



Human &
Environmental
DEVELOPMENT AGENDA



European Commission
DG JUST C1 – Rule of Law

20 April 2026

Dear Sir/Madam,

**SUBMISSION TO THE EUROPEAN COMMISSION CONCERNING ITALY
AND THE 2026 RULE OF LAW REPORT**

We have previously made a submission to DG Justice in 2022, raising concerns relating to the erosion of the rule of law and press freedoms in Italy as a result of actions by the Italian oil company Eni Spa (“Eni”), which is 30% owned by the Italian state.

We write again to report that our concerns continue, despite the Commission having itself made reference to some of the issues we raised in its 2022 Rule of Law Report and recommended actions to be taken by Italy, which Italy has failed to take.

In addition, we would request that the 2026 Rule of Law Report examines Italy’s compliance with the EU legal framework for combating corruption, notably in respect with its compliance with those articles relating to the treatment of circumstantial evidence; political non-interference in investigations and prosecutions; and the independence of prosecutors.

Our concerns are detailed further below. We would request that they are taken into account in the upcoming 2026 annual review of the rule of law in Italy which will be a reference point, among others, for the country assessment in the context of the Resilience and Recovery Plan and other financing mechanisms by the European Commission.

A. SLAPP suits and the silencing of critics

The Academic Network on European Citizenship Rights has described a free and functional press, especially investigative journalism, as “a cornerstone of all democracies” and “a basic pillar of European integration”.¹ That freedom is threatened where institutions and individuals abuse their political and economic power in order to silence the press or intimidate critics.

¹ https://ec.europa.eu/info/sites/info/files/ad-hoc-literature-review-analysis-key-elements-slapp_en.pdf

One such mechanism is the use of SLAPPs (Strategic Lawsuits Against Public Participation). SLAPPs have been defined as “groundless or exaggerated lawsuits and other legal forms of intimidation initiated by state organs, business corporations and individuals in power against weaker parties – journalists, civil society organisations, human rights defenders and others –who express criticism or transmit messages uncomfortable to the powerful, on a public matter”.²

The powerful do not initiate SLAPP suits in order to win the case: instead, the aim is “to intimidate, tire out, and consume the financial and psychological resources of [critics], with the ultimate goal of achieving a chilling effect and silencing them, which will also discourage other potential critics from expressing their views”.³

As we detailed in our 2022 submission, Italy’s state-controlled oil multinational Eni has a history of issuing defamation claims against its critics, particularly in relation to corruption allegations: and the routine nature of Eni’s response strongly suggests that the defamation cases should be viewed as SLAPPs.

The 2022 Rule of Law Report expressed concern about the number of SLAPP suits in Italy: *“While prison sentences for defamation have largely been abolished following a landmark Constitutional Court ruling in 2021, the increasing prevalence of SLAPP cases and the combination of criminal and civil defamation raises concerns. In spite of a well-functioning and resourced coordination centre dedicated to monitoring the issue, cases of physical attacks and intimidation against journalists and media outlets continue to rise year-on-year.”*

The 2022 Rule of Law Report also recommended that Italy *“introduce legislative and other safeguards to reform the regime on defamation, the protection of professional secrecy and journalistic sources, taking into account the European standards on the protection of journalists”*.⁴

Yet, SLAPPS by Eni continue unabated. Most recently, Eni has instituted a lawsuit against ReCommon and one of its representatives, Eva Pastorelli, for stating several facts that ENI itself does not dispute. Firstly, that ENI has had partnerships both with the Israeli Ministry of Energy and with the Israeli company Delek Group. Second, that, in 2023, the Israeli Ministry of Energy awarded oil exploration licenses off the coast of Gaza to two consortia of national energy companies. Thirdly, that Delek Group was blacklisted by the United Nations for operating illegally in the Occupied Palestinian Territories. And, fourthly, that ENI itself has now affirmed that it “does not plan to be involved in activities in the [Gaza] area in the future,” signalling its withdrawal from the offshore exploration consortium in question. Given the factual truthfulness of these statements, Eni’s lawsuit is not only frivolous: it is clearly intended to intimidate.

