyse collaboration among activists, litigators, and the whole digital rights community.

READ MORE





# Our Team

“You are where you are today because you stand on somebody’s shoulders. And wherever you are heading, you cannot get there by yourself.”

—Vernon Jordan

The Digital Freedom Fund team is based in Berlin, Brussels, London, Barcelona, and Frankfurt.

MEET THE TEAM





# Our Activities

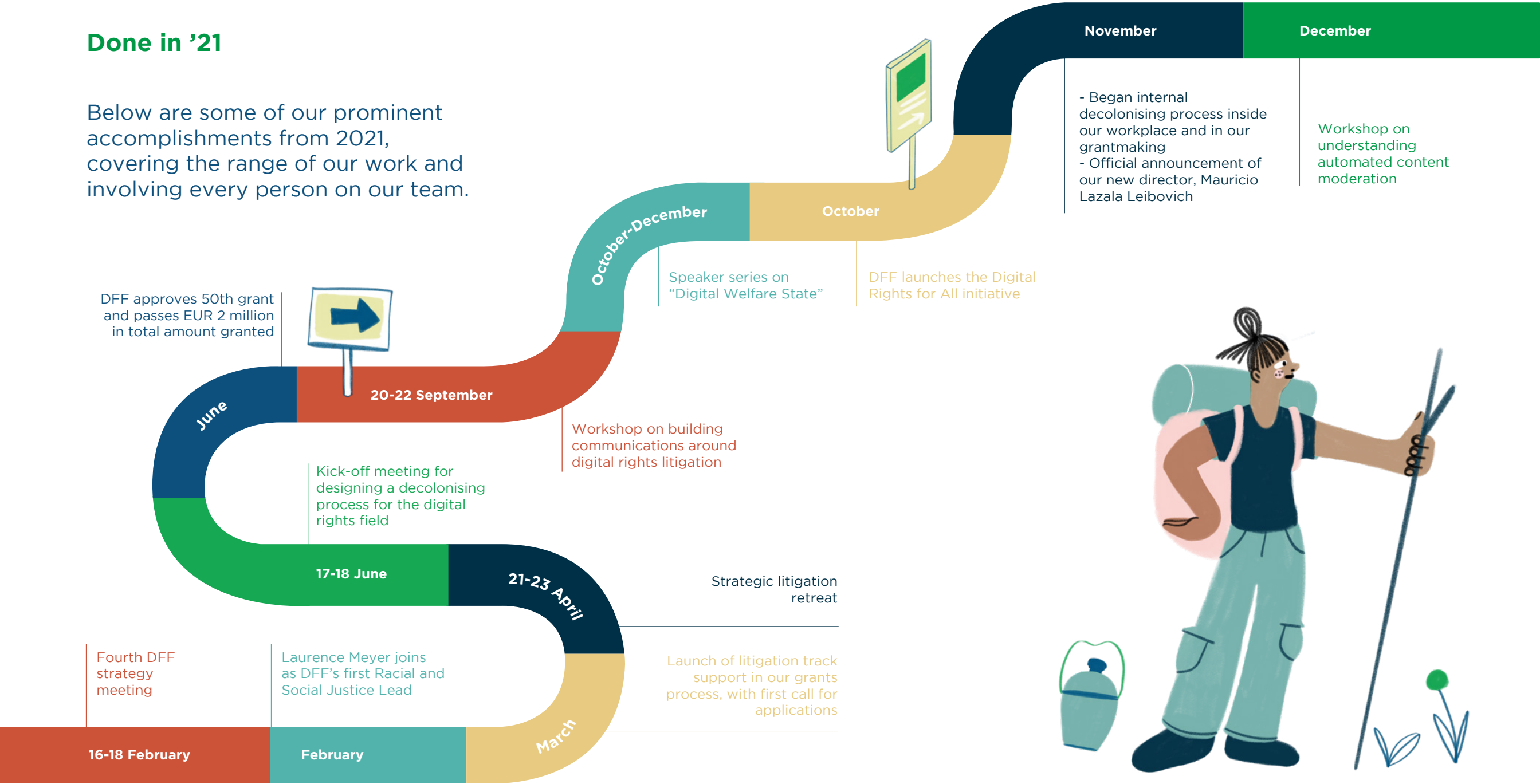
As online and offline spaces converge, threats against fundamental rights extend more and more into the digital space. Recognising this growing threat to human rights in digital spaces, the Digital Freedom Fund (DFF) was set up in 2017 to facilitate **a stronger and more sustainable field of digital rights litigators and advocates, which in turn will lead to more strategic digital rights cases with potential for positive impact.**



