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9 June 2025

Dear Ms Roussel,

**Request for Article 5 review by Working Group on Bribery
of the Republic of Italy**

- 1 This Complaint is made in the public interest.
- 2 As a State Party to the OECD Anti-bribery Convention, the Republic of Italy [**"Italy"**] is duty bound under Article 5 of the Convention to prevent political interference in decisions relating to the investigation and prosecution of bribery (*see Section 3*).
- 3 Since 2014, as documented in this Complaint, the Italian press has reported numerous allegations that there was an orchestrated attempt to interfere with a) the investigation of the Italian state-controlled oil multinational Eni Spa [**"Eni"**] and others for bribery relating to the acquisition of the OPL 245 offshore oil field licence in Nigeria and (b) two subsequent prosecutions.
- 4 The Italian State has itself confirmed, through court convictions¹ and public statements², that associates of Eni conspired with state officials to "pollute" the OPL 245 investigation.
- 5 It has also been alleged that the conspiracy to pollute the OPL 245 trial was directed by senior Eni managers, one of whom (Massimo Mantovani, a former Eni chief legal counsel) is currently on trial for his alleged role in the plot, which he denies.³
- 6 One of those already convicted for his part in the conspiracy has alleged that its aim was to terminate the OPL 245 prosecutions; to discredit and discipline the trial prosecutors; and to

¹ See Section 6, Red Flag 11

² See Section 6, Red Flags 35 and 36

³ Resta a Milano il processo per il "falso complotto Eni", la decisione della Cassazione, Il Fatto Quotidiano, 15 February 2024, <https://www.ilfattoquotidiano.it/2024/02/15/resta-a-milano-il-processo-per-il-falso-complotto-eni-la-decisione-della-cassazione/7447762/>

reduce the effectiveness of the specialist anti-corruption unit within the Milan Prosecutors' Office (see Section 6, Red Flag 14).⁴

- 7 The public record also shows that Italy's handling of the OPL 245 prosecutions has been characterised by departures from applicable procedural rules, contrary to Article 5. Those procedural departures would appear to have been necessary precursors to decisions that have resulted in or that are alleged to have resulted in:
 - The selection of trial judges favourable to Eni:
 - The termination of the OPL 245 prosecutions on grounds that were overtly political and which, in one instance, failed to take account of new jurisprudence favourable to the prosecution:
 - The prevention of the two lead prosecutors at the Court of First Instance from joining the team leading the State's appeal against the acquittal of the defendants:
 - The disciplining and criminal conviction of the two First Instance court prosecutors on charges that an independent judicial expert has described as "*questionable conjectures*":
 - A court ruling that effectively dismantles prosecutorial discretion in anti-corruption cases, making their prosecution harder: and
 - The evisceration of the specialist anti-corruption unit at the Milan Prosecutors' Office, lauded for its performance prior to these events, in the WG's Phase IV review of Italy.
- 8 **Our Complaint is that Italy has repeatedly failed to scrutinise whether or not a) the acknowledged and alleged interference in the OPL 245 investigation and prosecutions; and b) the departures from procedural norms constituted Article 5 offences.** The Memorandum identifies 60 occasions where circumstances indicate Article 5 Red Flags. Those Red Flags should have triggered action by Italy as and when they arose. To date, however, none of the identified Red Flags have been scrutinised from an Article 5 perspective or led to any inquiry or any action being taken. Moreover, the decisions to terminate the OPL 245 prosecutions were taken even though criminal investigations into interference by associates of Eni were continuing.
- 9 The OECD Working Group on Bribery has jurisdiction to conduct an independent review of Italy's actions and inactions - and whether or not they amount to violations of Article 5.
- 10 At a time when the OECD Anti-bribery Convention is fraying at the edges, not least due to the de facto withdrawal of the United States of America, it is imperative that action is taken to protect the Convention, where Article 5 offences are established.
- 11 We therefore call on the Working Group to initiate an immediate review of Italy's compliance with Article 5 in relation to:
 - 11.a The confirmed interference in the OPL 245 investigation:
 - 11.b The termination of the OPL 245 prosecutions:
 - 11.c The prosecution of the OPL 245 trial prosecutors:
 - 11.d The evisceration of the specialised anti-corruption unit in the Milan Prosecutors' Office.

4 Procura della Repubblica presso il Tribunale di Milano, Verbale di Interrogatorio reso il 18.11.2019 da Amara Piero", Procedimento NR. 12333/17/21 RGNR, p.17, <https://dirittopenaleuomo.org/wp-content/uploads/2021/05/Verb-int.-Amara-18.11.19.pdf>. Italian original: "Il progetto era il seguente: nella mail vi erano elementi per ritenere alcuni comportamenti del dottor De Pasquale asseritamente censurabili, questa mail sarebbe dovuta arrivare alla Procura di Milano, avere in qualche modo il crisma dell'ufficialità e successivamente doveva essere 'coltivata' attraverso un esposto al Consiglio Superiore della Magistratura.

Structure of Memorandum

- 12 This Memorandum is divided into seven sections:
- 12.a **Section One** details the Complainants.
 - 12.b **Section Two** summarises the background to the OPL 245 investigations and prosecutions.
 - 12.c **Section Three** sets out Italy's obligations under Article 5 of the OECD Anti-bribery Convention.
 - 12.d **Section Four** sets out the Working Group's jurisdiction to review decisions that may infringe Article 5.
 - 12.e **Section Five** sets out the political context in which the decisions to terminate the OPL 245 prosecutions were taken.
 - 12.f **Section Six** sets out the timeline of the OPL 245-related investigations and prosecutions, identifying 60 "red flag" moments where there is credible evidence of Article 5 violations.
 - 12.g **Section Seven** details suspected Article 5 offences and our requests for investigation.

SECTION ONE

The Complainants

- 13 This Request for a Review of Italy's Compliance with Article 5 in relation to the OPL 245-related investigations and prosecutions is made in the public interest by three non-governmental organisations.
- 14 The principles of all three groups have been working to investigate the OPL 245 deal for over a decade.
- 15 The three groups, in alphabetical order, are:
- **Corner House Research, United Kingdom**
Corner House Research ["**Corner House**"] is a UK-registered non-governmental organisation. It began investigating alleged corruption surrounding the sale of the OPL 245 oil license in Nigeria in 2012. It was a signatory to the criminal complaint that triggered the prosecutions of Eni and others in Italy.
 - **Hawkmoth**
Hawkmoth is a Netherlands-registered non-governmental organisation (Stichting) that investigates and campaigns to prevent natural resource related conflict and corruption and associated environmental and human rights abuses. It's director Simon Taylor, a co-founder of Global Witness, has been investigating OPL 245 since 2008 and was also a signatory to the complaint that led to the Italian prosecutions of Eni and others.
 - **HEDA, Nigeria**
Human and Environmental Development Agenda (HEDA Resource Centre) (HEDA) is a Nigerian based non-governmental organisation. HEDA's involvement in the OPL 245 began in 2013, when it submitted a petition to Nigeria's Economic and Financial Crimes Commission (EFCC), demanding investigation of the transaction. Following the petition, an investigation was opened by the Commission, culminating in the prosecution of parties to the deal. Towards the

end of the trials, however, the state prosecutor in highly questionable circumstances withdrew the prosecutions, arguing that there was no case to answer.⁵

SECTION TWO

The background to the OPL 245 investigations and prosecutions in Italy

- 16 The OPL 245 licence was purchased by Eni and Shell in April 2011 from Malabu, a company controlled by convicted money-launder Dan Etete. Etete had corruptly awarded the licence to Malabu in 1998 when serving as Nigeria's oil minister during the military dictatorship of General Sani Abacha. Shell and Eni's acquisition thereby monetised Etete's illegal award of the licence.
- 17 Eni and Shell knew that \$1.1 billion of the price they paid for OPL 245 would be used to benefit officials in Nigeria. Eni and Shell nonetheless went ahead with the deal, thus financing the bribes.
- 18 The monies received by Malabu from the deal were rapidly dispersed to a number of Nigerian registered shell companies associated with Aliyu Abubakar, Nigerian entrepreneur and fixer known locally as "Mr Corruption".
- 19 Abubakar gave a statement to Nigeria's Economic and Financial Crimes Commission averring that he received \$400 million from Malabu as a fee for two days consultancy work and as payment for 8 properties. The consultancy work included a face-to-face meeting with President Jonathan to "resolve" the OPL 245 deal.
- 20 Bank documents and other records establish that Attorney General Adoke (a public official) received \$2 million dollars from the deal. Adoke was prosecuted in Nigeria, charged with OPL 245- related corruption offenses,⁶ but the charges were controversially withdrawn.
- 21 An analysis⁷ by Resources for Development Consulting reveals that Shell and Eni obtained extremely favourable financial terms on the OPL 245 deal, depriving Nigeria of some \$6 billion in future revenue. The benefit achieved through bribery was therefore more than simply the acquisition of an oil prospecting license.
- 22 In 2013, following a complaint by the Italian civil society organisation ReCommon and others, the Milan Prosecutors' Office opened an investigation into the bribery allegations surrounding the OPL 245 deal, leading to Eni, Shell and 13 other defendants being charged in 2017.⁸
- 23 In 2018, two defendants who opted for a fast-track trial were convicted.
- 24 On 17 March 2021, Eni and other defendants were controversially acquitted in a judgment that the OECD Working Group has ruled did not conform to the OECD Anti-bribery Convention.⁹

5 "EFCC sacks top prosecutor accused of taking bribes from Wole Olanipekun, Bello Adoke to sabotage Malabu OPL 245 fraud trial", Peoples' Gazette, 3 April 2024, <https://gazettengr.com/exclusive-efcc-sacks-top-prosecutor-accused-of-taking-bribes-from-wole-olanipekun-bello-adoke-to-sabotage-malabu-opl-245-fraud-trial/>

6 FRN vs Mohammed Bello Adoke (Former Attorney General of the Federation and Minister of Justice) & 1 other, <https://corruptioncases.ng/cases/frn-vs-mohammed-bello-adoke-former-atto-1>

7 Global Witness, Take the Future, https://web.archive.org/web/20190330193610/https://globalwitness.org/documents/19524/Take_the_Future_.pdf

8 Milan Court, Preliminary Investigations Magistrate Section, Dott.ssa Giuseppina BARBARA, No. 54772/13 General Criminal Records Registry, No. 4383/14 General Register of Preliminary Investigations Magistrates, PRELIMINARY HEARING REPORT - art. 420 and subsequent articles of the Code of Criminal Procedure, 20 December 2017

9 OECD (2022), *Implementing the OECD Anti-Bribery Convention Phase 4 Report: Italy*, Implementing the OECD Anti-Bribery Convention, OECD Publishing, Paris. Hereafter "OECD Phase 4 Report". Available at: [https://one.oecd.org/document/DAF/WGB\(2022\)39/FINAL/en/pdf](https://one.oecd.org/document/DAF/WGB(2022)39/FINAL/en/pdf).

The Working Group stated at paragraph 116: "The Working Group indeed considered in the past that Italy's foreign bribery offence complied with the Convention. But this was before the spate of recent acquittals that created jurisprudence on the offence". At

- 25 Both judgments were appealed. However, the two trial prosecutors were not permitted to join the Appeal team which was led instead by a Prosecutor who terminated all prosecutions against all defendants, citing reasons that were overtly political (*see, for example, Section 6, Red Flag 34*).

SECTION THREE

The legal Framework: Italy's obligations under Article 5 of OECD Anti-bribery Convention

A Italy's incorporation of the OECD Bribery Convention

- 26 Italy is a Party to the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions [the "**Anti-bribery Convention**"], which it ratified on 15 December 2000.¹⁰ The Convention entered into force in Italy on 13 February 2001. The Convention is incorporated into Italian law through Article n.332-bis in Italy's penal code and through Decree n.231 on administrative responsibilities of companies.¹¹

B Italy's obligations under Article 5 of the Anti-Bribery Convention

- 27 Article 5¹² places two obligations on State Parties to the OECD Anti-bribery Convention:

27.a Firstly that:

"Investigation and prosecution of the bribery of a foreign public official shall be subject to the applicable rules and principles of each Party".

27.b Secondly that:

"[Investigations and prosecutions] shall not be influenced by considerations of national economic interest, the potential effect upon relations with another State or the identity of the natural or legal persons involved".

C Protecting the independence of prosecutors

- 28 The official Commentaries on the Convention record that the express purpose of Article 5 is "to protect the independence of prosecution" and to ensure that prosecutorial discretion is "exercised on the basis of professional motives and is not to be subject to improper influence by concerns of a political nature".¹³

para 100, the Work Group also stated: "Other post-Phase 3 developments raise serious concerns, especially the jurisprudence on the foreign bribery offence that has emerged . . . These court decisions raise serious concerns about the standard of proof and the courts' treatment of circumstantial evidence in foreign bribery cases. Some of the decisions also adopt interpretations of Italy's foreign bribery offence that are incompatible with the Convention."

10 OECD, Convention on Combating Bribery of Foreign Public Officials in International Business Transactions Ratification Status as of September 2024, https://www.oecd.org/content/dam/oecd/en/topics/policy-sub-issues/fighting-foreign-bribery/OECD%20WGB%20Ratification%20Status%20-%20September%202024.pdf/jcr_content/renditions/original./OECD%20WGB%20Ratification%20Status%20-%20September%202024.pdf

11 Ministero della Giustizia, "Convenzione OCSE contro la corruzione dei pubblici ufficiali stranieri - Applicazione in Italia", <https://www.giustizia.it/giustizia/it/contentview.page?contentId=ART743793>

12 OECD, Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, OECD/LEGAL/0293, https://www.oecd.org/content/dam/oecd/en/publications/reports/2011/03/convention-on-combating-bribery-of-foreign-public-officials-in-international-business-transactions_037f7856/2bfa620e-en.pdf

13 COMMENTARIES ON THE CONVENTION ON COMBATING BRIBERY OF FOREIGN PUBLIC OFFICIALS IN INTERNATIONAL BUSINESS TRANSACTIONS, Adopted by the Negotiating Conference on 21 November 1997, para 27. OECD, Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, OECD/LEGAL/0293, p.13, https://www.oecd.org/content/dam/oecd/en/publications/reports/2011/03/convention-on-combating-bribery-of-foreign-public-officials-in-international-business-transactions_037f7856/2bfa620e-en.pdf. "Article 5 recognises the fundamental nature of national regimes of prosecutorial discretion. It recognises as well that, in order to protect the independence of prosecution, such

29 Commentaries by authoritative independent experts also confirm that the discretion of anti-bribery prosecutors *“should be exercised in favour of investigation”*;¹⁴ and that, in line with United Nations’ Conventions against Transnational Crime and against Corruption, *“any discretionary legal powers’ relating to the prosecution of the corruption offences ‘should be exercised to maximise the effectiveness of law enforcement measures’”*.¹⁵

30 In 2025, the Working Group on Bribery [“WGB”], which acts as the guardian of the Anti-bribery Convention, specifically identified *“disciplinary proceedings and prosecutorial investigations [against anti-bribery prosecutors] while [they continue] to hold their positions and perform their duties”*¹⁶ as a potential form of improper interference in the investigation and prosecution of cases.

D No permissible exemptions from Article 5

31 The WGB has ruled that *“in investigating and prosecuting the bribery of a foreign public official, there are no proper considerations of national economic interest, the potential effect on relations with another state, or the identity of the natural or legal entities involved”* (our emphasis).¹⁷

32 In his commentary of Article 5, Peter Cullen, formerly head of section for European public and criminal law at the Academy of European Law in Trier, Germany, forcefully underlines the same point:

“[T]here are no ‘permissible degrees’ of national economic interest which would justify influencing a prosecutorial decision. There are no national economic considerations which could justify a decision not to go ahead with an investigation or prosecution”.¹⁸

E Article 5 applies to all stages of an investigation and prosecution

33 In 2008, the Secretariat of the WGB issued a “Note on Article 5” [the “**Note**”], which was discussed by the Working Group. The Note expressly ruled that:

discretion is to be exercised on the basis of professional motives and is not to be subject to improper influence by concerns of a political nature.”

14 Cullen, P.J., “Article 5: Enforcement”. In Pieth, M., Low, L.A. and Cullen, P.J. (eds), *The OECD Convention on Bribery: A Commentary*, Cambridge University Press, 2007, p.300.

15 Cullen, P.J., “Article 5: Enforcement”. In Pieth, M., Low, L.A. and Cullen, P.J. (eds), *The OECD Convention on Bribery: A Commentary*, Cambridge University Press, 2007, p.300.

16 Peru must enhance protection for prosecutors and judges against potential political interference, says OECD Working Group on Bribery following High-Level Mission in Lima, Press release, 22 January 2025, <https://www.oecd.org/en/about/news/press-releases/2025/01/peru-must-enhance-protection-for-prosecutors-and-judges-against-potential-political-interference-says-oecd-working-group-on-bribery-following-high-level-mission-in-lima.html>. The Working Group on Bribery states: “The OECD Working Group on Bribery has expressed its concern over developments that could jeopardise judicial and prosecutorial independence in Peru . . . The Working Group notes that, since 2023, some prosecutors from the Lava Jato Special Team, an anti-corruption unit established in 2016 to coordinate Peru’s investigations into bribery linked to Brazil’s Lava Jato scandal, have been subject to disciplinary proceedings and prosecutorial investigations while continuing to hold their positions and perform their duties”.

17 Report on the Application of the Convention On Combating Bribery of Foreign Public Officials in International Business Transactions and the 1997 Recommendation on Combating Bribery in International Business Transactions Phase 2 Report: Canada, 2004, para 80, https://www.oecd.org/content/dam/oecd/en/publications/reports/2004/03/report-on-the-application-of-the-convention-on-combating-bribery-of-foreign-public-officials-in-international-business-transactions-and-the-1997-recommendation-on-combating-bribery-in-international-business-transactions-phase-2-report-canada_57632117/b968a92b-en.pdf

18 Cullen, P.J., “Article 5: Enforcement”. In Pieth, M., Low, L.A. and Cullen, P.J. (eds), *The OECD Convention on Bribery: A Commentary*, Cambridge University Press, 2007, p.316. Cullen cites para 33 et seq., para 39 of Report on the Application of the Convention On Combating Bribery of Foreign Public Officials in International Business Transactions and the 1997 Recommendation on Combating Bribery in International Business Transactions Phase 2 Report: Canada, 2004, https://www.oecd.org/content/dam/oecd/en/publications/reports/2004/03/report-on-the-application-of-the-convention-on-combating-bribery-of-foreign-public-officials-in-international-business-transactions-and-the-1997-recommendation-on-combating-bribery-in-international-business-transactions-phase-2-report-canada_57632117/b968a92b-en.pdf

*"Article 5 applies to all stages of foreign bribery proceedings, including the preliminary investigation stage"*¹⁹ (our emphasis).

F "Strict Scrutiny" requirement where prosecutions terminated

34 The same 2008 Note also laid down the actions that State Parties must take where a bribery prosecution is terminated.

35 The Note states:

*"Where the termination of a case could appear to be based on considerations prohibited under Article 5, prosecutors must apply a "strict scrutiny" test to ensure that considerations not prohibited by Article 5 are the real basis for the decision"*²⁰ (our emphasis).

36 The Note also expressly states:

"[W]hen an investigation or prosecution is not opened or is terminated, safeguards should be employed in accordance with the Party's legal system to meet the overall object and purpose of the Convention, i.e. to combat bribery in international business transactions through the criminalisation of the briber. These safeguards should ensure the following:

- a. independent scrutiny at an appropriate non-political level to ensure that the reasons for the decision are valid and that a consideration prohibited by Article 5 is not the real basis for the decision:*
- b. all reasonable efforts are taken to find an alternative solution that enables the opening or continuation of the investigation or prosecution, and*
- c. public accountability for the decision to the greatest extent possible".*²¹

37 Peter Cullen also emphasises the need for accountability where a prosecution is terminated:

"Should a prosecutor drop a bribery case, a review of this decision by a higher authority should indeed be envisaged".²²

SECTION FOUR

The Working Group on Bribery's Jurisdiction to review Italy's termination of the OPL 245 prosecutions

38 As detailed in Section 6 below, there are overwhelming grounds for suspecting that Italy's handling of the OPL 245 case has involved multiple violations of Article 5.

39 Italy itself has signally failed to commission an independent review of the decision to terminate the OPL 245 prosecutions, despite the clear-cut requirement for it to do so.