2 https://ec.europa.eu/info/sites/info/files/ad-hoc-literature-review-analysis-key-elements-slapp_en.pdf

3 https://ec.europa.eu/info/sites/info/files/ad-hoc-literature-review-analysis-key-elements-slapp_en.pdf

4 European Commission, Rule of Law Report 2022, Italy Section, p.3

We would also draw your attention to a post from the UN Rapporteur on environmental defenders under the Aarhus Convention in support of Eni: <https://www.instagram.com/p/DW3wixAjLOc/?igsh=ZXN2MDEzN3BnYnN3>
The full position of the Rapporteur on the complaint filed by ReCommon in 2024 is available at: https://unece.org/environmental-policy/public-participation/correspondence-regarding-complaints-special-rapporteur#accordion_94_0_4_8_12_16_20_24_28_32_36_40_44_48_52_56_60_64

We request that the European Commission's reviews the continued use of SLAPP cases by Eni against ReCommon and others who have raised issues of public concern about Eni.

B. Italy's compliance with the EU legal framework for combating corruption

The European Commission has repeatedly stressed the importance of combatting corruption, both in defence of the Rule of Law and in defence of a level playing field in trade.

The European Commission has observer status with the OECD Working Group on Bribery, which is the guardian of the OECD Anti-Bribery Convention. As such, it will be aware that, in 2022, the Working Group on Bribery found recent international corruption judgements in Italy to be in non-compliance with the Convention.⁵

Since then, concerns have also been raised that Italy is in breach of Article 5 of the Convention which prohibits political interference in decisions relating to the investigation and prosecution of bribery.

Those concerns have been set out in a submission to the Working Group by three NGOs, which identified 60 red flags relating to the investigation and prosecution of Eni and others for alleged bribery in the acquisition of the OPL 245 oil field in Nigeria. The case was dismissed by the Italian Court of First Instance, in one of the judgments that the Working Group found to be non-complaint with the OECD Anti-Bribery Convention. The NGO's submission with regard to suspected Article 5 violations is attached.

As documented in this Complaint, the Italian State has itself confirmed, through court convictions⁶ and public statements⁷, that associates of Eni conspired with state officials to "pollute" the OPL 245 investigation. It has

⁵ 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."

⁶ See Section 6, Red Flag 11

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.⁸ 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, who have themselves been prosecuted and convicted for allegedly withholding information useful to the defense, despite a lack of evidence (an appeal is pending).

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 2022 Phase IV review of Italy.

The Working Group has informed the NGOs that it will address their concerns in a review of Italy to be undertaken later this year.

With regard to the prosecution of the prosecutors, we would particularly request that the Rule of Law Report 2026 strongly defends the discretion of prosecutors in corruption trials, which, in our view (and that of an eminent Italian jurist)⁹ has been effectively shredded by the conviction of the prosecutors. Of course, documents that support the defense must be disclosed to the defense, even where they undermine the prosecution: and where there are misjudgments or oversights in disclosure, there should be

7 See Section 6, Red Flags 35 and 36

8 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/>

9 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>

administrative sanctions. But by criminalising such mistakes (if indeed there were any in this instance - a matter which we understand has been raised by credible legal commentators) the prosecution of the prosecutors has made the task of prosecuting complex international corruption cases all the more difficult. To take such cases to trial, there are inevitably choices to be made over which documents enter into the prosecution file. If prosecutors fear that, in exercising prosecutorial discretion, they run the risk of themselves being prosecuted, there is a considerable risk that prosecutors will shy away from taking cases in the first place. Alternatively, to safeguard themselves against prosecution, prosecutors may opt to disclose everything, overwhelming the courts with documents to the point where a successful prosecution may be compromised. Either way, it is the corrupt who will benefit. Indeed, we note that since the prosecutors were indicted, the number of international corruption investigations in Italy has drastically declined.

We request that the European Commission assess Italy's compliance with the EU legal framework for combatting corruption, including the safeguarding of prosecutorial discretion in corruption cases.

We look forward to hearing from you soon about concerns raised in our submission.

Sincerely,

A handwritten signature in black ink, appearing to read 'Antonio Tricarico'.

Antonio Tricarico
Programs Director
ReCommon
on behalf of Hawkmoth (NL), HEDA Resource Centre (Nigeria), The
Corner House (UK)