DFF successfully ended its pilot phase in late 2020. Between 2017 and 2020, we developed our strategy, expanded our team, standardised most of our operations, broadened our sources of funding, launched our grantmaking procedures, and hosted a number of well-received field building events. An external evaluation of our pilot phase period was completed in July 2020, concluding that DFF was well on track to achieving its goals. In particular, it assessed that our role in grantmaking and capacity building is providing important added value that has already had a positive impact on the digital rights field. At the start of 2021, we started a new post-pilot phase, aiming to further leverage our position as an intermediary between and connected with donors, the digital rights' community, legal experts, policymakers, and an increasingly broad set of civil society organisations.

Done in '21

Below are some of our prominent accomplishments from 2021, covering the range of our work and involving every person on our team.



# Grants

In March, we launched a redesigned grantmaking process, accepting applications during an open call rather than on a rolling basis, and using a new online grant platform. DFF also began offering “litigation track support” as the standard grant type for litigation support. By offering to support litigation from first to final instance, litigation track support is more closely aligned with DFF’s capacity building, which encourages litigators to plan long-term, collaborative, and strategic projects to maximise the potential for impact. For instance, some cases may be brought with the intention of setting a stronger precedent or achieving impact at appellate, apex, or regional court level, which is only possible if funding for lower court instances is secured. Our previous grantmaking model had already resulted in a number of successes, but providing long-term litigation support across all possible court instances further boosts litigators’ ability to plan and coordinate strategically.



## 2021 milestones

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# 50

In 2021 DFF made its 50th grant

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# 2m

DFF surpassed EUR 2 million in total funding given

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# 22

As of January 2022, 22 DFF-supported projects have been completed, including eight in 2021

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Grant Application Process



Step 1  
Concept Note

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



Step 2  
Full application

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



Step 3  
Evaluation by Panel of Experts

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  
Decision by DFF Board

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

Applications are received for two 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.





# Case Studies

In 2021, the Digital Freedom Fund funded 16 grants supporting up to 32 instances of litigation, across ten individual jurisdictions and for one European regional project. The following are six case studies covering representative countries, organisations, and thematic areas.



**Litigation track support**



**Pre-litigation research support**



**Field building**



**Making connections**


# Poradňa pre občianske a ľudské práva

Center for Civil and Human Rights

Country	Slovakia
Area	Human rights standards in the use and design of technology
Problem	Some groups in Slovakia, in particular the Romani, have felt disproportionately impacted upon by unequal access to digital technologies. During the COVID-19 pandemic it was found that Roma children were disadvantaged by a move to online distance learning, while Roma communities and the elderly were disadvantaged by the lack of non-digital alternatives to register for the COVID-19 vaccination.
Case	The Center for Civil and Human Rights plan to initiate court proceedings to challenge this disparate impact.
Wider goal	To highlight discrimination against Romani communities caused by unequal access to digital technologies, and raise awareness of the importance of universal access to the internet and digital technologies in the national media and broader public.
DFF's involvement	

# Global Legal Action Network

with Bindmans LLP

Country	United Kingdom
Area	Privacy and data protection
Problem	Pegasus spyware has been sold by NSO Group to a number of foreign governments, many of whom have then used it to unlawfully target world leaders, human rights activists, and journalists.
Case	Global Legal Action Network and Bindmans have conducted detailed legal and forensic investigations into the use of Pegasus spyware against prominent individuals in the UK, and plan to bring civil claims in England and Wales against NSO Group, the UAE, and Saudi Arabia.
Wider goal	To achieve legal accountability for, and raise public awareness about, illicit cross-border cyber-surveillance and hacking, where individual rights are violated.
DFF's involvement	

# Gesellschaft für Freiheitsrechte

in collaboration with Quad9

Country	Germany
Area	Free flow of information online
Problem	In 2021, Quad9 received a court order pending trial from an application made by Sony Music requiring them to block access to an allegedly copyright-infringing website. If Sony Music wins the case, this would set a precedent for similar service providers to police the internet and attempt to block the sharing of material that could be copyright-infringing.
Case	Quad9 are appealing the injunction, and GFF are supporting Quad9's legal defence to ensure that access to information on the internet is not restricted disproportionately by judicial blocking orders against service providers like Quad9.
Wider goal	To prevent copyright enforcement falling upon intermediaries who are not hosting but simply sharing material, and limit excessive injunctions that would impinge upon users' access and freedom of information.