40 Although the Working Group has reviewed the decision by the Court of First Instance in Milan to acquit the defendants in the OPL 245 case (finding the decision to be out of line with the Anti-

19 OECD, "Article 5 of the OECD Anti-bribery Convention: Issues concerning the exercise of investigative and Prosecutorial Discretion", p.7, 2008, [https://one.oecd.org/document/DAF/INV/BR/WD\(2008\)16/en/pdf](https://one.oecd.org/document/DAF/INV/BR/WD(2008)16/en/pdf)

20 OECD, "Article 5 of the OECD Anti-bribery Convention: Issues concerning the exercise of investigative and Prosecutorial Discretion", p.7, 2008, [https://one.oecd.org/document/DAF/INV/BR/WD\(2008\)16/en/pdf](https://one.oecd.org/document/DAF/INV/BR/WD(2008)16/en/pdf)

21 OECD, "Article 5 of the OECD Anti-bribery Convention: Issues concerning the exercise of investigative and Prosecutorial Discretion", p.11, 2008, [https://one.oecd.org/document/DAF/INV/BR/WD\(2008\)16/en/pdf](https://one.oecd.org/document/DAF/INV/BR/WD(2008)16/en/pdf)

22 Cullen, P.J., "Article 5: Enforcement". In Pieth, M., Low, L.A. and Cullen, P.J. (eds), The OECD Convention on Bribery: A Commentary, Cambridge University Press, 2007, p.314.

bribery Convention),²³ no review has been undertaken of the decision to terminate the prosecution at the Appeal stage or of suspected political interference in the case.

- 41 The Working Group has clear jurisdiction to initiate such review. As the Secretariat's 2008 "Note on Article 5" records:

*"Parties also recognise that any decision concerning the investigation or prosecution of a case covered by the Convention is fully reviewable by the Working Group on Bribery" (our emphasis).*²⁴

- 42 The Working Group must now exercise that right of review. If the integrity, effectiveness and reputation of the OECD Anti-Bribery Convention is to be protected – especially given the current situation where anti-corruption efforts around the world are facing significant political attack – the Working Group cannot allow Article 5 breaches to go unscrutinised where there are strong grounds for suspecting political interference. A review by the Working Group of Italy's handling of the OPL 245 case is therefore of the utmost urgency.

SECTION FIVE

The political context in which the decisions to terminate the OPL 245 prosecutions were taken

- 43 Before detailing Italy's suspected violations of Article 5 in its handling of the OPL 245 case, it is important to understand the context in which the prosecutions took place and, in particular, political forces that may have sought, legitimately or illegitimately, to influence the outcome.
- 44 One source of alleged illegitimate influence (from an Article 5 perspective) is of particular note: namely, the oil multinational Eni SpA.
- 45 Eni was a defendant, along with several senior executives, in one of the OPL 245 proceedings. Created by the Italian state as a for-profit public entity in 1953, Eni is now a semi-private company, with the Italian state retaining effective control through a 30% shareholding and the power to appoint six members of Eni's nine-strong board, including the Chief Executive Officer (CEO).²⁵
- 46 As the country's largest company, Eni is viewed by many as emblematic of Italy itself. Its power is such that it has been described as a "parallel state".²⁶ Its CEO, Claudio Descalzi (one of those prosecuted in the OPL 245 case), is reported to have "strong support from the government"²⁷ and has recently accompanied Prime Minister Georgia Meloni on high profile visits to a number of countries.²⁸ Indeed, Eni is viewed as a key promotor of Italian interests

23 OECD, Implementing the OECD Anti-Bribery Convention: Phase 4 Report – Italy, <https://www.oecd.org/daf/anti-bribery/italy-phase-4-report.pdf>. The Working Group explicitly stated that elements of the judgment did "not conform" to Article 1 of the Convention" (para 128). It also expressed (para 103) "extreme concern" over the "systematic rejection of circumstantial evidence" by the judges.

24 OECD, "Article 5 of the OECD Anti-bribery Convention: Issues concerning the exercise of investigative and Prosecutorial Discretion", p.11, 2008, [https://one.oecd.org/document/DAF/INV/BR/WD\(2008\)16/en/pdf](https://one.oecd.org/document/DAF/INV/BR/WD(2008)16/en/pdf)

25 "The Italian Treasury, which owns 4.4% of Eni and controls another 26.2% via state lender CDP, has the right to appoint six members of Eni's nine-strong board", including the CEO. See: Italy's Descalzi set for record fourth term as Eni CEO, sources say, Reuters, 20 January 2023, <https://www.reuters.com/business/energy/italys-descalzi-set-fourth-term-helm-eni-sources-say-2023-01-20/>

26 Andrea Greco and Giuseppe Oddo, Lo Stato Parallelo: La Prima Inchiesta Sull'Eni tra politica, servizi segreti, scandali finanziari e nuove guerre da Mattei a Renzi, 2016, <https://www.perlego.com/book/3745674/lo-stato-parallelo-la-prima-inchiesta-sulleni-tra-politica-servizi-segreti-scandali-finanziari-e-nuove-guerre-da-mattei-a-renzi-pdf>

27 Italy wheels out top politicians for North African energy push, Energy Voice, 23 January 2023, <https://www.energyvoice.com/oilandgas/africa/pipelines-africa/477409/italy-meloni-algiers-energy/>

28 What Italy's New Proactive Foreign Policy Means for the Gulf and North Africa, Gulf International Forum, 2023, <https://gulif.org/what-italys-new-proactive-foreign-policy-means-for-the-gulf-and-north-africa/>

abroad – particularly in Africa and the Middle East, where Italy reportedly hopes to turn “the deep knowledge that state-controlled Eni has of the African continent and its longstanding commercial ties to Middle Eastern countries into a national asset as Europe works to secure new energy sources”.²⁹ Under an agreement with the Italian Ministry of Foreign Affairs, an Eni board member is seconded to the Ministry’s high-level diplomatic body and a Ministry official can be part of Eni’s senior management.³⁰

- 47 The company also has close relations with the Italian secret services from whose ranks it reportedly has a long history of recruiting.³¹ In 2014 former PM Matteo Renzi publicly stated that Eni is “*A fundamental piece of our secret services*”.³²
- 48 In light of the above, Italy should therefore have been alert from the outset to the possibility that political forces would likely seek to terminate the prosecution, in violation of Article 5: and should have reviewed actions and decisions that were indicative of such Article 5 offences.

SECTION SIX

Timeline of OPL 245-related investigations and prosecutions in Italy: **Article 5 Red Flags**

- 49 The timeline below sets out the chronology of OPL 245-related investigations in Italy from 2013 to date.
- 50 The timeline identifies 60 Red Flags which could (and should) have been investigated by Italy as potential Article 5 breaches as soon as they were first raised.
- 51 The red flags arise from reported allegations or facts that give rise to strong grounds for suspecting political interference in the OPL 245 case.
- 52 Critically, the fact that there was “interference” has been acknowledged by the Italian State, not least through the criminal convictions of an Eni-associated lawyer and a public official for seeking to “pollute” the OPL 245 trial (*see Section 6 Red Flag 11*).
- 53 Despite that acknowledgement, Italy has failed to investigate the interference as *political* interference and thus as a potential Article 5 breach. Yet, statements made to state officials by one of those convicted of polluting the OPL 245 trial allege that the “pollution plot” was directed by Eni and was specifically intended to terminate the OPL 245 prosecutions; to discipline and remove the trial prosecutors and to curtail the activities of the main anti-corruption unit at the Milan Prosecutors Office (*see, for example, Section 6 Red Flag 14*). We note that all of the aims claimed in these statements have in fact now come to pass.
- 54 The Red Flags also identify a number of occasions where departures from procedural norms (forbidden by Article 5) that paved the way for later official decisions that have resulted in or that are alleged to have resulted in acts that assisted the aims of the conspiracy to pollute the OPL 245 proceedings (*see, for example, Section 6 Red Flags 47 and 56*).


29 Italy renews its ‘Mattei plan’ to develop energy ties to Africa, Financial Times, 11 January 2023, <https://www.ft.com/content/05d17d35-b0c3-47d2-b6b7-6f7d65d758fc>

30 ReCommon, Tutti gli uomini del Ministero, 4 March 2021, <https://www.recommon.org/tutti-gli-uomini-del-ministero/>

31 Why Was an Italian Graduate Student Tortured and Murdered in Egypt? The New York Times Magazine, 15 August 2017, <https://www.nytimes.com/2017/08/15/magazine/giulio-regeni-italian-graduate-student-tortured-murdered-egypt.html>

32 “Renzi, gaffe in tv su Eni: ‘E’ un pezzo fondamentale dei nostri servizi segreti””, Il Fatto Quotidiano, 4 April 2014, <https://www.ilfattoquotidiano.it/2014/04/04/eni-renzi-a-otto-e-mezzo-pezzo-fondamentale-della-nostra-intelligence-brunetta-gaffe-inqualificabile/939651/>

- 55 The Red Flags also identify state officials who are alleged to have assisted the conspiracy through informal associations such as the “**Loggia Ungheria**” [“**Hungary Lodge**”] (see, for example, Section 6 Red Flags 19, 20 and 21).
- 56 The timeline records that the Article 5 Red Flags did not end with the termination of the OPL 245 prosecutions but extend to the subsequent prosecution of the trial prosecutors in the case (see Section 6 Red Flag 58).
- 57 The Red Flags are continuing, in that the alleged objectives of the acknowledged interference are still being played out through the ongoing evisceration of the main anti-corruption unit at the Milan Prosecutors Office (see Section 6 Red Flag 60).

Table 1: <u>OPL 245 Investigations and Prosecutions - Article 5 Red Flags</u>		
<u>Date</u>	<u>Event</u>	<u>Article 5 Red flag</u>
9 September 2013,	Italian non-governmental organisation ReCommon and others file a complaint with the Public Prosecutor’s Office in Milan requesting an investigation into bribery and kickback allegations relating to the acquisition of the OPL 245 licence by Eni and Shell. ³³	
4 November 2013	The Milan Prosecutors' Office registers opening of criminal proceedings (reference number 54772/13) against Eni S.p.A and others for bribery of foreign public officials. ³⁴	
4 June 2014	The Milan Prosecutors’ Office notifies Eni of the opening of an investigation into Eni’s acquisition of OPL 245. ³⁵	
28 July 2014	<u>Piero Amara</u> , ³⁶ who acted as an external lawyer to Eni and senior Eni managers for many years, makes a secret video recording of <u>Vincenzo Armanna</u> , ³⁷ Eni’s Vice President for Sub-Saharan Africa from 2009 to 2013 and project leader in the negotiations to acquire the OPL 245 licence. Armanna was fired by Eni in 2013, after being accused of stealing 380,000 Euros.	 RED FLAG 1 Seen in the context of the subsequent prosecution of the lead prosecutors in the OPL 245 trial at First Instance, this secret


33 ReCommon, Corner House, Global Witness, ALL’ECC. MO PROCURATORE DELLA REPUBBLICA PRESSO IL TRIBUNALE DI MILANO, Atto di Esposto, available at <https://www.eni.com/content/dam/enicom/documents/eng/media/opl/atto-esposto-ecc-emo-procuratore-repubblica-presso-tribunale-milano-da-re-common-settembre-2013.pdf>.

34 Witness Statement of Fabio de Pasquale in Support of an Application for a Restraint Order, IN THE MATTER OF ENI SPA and GIANLUCADI NARDO and ROBERTO CASULA and VINCENZO ARMANNA and ZUBELUM CHUKWUEMEKA and PAOLO SCARONI and CLAUDIO DESCALZI and LUIGI BISIGNANI and DAN ETETE: And IN THE MATTER OF THE CRIMINAL JUSTICE (INTERNATIONAL CO-OPERATION) ACT 1990 ENFORCEMENT OF OVERSEAS FORFEITURE ORDERS) ORDER 2005, Crown Court Sitting At Southwark, 4 September 2014, para 7.


35 Timeline, OPL245papers.org, <https://opl245papers.org/en/timeline-of-the-trial/>

36 Piero Amara, OPL245papers.org, <https://opl245papers.org/en/personaggi/piero-amara/>

37 Vincenzo Armanna, OPL245papers.org, <https://opl245papers.org/en/personaggi/vincenzo-armanna/>



	<p>In the video, Armanna says that he intended to unleash an “avalanche of shit”.³⁸</p> <p>Dr. Fabio de Pasquale, the lead prosecutor in the OPL 245 case later alleged that this referred to an intention to release a series of articles exposing Eni. Armanna was indeed later quoted in articles published in Italy making accusations and other critical remarks about Eni.</p> <p>By contrast, the judges in the Court of First Instance trial took the view that Armanna intended to make false declarations to the prosecutor.³⁹</p> <p>The lead prosecutors will later be investigated and prosecuted for allegedly withholding the video from the defense in the OPL 245 trial, even though Eni already had possession of the transcript of the video.⁴⁰</p>	<p>recording should be viewed as a red flag, as it may have constituted a deliberate attempt to pollute the trial and as a precursor event necessary to removing the prosecutors.</p>
30 July 2014	<p>Vincenzo Armanna,⁴¹ gives a statement to the Milan Public Prosecutor's Office. Referring to the payments made by Eni for the OPL 245 licence, Armanna avers (in translation): “<i>We were aware that a good part would benefit the political sponsors of the operation</i>”.⁴²</p> <p>We note that Armanna’s claims about this are consistent with extensive commentary contained in internal Shell emails about Shell Senior executives’ knowledge about the likely destination of funds paid for the OPL 245 acquisition.⁴³</p>	
26 May 2016	<p>Vincenzo Armanna,⁴⁴ files a written note⁴⁵ with the Milan Prosecutors Office in which he states that his previous statement of 30 July 2014⁴⁶ was not</p>	 RED FLAG 2

- 38 "Dobbiamo far arrivare una valanga di merda che tu non ne hai idea", Dagospia.com, 14 February 2022, <https://www.dagospia.com/cronache/non-e-l-arena-manda-in-onda-video-conversazione-amara-armanna-in-cui-299693>
- I Misteri di Piero Amara Intorno a OPL 245, OPL245papers.org, 26 August 2021, <https://opl245papers.org/it/storie/i-misteri-di-piero-amara-intorno-a-opl-245/>
- 39 Piero Amara, opl245papers.org, <https://opl245papers.org/en/personaggi/piero-amara/>.
- 40 RAI Report, Il video segreto - Report 13/12/2021, <https://www.youtube.com/watch?v=kLoH1XGITks>
- 41 Vincenzo Armanna, OPL245paper.org, <https://opl245papers.org/en/personaggi/vincenzo-armanna/>
- 42 Procura della Repubblica Presso il Tribunale Ordinario di Milano, Proc. n. 54772/13 R.G.N.R, Verbale di presentazione spontanea - Vincenzo Armanna, 30 July 2014. Prosecution file, Preliminary trial, 54772-13 fascicolo cartaceo/ 54772-13 faldone 11.pdf, p. 225. Original Italian: “Della sorte del denaro pagato da Eni . . . Eravamo consapevoli che una buona parte sarebbe andata a beneficio degli sponsor politici dell'operazione”.
- 43 Global Witness, Shell Knew, 10 April 2017, <https://globalwitness.org/en/campaigns/oil-gas-and-mining/shell-knew/>
- 44 Vincenzo Armanna, OPL245paper.org, <https://opl245papers.org/en/personaggi/vincenzo-armanna/>
- 45 Tribunale di Milano Sezione 7 Penale, Proc N.RG Trib, 1351-18, Nota di Deposito, 26 May 2016, <https://aleph.occrp.org/entities/63099898.b69eda4e66243254e0259eae2c7efc61959f6613#page=2>
- 46 Procura della Repubblica Presso il Tribunale Ordinario di Milano, Proc. n. 54772/13 R.G.N.R, Verbale di presentazione spontanea - Vincenzo Armanna, 30 July 2014. Prosecution file, Preliminary trial, 54772-13 fascicolo cartaceo/ 54772-13 faldone 11.pdf, p. 225.


	<p>factual but conjectural – “a hypothesis and a suspicion”.⁴⁷</p> <p>Later he would first claim that he had been pressured into issuing the new statement by Eni CEO Claudio Descalzi.</p> <p>Later still he accuses Fabio de Pasquale, the lead trial prosecutor of pressuring him to make the first statement confirming that Eni knew that the payment for OPL 245 would benefit Nigerian officials.</p>	<p>The changes made by Armanna to his statement of 30 July 2014 raise concerns that he has been pressurised into weakening his previous claim that Eni knew that the payment for OPL 245 would benefit Nigerian officials.</p>
24 September 2016	<p>Prosecutors in Syracuse, Sicily, submit a complaint against Giancarlo Longo, a Syracuse magistrate, for having an illicit financial relationship with Eni-associated lawyer Piero Amara.⁴⁸ This complaint will eventually lead to Amara’s and Longo’s prosecution and conviction for interfering with the OPL 245 investigation.</p>	
22 December 2016	<p>The Milan Prosecutors’ Office informs Shell, Eni and 13 other defendants that its investigation has been concluded.⁴⁹</p>	
7 February 2017	<p>The Milan Prosecutors’ Office requests the Preliminary Investigations Judge that the defendants be sent for trial.⁵⁰</p>	
9 February 2017	<p>Former Eni Vice President Vincenzo Armanna, by now a defendant in the OPL 245 case, sends an email to his lawyer Fabrizio Siggia claiming that his previous lawyer Luca Santa Maria, acting at the bequest of Fabio de Pasquale, the lead OPL 245 prosecutor, had pressured him into making a statement confirming that Eni knew that the</p>	<p> RED FLAG 3</p> <p>Armanna accuses the lead prosecutor of exerting pressure on him to make his statement on 30 July 2014 confirming that Eni knew that the payment for OPL 245</p>

Original Italian: “Della sorte del denaro pagato da Eni . . . Eravamo consapevoli che una buona parte sarebbe andata a beneficio degli sponsor politici dell’operazione”.

