

## Mission project: Funding fundamental rights lawsuits

### What is the problem?

Strategic litigation makes it possible to achieve far-reaching social changes, for better or worse. In the past, trade unions and NGOs have brought about important changes in the European and/or national legal order via the European Court of Justice, especially in preliminary ruling proceedings. However, to date funding for strategic litigation has been very limited. As a result, many cases that end up in court are brought by well-funded conservative complainants, thereby perpetuating social imbalance and promoting illiberal ideas.

### What is the solution?

The European Union should invest in funding fundamental rights lawsuits launched by civil society organisations. Funding for strategic litigation is explicitly mentioned in the CERV framework, but the budget is modest. The budget should therefore be increased to counterbalance the activities of illiberal think tanks or lobbyists. In addition, a scheme such as the European Citizens' Initiative might be helpful. If civil society organisations from at least seven EU countries come together to pursue a fundamental rights case that is of EU-wide relevance, they should be able to apply for funding.

The European Commission's DG for Justice and Consumers (Directorate C – Fundamental rights and rule of law) commissioned a feasibility study on funding possibilities in 2020 that should be taken up, also by members of the European Parliament. Cooperation could also be sought with the Fundamental Rights Agency.

### How does it affect Europeans?

Conservative and far-right groups are increasingly ambitious in using strategic litigation to push their agendas. Take the example of *Ordo Iuris*, a Polish Catholic legal organisation and think tank that has become known for its anti-LGBT, anti-abortion and anti-divorce activism. To balance these organisations, the European Union should support lawsuits instigated by European civil society bodies concerning fundamental civil rights. This would be of particular benefit in Member States whose repressive national governments restrict their activities.

### What does it cost?

The cost of funding strategic litigation is small compared with the social changes that can be achieved. What is expensive for liberal European society is to leave the field open for well-funded far-right complainants.

**Would you like to have more detailed information about this policy?**

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