DFF's involvement



# Worker Info Exchange

Country	The Netherlands
Area	Human rights standards in the use and design of technology
Problem	“Gig workers” are oppressed, misclassified as self-employed, and denied the right to a minimum wage, as well as freedom from discrimination and unfair dismissal. Their oppression is exacerbated by digitisation, with intensive algorithmic management and surveillance of their work. Platforms like Uber and Ola cabs have refused to make available personal data of drivers at work or to provide transparency of algorithmic management as required by law, thus preventing drivers from collectively bargaining or claiming their employment rights.
Case	Worker Info Exchange are challenging Uber and Ola Cabs on behalf of 11 UK and Portugal-based drivers for data access and algorithmic transparency at the Amsterdam Court of Appeal.
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 leverage local authorities for fairer regulation.

DFF's involvement





# noyb – European Center for Digital Rights

Country	Luxembourg
Area	Privacy and data protection
Problem	A Luxembourg resident discovered that their data was being collected and offered for sale by Apollo and RocketReach, two US-based companies which commercialise personal data on different online platforms. A complaint filed with the Luxembourg Data Protection Authority was dismissed on the basis that the two US companies did not have a representative in the EU and that, therefore, they did not have the power to investigate, nor to adopt, effective enforcement measures against them.
Case	noyb challenged this decision before the courts on the basis that it contravenes the GDPR. Many companies and organisations not established in the EU are subject to the GDPR and should therefore comply with EU data protection law. noyb argues that, when DPAs fail to act against these companies, they refuse to protect individuals from non-EU companies.
Wider goal	To achieve better enforcement of data rights in the EU by ensuring that the GDPR can be enforced against companies and organisations not established in the EU.

DFF’s involvement



# Digital Rights Ireland

Country	Ireland
Area	Privacy and data protection, human rights standards in the use and design of technology
Problem	In April 2021, computer files containing personal details of 533 million Facebook users were released online. These included names, phone numbers, email addresses, location data, and biographical information. Facebook has said the information was scraped by “malicious actors.” But Digital Rights Ireland claim the information could only be accessed because Facebook had made it available to potential advertisers to use for targeted advertising.
Case	Digital Rights Ireland are taking a “mass action” lawsuit against Facebook, representing those affected by the data release.
Wider goal	To encourage data holders like Facebook, who hold significant amounts of personal data on individuals, to comply with their legal responsibilities (particularly around data security) in accordance with the GDPR, under credible threat of significant financial penalties.

DFF’s involvement



# Impact

“It is in collectivities that we find reservoirs of hope and optimism.”

—Angela Davis

DFF recognises impact and success come not only from winning cases. Impact can also be achieved despite losing a case, with many important potential outcomes from the work and collaboration throughout the litigation process.

We began using a tailored impact measurement framework in 2020 to better identify and assess the contribution of DFF-supported strategic litigation. Utilising this framework, we’ve recorded more than 80 outcomes in the work of DFF grantees that advance digital rights.

“DFF is like some roundabout that hovers over the digital rights field and can pick up various atoms to create a smart molecule.”

—Respondent to 2021 annual survey

“I think DFF has in some sense created this field in Europe. Of course, digital rights litigation was happening, but I’m not sure the term was in use as such in Europe and that there was a shared understanding of its meaning. Now there is clearly such an understanding, not just of the concept but of how it is done properly, along with a community of practice.”

—Respondent to 2021 annual survey

“It seems to me that the ingredients for collaboration and information sharing are there – a like-minded community of campaigners dealing with often similar issues and legal frameworks... DFF has turned this potential into reality and built what feels like a tight-knit community.”