- 47 Tribunale di Milano Sezione 7 Penale, Proc N.RG Trib, 1351-18, Nota di Diposito, 26 May 2016, p.6, <https://aleph.occrp.org/entities/63099898.b69eda4e66243254e0259eae2c7efc61959f6613#page=6>. Original Italian: “non era certezza ma un’ipotesi e un sospetto”.
- 48 Corruzione, 15 arresti: ci sono il pm Longo, l’avvocato di Eni Amara e Bigotti, imprenditore del caso Consip, Il Fatto Quotidiano, 6 February 2018, <https://www.ilfattoquotidiano.it/2018/02/06/corruzione-15-arresti-per-associazione-a-delinquere-ci-sono-un-pm-un-ex-legale-di-eni-e-due-gia-coinvolti-in-caso-consip/4139705/>
- 49 PROSECUTOR’S OFFICE AT THE ORDINARY COURT OF MILAN, Proceeding n. 54772/13 R.G.N.R., Notice of conclusion of preliminary investigation under art. 415 bis Criminal Procedure Code.
- Tangenti in Nigeria: Eni e Shell nel mirino dei pm di Milano, Corriere Della Sera, 22 December 2016, https://milano.corriere.it/notizie/cronaca/16_dicembre_22/tangenti-nigeria-eni-shell-mirino-pm-milano-5497c09e-c822-11e6-b72f-beb391d55ecd.shtml
- 50 PROSECUTOR’S OFFICE AT THE ORDINARY COURT OF MILAN, Proceeding n. 54772/13 R.G.N.R. mod. 21, Richiesta di rinvio a giudizio - art. 416, 417 c.p.p., 130 D.Lv 271/89, 7 February 2017

	<p>payment for OPL 245 would benefit Nigerian officials (see entry for 30 July 2014).⁵¹</p> <p>The email is forwarded “by mistake” to Giuseppe Lipera, the lawyer of Massimo Gaboardi, one of those accused of conspiring to pollute the OPL 245 case.⁵²</p> <p>Armanna’s accusations are denied by de Pasquale.</p> <p>A subsequent investigation by the Milan Prosecutors’ Office will conclude that the email was intended to “to create the conditions for disciplinary proceedings against the Public Prosecutor Fabio De Pasquale”.⁵³</p>	<p>would benefit Nigerian officials. The accusation is unfounded but creates the conditions for disciplinary proceedings against the lead prosecutor</p>
6 March 2017	<p>Federico Grosso, a lawyer representing Eni in the OPL 245 trial, is sent Vincenzo Armanna’s email of 9 February 2017 (see entry). He deposits the email with the Milan Prosecutor, reportedly with the agreement of Eni manager (and former chief counsel) Massimo Mantovani and Nerio Diodà, a lawyer for Eni in the OPL 245 case.⁵⁴</p> <p>The deposited email is accompanied by a disclaimer stating that “Eni spa is not in a position to assess either whether the documents are authentic or whether, assuming that they are authentic, they report facts corresponding to the truth or not”.⁵⁵</p>	<p> RED FLAG 4</p> <p>Eni files Armanna’s email accusing the lead prosecutor of pressuring him, without authenticating the email’s authenticity or veracity.</p>
10 March 2017	<p>Following his receipt of Vincenzo Armanna’s email of 9 February 2017 (see entry), Massimo Gaboardi files a petition with the Milan Prosecutor’s Office challenging prosecutor Fabio De Pasquale.⁵⁶</p>	<p> RED FLAG 5</p> <p>A complaint against the lead prosecutor should have triggered a review</p>

- 51 “Armanna calunniò l’avvocato per colpire il pm De Pasquale”, Il Fatto, 28 June 2021, <https://www.ilfattoquotidiano.it/in-edicola/articoli/2021/06/28/armanna-calunnio-lavvocato-per-colpire-il-pm-de-pasquale/6243618/>. The email, as reproduced by Il Fatto, reads (in translation): “In these two years, the doubt has gradually grown in me that, every time Luca (Santamaria) has made himself the bearer of the prosecutor’s requests, he did not think of my defence but of his own interests. Luca tried repeatedly and in many ways to induce me to affirm that I was aware that Eni was aware that the final beneficiaries of part of the sum paid were politicians. He tried until before the closure of the investigation, telling me that the decision of the prosecutors to dismiss me or to grant me favourable treatment depended on this. Honestly, despite the bitterness I feel towards Descalzi and ENI for the evil done to me, I would never have been able to accuse them falsely. He tried to use me (...) Luca started to talk about plea bargaining and how this could be the way to avoid the seizure of my bank account, but I always stressed that I found it absolutely unacceptable to confess to something I had not done, regardless of the fact that this would allow me to take revenge on Scaroni, Descalzi and Eni. The moment I was no longer needed and realised that I would never say something that wasn’t true, and especially the moment I had to defend myself, he dropped me.”
- 52 “Armanna calunniò l’avvocato per colpire il pm De Pasquale”, Il Fatto, 28 June 2021, <https://www.ilfattoquotidiano.it/in-edicola/articoli/2021/06/28/armanna-calunnio-lavvocato-per-colpire-il-pm-de-pasquale/6243618/>
- 53 “Armanna calunniò l’avvocato per colpire il pm De Pasquale”, Il Fatto, 28 June 2021, <https://www.ilfattoquotidiano.it/in-edicola/articoli/2021/06/28/armanna-calunnio-lavvocato-per-colpire-il-pm-de-pasquale/6243618/>
- 54 “Armanna calunniò l’avvocato per colpire il pm De Pasquale”, Il Fatto, 28 June 2021, <https://www.ilfattoquotidiano.it/in-edicola/articoli/2021/06/28/armanna-calunnio-lavvocato-per-colpire-il-pm-de-pasquale/6243618/>
- 55 Submission of Avv Grosso e e Diodà to Milan Court of First Instance trial, 6 March 2017, available at <https://aleph.occrp.org/entities/63099901.a3bc31cc68ff312e9d69fdc434113f1e91e63c>
- 56 “Armanna calunniò l’avvocato per colpire il pm De Pasquale”, Il Fatto, 28 June 2021, <https://www.ilfattoquotidiano.it/in-edicola/articoli/2021/06/28/armanna-calunnio-lavvocato-per-colpire-il-pm-de-pasquale/6243618/>

		of possible prohibited Article 5 interference, independently of any investigation into the merits of the complaint.
20 April 2017	Preliminary hearing of trial commences	
11 July 2017	Two intermediaries in the OPL 245 deal - Emeka Obi and Gianluca Di Nardo – opt for “fast track” trial. ⁵⁷	
20 December 2017	The Preliminary Investigations judge remands the defendants to a full trial at the Court of First Instance. ⁵⁸ The case is assigned to the 10th Criminal Division of the Milan Tribunal (which specializes in corruption). ⁵⁹	
10 January 2018	The procedures of the Milan Court dictate that judges are allocated to trials on a random basis. Under this procedure, the OPL 245 case was initially assigned to three judges from the 10th Criminal Division ⁶⁰ (which specializes in corruption). However, on 10 January 2018, the President of the 10th Division asked for the case to be reassigned. ⁶¹ The official explanation was that the judges who had initially been selected were too busy to undertake the case.	
6 February 2018	Eni-associated lawyer Piero Amara is arrested for conspiring to “pollute” the evidence in the OPL 245 trial, together with 14 others. ⁶²	 RED FLAG 6

57 Tribunale Ordinario di Milano: Ufficio del Giudice per le indagini preliminari, Sentenza, N.54772/13 R.G.N.R/N.17804/17 R.G.GIP/N.2232/18 Sent., 17 December 2018, p.22.


58 Milan Court, Preliminary Investigations Magistrate Section, Dott.ssa Giuseppina BARBARA, No. 54772/13 General Criminal Records Registry, No. 4383/14 General Register of Preliminary Investigations Magistrates, PRELIMINARY HEARING REPORT - art. 420 and subsequent articles of the Code of Criminal Procedure, 20 December 2017. Available at <https://danwatch.dk/wp-content/uploads/2018/01/verbale-ud.-prel.-20.12.17-decreto-che-dispone-il-giudizio.pdf>

59 Milan Court, Preliminary Investigations Magistrate Section, Dott.ssa Giuseppina BARBARA, No. 54772/13 General Criminal Records Registry, No. 4383/14 General Register of Preliminary Investigations Magistrates, PRELIMINARY HEARING REPORT - art. 420 and subsequent articles of the Code of Criminal Procedure, 20 December 2017, p.19. Available at <https://danwatch.dk/wp-content/uploads/2018/01/verbale-ud.-prel.-20.12.17-decreto-che-dispone-il-giudizio.pdf>

60 Tribunale Ordinario di Milano, Sezione 10 Penale, Verbale di Udienza, 5 March 2018. Available at <https://aleph.occrp.org/entities/63099587.3ffe94d8dd6aec9493fd83a760ded12fb209e4e7>

61 Tribunale Ordinario di Milano, Sezione 10 Penale, Verbale di Udienza, 5 March 2018. Available at <https://aleph.occrp.org/entities/63099587.3ffe94d8dd6aec9493fd83a760ded12fb209e4e7>

62 Corruzione, 15 arresti: ci sono il pm Longo, l'avvocato di Eni Amara e Bigotti, imprenditore del caso Consip, Il Fatto Quotidiano, 6 February 2018, <https://www.ilfattoquotidiano.it/2018/02/06/corruzione-15-arresti-per-associazione-a-delinquere-ci-sono-un-pm-un-ex-legale-di-eni-e-due-gia-coinvolti-in-caso-consip/4139705/>
Dossier e depistaggi per condizionare i processi, spiata anche l'inchiesta sulle tangenti Eni, la Repubblica, 6 February 2018, <https://www.ilfattoquotidiano.it/2018/02/06/corruzione-15-arresti-per-associazione-a-delinquere-ci-sono-un-pm-un-ex-legale-di-eni-e-due-gia-coinvolti-in-caso-consip/41397>

	<p>The conspiracy is said to have dated back to 2013, that is to the start of the OPL 245 investigation.</p> <p>Amara is accused of having bribed Giancarlo Longo, public prosecutor in Siracusa, to open an investigation - based on entirely fabricated evidence - into allegations that two Eni board members, together with a manager at one of Eni's subsidiaries, Nigerian intelligence agents, and a group of lawyers, were plotting to remove Eni's CEO Claudio Descalzi by discrediting him.⁶³</p> <p>The complaint which triggered the fake investigation was submitted anonymously to Longo; but investigations revealed that it was submitted by an energy trader close to Amara.⁶⁴</p> <p>Amara later insists⁶⁵ that he was operating under the direction of Claudio Granata, Eni's then director of human resources, who in turn was said to have acted under the direction of Descalzi. Eni has denied Amara's claims.⁶⁶</p> <p>While in pre-trial custody, Amara will enter a guilty plea.</p>	<p>Arrests are made relating to alleged conspiracy by Eni associates to pollute OPL 245 trial and replace trial prosecutors.</p> <p>Attempting to pollute the evidence in an anti-corruption trial in order to terminate the prosecution for economic reasons is a clear violation of Article 5, if undertaken on the direction of a State Party or with its knowledge.</p>
6 February 2018	<p>Police search the offices of Massimo Mantovani, ENI's former chief legal counsel and at the time a senior Eni manager.⁶⁷ The search is reported to be connected to the plot by Eni-associated lawyer Piero Amara and others (see entry above) to pollute the OPL 245 trial. Judicial sources reportedly confirm that "<i>Mantovani is under investigation for a conspiracy to commit a number of crimes</i>", including "<i>aiding and abetting Amara</i>"⁶⁸ and "<i>deliberately delivering false information to prosecutors, inducing</i></p>	<p> RED FLAG 7</p> <p>Eni's former chief legal counsel and (at the time) senior manager is placed under investigation for allegedly interfering with the OPL 245 trial. Mantovani is currently on trial for his alleged</p>

Malabu Scandal: Eni's lawyer, others arrested for allegedly spying into public prosecutor's investigation, Premium Times, 6 February 2018, <https://www.premiumtimesng.com/news/headlines/257770-malabu-scandal-eni-lawyer-others-arrested-allegedly-spying-public-prosecutors-investigation.html?tztc=1>

63 "Piero Amara", opl245papers, <https://opl245papers.org/en/personaggi/piero-amara/>


64 A polluted verdict? Allegations of judicial malpractice and the Milan trial, opl245papers.org, 9 September 2021, <https://opl245papers.org/en/storie/a-polluted-verdict/>

65 Procura della Repubblica presso il Tribunale di Milano, Verbale di interrogatorio reso innanzi al PM da AMARA Pietro (sic) in data 5.12.2019, <https://dirittopenaleuomo.org/wp-content/uploads/2021/05/Verb.-int.-Amara-5.12.19.pdf> f


66 Responding to Opl245papers.org, Eni has stated: "We recall that Piero Amara has been denounced for years by Eni and his manager, including Claudio Granata, for the slanderous statements made in several areas of investigation. Eni and his managers have been waiting for some time for the results of the investigations against Amara and will assert their reasons as offended parties in the courts of jurisdiction. In the meantime, as is known, Eni has filed a civil suit against Piero Amara since July 2019 for damage to its reputation, a lawsuit that is still ongoing". See: <https://opl245papers.org/en/personaggi/piero-amara/>

67 Police search ENI manager's office over false plot, 6 February 2018, <https://www.lagazzettadelmezzogiorno.it/news/english/981375/police-search-eni-manager-s-office-over-false-plot.html>

68 Police search ENI office over false plot (4) , Ansa.it, 6 February 2018 , https://www.ansa.it/english/news/general_news/2018/02/06/police-search-eni-office-over-false-plot-4_5a9be2fa-89c6-468c-b925-6c9be98fca4e.html

	<p><i>others to make false statement and obstructing justice”.</i>⁶⁹</p> <p>Mantovani denies the allegations,⁷⁰ as does Eni.⁷¹</p> <p>Mantovani is currently on trial for his alleged role in the plot.⁷²</p>	<p>role in the plot, which he denies.</p>
20 February 2018	<p>Three new judges are appointed to the main Court of First Instance trial. The new judges were not selected randomly, contrary to normal procedures.</p> <p>The three replacement judges - Marco Tremolada as president and Mauro Gallina and Paola Maria Braggion as supporting judges - were all from the 7th Division, which deals with robberies, extortion, drug trafficking and organised crime.</p> <p>The replacement judges are all reported to be from the “right” of the judiciary. Two - Mauro Gallina and Paola Maria Braggion⁷³ – are reported to be directly associated with the right-wing Magistratura Indipendente grouping.⁷⁴</p>	<p> RED FLAG 8</p> <p>In a departure from the “applicable rules” for selecting judges, the new panel of judges appointed to hear the main trial are not selected randomly.</p>
14 May 2018	Full Trial commences at First Instance Court.	
20 September 2018	Intermediaries Emeka Obi and Gianluca Di Nardo , who had opted for a fast-track trial, are found guilty of complicity in international corruption by the Preliminary Investigating Judge. ⁷⁵ They are sentenced to 4 years imprisonment. In addition, a sum of about \$120 million that arose from the OPL 245 deal was confiscated.	
17 December 2018	Preliminary Investigations Judge issues full judgment in conviction of Intermediaries Emeka Obi	




- 69 Eni, perquisito il manager Mantovani: “C’è lui dietro il tentato depistaggio delle inchieste sull’azienda petrolifera”, Il Fatto Quotidiano, 6 February 2018, <https://www.ilfattoquotidiano.it/2018/02/06/eni-perquisito-il-manager-mantovani-ce-lui-dietro-il-tentato-depistaggio-delle-inchieste-sullazienda-petrolifera/4141531/>
- Malabu Scandal: Eni’s lawyer, others arrested for allegedly spying into public prosecutor’s investigation, Premium Times, 6 February 2018, <https://www.premiumtimesng.com/news/headlines/257770-malabu-scandal-enis-lawyer-others-arrested-allegedly-spying-public-prosecutors-investigation.html?tztc=1>
- 70 A polluted verdict? Allegations of judicial malpractice and the Milan trial, opl245papers.org, 9 September 2021, <https://opl245papers.org/en/storie/a-polluted-verdict/>
- 71 Ansa News records “ENI stressed that it was not itself under investigation and urged the judiciary to clear up the matter. It issued a statement saying ‘we trust in the correctness of our management’s actions’”. https://www.ansa.it/english/news/general_news/2018/02/06/police-search-eni-office-over-false-plot-4_5a9be2fa-89c6-468c-b925-6c9be98fca4e.html
- 72 Resta a Milano il processo per il “falso complotto Eni”, la decisione della Cassazione, Il Fatto Quotidiano, 15 February 2024, <https://www.ilfattoquotidiano.it/2024/02/15/resta-a-milano-il-processo-per-il-falso-complotto-eni-la-decisione-della-cassazione/7447762/>
- 73 Braggion was later replaced by Dr Alberto Carboni.
- 74 Dietro la sentenza su Eni c’è la guerra tra le correnti in magistratura, 19 March 2021, <https://www.ilriformista.it/dietro-la-sentenza-su-eni-ce-la-guerra-tra-le-correnti-in-magistratura-204639/>
- 75 Tribunale Ordinario di Milano: Ufficio del Giudice per le indagini preliminari, Sentenza, N.54772/13 R.G.N.R/N.17804/17 R.G.GIP/N.2232/18 Sent., 17 December 2018.

	<p>and Gianluca Di Nardo for complicity in international corruption.⁷⁶</p> <p>The judgment ruled (in translation) that:</p> <p><i>"The management of oil companies Eni and Shell ... were fully aware of the fact that part of the \$1.092 billion paid would have been used to compensate Nigerian public officials who had a role in this matter and who were circling their prey like hungry sharks":</i></p> <p><i>"This was not mere connivance, but a conscious adherence to a predatory project damaging the Nigerian state":</i></p> <p><i>"The favourable treatment"</i> accorded to Shell and Eni had been obtained through corruption:</p> <p>Public officials had received payments through the deal; and</p> <p>It had been "proven beyond reasonable doubt" that Eni managers conspired to receive kickbacks on the deal.</p>	
18 December 2018	<p>A day after the judgment in the fast-track trial of intermediaries Emeka Obi and Gianluca Di Nardo was made public, Italy's Deputy Prime Minister Matteo Salvini publicly confirmed <i>"his esteem for Eni CEO Claudio Descalzi"</i>.⁷⁷ Salvini reportedly told Reuters: <i>"I absolutely respect Descalzi and I thank Descalzi and Eni for what they do in Italy and in the world . . . A country system should protect its best companies, I am only saying this when not commenting on the sentences"</i> (Google translation from Italian).⁷⁸</p> <p>Regardless of Salvini's unconvincing insistence that he was not commenting on the Obi and DiNardo convictions, his declared support for Descalzi, who at the time was a defendant in the OPL 245 trial, and his clear message that Eni should be <i>"protected"</i> constitutes a clear potential violation of Article 5 by signalling that the OPL 245 prosecution was not in Italy's economic interest.</p> <p>Italy failed to scrutinise the potential breach of Article 5 or to review its impacts on the prosecution.</p>	 <p>RED FLAG 9</p> <p>Italy's Deputy Prime Minister says Eni should be "protected" from anti-corruption proceedings. His comments constitute a clear political signal that the OPL 245 case is against Italy's economic interests.</p>

76 Tribunale Ordinario di Milano: Ufficio del Giudice per le indagini preliminari, Sentenza, N.54772/13 R.G.N.R/N.17804/17 R.G.GIP./N.2232/18 Sent., 17 December 2018.

77 "Eni-Nigeria, Salvini: non commento sentenze, stimo Descalzi", Reuters, 18 December 2018, <https://web.archive.org/web/20181218194156/https://it.reuters.com/article/itEuroRpt/idITL8N1YN49X>

78 "Eni-Nigeria, Salvini: non commento sentenze, stimo Descalzi", Reuters, 18 December 2018, <https://web.archive.org/web/20181218194156/https://it.reuters.com/article/itEuroRpt/idITL8N1YN49X>

15 April 2019	The television programme RAI Report broadcasts an interview with Syracuse prosecutor <u>Giancarlo Longo</u> (see entry for 6 February 2018) in which he admits that he was paid 30,000 euros to open the fake investigation against Eni board members. ⁷⁹ He also tells RAI Report that he believed the money came from the company. ⁸⁰ Eni denies the allegations. ⁸¹	 <u>RED FLAG 10</u> Eni is accused of paying the money used to bribe the prosecutor in Syracuse to open a fake investigation intended to pollute the OPL 245 proceedings.
17 July 2019	The CEO of Eni, Claudio Descalzi, files a complaint against Piero Amara for aggravated defamation. Eni reports that its Chief Services & Stakeholder Relations Officer, Claudio Granata, has also filed a complaint for slander against Amara, and for aggravated defamation against Vincenzo Armanna. ⁸²	
25 July 2019	Eni-associated lawyer <u>Piero Amara</u> is convicted by the Messina Court for his part in plotting to “pollute” the OPL 245 investigations. ⁸³	 <u>RED FLAG 11</u> Conviction of Eni-associated lawyer <u>Piero Amara</u> for plotting to “pollute” the OPL 245 investigation should have triggered an Article 5 review.
18 Nov 2019 – 16 Dec 2019	Eni-associated lawyer <u>Piero Amara</u> is questioned about his network within Eni by prosecutors Laura Pedio and Paolo Storari of the Milan Prosecutors’ Offic, who have been assigned to investigate the role of Eni in the fake Syracuse investigation and possible offences by Amara and others under Italy’s Anselmi law which prohibits participation in secret associations. Publicly available transcripts of the interviews are heavily redacted. However, it has been reported that Amara told the prosecutors that two of Eni’s	 <u>RED FLAG 12</u> Lawyers acting for Eni and CEO Claudio Descalzi are alleged to have had preferential “access” to the Presiding Judge in the OPL 245 First Instance trial.



79 RAI Report, 15/4/2019, “L’amara giustizia”, Transcript p9, https://www.rai.it/dl/doc/1555347421657_amara_giustizia_report.pdf.

80 RAI Report, 15/4/2019, “L’amara giustizia”, Transcript p9, https://www.rai.it/dl/doc/1555347421657_amara_giustizia_report.pdf. Longo told RAI report: “Io ho pensato che facessero parte delle spese legali dell’Eni, cioè che loro praticamente le utilizzassero sicuramente per un motivo illecito” (Google Translation: “I thought that they were part of Eni’s legal expenses, that is, that they were practically using them for an illegal reason”).

81 Eni, Le risposte di Eni alla redazione di Report, 15 April 2019, , <https://www.rai.it/programmi/report/news/2019/04/Le-risposte-di-Eni-alla-redazione-di-Report-87a9a840-d457-4984-a5d5-d51851773cf3.html>

82 Eni, “Eni, la reazione degli interessati: Amara querelato per diffamazione dell’AD di Eni. Ipotesi di calunnia per Amara e Calafiore e di diffamazione per Armanna in relazione a Claudio Granata”, 17 July 2019, <https://web.archive.org/web/20200926053741/https://www.eni.com/it-IT/media/news/2019/07/eni-la-reazione-degli-interessati-amara-querelato-per-diffamazione-dellad-di-eni-ipotesi-di-calunnia-per-amara-e-calafiore-e-di-diffamazione-per-armanna-in-relazione-a-claudio-granata.html>

83 Judgment of Messina Court, n. 295/2019, proceeding number 3502/18 RGNR, 3617/19 RGGIP, page 15, number 10.

	<p>lawyers – <u>Michele Bianco</u> and <u>Alessandra Geraci</u> – had informed him that <u>Paola Severino</u> and <u>Nerio Diodà</u> (the legal representatives, respectively, for Eni CEO Claudio Descalzi and for Eni itself) “had access” to the Presiding Judge in the OPL 245 case, Dr. Marco Tremolada.^{84 85}</p> <p>Amara is also reported to have stated that he had been told that Judge Tremolada had given assurances to one Eni’s lawyer that the outcome of the OPL 245 trial would have been favourable to Eni and Descalzi.⁸⁶</p> <p>The allegations are denied by Eni, Bianco and Geraci,^{87 88} and Tremolada.⁸⁹</p>	
18 November 2019	<p>Eni-associated lawyer <u>Piero Amara</u> is questioned by prosecutors Laura Pedio and Paolo Storari of the Milan Prosecutors’ Office</p> <p>Amara alleges that the objective of the fake Syracuse plot was “to 'get rid of' some people who could create problems for ENI, or in any case for the group of people to whom I was linked in ENI”.⁹⁰</p> <p>Amara was asked about the email in which Armanna accused his lawyer of having put him under pressure (at the behest of Fabio de Pasquale, the lead OPL 245 prosecutor) to withdraw his statement confirming that bribes were paid.</p> <p>Amara responds, “<i>The project was the following: in the email, there were elements to consider some of Dr. De Pasquale's behaviours allegedly reprehensible, this email should have arrived at the Milan Public Prosecutor's Office, somehow have the chrism [anointment] of officiality and subsequently</i></p>	<p> <u>RED FLAG 13</u></p> <p>Eni managers and lawyers are alleged to have actively considered tactics aimed at discrediting the OPL 245 trial prosecutor.</p> <p> <u>RED FLAG 14</u></p> <p>Eni-associated lawyer Piero Amara states that the email sent by Armanna on 9 February 2019, alleging improper pressure by the lead OPL 245 prosecutor, was intended to lay the ground for an official</p>

84 Dietro la sentenza su Eni c’è la guerra tra le correnti in magistratura, 19 March 2021, <https://www.ilriformista.it/dietro-la-sentenza-su-eni-ce-la-guerra-tra-le-correnti-in-magistratura-204639/>

85 A polluted verdict? Allegations of judicial malpractice and the Milan trial, opl245papers.org, 9 September 2021, <https://opl245papers.org/en/storie/a-polluted-verdict/>



86 Milan Prosecutors Office, Interview with Piero Amara, 16 December 2019, p.6.

87 Dietro la sentenza su Eni c’è la guerra tra le correnti in magistratura, 19 March 2021, <https://www.ilriformista.it/dietro-la-sentenza-su-eni-ce-la-guerra-tra-le-correnti-in-magistratura-204639/>

88 A polluted verdict? Allegations of judicial malpractice and the Milan trial, opl245papers.org, 9 September 2021, <https://opl245papers.org/en/storie/a-polluted-verdict/>

89 “Il giudice Tremolada al processo contro i pm del disastro Eni-Nigeria: ‘Una ferita aperta’”, Il Foglio, 19 January 2024 <https://www.ilfoglio.it/giustizia/2024/01/19/news/il-giudice-tremolada-al-processo-contro-i-pm-del-disastro-eni-nigeria-una-ferita-aperta-6118779/>

90 Procura della Repubblica presso il Tribunale di Milano, Verbale di Interrogatorio reso il 18.11.2019 da Amara Piero”, Procedimento NR. 12333/17/21 RGNR, p.8, <https://dirittopenaleuomo.org/wp-content/uploads/2021/05/Verb-int-Amara-18.11.19.pdf>. Italian original: “L’obiettivo dell’esposto era di “fare fuori” alcune persone che potevano creare problemi ad ENI, o comunque al gruppo di persone alle quali io ero legato in ENI.”




	<p><i>had to be 'cultivated' through a complaint to the Superior Council of the Magistracy.”⁹¹</i></p> <p>He continued: “[Claudio] Granata [a senior Eni executive] <i>told me that a meeting was held in ENI which was attended by Dr. Marcegaglia, Descalzi, Granata, Mantovani, the lawyer Severino, the lawyer Grosso.</i>⁹² During this meeting, according to what Granata told me, we discussed what could be done with these emails, but no one took responsibility for signing the report. Therefore, the project stopped much less than halfway.”⁹³</p> <p>Although Amara claims that no steps were taken, the allegation that Eni managers and lawyers actively <u>considered</u> tactics aimed at discrediting the OPL 245 trial prosecutor constitutes an Article 5 red flag.</p>	<p><u>complaint against the prosecutor, leading to disciplinary action</u></p>
2 December 2019	<p>It has been alleged in court proceedings that, when questioned by Milan Prosecutor Dr Laura Pedio, Eni-associated lawyer <u>Piero Amara</u> is alleged to have stated that the OPL 245 trial President <u>Marco Tremolada</u> had told Eni officials that CEO <u>Claudio Descalzi</u> would be acquitted. Tremolada’s appointment, which did not follow normal procedures, was said by Amara to “have favoured us”.⁹⁴ This has been denied by Tremolada and Descalzi.</p>	<p> <u>RED FLAG 15</u></p> <p>Eni-associated lawyer <u>Piero Amara</u> is reported to have alleged that senior trial judge had told Eni officials that CEO Claudio Descalzi would be acquitted.</p> <p> <u>RED FLAG 16</u></p> <p>Eni-associated lawyer <u>Piero Amara</u> alleges that the replacement of the originally selected judges</p>

91 Procura della Repubblica presso il Tribunale di Milano, Verbale di Interrogatorio reso il 18.11.2019 da Amara Piero", Procedimento NR. 12333/17/21 RGNR, p.17, <https://dirittopenaleuomo.org/wp-content/uploads/2021/05/Verb.-int.-Amara-18.11.19.pdf>. Italian original: "Il progetto era il seguente: nella mail vi erano elementi per ritenere alcuni comportamenti del dottor De Pasquale asseritamente censurabili, questa mail sarebbe dovuta arrivare alla Procura di Milano, avere in qualche modo il crisma dell'ufficialità e successivamente doveva essere 'coltivata' attraverso un esposto al Consiglio Superiore della Magistratura.

92 Marcegaglia is President of Eni; Descalzi is CEO of Eni; Granata is Director Human Capital and Procurement Coordination of Eni; Mantovani was Chief Legal Counsel of Eni; Severino was former Justice minister of Italy and Descalzi’s lawyer in the OPL 245 case; Grosso was Eni’s in the OPL 245 case.

93 Procura della Repubblica presso il Tribunale di Milano, Verbale di Interrogatorio reso il 18.11.2019 da Amara Piero", Procedimento NR. 12333/17/21 RGNR, p.18, <https://dirittopenaleuomo.org/wp-content/uploads/2021/05/Verb.-int.-Amara-18.11.19.pdf>. Italian original: “Granata mi disse che si svolse una riunione in ENI a cui parteciparono la dottoressa Marcegaglia, Descalzi, Granata, Mantovani, l’avvocato Severino, l’avvocato Grosso. Durante questa riunione secondo quello che mi disse Granata si discusse di cosa poteva essere fatto di queste mail, ma nessuno si prese la responsabilità di sottoscrivere l’esposto. Pertanto il progetto si fermò a molto meno di metà strada”.

94 Closing Statement [“Discussione”] on behalf of Dott. Fabio De Pasquale e Dott. Sergio Spadaro, Tribunale di Brescia, Sezione prima penale, Proc. pen. n.320/23 R.G.Trib, 16 Settembre 2024, p.204.



		favoured the defendants.
5 December 2019	<p>Eni-associated lawyer <u>Piero Amara</u> is again interviewed by Milan Prosecutors Laura Pedio and Paolo Storari in relation to breaches of the Anselmi Law (see entry above 18 November 2018).</p> <p>Amara stated that his direct contact at Eni, Claudio Granata, had told him that he was acting <i>“with the prior authorization and ratification of Descalzi”</i>.⁹⁵</p> <p>Amara also stated that the intention was <i>“to lead as a last step to disciplinary proceedings against [OPL 245 trial prosecutor] De Pasquale”</i>.⁹⁶</p>	<p> <u>RED FLAG 17</u></p> <p>Eni CEO is alleged to have authorised Syracuse fake investigation to pollute the OPL 245 trial and remove the lead prosecutors</p> <p> <u>RED FLAG 18</u></p> <p>Eni-associated lawyer <u>Piero Amara</u> says that the actions to pollute the OPL 245 trial were intended to lead to disciplinary proceedings against OPL 245 trial prosecutor</p>
6 December 2019	<p>Questioned again by prosecutors <u>Laura Pedio</u> and <u>Paolo Storari</u> of the Milan Prosecutors’ Office, Eni-associated lawyer <u>Piero Amara</u> reportedly disclosed that he had belonged to an association called “Loggia Ungheria” [“Hungary Lodge”].⁹⁷</p> <p>Extensive extracts from the Amara interview have been published by <i>Il Fatto Quotidiano</i>.⁹⁸</p>	<p> <u>RED FLAG 19</u></p> <p>Eni-associated lawyer <u>Piero Amara</u> exposes a number of Eni board members as members of an association known as Loggia</p>

95 Procura della Repubblica presso il Tribunale di Milano, Verbale di Interrogatorio reso il 05.12.2019 da Amara Piero", Procedimento NR. 12333/17/21 RGNR, p.8, <https://dirittopenaleuomo.org/wp-content/uploads/2021/05/Verb-int.-Amara-5.12.19.pdf>. Italian original: "Come ho già detto, il mio contatto diretto è stato Granata, il quale mi ha sempre detto che agiva previa autorizzazione e ratifica di Descalzi"

96 Pleadings [“Discussione”] on behalf of Dott. Fabio De Pasquale e Dott. Sergio Spadaro, Tribunale di Brescia, Sezione prima penale, Proc. pen. n.320/23 R.G.Trib, 16 Settembre 2024, p.197, footnote 220, citing interrogation of Amara by Milan Prosecutors’ Office of 5 December 2019.

97 "Loggia ungheria: ecco i verbali del caso Amara", Il Fatto Quotidiano, 17 September 2021, <https://www.ilfattoquotidiano.it/in-edicola/articoli/2021/09/17/loggia-ungheria-ecco-i-verbali-del-caso-amara/6323460/>

98 "Loggia ungheria: ecco i verbali del caso Amara", Il Fatto Quotidiano, 17 September 2021, <https://www.ilfattoquotidiano.it/in-edicola/articoli/2021/09/17/loggia-ungheria-ecco-i-verbali-del-caso-amara/6323460/>. Il Fatto quotes Amara as saying (in Google translation): ““I must say that in other cases [Michele] Vietti [a lodge member], according to his needs not known to me, asked me to make lawyers or professionals close to him earn money, and it also happened at that time with the lawyer Conte, now Prime Minister, to whom we gave an assignment by the company Acquamarca S.p.A. of Rome, an assignment that was given to him and to Professor Alpa, thanks to my intervention on Fabrizio Centofanti, who was in charge of Acquamarca's institutional relations at the time. The amount that was paid by Acquamarca to Alpa and Conte was 400,000 euro to Conte and 1 million euro to Alpa”

	<p>According to the published extracts, Amara stated that the lodge consisted of “<i>magistrates, police, senior state officials and some businessmen</i>”.⁹⁹</p> <p>Lodge members are said by Amara to have directed contracts to Giuseppe Conte (Italy's Prime Minister in 2019) when he was a lawyer:¹⁰⁰ and to have successfully exerted pressure on a magistrate who was a member to drop an investigation in to Silvio Berlusconi, the Italian Prime Minister.¹⁰¹</p> <p>Amara named 40 people as members of the Lodge, including Paola Severino (a former Minister of Justice and, at the time, the lawyer for Claudio Descalzi in the OPL 245 trial) as a member of the Lodge. Other members or associates included Andrea Gemma¹⁰² (a former Eni board member); Vincenzo Armanna¹⁰³ (former Eni Vice President for Africa and a defendant in the OPL 245 trial); Luigi Bisignani¹⁰⁴ (a highly controversial, twice convicted figure¹⁰⁵ who was close to Paolo Scaroni, the CEO of ENI at the time of the OPL 245 deal, and also a defendant in the OPL 245 case); Dr Lucia Lotti (a magistrate in Rome); Antonio Serrao, known as Tonino, at the time director general of the Council of State; General Giorgio Toschi (a former commanding general of the Guardia di Finanza or Gdf); General Del Sette of the Carabinieri; General Saltamacchia, also of the Carabinieri; Bishop (or Monsignor) Adreata; and Monsignor Rocco</p>	<p>Ungheria with links to officials.</p> <p> RED FLAG 20</p> <p>Eni-associated lawyer Piero Amara tells prosecutors that the Loggia Ungheria controls the body responsible for guaranteeing the independence of Italy's magistrates.</p> <p> RED FLAG 21</p> <p>Amara alleges that Eni sought to use the Lodge to ensure that the top prosecutor in Milan would be a prosecutor that the company could control and who would curtail the activities of the</p>
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- 99 "Loggia ungheria: ecco i verbali del caso Amara", Il Fatto Quotidiano, 17 September 2021, <https://www.ilfattoquotidiano.it/in-edicola/articoli/2021/09/17/loggia-ungheria-ecco-i-verbali-del-caso-amara/6323460/>
- 100 "Loggia ungheria: ecco i verbali del caso Amara", Il Fatto Quotidiano, 17 September 2021, <https://www.ilfattoquotidiano.it/in-edicola/articoli/2021/09/17/loggia-ungheria-ecco-i-verbali-del-caso-amara/6323460/>. Il Fattor quotes Amara as saying (in Google translation): "I must say that in other cases [Michele] Vietti [a lodge member], according to his needs not known to me, asked me to make lawyers or professionals close to him earn money, and it also happened at that time with the lawyer Conte, now Prime Minister, to whom we gave an assignment by the company Acquamarca S.p.A. of Rome, an assignment that was given to him and to Professor Alpa, thanks to my intervention on Fabrizio Centofanti, who was in charge of Acquamarca's institutional relations at the time. The amount that was paid by Acquamarca to Alpa and Conte was 400,000 euro to Conte and 1 million euro to Alpa"
- 101 "Loggia ungheria: ecco i verbali del caso Amara", Il Fatto Quotidiano, 17 September 2021, <https://www.ilfattoquotidiano.it/in-edicola/articoli/2021/09/17/loggia-ungheria-ecco-i-verbali-del-caso-amara/6323460/>
- 102 Gemma was appointed as a director of Eni in May 2014. He was suspended in 2019 for insider trading; but reinstated after the first civil section of the Court of Appeal of Rome overturned the suspension. He is reported to be close to former interior minister Angelo Alfano. See: Eni, Andrea Gemma torna nel cda. Lo ha deciso la Corte d'Appello di Roma, 21 November 2019, <https://www.policymakermag.it/insider/eni-andrea-gemma-torna-nel-cda-lo-ha-deciso-la-corte-dappello-di-roma/>
- 103 For further details of Armanna's role in the OPL 245 deal and trial, see: Vincenzo Armanna, OPL245papers, <https://opl245papers.org/en/personaggi/vincenzo-armanna/>
- 104 For further details of Bisignani's role in the OPL 245 deal and trial, see: Luigi Bisignani, OPL245papers, <https://opl245papers.org/en/personaggi/luigi-bisignani/>
- 105 In 1998, Bisignani was convicted in the so-called Enimont corruption trial to 2 years and 6 months for illicit financing of political parties; and, in 2014, to one year and seven months for offences related to the "P4 investigation".
- See:
- Chi è Luigi Bisignani, il Post, 15 June 2011, <https://www.ilpost.it/2011/06/15/chi-e-luigi-bisignani/>
- P4: per Bisignani condanna esecutiva, Corrier Della Sera, 28 November 2012, https://www.corriere.it/cronache/12_novembre_28/Bisignani-condanna-esecutiva-P4_2942310e-395b-11e2-8eaa-1c0d12eff407.shtml

	<p>Palmieri; and Cardinal Parolin (Secretary of State to the Pope).¹⁰⁶</p> <p>Amara reportedly told prosecutors that the Lodge was fiercely opposed to the proposed appointment in 2016 of white-collar crime specialist Francesco Greco to lead the Milan Prosecutors' Office: and that the Lodge attempted to use "<i>the relational network of 'Hungary' . . . to condition the appointment of the Milan Prosecutor</i>",¹⁰⁷ albeit unsuccessfully.¹⁰⁸</p> <p>Amara told prosecutors that the interest in blocking Greco's appointment arose from Eni's strong interest "<i>in having a Milan prosecutor who could be controlled and, above all, who could 'contain' the investigative activity [of] De Pasquale [the lead prosecutor in the OPL 245 case]</i>".¹⁰⁹ De Pasquale had headed a number of investigations in Eni.</p> <p>According to Amara, "<i>the objective, then, in truth, especially in the Milan affair, was to take over the Public Prosecutor's Office</i>".¹¹⁰</p> <p>Amara also detailed the extensive links between the Lodge and Italy Consiglio Superiore della Magistratura ["CSM"], the body charged with guaranteeing the autonomy and independence of Italy's magistrates.¹¹¹ The CSM is also responsible for disciplining magistrates.¹¹²</p> <p>According to Amara, the Lodge and an associated grouping known as the Magistratura Indipendente had "<i>absolute power</i>" of the CSM, as appointed in 2014. Amara alleged that Cosimo Ferri, "<i>the absolute leader of Magistratura Indipendente</i>", and Michele Vietti ("the apex of the Ungheria association") controlled Luca Palamara, "<i>a member of the CSM and leader of Unicast</i>". Amara also stated: "<i>Within the CSM, Vice-President Giovanni Legnini had been affiliated (in our jargon the</i></p>	<p>lead prosecutor in the OPL 245 case.</p>
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106 "Loggia ungheria: ecco i verbali del caso Amara", Il Fatto Quotidiano, 17 September 2021, <https://www.ilfattoquotidiano.it/in-edicola/articoli/2021/09/17/loggia-ungheria-ecco-i-verbali-del-caso-amara/6323460/>

107 "Loggia ungheria: ecco i verbali del caso Amara", Il Fatto Quotidiano, 17 September 2021, <https://www.ilfattoquotidiano.it/in-edicola/articoli/2021/09/17/loggia-ungheria-ecco-i-verbali-del-caso-amara/6323460/>



108 Francesco Greco was appointed to head the Milan Prosecutors' Office in June 2016. See: White-collar specialist to head Milan prosecutor's office, Global Investigations Review, 6 June 2016, <https://globalinvestigationsreview.com/article/white-collar-specialist-head-milan-prosecutors-office>

109 "Loggia ungheria: ecco i verbali del caso Amara", Il Fatto Quotidiano, 17 September 2021, <https://www.ilfattoquotidiano.it/in-edicola/articoli/2021/09/17/loggia-ungheria-ecco-i-verbali-del-caso-amara/6323460/>

110 "Loggia ungheria: ecco i verbali del caso Amara", Il Fatto Quotidiano, 17 September 2021, <https://www.ilfattoquotidiano.it/in-edicola/articoli/2021/09/17/loggia-ungheria-ecco-i-verbali-del-caso-amara/6323460/>