—Respondent to 2021 annual survey

These outcomes include establishing important and novel legal precedents that discriminate against marginalised groups, such as ending the use of profiling and streaming technology, measures to better protect the data privacy of school children, and increased information access from governments. We have also seen many non-legal outcomes, from influencing how certain topics are portrayed in the media, to more organisational and field-related outcomes, such as prompting others to engage in legal action, or seeing groups use knowledge gained through DFF-funded pre-litigation research to improve other advocacy campaigns.

Bearing this in mind, below we feature some DFF-supported cases that reached positive outcomes in 2021.

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## Moje Państwo Foundation

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## Panoptykon

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## Civil Liberties Union for Europe

### Background

The Ministry of Justice in Poland is using a computer system to randomly allocate cases to judges. Some judges claim that since the system was deployed, they have been given disproportionately more cases than others. Details about the system's algorithm are being kept secret and a court in Poland ruled that it does not have to be disclosed under freedom of information law.

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.

During the COVID-19 pandemic, governments rolled out contact tracing and other monitoring tools without due observation of data protection and privacy. The Civil Liberties Union for Europe (Liberties) are working with partners in 12 EU member states to stop use of COVID-19 apps not respecting privacy and data protection rights. Litigation has started in four countries: Belgium, Bulgaria, Hungary, and Spain.

### Results

In July 2021, the Poland Supreme Court ruled in favour of Moje Państwo, quashing the judgement under appeal in its entirety and obliging the Minister of Justice to provide access to the details of the algorithm. The courts also explicitly stated that the algorithm is public information.

In July 2021, the courts upheld a 2019 interim measures ruling. This means that – until the case is decided – SIN's activists may carry out their drugs-related education on the platform without concerns that they will suddenly lose the possibility to communicate with their audience.

In Bulgaria, on 31 May 2021, the Administrative Court ruled in favour of Liberties member, the Bulgarian Helsinki Committee, that the Ministry of Health must provide access to a data protection impact assessment of the Bulgarian COVID tracing app. Additionally in Spain, the Spanish Transparency Council ruled that the Secretary of State for Digitalisation and Artificial Intelligence must give Rights International Spain, another Liberties member, access to the original data protection impact assessment of the Spanish contact tracing app.

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# Shaking Up Power

“The land knows you,  
even when you are lost.”

—Robin Wall Kimmerer

Developing a meaningful process for decolonising the digital rights field is a project that will need to take place in stages, allowing for a proper centring of communities not currently part of the digital rights field. After completing phase I of our decolonising planning process at the beginning of 2021, DFF and our partner organisation European Digital Rights (EDRi) successfully raised funds to continue this initiative into phase II.

Phase II is a collaborative process to design a multi-year programme that will take the first steps towards decolonising the digital rights field in Europe. This phase brings together a group of individuals and organisations with a wide array of experience and expertise in the fields of digital rights, racial, social, gender, and economic justice, as well as organisations that fund digital rights work. These participants collaborated in five working groups and across two plenary meetings in 2021, and will continue to meet throughout 2022. Each of the working groups has a specific focus area (programmatic, funding, organisational, collaboration, and public engagement). Discussions so far have focused on identifying long-term goals, current needs and problems and initial proposals for change. A major task in 2022 will be fundraising for the envisioned phase III programme.







# Field building

## Digital Rights Litigation Skills Building

### EVENTS

#### Annual Strategy Meeting (2021)

In 2021, our decolonising process and efforts to go beyond the “digital rights bubble” were reflected in the composition of a more inclusive and diverse strategy meeting.

Attending our 2021 edition were a good representation of single-focus human rights organisations, with some coming from the social, racial, and economic justice category. Other organisations were focused on rights of women, LGBTQI, people with disabilities, Roma/Sinti people, migrants, sex workers, children, and consumers. Present as well were organisations working on democratic governance/transparency issues, environmental rights, freedom of expression, and freedom of information.



DFF strategy meeting participants, 2021





academia **research** tech  
network funding **litigation**  
**advocacy**  
campaigning journalism

Key topics at our 2021  
strategy meeting.

Based on survey responses, a workshop programme was developed centring building digital solidarity and fighting back against digital oppression, to take place between 2021 and 2022 as part of DFF's field building activities.

In late 2021, four workshops took place around themes such as familiarity with tech-centric language ("talking digital"), fighting back against digital policing, fighting back against digital policing of migration, and fighting back against digital oppression at work. During these workshops, participants shared that they valued a dedicated space in which to talk and learn about digital issues from a relevant perspective, connect with other organisations encountering similar struggles, and map potential tools to tackle the challenges. They also said they valued the experts' intersectional approach to these topics, and expressed their need for materials relevant to the European context.

Following these first four workshops, three blog posts were published (see these and other blogposts [here](#)), and two toolkits are in the works.

## Digital Rights for All

The Digital Rights for All initiative was launched to promote meaningful, racial, social, and economic justice initiatives to challenge discriminatory design, development, and use of technologies, through policy, advocacy, and strategic litigation efforts.

In Spring 2021, we began with a need assessment. After mapping racial, social and economic justice organisations across Council of Europe Member States, the racial and social justice team sent a survey to 200 racial, social, and economic justice organisations to assess their thematic priorities and interests concerning digital rights, and how they could benefit from workshops.



## EVENTS

### Communications Workshop (September 2021)

After a number of participants expressed an interest in improving their external communications on digital rights issues, we organised a communications workshop. Over three days, comms professionals coached litigators on how to turn strategic litigation projects and outcomes into a good story, how to win support and gather attention by creating hope, how to maintain an effective comms strategy through the peaks and troughs of litigation, and how to utilise art in communications.

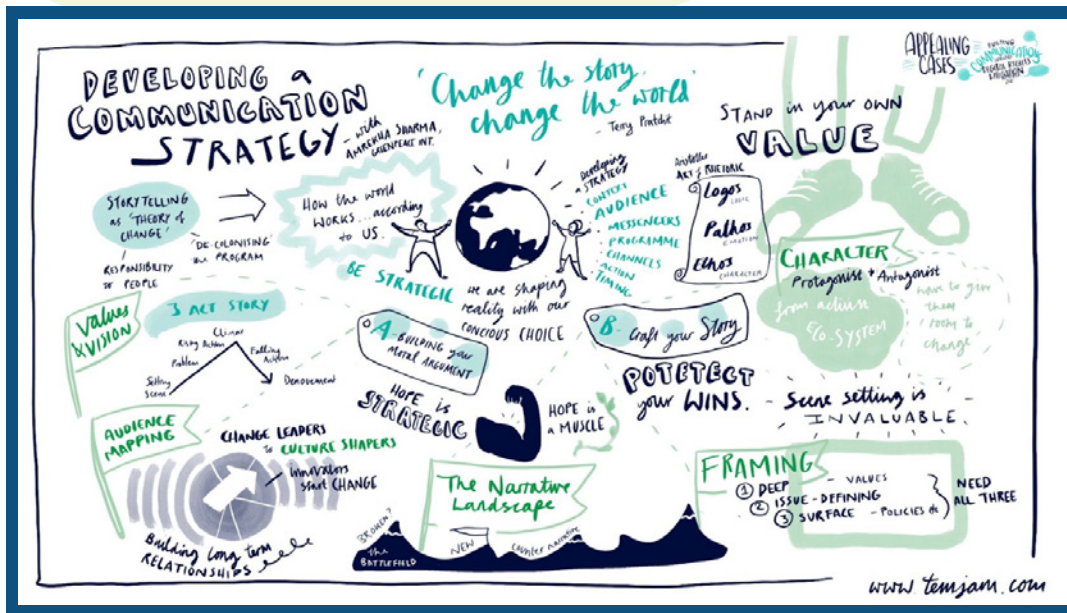


### Strategic Litigation Retreat (Apr 2021)

This springtime retreat was attended by participants from diverse European locations such as Bulgaria, Hungary, and Norway. During the retreat, cases were workshopped, and strategies developed for cases across a range of issues, from challenging digital borders in migration contexts to enforcing workers' rights against gig economy platforms.

### Understanding Tech (Dec 2021)

For the year's final workshop, we piloted our concept for "Understanding Tech" with a workshop on automated content moderation. From 2022 we plan to turn Understanding Tech into a workshop series to help digital rights litigators and activists unpack and deconstruct some of the technologies prominent in their work, such as artificial intelligence and algorithmic decision making.