111 The Superior Council of the Judiciary (CSM), Presidenza Della Repubblica, https://www.quirinale.it/page/csm_en

112 The Superior Council of the Judiciary (CSM), Presidenza Della Repubblica, https://www.quirinale.it/page/csm_en

	<p>expression 'made' or 'deflowered') in Hungary by <u>Pasquale Dell'Aversana</u>".¹¹³</p> <p>Amara went on to give other names of CSM members who were also part of the Hungary Lodge. They included: <u>Lorenzo Pontecorvo, Antonio Leone, Giorgio Santacroce, Paola Balducci, Claudio Galoppi, Pasquale Paolo Maria Ciccolo, Giovanni Canzio</u>.¹¹⁴</p> <p>Other members of the CSM, although not members of the Hungary Lodge, were nevertheless "controllable", according to Amara, through Lodge members and members of the Magistratura Indipendente.</p> <p>Amara described the Lodge as a "group of people who shared the ideals of the liberal State". He added: "I emphasise the phrase 'liberal state' because this was repeatedly stressed to me as the group was proposed to affirm the principles of a guarantor state against what appeared to be already at the time a justicialist drift, what was later represented to me to be the spirit of the current of the judiciary called 'Magistratura Indipendente', many of which are part of Hungary."¹¹⁵</p>	
16 December 2019	<p>In a further interview session, prosecutors Laura Pedio and Paolo Storari question Eni-associated lawyer <u>Piero Amara</u> about alleged spying by Eni on board members and the OPL 245 trial prosecutors.</p> <p>Amara answers: "I learned from <u>Claudio Grenata</u>¹¹⁶ and it was confirmed to me by [Alfio] Rapisarda¹¹⁷ that ENI in relation to the OPL245 proceeding (or other proceedings involving ENI) carried out an information gathering activity on the members of the board of directors aimed at acquiring useful information to discredit the people or exploit what was acquired to their own advantage. I know with absolute certainty that this activity was carried out on <u>Karina Litvack</u>¹¹⁸ (I have already reported on the</p>	<p> RED FLAG 22</p> <p>Eni-associated lawyer Piero Amara tells prosecutors that Eni spied on board members and on the lead prosecutors in the OPL 245 case</p> <p> RED FLAG 23</p> <p>Amara also states that Eni gathered</p>

113 "Loggia ungheria: ecco i verbali del caso Amara", Il Fatto Quotidiano, 17 September 2021, <https://www.ilfattoquotidiano.it/in-edicola/articoli/2021/09/17/loggia-ungheria-ecco-i-verbali-del-caso-amara/6323460/>


114 "Loggia ungheria: ecco i verbali del caso Amara", Il Fatto Quotidiano, 17 September 2021, <https://www.ilfattoquotidiano.it/in-edicola/articoli/2021/09/17/loggia-ungheria-ecco-i-verbali-del-caso-amara/6323460/>

115 "Loggia ungheria: ecco i verbali del caso Amara", Il Fatto Quotidiano, 17 September 2021, <https://www.ilfattoquotidiano.it/in-edicola/articoli/2021/09/17/loggia-ungheria-ecco-i-verbali-del-caso-amara/6323460/>

116 Described by Il Fatto as "Eni's number two and Descalzi's right-hand man". See: Antonio Massari, "I vertici Eni hanno fatto spiare i pm che indagavano su di loro", Il Fatto Quotidiano, 31 January 2020, <https://www.ilfattoquotidiano.it/in-edicola/articoli/2020/01/31/i-vertici-eni-hanno-fatto-spiare-i-pm-che-indagavano-su-di-loro/5690898/>

117 Eni's then Head of Security.

118 An Eni Board Member.

	<p>meeting with COVA), <u>Luigi Zingales</u>¹¹⁹ (in a particularly pressing manner), on the journalist <u>[Claudio] Gatti</u>, on the manager [Stefano] Cao. I understand that information was collected on the Public Prosecutors <u>Paolo Storari</u>, <u>Sergio Spadero</u>, and Proc. Agg. <u>Fabio de Pasquale</u>. I have already reported on the activity carried out in the presence of the <u>Prosecutor Agg. Ielo</u>.¹²⁰ I also know that information was acquired on those who could have presided over the judging panels of the OPL245 trial".^{121 122}</p> <p>Amara also stated: "I was told that information was acquired not only from databases, but also through shadowing and wiretapping in meeting places (restaurants, bars ...). I was told that the outcome of the activities carried out on the magistrates did not yield any useful results for ENI."^{123 124}</p> <p>It is not known whether Amara was referring to the legal use by Eni of commercial databases. However, it may be relevant that, on 28 June 2024 (see entry later), Eni's current chief legal counsel was placed under investigation for illegally accessing data.¹²⁵</p>	<p>information on those who could have presided over the judging panels of the OPL245 trial.</p>
21 January 2020	<p>Milan magistrates request a warrant to search the offices and homes in Milan and Rome of senior Eni executive <u>Claudio Granata</u>, who is said by Eni-associated lawyer <u>Piero Amara</u> to have directed the Syracuse fake investigation,^{126 127}</p>	<p> RED FLAG 24</p> <p>Senior Eni executives are placed under investigation for allegedly acting to</p>

119 An Eni Board Member.

120 Prosecutor Paulo Ielo from the Rome Prosecutors Office.

121 Procura della Repubblica presso il Tribunale di Milano, Verbale di Interrogatorio reso il 16.12.2019 da Amara Piero", Procedimento NR. 12333/17/21 RGNR, p.7. Italian original: "Ho saputo da CLAUDIO GRANATA e mi è stato confermato da RAPISARDA che l'ENI in relazione al procedimento OPL245 (o altri procedimenti che coinvolgevano ENI ha svolto una attività di raccolta di informazioni nei confronti dei membri del consiglio di amministrazione tesa ad acquisire notizie utili per screditare le persone o sfruttare a proprio vantaggio quanto acquisito. So con assoluta certezza che questa attività è stata svolta nei confronti di KARINA LITVACK (ho già riferito in merito all'incontro con COVA), LUIGI ZINGALES (in modo particolarmente pressante), nei confronti del giornalista GATTI, nei confronti del dirigente CAO. Mi risulta che sono state raccolte informazioni sui Pubblici Ministeri PAOLO STORARI, SERGIO SPADARO e Proc. Agg. FABIO DE PASQUALE. Ho già riferito in merito all'attività svolta nei confronti del Procuratore Agg. IELO. So anche che erano state acquisite informazioni su coloro che avrebbero potuto presiedere i collegi giudicanti del processo OPL245."

122 Antonio Massari, "I vertici Eni hanno fatto spiare i pm che indagavano su di loro", Il Fatto Quotidiano, 31 January 2020, <https://www.ilfattoquotidiano.it/in-edicola/articoli/2020/01/31/i-vertici-eni-hanno-fatto-spiare-i-pm-che-indagavano-su-di-loro/5690898/>




123 Procura della Repubblica presso il Tribunale di Milano, Verbale di Interrogatorio reso il 16.12.2019 da Amara Piero", Procedimento NR. 12333/17/21 RGNR, p.7. Italian original: "Mi è stato detto che sono state acquisite notizie, oltre che dalle banche dati, anche attraverso pedinamenti e intercettazioni ambientali in luoghi di incontro (ristoranti, bar ...). Mi è stato detto che l'esito delle attività svolte sui magistrati non hanno dato alcun risultato utile per ENI."

124 Antonio Massari, "I vertici Eni hanno fatto spiare i pm che indagavano su di loro", Il Fatto Quotidiano, 31 January 2020, <https://www.ilfattoquotidiano.it/in-edicola/articoli/2020/01/31/i-vertici-eni-hanno-fatto-spiare-i-pm-che-indagavano-su-di-loro/5690898/>

125 Legione Carabinieri Lombardia, Comando Provinciale di Varese, N. 265/2-106/2022 di prot, Varese 28 June 2024

126 Piero Amara, opl245papers.org, <https://opl245papers.org/en/personaggi/piero-amara/>




127 Procura della Repubblica presso il Tribunale di Milano, Decreto di perquisizione, Proc. n. 12333/17 R.G.N.R. mod. 21, 21 January 2020, <https://dirittopenaleuomo-org.translate.goog/wp-content/uploads/2021/05/Decreto-perquisizione.pdf>

	<p>The request names Claudio Granata, Michele Bianco (Eni's Executive Vice President Legal Affairs), Piero Amara (described as "external counsel to Eni") and Alfio Rapisarda (Eni's Senior Vice President Security) as being under investigation for acting to hinder "the development of the proceedings in progress before the Milanese judicial authority against ENI S.p.A. and its managers and top management for acts of international corruption relating to economic activities in Algeria and Nigeria".¹²⁸</p> <p>The investigation also encompasses alleged pressure placed by Granata, Bianco, Amara and Rapisarda on Eni's former Vice President for Africa Vincenzo Armanna to withdraw statements he had made confirming that Eni knew that the money it paid for OPL 245 would benefit Nigerian politicians.¹²⁹</p>	<p>hinder the OPL 245 investigation and trial; and premises, including Eni's offices in Milan and Rome, are searched.</p> <p> RED FLAG 25</p> <p>Senior Eni executives are placed under investigation for alleged witness tampering in OPL 245 trial.</p>
4 Feb 2020	<p>The allegations by Eni-associated lawyer Piero Amara that he was told that the Presiding Judge Marco Tremolada had given preferential access to Eni's lawyers are passed by the Milan Prosecutors' Office to the Prosecutors' Office in Brescia (which, by law, has jurisdiction to investigate alleged offences by Milan prosecutors and Judges).</p> <p>Brescia prosecutors open an investigation "against unknown people". It is later reported by Corriere della Sera that the filing alleged two possible offences: '<i>trafficking in unlawful influence</i>' and '<i>abuse of office</i>'.¹³⁰</p> <p>Nobody is ever charged. After some months, the case was dropped by prosecutors. We are informed that Amara was never heard by the investigating prosecutors.</p>	<p> RED FLAG 26</p> <p>An investigation is opened into the allegations by Eni-associated lawyer <u>Piero Amara</u> that the Presiding Judge in the OPL 245 trial gave preferential access to Eni. Amara is reportedly never questioned, and the investigation is dropped.</p>
5 February 2020	<p>A request by the lead prosecutor at the Court of First Instance to hear testimony from Eni-associated lawyer Piero Amara is rejected by Dr. Marco</p>	<p> RED FLAG 27</p>


128 Procura della Repubblica presso il Tribunale di Milano, Decreto di perquisizione, Proc. n. 12333/17 R.G.N.R. mod. 21, 21 January 2020, p.1, <https://dirittopenaleuomo-org.translate.goog/wp-content/uploads/2021/05/Decreto-perquisizione.pdf>. Original Italian: "compivano attività dirette a intralciare lo svolgimento dei procedimenti in Corso avanti all'Autorità giudiziaria milanese nei confronti di ENI S.p.A. e di suoi dirigenti ed apicali per fatti di corruzione internazionale relativi ad attività economiche in Algeria e Nigeria"

129 Procura della Repubblica presso il Tribunale di Milano, Decreto di perquisizione, Proc. n. 12333/17 R.G.N.R. mod. 21, 21 January 2020, <https://dirittopenaleuomo-org.translate.goog/wp-content/uploads/2021/05/Decreto-perquisizione.pdf>. Original Italian: "Intervenivano su Vincenzo Annanna, imputato nel procedimento Eni Nigeria e teste d'accusa nei confronti di Claudio Descalzi A.D. di ENI S.p.A. e altri, perché - nel corso delle indagini - ritrattasse o quantomeno attenuasse le dichiarazioni accusatorie già rese e, nel dibattimento, si avvallesse della facoltà di non rispondere".

130 Corriere della Sera, 12 February 2021 Eni, archiviato il fascicolo nato dalle parole di Amara sul giudice, Luigi Ferrarella, 12 February 2021, p.21.

	<p>Tremolada, the Presiding Judge of OPL 245 Court of First Instance trial.^{131 132}</p> <p>The request by the trial prosecutors had been approved by the Chief Prosecutor in Milan, Francesco Greco.</p> <p>The prosecutors wished to question Amara about the alleged attempt by Eni and others to pervert the course of justice. Had Amara confirmed the allegations under cross examination in open court, a request for the presiding Judge to be replaced would have been possible under Art. 36 (h) Code of Criminal Procedure.</p> <p>The Presiding Judge ruled that the trial had already taken a long time and that it was not necessary to hear further witnesses unless their evidence was decisive.</p> <p>The decision means that the allegations of the trial being polluted by political interference (a clear Article 5 offence) are not heard.</p>	<p>The Judge presiding over the OPL 245 First Instance trial declines to accept the prosecution's request for <u>Piero Amara</u>, the convicted Eni-associated lawyer at the heart of the conspiracy to pollute the OPL 245 trial and remove the trial prosecutor. His allegations that Eni had perverted the course of justice go unheard.</p> <p> RED FLAG 28</p> <p>The decision raises questions about conflicts of interest that might have affected the trial, which should have been probed.</p> <p> RED FLAG 29</p> <p>The refusal blocks the possibility of the Presiding Judge being replaced in the interests of justice (given Amara's allegations that the judge was close to Eni).</p>
27 February 2020	<p>Stefano Speroni, Eni's current chief legal counsel, is interviewed by Francesco Greco, the Milan Chief Prosecutor, in relation to documents he had received anonymously.¹³³</p> <p>Speroni stated that during a search of Eni's offices in Milan by the Guardia di Finanza (GdF) and the Milan</p>	<p> RED FLAG 30</p> <p>Eni's most senior lawyer, Stefano Speroni, is questioned about documents he</p>

- 131 Reuters, "Italian court throws out witness request in Eni Nigeria graft case", 5 February 2020, <https://www.reuters.com/article/world/italian-court-throws-out-witness-request-in-eni-nigeria-graft-case-idUSL8N2A555W/>
- 132 Tribunale Di Milano, VII Sezione Penale, Udienza del 05/02/2020, <https://aleph.occrp.org/entities/63099581.1fb38f0cb3ecbc5ac1c8007ea86efed6e864c1c1#mode=view&page=5>
- Tribunale di Milano, Sezione VI Penale, Ordinanza, 5 February 2020, available at <https://aleph.occrp.org/entities/63099579.a45fc59b70d2362d7169bc614b3f9118e1c878b1>
- 133 Milan Public Prosecutors Office Interview with Stefano Speroni, 27 February 2020.

	<p>Prosecutors' Office on 23 January 2020, he informed the senior GdF officer and a Milan Prosecutor that on 5 January 2020 he found several documents under the doormat of his apartment.</p> <p>Although he had informed his lawyer about the documents, which he claims to have flushed down the lavatory, he did not at the time report them to either Eni or soon to the investigatory authorities.</p> <p>Speroni described the documents as “<i>apparently referring</i>” to bank accounts in the Cayman Islands, including an account in the name of Massimo Mantovani, who had been Eni's previous chief legal counsel. At the time of the January “doormat drop”, Mantovani was under investigation for alleged fraud in an oil deal¹³⁴ and for an alleged plot to derail the investigation by the Milan Prosecutors Office into the OPL 245 deal.¹³⁵</p> <p>The documents appeared to establish substantial payments to Mantovani (totalling some 37 million dollars) and to Bajo Ojo, the former Attorney General of Nigeria who was accused by the Milan Prosecutors of receiving kickbacks from the OPL 245 deal. At the time, the trial of Eni and others in the OPL 245 case was still before the Court of First Instance in Milan.</p> <p>Mr. Speroni suggested to the GdF officer during the 23 January raid of Eni's offices that the payment to Bayo Ojo “<i>could constitute a form of provision intended for [a] witness who was to be examined on 29 January 2020</i>”.¹³⁶</p> <p>An investigation by the Milan Prosecutors' Office and the GdF later revealed that the purported Cayman Island accounts did not exist. An investigation was then opened into the suspected forgery of the documents. It was this investigation that appears to have led in July 2022 to Mr. Speroni being placed under investigation.¹³⁷</p>	<p>had received anonymously and passed to the financial police. The documents appear to suggest that Eni's former senior counsel had received illicit payments and that monies may have been paid to a witness. The documents are later found to be fakes, leading to Speroni being placed under investigation.</p>
First week of April 2020	<p>Prosecutor Paolo Storari, who at the time was investigating Eni's alleged involvement in the fake Syracuse conspiracy, illegally leaks Piero Amara's</p>	<p> RED FLAG 31</p>

134 Italian court drops Eni-related fraud case against top executives of UK and Nigerian oil companies, Upstream, 9 November 2023, https://www.upstreamonline.com/finance/italian-court-drops-eni-related-fraud-case-against-top-executives-of-uk-and-nigerian-oil-companies/2-1-1551779?zephrr_sso_ott=qoOdO0

135 Global Witness, Polluting the Process, March 2021, p.4, https://web.archive.org/web/20210506050112/https://www.globalwitness.org/documents/20097/Polluting_the_Process_-_March_2021.pdf

136 Milan Public Prosecutors Office Interview with Stefano Speroni, 27 February 2020.

137 Procura della Repubblica, Disporre, N.11191/2020 R.G. notizie di reato-Mod.44, 18 July 2022.

	<p>statement about the influence of the Hungary Masonic Lodge to <u>Piercamillo Davigo</u>, a former president of the II criminal section at the Supreme Court of Cassation and a former member of the Superior Council of the Magistracy (CSM).¹³⁸</p> <p>Davigo was a leading prosecutor in the 1990s “Clean Hands” investigation into political corruption. He is reported to have been a member of Magistratura Indipendente but to have left in 2015 to establish Autonomy and Independence, which elected him president.¹³⁹</p> <p>Davigo informed senior managers of the CSM about the affair. He is also reported to have informed the then Attorney General of the Supreme Court <u>Giovanni Salvi</u>, the President of the Supreme Court <u>Pietro Curzio</u>, the Vice-President of the CSM <u>David Ermini</u>, some CSM councillors (<u>Giuseppe Marra</u>, <u>Giuseppe Cascini</u>, <u>Ilaria Pepe</u>, <u>Fulvio Gigliotti</u> and <u>Stefano Cavanna</u>), two secretaries at the CSM (<u>Marcella Contrafatto</u> and <u>Giulia Befera</u>) and the then President of the Parliamentary Anti-Mafia Commission (<u>Senator Nicola Morra</u>).¹⁴⁰</p> <p>No action is taken by the CSM, which, to recall, Amara had alleged was controlled by the Hungary Lodge (see entry for 6 December 2019).</p> <p>The documents are later leaked by Davigo to journalists at <i>Il Fatto</i> and <i>La Repubblica</i>, who both inform the Milan Prosecutors Office.¹⁴¹</p> <p>An investigation into the Hungary Lodge by the Perugia Public Prosecutor will later be abandoned. Nonetheless the investigation reportedly concludes that the Lodge did not exist as a formal structured entity – but rather as a lobbying and relations activity to direct appointments, build careers, favour business.¹⁴²</p> <p>Storari was later charged with wilful misconduct but was acquitted: the Court ruled that he had made</p>	<p>Statements made by Eni-associated lawyer <u>Piero Amara</u> are illegally leaked by the Milan prosecutor investigating the influence of the Hungary masonic lodge. The leaked documents are later published, leading to the collapse of the investigation.</p>
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138 Davigo, <https://www.treccani.it/enciclopedia/piercamillo-davigo/>


139 Davigo, <https://www.treccani.it/enciclopedia/piercamillo-davigo/>

140 Gianni Barbacetto, Processo al processo. Eni, la Procura di Milano e il “fuoco amico”, 24 September 2024, <https://www.giannibarbacetto.it/2024/09/27/processo-al-processo-eni-la-procura-di-milano-e-il-fuoco-amico/>

141 Cass. Sec. VI, 4.12.2024 (dep. 29.1.2025), Pres. De Amicis, Rel. Paternò Raddusa, ric. Davigo, https://www.sistemapenale.it/pdf_contenuti/1738367347_sentenza-3755-25-vicenda-davigo.pdf
Concorso in rivelazione di segreto investigativo. La sentenza della Cassazione sul caso Davigo - "Loggia Ungheria" in sei massime, 3 February 2025, <https://www.sistemapenale.it/it/scheda/rivelazione-di-segreti-dufficio-e-caso-davigo-loggia-ungheria-la-sentenza-della-cassazione-in-sei-massime>

Fabio de Pasquale and Sergio Spadaro, Defense submission, Tribunale di Brescia, p.147ff.