SPEAKER SERIES

**Digital Welfare State**

Our second Speaker Series took part during the tail end of 2021. We explored litigation against the so-called “digital welfare state”, reflecting on pressing global issues such as social security privatisation, data-driven fraud detection, and dangerous assessment algorithms.

LEARN MORE



**SPEAKER SERIES**

**Some of the deep-dive areas included:**



## Biometric IDs:

## Battling Aadhaar in India



## Profiling Algorithms:

## Safeguarding the Unemployed in Poland



## Automating Care:

## Challenging Assessment by Computer in Arkansas

Other topics included digital payments, risk models and (mis)calculating income.





# Financial Reporting

January 2021 – December 2021

After exiting our pilot phase in 2020, 2021 was a year marked by increased stability. Our spending remained balanced, while activities became more diverse with increased outreach due to the flexibility of online events. Not only did this allow for more events, but it also resulted in cost savings, freeing up funds for future periods.

In 2021, annual organisational spending totalled EUR 1.36 million which increases to EUR 1.46 million when the reserve funds set aside for future litigation instances are included. 2020 was an exceptional financial year due to the COVID-19 emergency response for grantmaking. Therefore, spending was expected to decrease in 2021. Although organisational spending was less, DFF still had an excellent financial year. All operational targets were met, and staff capacity and our activities grew.

Grant making	Using our new grantmaking process, we ran two calls for applications in 2021 and committed all the available grantmaking budget. The grants team approved 16 framework agreements worth EUR 612,657 – or 42% of spending when the reserves for future litigation instances are considered.
Field building	<p>Even as events stayed online, the proportion of field building activities increased to 17% of total organisational spending. The growth in field building was largely due to the launch of the Digital Rights for All programme and the second phase of the Decolonising the Digital Rights Field process. The proportion of spending on field building activities is expected to increase in 2022 and beyond, as these initiatives continue to gain momentum.</p> <p>During 2021, all events took place virtually. These events included workshops and strategic litigation retreats, as well as a speaker series on the Digital Welfare State and the launch of our Understanding Tech series. The online events were relatively low cost and left additional funds for development of much-needed tools for the field, such as a strategic litigation toolkit.</p> <p>With relatively low-cost online events, it was possible for a greater variety of activities with a wider outreach. Participants from otherwise hard-to-reach countries like Belarus and Ukraine were able to participate. Likewise, it was possible to have speakers and moderators from India, South Africa, and the US whom it would not have been possible to host at an in-person event.</p>
Operating expenses	Operating expenses grew 29% to support activities. The increase was due to a planned boost in staff expenses and costs related to the director transition. Of the staff expense increase, almost all of it was related to roles fully dedicated to racial, social, and economic justice field building, and is fully covered by project funding.
Funding	2021 was yet again a very successful year in fundraising, with further diversification. Besides securing renewals from all our current core funders and raising additional project support, we are excited to welcome three new funders to the funding cohort: Robert Bosch Stiftung, Limelight Foundation, and Stiftung Mercator. These new funders will support us with both project and core support in 2022 and beyond. This brings DFF's active funders to 11.

# Financial Future

2022 will be a year of change. Our new director will lead DFF's new four-year organisational strategic planning process. This will include a review of how to best align our financial strategy with our new strategic priorities.



## 1.

With all available grantmaking budget fully allocated in 2020 and 2021, we will remain committed to balancing activities to ensure there are more funds available for funding more litigation and research.

## 2.

Another key priority will be developing more sophisticated fundraising structures, securing the future of our racial and social justice field building work, and possibly diversifying beyond the current funding base of private foundations.

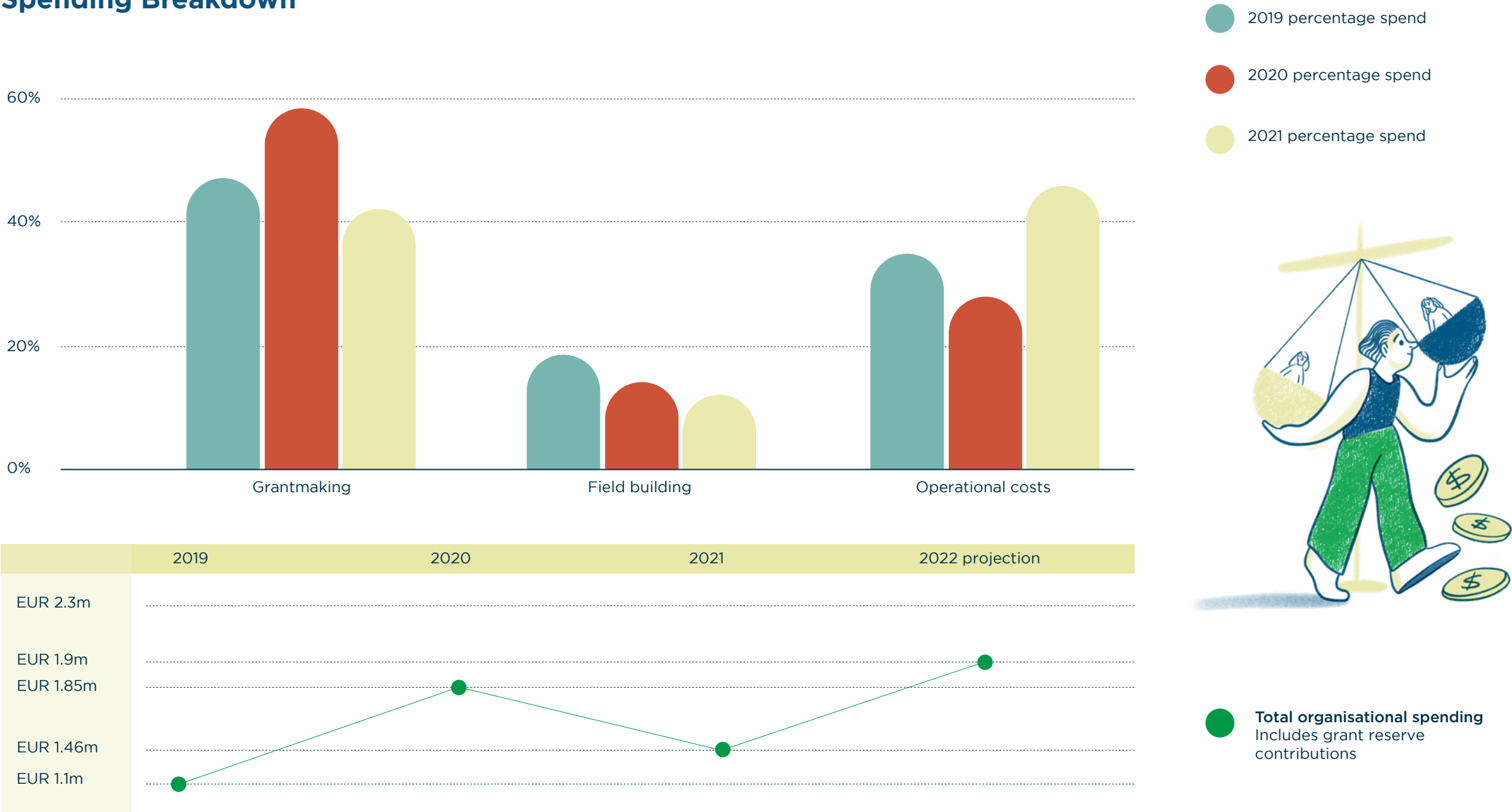
## 3.

Our staff will also grow with the addition of a Communications Lead and more support for operations and field building.

## 4.

A process of internal decolonising initiated in 2021 will continue, including decolonising internal policies and procedures to provide more flexibility in day-to-day financial operations, and allow adjustment to the scale of operational growth. The goal is for decolonising principles to inform all areas of our work.

Spending Breakdown



## **Annual Report 2021**

The Digital Freedom Fund supports strategic litigation to advance digital rights in Europe, by applying decolonising principles to enable the digital rights community to exercise their collective rights in digital and networked spaces. Providing financial support for strategic cases, DFF is well placed to catalyse collaboration among activists, litigators, and the whole digital rights community.

## **Credits:**

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**good point.**

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