142 Gianni Barbacetto, Processo al processo. Eni, la Procura di Milano e il “fuoco amico”, 24 September 2024, <https://www.giannibarbacetto.it/2024/09/27/processo-al-processo-eni-la-procura-di-milano-e-il-fuoco-amico/>

	“an innocent error” in his interpretation of the rules. ¹⁴³ Davigo, who was also charged, was convicted. ¹⁴⁴	
21 July 2020	<p>The lead Prosecutor in the OPL 245 trial, Fabio De Pasquale, accuses Claudio Descalzi, the CEO of Eni, in court of personally attempting “to pollute the process” of the trial by allegedly sending a senior Eni manager to bribe former Eni manager Vincenzo Armanna to withdraw allegations against Descalzi.¹⁴⁵ Armanna confirmed these allegations in the Milan court.¹⁴⁶</p> <p>During the same court proceedings, de Pasquale also accused Eni, as a company, of polluting the trial process in 2017.¹⁴⁷</p> <p>Descalzi and Eni deny the allegations.</p>	 <p>RED FLAG 32</p> <p>The CEO of Eni and Eni as a company are accused in Court of “polluting” the process of the OPL 245 trial and investigation.</p>
5 March 2021	The lead prosecutors provide a comprehensive official note to the Chief Prosecutor of Milan rebutting a draft police report (emanating from a separate investigation into Eni’s involvement in the fake Syracuse plot) that interpreted emails from Eni manager Vincenzo Armanna as evidence that he had bribed a witness in the OPL 245 trial. In fact, the	



143 Concorso in rivelazione di segreto investigativo. La sentenza della Cassazione sul caso Davigo - "Loggia Ungheria" in sei massime, 3 February 2025, <https://www.sistemapenale.it/it/scheda/rivelazione-di-segreti-dufficio-e-caso-davigo-loggia-ungheria-la-sentenza-della-cassazione-in-sei-massime>

144 La Corte Suprema di Cassazione, Sesta Sezione Penale, R.G.N 28235/2024, Sentenza Piercamillo Davigo, 7 March 2024.
Gianni Barbacetto, Processo al processo. Eni, la Procura di Milano e il “fuoco amico”, 24 September 2024, <https://www.giannibarbacetto.it/2024/09/27/processo-al-processo-eni-la-procura-di-milano-e-il-fuoco-amico/>

145 Tribunale Di Milano, VII Sezione Penale, Udienda del 21/07/2020, p.71, available at: <https://aleph.occrp.org/entities/63099621.9a86c2f5d3abd50a487d8d0ad086567dfa901f21#mode=view&page=71>. “E vengo alla fine di questo discorso. Io credo che aver tentato di influire sulle dichiarazioni di Armanna sia una prova a carico nei limiti in cui il Tribunale riterrà che possa identificare, nello spazio di questo processo e chiaramente con le prove a disposizione, chi ha voluto inquinare il quadro probatorio. La nostra risposta è Descalzi nel caso della memoria, la Difesa Eni, la società Eni, scusi, nel caso dell’e-mail inviata per errore” [Google translation: “And I come to the end of this speech. I believe that having tried to influence Armanna’s statements is incriminating evidence to the extent that the Court considers that it can identify, in the course of this trial and clearly with the evidence available, who wanted to pollute the evidentiary framework. Our answer is Descalzi in the case of the brief, the Eni Defense, the Eni company, excuse me, in the case of the e-mail sent by mistake”].
Corriere Della Sera, 21/7/2020, “Processo Eni-Nigeria, «A Descalzi 8 anni»: la richiesta del pm”, https://milano.corriere.it/notizie/cronaca/20_luglio_21/processo-eni-richieste-condanna-pm-milanesi-8-anni-descalzi-miliardo-confisca-all-azienda-1a89c690-cb70-11ea-bf7a-0cc3d0ad4e25.shtml

146 A polluted verdict? Allegations of judicial malpractice and the Milan trial, opl245papers.org, 9 September 2021, <https://opl245papers.org/en/storie/a-polluted-verdict/>

147 Tribunale Di Milano, VII Sezione Penale, Udienda del 21/07/2020, p.71, available at: <https://aleph.occrp.org/entities/63099621.9a86c2f5d3abd50a487d8d0ad086567dfa901f21#mode=view&page=71>. “E vengo alla fine di questo discorso. Io credo che aver tentato di influire sulle dichiarazioni di Armanna sia una prova a carico nei limiti in cui il Tribunale riterrà che possa identificare, nello spazio di questo processo e chiaramente con le prove a disposizione, chi ha voluto inquinare il quadro probatorio. La nostra risposta è Descalzi nel caso della memoria, la Difesa Eni, la società Eni, scusi, nel caso dell’e-mail inviata per errore” [Google translation: “And I come to the end of this speech. I believe that having tried to influence Armanna’s statements is incriminating evidence to the extent that the Court considers that it can identify, in the course of this trial and clearly with the evidence available, who wanted to pollute the evidentiary framework. Our answer is Descalzi in the case of the brief, the Eni Defense, the Eni company, excuse me, in the case of the e-mail sent by mistake”].
Corriere Della Sera, 21/7/2020, “Processo Eni-Nigeria, «A Descalzi 8 anni»: la richiesta del pm”, https://milano.corriere.it/notizie/cronaca/20_luglio_21/processo-eni-richieste-condanna-pm-milanesi-8-anni-descalzi-miliardo-confisca-all-azienda-1a89c690-cb70-11ea-bf7a-0cc3d0ad4e25.shtml

	emails detailed a payment to someone in the Nigerian secret services for a confidential report said to include incriminating pictures and documents relating to corruption in the OPL245 deal.	
17 March 2021	<p>The Milan Court of First Instance acquits all defendants in the OPL 245 trial on the grounds that they have no case to answer (“the facts do not exist”).¹⁴⁸</p> <p>At the time of the judgment, senior Eni executives, including the CEO Claudio Descalzi were under investigation for polluting the trial, raising clear Article 5 concerns which are not considered by the Court. The impartiality of the Court’s President had also been called into question and was under investigation.</p>	 <p><u>RED FLAG 33</u></p> <p>The defendants in the main OPL 245 trial are all acquitted, despite extant Article 5 concerns over political interference and ongoing investigations into the part allegedly played by senior Eni managers and members of the judiciary.</p>
22 March 2021	<p>Intermediaries <u>Emeka Obi</u> and <u>Gianluca Di Nardo</u> appeal their conviction for international corruption related to the OPL 245 deal.</p> <p>The prosecutor in the case, Attorney General <u>Celestina Gravina</u> declines to oppose the appeal.¹⁴⁹</p> <p>Although it is normal for an assistant prosecutor to be appointed for Appeals, Gravina’s appointment was controversial in that she had no experience of prosecuting corruption cases.</p> <p>Rejecting the arguments previously made by prosecutor Fabio de Pasquale,¹⁵⁰ Gravina describes the conviction by the Preliminary Trial judge as being “burdened by a very serious misrepresentation of the facts” and “totally distorted” in its “reading of the acts”.¹⁵¹</p> <p>The prosecution of Obi and Di Nardo is described by Gravina as “ideological”.¹⁵² This assessment, which is overtly political in nature, is cited as a reason for withdrawing the Italian State’s opposition to the</p>	 <p><u>RED FLAG 34</u></p> <p>The Italian State terminates the prosecution of intermediaries <u>Emeka Obi</u> and <u>Gianluca Di Nardo</u> by withdrawing its opposition to their Appeal against their conviction. The cited grounds border on prohibited Article 5 reasoning.</p>



148 Tribunale Ordinario di Milano Sezione VII Penale, RG Trib 1351/1, Sentenza, <https://www.eni.com/content/dam/enicom/documents/eng/media/opl/sentenza-opl.pdf>

149 Corte D'Appello di Milano, II Sezione Penale Rito Appello, Procedimento penale n.4479/19 RG, Udienza del 22/03/2021

150 Corte D'Appello di Milano, II Sezione Penale Rito Appello, Procedimento penale n.4479/19 RG, Udienza del 22/03/2021. Gravina states (in Deepl translation): “The accusation that I read raised by my colleague, the Public Prosecutor of the First Instance, must be overturned”.

151 Corte D'Appello di Milano, II Sezione Penale Rito Appello, Procedimento penale n.4479/19 RG, Udienza del 22/03/2021

152 Corte D'Appello di Milano, II Sezione Penale Rito Appello, Procedimento penale n.4479/19 RG, Udienza del 22/03/2021. Gravina describes the prosecution as taking “a very transparent ideological approach” (in Deepl translation): “

	<p>Appeal, in potential violation of Article 5, which forbids the termination of prosecution on political grounds.</p> <p>Gravina had also described the OPL 245 investigation and prosecution as a “waste of resources”,¹⁵³ even though Article 5 commentaries are clear that “complaints of bribery of foreign public officials should be seriously investigated by competent authorities and that adequate resources should be provided by national governments to permit effective prosecution of such bribery”.¹⁵⁴</p>	
24 March 2021	<p>Francesco Greco, the then Chief Prosecutor in Milan, confirms in a press release that there had been attempts by “an Eni lawyer” to delegitimise the trial prosecutors in the OPL 245 case.¹⁵⁵ Greco also recorded that the prosecutors had experienced “intimidation”.¹⁵⁶</p>	 RED FLAG 35 <u>Attempts to delegitimise and intimidate trial prosecutors are officially confirmed, raising Article 5 concerns which are nonetheless left unexamined.</u>
29 March 2021	<p>Greco and the President of the Milan Court, Roberto Bichi, together with other leading officials in the Milan prosecutorial authorities, issue a joint statement confirming that there had been external attempts to influence and condition the OPL 245 proceedings.¹⁵⁷</p>	 RED FLAG 36 <u>Attempts improperly to influence the OPL 245 court proceedings are</u>

153 Official transcript in Italian of hearing, 22.03.2021 court case n. 4479/19 R.G., p.23



154 COMMENTARIES ON THE CONVENTION ON COMBATING BRIBERY OF FOREIGN PUBLIC OFFICIALS IN INTERNATIONAL BUSINESS TRANSACTIONS, Adopted by the Negotiating Conference on 21 November 1997, para 27. OECD, Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, OECD/LEGAL/0293, p.13, https://www.oecd.org/content/dam/oecd/en/publications/reports/2011/03/convention-on-combating-bribery-of-foreign-public-officials-in-international-business-transactions_037f7856/2bfa620e-en.pdf. “

Article 5 is complemented by paragraph 6 of the Annex to the 1997 OECD Revised Recommendation on Combating Bribery in International Business Transactions, C(97)123/FINAL (hereinafter, “1997 OECD Recommendation”), which recommends, inter alia, that complaints of bribery of foreign public officials should be seriously investigated by competent authorities and that adequate resources should be provided by national governments to permit effective prosecution of such bribery..”

155 Public Prosecutor's Office at the First Instance Court of Milan, Press Release by The Public Prosecutor, 24 March 2021, Milan. The Press Release stated: “In relation to recent press articles on the Eni-Nigeria trial, it should be noted that . . . in the course of the investigations, two proceedings were instituted by an ENI lawyer at the Trani Public Prosecutor's Office and at the Syracuse Public Prosecutor's Office with the aim of polluting the investigation carried out by the Milan Public Prosecutor's Office . . . In the pollution action, those who conceived and carried it out also tried to delegitimise the Milan prosecutor. The Public Prosecutor . . . stands by his [trial prosecutor] colleagues, who, despite the intimidation they have suffered, have carried out their work with serenity, professionalism and transparency.” (Our emphasis).



156 Public Prosecutor's Office at the First Instance Court of Milan, Press Release by The Public Prosecutor, 24 March 2021, Milan.

157 Statement by Il presidente del Tribunale Roberto Bichi, il procuratore della Repubblica Francesco Greco, il presidente vicario Fabio Roia, il presidente della sezione GIP-GUP Aurelio Barazzetta, il procurati aggiunti dottri Maurizio Romanelli ed Eugenio Fusco, 29 March 2021. The statement stated (our translation): ““The Milanese jurisdiction has always respected and valued the constitutional principles of due process and the compulsory nature of criminal prosecution, the function of the Public Prosecutor as an organ of justice - which therefore neither wins nor loses trials, but in accordance with the constitutional rules prepares them - and the role of the third party Judge who verifies the arguments of the prosecution and defence and decides in full autonomy by

		also officially confirmed, raising Article 5 concerns which are nonetheless left unexamined.
19 May 2021	<p>Paolo Storari, the Milan prosecutor who had leaked information relating to the investigation into the Hungary Lodge, is interviewed as a suspect by the Roma Prosecutors. He admits the leaks.</p> <p>In order to justify the leak, Storari states that a reason for his conduct was that the trial prosecutors in the OPL245 trial had withheld important exculpatory evidence from Eni,¹⁵⁸ specifically a <u>draft</u> report of the Financial Police which concluded that Vincenzo Armanna (a defendant in the OPL 245 trial) had tried to “pay” a Nigerian witness in the case.</p> <p>The report by the Financial Police had already been rebutted by the trial prosecutors (<i>see entry for 5 March 2021</i>) in an official note to the Chief Prosecutor of Milan. There was therefore no reason to provide it to the defense.</p> <p>Moreover, it would arguably have been unlawful for the lead prosecutors to have done so. Italian jurisprudence clearly establishes that the disclosure of the report was at the discretion of the prosecutors.¹⁵⁹ Indeed, the Supreme Court had ruled in 1999 that documents from a separate investigation cannot be disclosed to the defense in another proceeding.¹⁶⁰</p>	<p> RED FLAG 37</p> <p>Paulo Storari, the Milan prosecutor who had leaked information relating to the investigation into the Hungary Lodge, accuses the lead prosecutors in the OPL 245 case of withholding important exculpatory evidence from Eni, even though it would arguably have been unlawful for the prosecutors to have made the disclosure. The accusation directly questions the extent of prosecutorial discretion in corruption cases, thus engaging Article 5 concerns.</p> <p> RED FLAG 38</p> <p>The accusation paves the way for an investigation of the lead prosecutors and their possible removal from the case. Given</p>



interpreting the rules and applying them in the light of the evidentiary results acquired in the trial in the contradictory examination of the parties. . . . On these principles there is a common and shared culture that no procedural event or third party expectation can in any way undermine and has never failed, even in the obvious autonomy and distinction of institutional and legal roles, even on the occasion of a recent major trial brought to an end despite ascertained attempts of external influence and conditioning, as acquired in the proceedings handled in the competent offices" (our emphasis).

- 158 Nello Rossi, La sentenza nei confronti di Fabio De Pasquale e Sergio Spadaro: Un’analisi critica, 7 January 2025, *Questione Giustizia*, <https://www.questionegiustizia.it/articolo/la-sentenza-nei-confronti-di-fabio-de-pasquale-e-sergio-spadaro-un-analisi-critica>. An english translation is available at: <https://globalanticorruptionblog.com/wp-content/uploads/2025/01/rossi-translation.docx>
- 159 Supreme Court of Cassazione , n. 42589, 26 February 2009. The Court ruled “there is no offence of refusal of official act where the purportedly omitted acts are not mandatory according to strict protocols but, instead, such acts fall within the discretion of the prosecutor”
- 160 Supreme Court, n. 5894, 26 October 1999: “It is abnormal and must be annulled the order of the Trial Judge to the Prosecutor to disclose to the Defense documents of a different investigation”.

		that this is known by state officials to be an objective of the conspiracy to pollute the trial, Article 5 concerns are automatically engaged.
7 June 2021	<p>Police search the computers of both Fabio De Pasquale and Sergio Spadaro, the lead OPL 245 trial prosecutors, on order of the Brescia Prosecutors Office (which has jurisdiction for investigating Milan Prosecutors).</p> <p>Fabio De Pasquale and Sergio Spadaro are notified that they were under investigation for “<i>refusal of an official act</i>” (art. 328 of Penal Code) because they had not disclosed to the defense for use in the OPL245 trial the draft report of the Financial Police alleging that <u>Vincenzo Armanna</u> had paid a witness.</p> <p>The report was claimed to be of assistance to Eni in that it raised questions over Armanna’s probity (an issue given his statement that Eni knew that Nigerian politicians would benefit from the monies paid for the OPL 245 licence).</p> <p>The Working Group on Bribery has recognised “<i>disciplinary proceedings and prosecutorial investigations</i> [against anti-bribery prosecutors] <i>while [they continue] to hold their positions and perform their duties</i>”¹⁶¹ as a potential form of improper interference in the investigation and prosecution of cases.</p>	 RED FLAG 39 The lead prosecutors are placed under investigation for not disclosing the draft report of the Financial Police alleging that defendant <u>Vincenzo Armanna</u> had paid a witness. The move raises Article 5 concerns because prosecutorial investigations against prosecutors in corruption cases are a potential form of improper interference.
9 June 2021	<p>The Court of First Instance releases its full written judgment acquitting all the defendants in the main OPL 245 trial.¹⁶²</p> <p>The judgment acknowledges that bribes were paid in Nigeria: and that Eni and Shell allegedly knew of the corruption but (as summarised by the OECD Working Group on Bribery in its subsequent peer</p>	 RED FLAG 40 <u>The Judgement acknowledges that bribes were paid but deems that the</u>

161 Peru must enhance protection for prosecutors and judges against potential political interference, says OECD Working Group on Bribery following High-Level Mission in Lima, Press release, 22 January 2025, <https://www.oecd.org/en/about/news/press-releases/2025/01/peru-must-enhance-protection-for-prosecutors-and-judges-against-potential-political-interference-says-oecd-working-group-on-bribery-following-high-level-mission-in-lima.html>. The Working Group on Bribery states: "The OECD Working Group on Bribery has expressed its concern over developments that could jeopardise judicial and prosecutorial independence in Peru . . . The Working Group notes that, since 2023, some prosecutors from the Lava Jato Special Team, an anti-corruption unit established in 2016 to coordinate Peru's investigations into bribery linked to Brazil's Lava Jato scandal, have been subject to disciplinary proceedings and prosecutorial investigations while continuing to hold their positions and perform their duties".

162 In Nome del Popolo Italiano, Tribunale di Milano, Sezione VII Penale, Sentenza, 9 June 2021, available at <https://www.eni.com/content/dam/enicom/documents/eng/media/opl/opl-245-sentenza-tribunale-milano.pdf>

	<p>review of Italy's compliance with the Antibribery Convention) "<i>nevertheless provided the funds used to pay the bribe</i>".¹⁶³ Despite this finding, the Court of First Instance ruled that no offense had taken place, in part because the Nigerian bribes were outside Italy's jurisdiction.¹⁶⁴</p> <p>The Working Group will later rule that the judgment does not conform with the OECD Anti-bribery Convention.¹⁶⁵</p> <p>A further Red Flag arises from the trial judges accusing the prosecutors of not disclosing the "avalanche of shit" video secretly recorded by Piero Amara in 2014.¹⁶⁶ The video was said by the judges to constitute evidence of a plot by Armana to discredit ENI.¹⁶⁷</p> <p>The judges' accusation was a departure from applicable rules, in that the prosecutors were not in possession of the video (which had been acquired in the "false plot" investigation) and therefore could not have deposited it.</p>	<p><u>defendants have no case to answer.</u></p> <p> <u>RED FLAG 41</u></p> <p>The OECD Working Group on Bribery will later rule that the Judgment does not conform Article 1 of the OECD Anti-bribery Convention.</p> <p> <u>RED FLAG 42</u></p> <p>The judges accuse the trial prosecutors of withholding a video useful to the defense, despite the said evidence not being in</p>
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163 OECD, Implementing the OECD Anti-Bribery Convention Phase 4 Two-Year Follow-Up Report: Italy, 17 October 2024, para 29, https://www.oecd.org/en/publications/implementing-the-oecd-anti-bribery-convention-phase-4-two-year-follow-up-report-italy_5841d4d2-en.html. The Working Group states: "The Phase 4 Report considered the Oil Prospecting (Nigeria) Case, in which an individual entered into a corrupt agreement with Nigerian officials. Two companies later allegedly became aware of the agreement but nevertheless provided the funds used to pay the bribe."

164 In Nome del Popolo Italiano, Tribunale di Milano, Sezione VII Penale, Sentenza, COURT GENERAL DOCKET NO. 1351/18, CRIME REPORTS GENERAL DOCKET NO. 54772/13, 9 June 2021, p.328 available in English at <https://www.eni.com/assets/documents/documents-en/opl-245-full-decision.pdf>; and in Italian at <https://www.eni.com/content/dam/enicom/documents/eng/media/opl/opl-245-sentenza-tribunale-milano.pdf>. The judges state (p.225 in English translation): "it is clear that an unlawful arrangement between Dan Etete and the public officials would constitute "domestic" bribery committed in Nigeria, and thus falling outside Italian jurisdiction".

165 OECD (2022), *Implementing the OECD Anti-Bribery Convention Phase 4 Report: Italy*, Implementing the OECD Anti-Bribery Convention, OECD Publishing, Paris. Hereafter "OECD Phase 4 Report". Available at: [https://one.oecd.org/document/DAF/WGB\(2022\)39/FINAL/en/pdf](https://one.oecd.org/document/DAF/WGB(2022)39/FINAL/en/pdf).
The Working Group stated at paragraph 116: "The Working Group indeed considered in the past that Italy's foreign bribery offence complied with the Convention. But this was before the spate of recent acquittals that created jurisprudence on the offence". At para 100, the Work Group also stated: "Other post-Phase 3 developments raise serious concerns, especially the jurisprudence on the foreign bribery offence that has emerged . . . These court decisions raise serious concerns about the standard of proof and the courts' treatment of circumstantial evidence in foreign bribery cases. Some of the decisions also adopt interpretations of Italy's foreign bribery offence that are incompatible with the Convention."

166 In Nome del Popolo Italiano, Tribunale di Milano, Sezione VII Penale, Sentenza, COURT GENERAL DOCKET NO. 1351/18, CRIME REPORTS GENERAL DOCKET NO. 54772/13, 9 June 2021, available in English at <https://www.eni.com/assets/documents/documents-en/opl-245-full-decision.pdf>; and in Italian at <https://www.eni.com/content/dam/enicom/documents/eng/media/opl/opl-245-sentenza-tribunale-milano.pdf>. The Court stated (in English translation, p.307): "it is incomprehensible that the Public Prosecutor chose not to introduce into the record a document that sheds light on the contrived use that Vincenzo Armanna intended to make of his statements and the desired consequent launching of investigations, all extraordinary elements in favor of the defendants. Such a decision, if successful, would have had the effect of depriving the defense and the Court of extremely important evidence".

167 In Nome del Popolo Italiano, Tribunale di Milano, Sezione VII Penale, Sentenza, COURT GENERAL DOCKET NO. 1351/18, CRIME REPORTS GENERAL DOCKET NO. 54772/13, 9 June 2021, available in English at <https://www.eni.com/assets/documents/documents-en/opl-245-full-decision.pdf>; and in Italian at <https://www.eni.com/content/dam/enicom/documents/eng/media/opl/opl-245-sentenza-tribunale-milano.pdf>. The Court stated (in English translation, p.307): "it is incomprehensible that the Public Prosecutor chose not to introduce into the record a document that sheds light on the contrived use that Vincenzo Armanna intended to make of his statements and the desired consequent launching of investigations, all extraordinary elements in favor of the defendants. Such a decision, if successful, would have had the effect of depriving the defense and the Court of extremely important evidence".

	<p>The main OPL 245 trial transcript also reveals that the lawyer Eni senior manager Roberto Casula was in fact in possession of the full transcript of the video.¹⁶⁸ It was later revealed by the television programme RAI report that the transcript had been circulated to all defendants.¹⁶⁹ Moreover, a KMPG audit of Eni in September 2018 had analysed the video, so its existence was known since then to all Eni directors and control bodies.¹⁷⁰</p> <p><i>(A full commentary on the First Instance Court judgment is available at https://globalanticorruptionblog.com/wp-content/uploads/2022/07/commentary-on-milan-judgment.pdf).</i></p>	<p>the possession of the prosecutors – and the defense already having transcripts of the video. The accusation paved the way for the subsequent investigation of the lead prosecutors, to their subsequent disciplining and to their exclusion from the case – a prime objective of the by now confirmed conspiracy to pollute the OPL 245 proceedings. Article 5 concerns are thus automatically engaged.</p>
15 June 2021	<p>The Italian Ministry of Justice announces that it opened an inquiry into the accusations that the lead prosecutors had withheld evidence from the defense. The outcome of the enquiry is unknown.</p>	
24 June 2021	<p>The Milan Court of Appeal annuls the conviction of intermediaries Emeka Obi and Gianluca Di Nardo and ordered the release of about 120 million dollars seized in Switzerland. The monies had been awarded by a UK court to Obi as his commission for his work helping to broker the deal for the OPL 245 oil block.¹⁷¹</p> <p>The Appeal prosecutor Celestina Gravina had previously declined to oppose the defendants' Appeal, thereby terminating the prosecution.</p> <p>The prosecutor also declined a request by the Nigerian government, a civil party to the case, to contest the Appeal Court judgment.¹⁷²</p> <p>Italy's decision took place at a time when Eni, senior Eni managers and members of the judiciary were</p>	<p> RED FLAG 43</p> <p><u>Italy squashes the convictions of OPL 245 intermediaries Obi and Di Nardo after the Appeal's prosecutor declines to oppose the Appeal.</u></p> <p> RED FLAG 44</p> <p>Italy's decision took place at a time when Eni, senior Eni managers and</p>



168 Tribunale di Milano, Sezione VII Penale, PROCEDIMENTO PENALE NUMERO 54772/13 R.G.N.R. PROCEDIMENTO PENALE NUMERO 1351/18 R.G., Udienza 23 July 2019, <https://aleph.occrp.org/entities/63099543.9a555f3727b660d5cb0c4a207d1bd901d27e6736>

169 RAI Report, Il video segreto - Report 13/12/2021, <https://www.youtube.com/watch?v=kLoH1XGITKs>

170 RAI Report, Il video segreto - Report 13/12/2021, <https://www.youtube.com/watch?v=kLoH1XGITKs>

171 Energy Venture Partners Ltd v Malabu Oil and Gas Ltd, 17 July 2013, <https://www.casemine.com/judgement/uk/5a8ff7dc60d03e7f57eb2824>

172 Italian prosecutors won't appeal acquittal of two in Nigerian oil graft case, Reuters, 3 November 2021, <https://www.reuters.com/article/business/energy/italian-prosecutors-wont-appeal-acquittal-of-two-in-nigerian-oil-graft-case-idUSL8N2RU2XT/>



	still under investigation for polluting the OPL 245 case – and Article 5 concerns were thus live.	members of the judiciary were still under investigation for polluting the OPL 245 case – and Article 5 concerns were thus live.
28 June 2021	<p>Milan prosecutor <u>Laura Pedio</u> announces that she has completed her investigation into the alleged “pollution” of the OPL 245 trial.</p> <p>The investigation finds that <u>Vincenzo Armanna</u>’s email of 9 February 2017 (<i>see entry</i>) was used by <u>Massimo Mantovani</u>, who until October 2016 was Eni’s most senior lawyer to create “<i>the conditions for future disciplinary proceedings against De Pasquale</i>”.¹⁷³</p> <p>As previously noted (<i>see entry for 10 March 2017</i>), the email was indeed used to request his removal from the Eni-Nigeria trial.¹⁷⁴</p>	<p> <u>RED FLAG 45</u></p> <p>Investigation into Eni’s role in fake Syracuse plot finds that Eni actively sought to create conditions for disciplinary proceedings against the lead prosecutor from the OPL 245 case.</p>
29 July 2021	Lead OPL 245 prosecutor <u>Fabio De Pasquale</u> lodges an appeal against the acquittal verdict handed down by the Milan Court of First Instance on 17 March 2021. He also requests to attend the appeal trial as prosecutor as is his right under art. 570 (3) Code of Criminal Procedure.	
11 December 2021	<p><i>Il Fatto</i> reports that Milan prosecutors <u>Laura Pedio</u> and <u>Paolo Storari</u> have closed their investigation into the involvement of Eni executives in the plot to “pollute” the OPL 245 investigation and trial.</p> <p>The investigation concludes that there is no evidence that CEO <u>Claudio Descalzi</u> and senior manager <u>Claudio Granata</u> directed the plot.¹⁷⁵</p> <p>However, other Eni managers remain under suspicion, including Eni’s former senior legal counsel <u>Massimo Mantovani</u> and <u>Michele Bianco</u> (Eni’s Executive Vice President Legal Affairs).¹⁷⁶</p>	<p> <u>RED FLAG 46</u></p> <p>Although Eni CEO Descalzi and senior manager Claudio Granata are found not to have directed plot to pollute OPL 245 proceedings, other senior Eni Executives remain under suspicion.</p>

173 Gianni Barbacetto, Antonio Massari, "Armanna slandered the lawyer in order to strike the prosecutor De Pasquale", *Il fatto quotidiano*, 28 June 2021

174 Gianni Barbacetto, Antonio Massari, "Armanna slandered the lawyer in order to strike the prosecutor De Pasquale", *Il fatto quotidiano*, 28 June 2021

175 *Il Fatto*, "Eni, il complotto di Amara: 'Non fu ideato da Descalzi'", 11 December 2021, <https://www.ilfattoquotidiano.it/in-edicola/articoli/2021/12/11/eni-il-complotto-di-amara-non-fu-ideato-da-descalzi/6422523/>

176 *Il Fatto*, "Eni, il complotto di Amara: 'Non fu ideato da Descalzi'", 11 December 2021, <https://www.ilfattoquotidiano.it/in-edicola/articoli/2021/12/11/eni-il-complotto-di-amara-non-fu-ideato-da-descalzi/6422523/>

26 January 2022	<p>The Prosecutor General at the Court of Appeal of Milan, <u>Dr Francesca Nanni</u>, rejects the request of <u>Fabio De Pasquale</u> to join the prosecutorial team in the state's Appeal against the Court of First Instance acquittal judgment (<i>see entry for 29 July 2021</i>).</p> <p>The Italian NGO ReCommon subsequently writes to the Prosecutor General at the Supreme Court of Cassation, Dr Giovanni Salvi, to contest the legality of Nanni's decision, which arguably departed from applicable rules, since the assigned prosecutor for the Appeal, <u>Celestina Gravina</u>, had already successfully requested an acquittal in the Obi and DiNardo Appeal case – and had therefore taken a position on the main OPL 245 case, creating a conflict of interest.¹⁷⁷</p> <p>The Prosecutor General of the Court of Cassation never responded to ReCommon's submission.</p>	 <p>RED FLAG 47</p> <p>The Prosecutor General at the Court of Appeal of Milan rejects Fabio de Pasquale's request to lead the prosecution in the Court of Appeal. The decision is arguably unlawful in that it departed from applicable rules. The Appeal will instead be prosecuted by Celestina Gravina who had already terminated the Obi and di Nardo prosecution.</p>
31 May 2022	<p>The Italian Supreme Court changes its <i>"interpretative stance"</i> on the offence of foreign bribery.¹⁷⁸</p> <p>Italy will later tell the Working Group in Bribery that the change in jurisprudence brings Italy back into line with the OECD Anti-bribery Convention,¹⁷⁹ although this has yet to be tested in case law.</p>	
18 July 2022	<p>Eni's chief counsel <u>Stefano Speroni</u> is placed under investigation by the Milan Prosecutors' Office¹⁸⁰ for alleged offences under Articles 81 cpv and 371 bis c.p of the Italian Penal Code, which prohibits the provision of false information to a prosecutor. The offences are said to have been committed in Milan</p>	 <p>RED FLAG 48</p> <p>Eni's chief legal officer is placed under investigation for</p>

177 ReCommon, Complaint to Prosecutor General at the Supreme Court of Cassation Dr Giovanni Salvi, 1 April 2022

178 Supreme Court of Italy, Penale Sent. Sez. 6 Num. 28988 Anno 2022, https://www.italgiure.giustizia.it/xway/application/nif/clean/hc.dll?verbo=attach&db=snpen&id=/_20220721/snpen@s60@a2022@n28988@tS.clean.pdf




179 As the Working Group records at paragraph 29 of its Phase 4 Follow up report on Italy: "The Phase 4 Report considered the Oil Prospecting (Nigeria) Case, in which an individual entered into a corrupt agreement with Nigerian officials. Two companies later allegedly became aware of the agreement but nevertheless provided the funds used to pay the bribe. The companies were found not guilty of bribery partly because their actions occurred during the "executive phase" of the corrupt agreement, i.e. after the agreement had been made. However, two recent Supreme Court decisions appear to have substantially narrowed this concept." One of those Supreme Court judgments was issued in May 2022, thus prior to the withdrawal of the Appeal in the OPL 245 case.

At page 56, Italy states: "10. Regarding the offence of foreign bribery, the Working Group recommends that Italy: (d) take steps to ensure that liability for foreign bribery arises whenever a person offers, promises or gives a bribe to a foreign public official directly or through an intermediary, including where the person joins and becomes a party to a corrupt transaction after the official has entered into a prior "corrupt agreement" with the intermediary or another third party, by taking appropriate measures including training judicial authorities, and if necessary amending its legislation (Convention Art. 1);


Action taken as of the date of the follow-up report to implement this recommendation: It should be noted that the Supreme Court has recently shown that it has changed its interpretive stance from the past on this specific point."

See: https://www.oecd.org/content/dam/oecd/en/publications/reports/2024/10/implementing-the-oecd-anti-bribery-convention-phase-4-two-year-follow-up-report-italy_65d235f7/5841d4d2-en.pdf.

180 Procura della Repubblica, Disporre, N.11191/2020 R.G. notizie di reato-Mod.44, 18 July 2022.

	on 27 February 2020, 2 March 2020 and 6 March 2020. The documents are believed to relate to the so-called “doormat” files submitted by Speroni as part of the OPL 245 case (see entry 27 February 2020).	providing false information to a prosecutor, in relation to documents submitted in the OPL 245 case.
19 July 2022	<p>The Appeal of the Milan Prosecutors’ Office against the Court of First Instance’s acquittal judgment is withdrawn by replacement prosecutor Celestina Gravina. As a consequence, the prosecution of the main OPL 245 case is terminated.</p> <p>The decision was taken at a time when Article 5 concerns were live; and investigations were still ongoing into the involvement of Eni managers in the conspiracy to pollute the OPL 245 investigation and trial.</p> <p>The decision departed from normal procedures. As Reuters reported: <i>“While the General Prosecutor’s Office at the Appeals Court sometimes asks for the acquittal of defendants at the end of an appeal process, legal and judicial sources interviewed by Reuters say that the decision to withdraw at the start of a trial is unprecedented in Milan”</i>.¹⁸¹</p> <p>No official transcript was made of the Appeal Court hearing: however, from press reports, it is clear that the grounds for Italy’s action included elements that clearly breached Article 5. Prosecutor Gravina expressly argued that the case should be dropped because the original prosecution was <i>“neocolonialist”</i>; and because the indicted companies <i>“had made the wealth of Nigeria”</i>.¹⁸² Both of these grounds reflect clear political and economic motives for the termination of the prosecution. Gravina’s remarks have been described as <i>“unfortunate”</i> by the OECD Working Group on Bribery.¹⁸³</p> <p>The decision to abandon the prosecution was taken despite a significant ruling by the Italian Supreme</p>	<p> RED FLAG 49</p> <p>The decision to terminate the main OPL 245 prosecution is taken despite Article 5 concerns remaining live. Senior Eni managers and state officials are still under investigation for polluting the investigation and trial: and Eni’s chief legal officer is being investigated for submitting false information to the OPL 245 prosecutors.</p> <p> RED FLAG 50</p> <p>The decision cites political grounds for terminating the prosecution that are forbidden under Article 5.</p> <p> RED FLAG 51</p> <p>In a departure from applicable rules, the decision does not appear to take account</p>

- 181 Italy prosecutors drop \$1.3 billion Eni Nigeria graft appeal, Reuters, 19 July 2022, <https://web.archive.org/web/20220719131432/https://www.reuters.com/world/africa/italy-prosecutors-seek-drop-eni-nigeria-graft-appeal-2022-07-19/>
- 182 Processo Eni, la pg Gravina rinuncia all’appello e attacca l’aggiunto De Pasquale: “Ha avuto un atteggiamento neocolonialista e ha accusato due società petrolifere che hanno fatto la ricchezza della Nigeria”, Il Fatto, 19 July 2022, <https://www.ilfattoquotidiano.it/2022/07/19/processo-eni-nigeria-la-procura-generale-rinuncia-ai-motivi-dappello-imputati-definitivamente-assolti/6666256/>
- 183 OECD (2022), *Implementing the OECD Anti-Bribery Convention Phase 4 Report: Italy*, Implementing the OECD Anti-Bribery Convention, OECD Publishing, Paris. Hereafter “OECD Phase 4 Report”, para 111. Available at: [https://one.oecd.org/document/DAF/WGB\(2022\)39/FINAL/en/pdf](https://one.oecd.org/document/DAF/WGB(2022)39/FINAL/en/pdf).

	<p>Court in May 2022¹⁸⁴ (<i>see entry</i>) which (on Italy's own account to the OECD Working Group) had "<i>changed its interpretative stance</i>" on the offence of foreign bribery,¹⁸⁵ removing grounds on which the acquittal by the Court of First Instance rested.</p> <p>Gravina was arguably required under the procedural rules for prosecutors to explain in detail why the decision to terminate the prosecution did not follow this newly established precedent. Press reports of the Appeal Court hearing give no indication that she did so, nor that she considered Article 5 concerns in her decision.</p>	<p>of changes to Italian jurisprudence on bribery since the Court of First Instance's judgment which removed grounds on which the acquittal rested.</p>
18 January 2023	<p>Preliminary Judge in Brescia, which has jurisdiction to investigate and prosecute Milan's prosecutors, opens a trial against lead OPL 245 prosecutors <u>Fabio de Pasquale</u> and <u>Sergio Spadero</u>.</p> <p>The two prosecutors are charged with "<i>refusal of an official act</i>" by failing to file investigative documents favourable to the defence in the OPL 245 trial, specifically documents that were said "<i>to prove the falsity of the elements provided to the public prosecution by Vincenzo Armanina, who had assumed the role of declarant against the main defendants</i>".¹⁸⁶</p> <p>Five documents were cited by the prosecution, including a draft report by the Financial Police (<i>see entry</i> 19 May 2021): Whatsapp and Telegram messages from Armanina's phone: and a secretly recorded video of Armanina promising to unleash</p>	<p> <u>RED FLAG 52</u></p> <p>The lead prosecutors in the OPL 245 case are prosecuted for failing to file documents favourable to the defense. Article 5 is automatically engaged since the prosecution of the prosecutors was stated by one of those convicted in the Syrcusa case to be a primary objective of the Eni-associated conspiracy to pollute the OPL 245 proceedings and</p>

184 Supreme Court of Italy, Penale Sent. Sez. 6 Num. 28988 Anno 2022, <https://www.italgiure.giustizia.it/xway/application/nif/clean/hc.dll?verbo=attach&db=snpn&id=/20220721/snpn@s60@a2022@n28988@tS.clean.pdf>



185 As the Working Group records at paragraph 29 of its Phase 4 Follow up report on Italy: "The Phase 4 Report considered the Oil Prospecting (Nigeria) Case, in which an individual entered into a corrupt agreement with Nigerian officials. Two companies later allegedly became aware of the agreement but nevertheless provided the funds used to pay the bribe. The companies were found not guilty of bribery partly because their actions occurred during the "executive phase" of the corrupt agreement, i.e. after the agreement had been made. However, two recent Supreme Court decisions appear to have substantially narrowed this concept." One of those Supreme Court judgments was issued in May 2022, thus prior to the withdrawal of the Appeal in the OPL 245 case.

At page 56, Italy states: "10. Regarding the offence of foreign bribery, the Working Group recommends that Italy: (d) take steps to ensure that liability for foreign bribery arises whenever a person offers, promises or gives a bribe to a foreign public official directly or through an intermediary, including where the person joins and becomes a party to a corrupt transaction after the official has entered into a prior "corrupt agreement" with the intermediary or another third party, by taking appropriate measures including training judicial authorities, and if necessary amending its legislation (Convention Art. 1);

Action taken as of the date of the follow-up report to implement this recommendation: It should be noted that the Supreme Court has recently shown that it has changed its interpretive stance from the past on this specific point."

See: https://www.oecd.org/content/dam/oecd/en/publications/reports/2024/10/implementing-the-oecd-anti-bribery-convention-phase-4-two-year-follow-up-report-italy_65d235f7/5841d4d2-en.pdf.



186 Nello Rossi, La sentenza nei confronti di Fabio De Pasquale e Sergio Spadaro: Un'analisi critica, 7 January 2025, Questione Giustizia, <https://www.questionegiustizia.it/articolo/la-sentenza-nei-confronti-di-fabio-de-pasquale-e-sergio-spadaro-un-analisi-critica>. An english translation is available at: <https://globalanticorruptionblog.com/wp-content/uploads/2025/01/rossi-translation.docx>

	<p><i>“an avalanche of shit”</i> (see entries for 28 July 2014, 9 June 2021).</p> <p>The lead prosecutors vigorously deny the charges, arguing that it was unlawful for them to disclose evidence which, at the time, was the subject of an investigation or in draft form; that the decision had been taken in total transparency and approved by the most senior magistrate in Milan; and that the decision was within their prosecutorial discretion.¹⁸⁷</p> <p>As previously noted (at paras 28-30 above), Article 5 is intended to ensure that the discretion of corruption prosecutors <i>“should be exercised to maximise the effectiveness of law enforcement measures”</i>.¹⁸⁸ The case therefore directly engages Article 5 should the court circumscribe that discretion.</p>	<p>control the Milan Prosecutors Office.</p> <p> RED FLAG 53</p> <p>The case directly engages with the extent of prosecutorial discretion in corruption prosecutions. As such it borders on a key element of Article 5, namely the duty of state parties to ensure the fullest possible discretion for prosecutors.</p>
2 May 2023	<p>The Judicial Council at the Court of Appeal of Milan overwhelmingly confirms Fabio De Pasquale’s appointment as Deputy Prosecutor in the Milan Prosecutors’ Office. Dr. de Pasquale was backed 13:1 by Council members. The Court of Appeal cited Dr De Pasquale’s <i>“solid legal background”</i>,¹⁸⁹ his management abilities and his leading role in establishing the department. This is the same prosecutorial department that was lauded for its performance in the Working Group’s 2022 Phase IV report on Italy.</p>	
8 May 2024	<p>The Superior Council of the Magistracy (CSM) overturns Fabio De Pasquale’s appointment as Deputy Prosecutor in the Milan Prosecutors’ Office (see entry for 2 May 2023).</p> <p>The CSM stated that Dr De Pasquale lacked <i>“impartiality”</i> and <i>“balance”</i> and had <i>“repeatedly performed his legal function in a manner that was neither objective nor fair with respect to the parties</i></p>	<p> RED FLAG 54</p> <p>The Superior Council of the Magistracy overturns the appointment of Fabio de Pasquale, the OPL 245 lead prosecutor, to post of Deputy Prosecutor in Milan. The decision raises</p>

187 Nello Rossi, La sentenza nei confronti di Fabio De Pasquale e Sergio Spadaro: Un’analisi critica, 7 January 2025, *Questione Giustizia*, <https://www.questionegiustizia.it/articolo/la-sentenza-nei-confronti-di-fabio-de-pasquale-e-sergio-spadaro-un-analisi-critica>. An english translation is available at: <https://globalanticorruptionblog.com/wp-content/uploads/2025/01/rossi-translation.docx>


188 Cullen, P.J., "Article 5: Enforcement". In Pieth, M., Low, L.A. and Cullen, P.J. (eds), *The OECD Convention on Bribery: A Commentary*, Cambridge University Press, 2007, p.300.

189 CSM Deliberations Dr de Pasquale, https://www.areasg.it/docs/CSM_delibera-de-pasquale.pdf
Una non conferma che attiene al ruolo del p.m., *Diario dal Consiglio*, Area Democratica per la Giustizia, 10 March 2025, <https://www.areasg.it/areacsm/diario/una-non-conferma-che-attiene-al-ruolo-del-pm>

	<p><i>as well as without a sense of proportion and without moderation”.</i>¹⁹⁰</p> <p>While it was certainly open to the CSM to demote Dr De Pasquale, it was not open to it to do so in a manner that prejudiced Dr De Pasquale’s defense in his criminal trial on the same facts, which was in progress. The CSM could (and should) have delayed its ruling until after the trial had concluded, since the issues the CSM was considering directly overlapped with those in the criminal prosecution. Such a delay would have been in line with convention.</p> <p>The CSM’s conclusions stand in direct contrast to the findings of the Judicial Council at the Court of Appeal of Milan (see entry above).</p>	<p>Article 5 concerns given that one of those convicted in the Syracuse case has stated that a primary objective of the conspiracy to pollute the OPL 245 case was to blunt de Pasquale’s influence in Milan</p>
10 May 2024	<p>Following the CSM’s decision of 8 May 2024 (see above), the lead OPL 245 prosecutor De Pasquale is demoted to “assistant prosecutor” and (significantly) removed as director of Milan’s foreign bribery unit.</p>	<p> <u>RED FLAG 55</u></p> <p>Lead OPL 245 prosecutor Fabio de Pasquale is demoted. The decision raises Article 5 concerns given that one of those convicted in the Syracuse case has stated that a primary objective of the conspiracy to pollute the OPL 245 investigation and trial was to discipline de Pasquale and blunt his influence in Milan.</p>
30 May 2024	<p>Prime Minister Giorgia Meloni makes a direct intervention in the case against Fabio de Pasquale and Sergio Spadero. In a TV interview, Meloni explicitly references the prosecution of the prosecutors and complains (incorrectly) that no disciplinary action has yet to be taken against them.¹⁹¹</p>	<p> <u>RED FLAG 56</u></p> <p>Prime Minister intervenes in the case against lead OPL 245 prosecutors, pushing</p>

190 Superior Council of Magistracy, 8th May 2024, Case No. 109/QS/2021. Dr Fabio DE PASQUALE - Assistant Public Prosecutor at the Court of MILAN. Confirmation for magistrates performing semi-directing functions pursuant to Article 46 of Legislative Decree 160/2006 (opinion unfavourable to confirmation).

191 Giustizia, Meloni: “Riforma valorizza la magistratura”. Poi rivela: “Mai punito il giudice che occultò prove su Eni”, 30 May 2024, <https://www.firenzepost.it/2024/05/30/giustizia-meloni-riforma-valorizza-la-magistratura-poi-rivela-mai-punito-il-giudice-che-occulto-prove-su-eni/>. Meloni is reported to have stated: “There is a [prosecutor] who brought the top executives of one of our large state companies, Eni, to trial for corruption, a process that lasted years, which ended with the acquittal of all the defendants.

	<p>Following Meloni's intervention, the CSM summoned the prosecutors on 28 June 2024 to a final disciplinary hearing on 24 September 2024.</p> <p>The intervention raises Article 5 concerns given that an expressed aim of the conspiracy to pollute the OPL 245 case was to remove de Pasquale (<i>see entry 5 December 2019</i>).</p>	<p>for the case to be concluded, despite a criminal trial being before the courts. The intervention raises Article 5 concerns given that one of those convicted in the Syracuse case has stated that a primary objective of the conspiracy to pollute the OPL 245 investigation and trial was to remove de Pasquale.</p>
28 June 2024	<p>Eni's chief legal counsel Stefano Speroni is placed under investigation by the Carabinieri of Varese and the Milan Prosecutors' Office for alleged offences under 61 n.2, 110, 326 paragraph 1, 615 ter paragraphs 1,2 nr 1), 3 of the Italian Penal Code.¹⁹² The offences pertain to illegally accessing data¹⁹³ and participation in an organised criminal group¹⁹⁴.</p> <p>As reported in the Italian press, the investigation into Speroni was triggered by a report that he had commissioned in January 2023 from Equalize Srl,¹⁹⁵ a private investigations company, is alleged to have cited data that could not have been accessed legally.¹⁹⁶ The report is said to have profiled Francesco Mazzagatti, the Chief Executive Officer of oil company Viaro Energy.¹⁹⁷</p> <p><i>Corriere della Sera</i> reports that, in 2022, Eni submitted what appears to have been a previous Equalize report on Mazzagatti to an Italian court in civil proceedings against Piero Amara, the Eni legal consultant who had been convicted for plotting to pollute and derail the OPL 245 trial.¹⁹⁸</p>	<p> RED FLAG 57</p> <p>Eni's chief legal counsel is placed under investigation for illegally accessing data and participation in an organised criminal group. The press points to potential links to documents, now said to be forgeries, submitted by Eni in the OPL 245 case, a link that Eni denies.</p>

This [prosecutor] is in turn today on trial for having hidden evidence that was in favor of the people he accused, he is on trial but no disciplinary action has ever been taken against him."

192 Legione Carabinieri Lombardia, Comando Provinciale di Varese, N. 265/2-106/2022 di prot, Varese 28 June 2024.

193 https://sherloc.unodc.org/cld/en/legislation/ita/codice_penale/libro_secondo/article_615-ter/article_615-ter.html

194 https://sherloc.unodc.org/cld/en/legislation/ita/codice_penale/article_61-bis/article_61-bis.html?lng=en&tmpl=sherloc | https://sherloc.unodc.org/cld/en/legislation/ita/codice_penale/article_416-416ter/article_416-416ter.html?lng=en&tmpl=sherloc

195 For a profile of the company, see: <https://www.firstonline.info/en/equalize-what-does-the-company-at-the-center-of-the-investigation-into-stolen-data-do-and-how-much-is-it-worth/>



196 <https://www.italianinsider.it/?q=node/12901>

197 <https://www.italianinsider.it/?q=node/12901>

198 https://milano.corriere.it/notizie/cronaca/24_ottobre_29/indagato-stefano-speroni-il-capo-degli-affari-legali-di-eni-il-report-sul-rivale-mazzagatti-che-si-dimenticava-l-assoluzione-9c9c80f0-cf59-4940-ae89-87b868842xik.shtml

	<p>Equalize Srl, which was run by former senior police officer Carmine Gallo, is reportedly suspected of hacking into public databases containing information <i>inter alia</i> on suspicious financial activities and police investigations: and of selling the information to customers or using it to blackmail businessmen and politicians.^{199 200} The data of over 800,000 individuals is reported to have been hacked.²⁰¹</p> <p>Eni's chief counsel Speroni is just one of dozens to have been named in the investigation by the Carabinieri of Varese and the Milan Prosecutors' Office into the company.</p> <p>Eni has reportedly admitted giving Equalize Srl an investigative assignment to support Eni's defence strategy in several criminal and civil cases, as well as to conduct procedural checks into some suppliers.²⁰²</p> <p><i>Il Fatto Quotidiano</i> has reported possible links between the "doormat" papers received by Speroni and Equalize Srl.²⁰³</p> <p><i>Il Fatto</i> quotes a police wiretap of Nunzio Samuele Calamucci, an IT consultant working for Equalize Srl, as saying: ". . . we assisted a company that in Italy is little known ... it has a six-legged dog, fuck, there were envelopes under the doormats every day eh!".²⁰⁴ Eni's logo is a dog with six legs.</p> <p>Calamucci is also quoted as saying of the envelopes: "<i>Speroni finds them under the doormat</i>"²⁰⁵ (see entry for 27 February 2020).</p> <p>In response to <i>Il Fatto</i>'s report, Eni has categorically denied any involvement in the creation of the doormat documents. It also states (in Google translation): "<i>In early January 2020, at which time the first anonymous documents, neither Eni nor Speroni knew Equalize, Carmine Gallo or Samuele Calamucci, and had no relationship or contract with them. The first assignment to Equalize by Eni's Legal</i></p>	
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- 199 <https://www.reuters.com/world/europe/italy-police-arrest-four-over-alleged-illegal-database-access-source-says-2024-10-26/>
- 200 <https://www.notizie.it/en/investigations-on-eni-cyber-spy-network-and-dossiers-under-the-lens/>
- 201 <https://www.politico.eu/article/hacking-scandal-italy-matteo-renzi-sergio-mattarella-equalize-nunzio-samuele-calamucci/>
- 202 <https://www.reuters.com/technology/cybersecurity/eni-says-its-computer-systems-have-not-been-breached-amid-italy-scandal-2024-10-29/>
- 203 <https://www.ilfattoquotidiano.it/in-edicola/articoli/2024/11/08/lhacker-di-equalize-ecco-come-ti-ho-fatto-unindagine-pilotata/7759638/>
- 204 <https://www.ilfattoquotidiano.it/in-edicola/articoli/2024/11/08/lhacker-di-equalize-ecco-come-ti-ho-fatto-unindagine-pilotata/7759638/>
- 205 <https://www.ilfattoquotidiano.it/in-edicola/articoli/2024/11/08/lhacker-di-equalize-ecco-come-ti-ho-fatto-unindagine-pilotata/7759638/>

	<i>Affairs Department (through the law firm Dentons) dates back to September 2021”.</i>	
8 October 2024	<p>Lead OPL 245 prosecutors Fabio de Pasquale and Sergio Spadaro are convicted by the Court of First Instance of “refusing an official act” by failing to file investigative documents favourable to the defence in the OPL 245 trial.</p> <p>The court sentences the two prosecutors to an 8-month suspended sentence.</p> <p>Article 5 is engaged because it had been stated by Piero Amara, who was convicted for attempting to pollute the OPL 245 trial, that the prosecution of the prosecutors was an intended outcome of the plot to pollute.</p> <p>Commenting on the conviction, the former chair of the OECD Working Group on Bribery, Drago Kos, states: <i>“There may have been a procedural error against Eni and Shell. But even in the most corrupt countries, I have never seen a prosecutor sentenced to prison for a procedural error. This sends a signal: Prosecutor, don't start with this.”</i>²⁰⁶</p>	 RED FLAG 58 Lead OPL 245 prosecutors <u>Fabio de Pasquale</u> and <u>Sergio Spadaro</u> are convicted for failing to file investigative documents favourable to the defence in the OPL 245 trial. Article 5 is engaged because the prosecution of the prosecutors was alleged to have been an objective of the plot to pollute the OPL 245 investigation and trial.
11 November 2024	<p>The Brescia Court of First Instance issues its full judgment in the case against leader OPL 245 prosecutors Fabio de Pasquale and Sergio Spadaro.²⁰⁷</p> <p>Commenting on the judgment, Nello Rossi – a former judge, Deputy Chief Prosecutor, and member of the High Council of the Judiciary – describes the convictions as being based on “<i>questionable conjectures</i>” and “<i>illogical reasoning</i>”, resulting in a decision which “<i>does not correspond to the reality or the nature of the crime</i>”.²⁰⁸</p> <p>Rossi points out that the decision is at odds with established precedent. No other court has interpreted the official act statute to hold that prosecutors must disclose <i>all</i> material received relating to a case no matter the source, the</p>	 RED FLAG 59 The written judgment in the case against lead prosecutors Fabio de Pasquale and Sergio Spadaro runs counter to established precedent on prosecutorial discretion. The outcome is contrary to Article 5 which requires that discretion should be “exercised to maximise the effectiveness of law enforcement measures”

206 I pubblici ministeri che hanno condotto le indagini corruzione in Shell ed Eni in Italia sono stati ora giudicati colpevoli, tgcomnews24.com, 10 October 2024

207 Il Tribunale Ordinario de Brescia, Sezione Prima Penale, Sentenza: De Pasquale and Spadaro, n 3178/2024, 19 November 2024, <https://www.giurisprudenzapenale.com/wp-content/uploads/2024/11/estratto-sentenza-3178-2024-DE-PASQUALE.pdf>

208 Nello Rossi, La sentenza nei confronti di Fabio De Pasquale e Sergio Spadaro: Un’analisi critica, 7 January 2025, Questione Giustizia, <https://www.questionegiustizia.it/articolo/la-sentenza-nei-confronti-di-fabio-de-pasquale-e-sergio-spadaro-un-analisi-critica>. An english translation is available at: <https://globalanticorruptionblog.com/wp-content/uploads/2025/01/rossi-translation.docx>

	<p>material's relevance, or its credibility.²⁰⁹ The discretion of prosecutors has always previously been upheld.</p> <p>The decision, if upheld at Appeal, would remove all prosecutorial discretion over filings, requiring prosecutors to file all documents even where, for example, they are suspected of being forgeries. The effect could be to make corruption prosecutions more problematic – and as such runs counter to Article 5's requirement that discretion should be "<i>exercised to maximise the effectiveness of law enforcement measures</i>".²¹⁰</p>	
17 March 2021- to present	<p>Since the Court of First Instance's OPL 245 judgment, there have been no significant international corruption cases brought to trial in Italy. Moreover, the prosecution of foreign bribery offences has been subject to what appears to be an orchestrated campaign of disinformation, with foreign bribery prosecutions (the OPL 245 case in particular) routinely being described by press commentators as a waste of public money.²¹¹ The prosecutors in the OPL 245 case, <u>Dr Fabio de Pasquale</u> and <u>Sergio Spadaro</u>, have also been openly denigrated.²¹² Despite these attacks, the Italian Government has conspicuously failed to defend those responsible for the effective enforcement of the Convention.</p> <p>The impacts on the work of the 3rd Department of the Milan Prosecutors' Office, which specialises in prosecuting international corruption, have been profound. Previously a powerhouse driving enforcement of the OECD Anti-Bribery Convention, the Department is currently not investigating any foreign bribery cases. Repeated adverse judgments – the latest being the case of Tenaris, involving alleged bribery in Brazil – have reportedly left staff demoralized. In addition, the controversial conviction of de Pasquale and Spadaro has had a chilling effect on the Department and more broadly.</p>	 <p><u>RED FLAG 60</u></p> <p>Since the OPL 245 acquittal, the specialist anti-corruption unit in the Milan Prosecutors Office has been eviscerated. Article 5 is engaged because this was an intended outcome of the plot to pollute the OPL 24 investigation and trial.</p>

209 Richard Messick, Italian Prosecutors' Criminal Conviction For Not Disclosing Information in OPL-245 Bribery Case Called A Travesty of Justice, 20 January 2025, <https://globalanticorruptionblog.com/2025/01/20/italian-prosecutors-criminal-conviction-for-not-disclosing-information-in-opl-245-bribery-case-called-a-travesty-of-justice/>

210 Cullen, P.J., "Article 5: Enforcement". In Pieth, M., Low, L.A. and Cullen, P.J. (eds), The OECD Convention on Bribery: A Commentary, Cambridge University Press, 2007, p.300.

211 See, for example: <https://www.ilgiornale.it/news/cronache/eni-nigeria-cos-i-giudici-hanno-demolito-accuse-descalzi-1953259.html>

212 See, for example: <https://www.ilfoglio.it/giustizia/2022/07/20/news/caso-eni-nigeria-tutti-assolti-se-c-e-un-reato-il-reato-e-l-inchiesta-4243397/>

	Article 5 is directly engaged because the evisceration of the 3 rd Department was allegedly a stated objective of the plot to pollute the OPL 24 investigation and trial.	
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SECTION SEVEN

Suspected Article 5 breaches and our requests for their scrutiny

- 58 From the Red Flags identified in Section 6, we conclude that there are strong grounds for suspecting that Italy repeatedly violated Article 5 in its handling of the OPL 245-related investigation from 2013 to the present.
- 59 Specifically:
- 59.a Italy failed to protect the investigation and prosecution of the OPL 245 cases and the work of the specialist anti-corruption unit at the Milan Prosecutors' Office from political interference.
 - 59.b Applicable procedural rules were not followed in aspects of the prosecution of the OPL 245-related cases, with the aim of (or resulting in) the exertion of improper interference in the cases, including the removal of the trial prosecutors as prosecutors at the appellate stage – a necessary stepping stone to the termination of the prosecutions.
 - 59.c The trial prosecutors were intimidated in order to exert illegitimate influence upon them: and when this did not work, they were harassed and prosecuted.
 - 59.d The termination of the OPL 245 prosecutions was based on considerations of national economic interest.
 - 59.e Italy failed to subject the decision to terminate the prosecutions and other Article 5 Red Flags to independent scrutiny.
 - 59.f Italy failed to have in place mechanisms to hold those who terminated the prosecutions to public account.
 - 59.g The cumulative impact of these failings has resulted in the de facto termination of Italy's anti-foreign bribery efforts, allowing a situation where Italian companies may now bribe with little to no chance of being held to account.
- 60 We therefore request that the Working Group on Bribery conduct an immediate review of Italy's compliance with Article 5 in relation to:
- 60.a The confirmed interference in the OPL 245 investigation:
 - 60.b The termination of the OPL 245 prosecutions:
 - 60.c The prosecution of the OPL 245 trial prosecutors:
 - 60.d The evisceration of the specialised anti-corruption unit in the Milan Prosecutors' Office.
- 61 At a time when the OECD Anti-bribery Convention is under attack, not least through the effective withdrawal of the United States of America from the Convention, we believe that such a review is critical if the reputation of the Working Group and the Convention are not to be gravely diminished.

Corner House
Hawkmoth
HEDA