



POLLUTING THE PROCESS

Eni and its toxic CEO stand trial, accused of corruption and under investigation over a scheme to interfere with a criminal investigation, while still having access to European officials to push pro-gas policies that undermine the European Green Deal.

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EXECUTIVE SUMMARY



Eni's headquarters in Milan. Barnaby Pace / Global Witness

The Italian oil and gas giant Eni is one of the most active fossil fuel lobbyists in the EU. The company's in-house lobbyists hold six European Parliament passes, more than any other oil and gas company in Brussels¹. Eni and the pro-gas industry groups it discloses membership in, have collectively declared spending €100 million euros lobbying European officials since 2014².

At the same time, Eni is at the centre of a maelstrom of scandals implicating its CEO Claudio Descalzi and other senior executives in an alleged billion-dollar corruption scheme. According to prosecutors the scheme also included attempts to engineer millions of dollars in kickbacks for executives and efforts to “pollute the process” of the criminal investigation through witness tampering and bribing a corrupt prosecutor.

Descalzi is on trial in Italy alongside his company Eni and Royal Dutch Shell for their roles in a 2011 deal for one of Nigeria's most promising oil and gas blocks, known as OPL 245. In exchange for the oil block Eni and Shell paid \$1.1bn to a company controlled by Nigeria's former oil minister. Italian prosecutors allege that over \$500m from the oil companies' payment was distributed in cash as bribes to the then-Nigerian President and other officials.

Descalzi is charged with international corruption offences and faces a possible eight-year prison sentence if convicted. He has also been accused of personally attempting “to pollute the process” of his trial by allegedly sending a senior Eni executive to bribe a former Eni manager who had given evidence against Descalzi³.

Eni and Shell face a possible \$2.2bn in combined fines, confiscations and damages. The trial is unprecedented in its scale – no fossil fuel company as large as Shell, nor such a senior group of oil and gas industry executives, has ever stood trial for corruption offences.

The trial began in March 2018 and a ruling is expected early in 2021.

A separate, earlier Italian trial sheds further light on the allegations against Descalzi and Eni. In 2018 two middlemen were convicted after prosecutors alleged they were involved in corruption in the OPL 245 deal and inserted to facilitate kickbacks for Eni executives. The judge in that trial found that the management of Shell and Eni were “fully aware” that part of their \$1.1bn payment for the block “would be used to remunerate Nigerian public officials”. She further ruled that it was proven that Eni managers planned and possibly received kickbacks from the deal⁴.

**Shell and Eni were “fully aware”
that part of their \$1.1bn payment
for the block “would be used to
remunerate Nigerian public officials”**

– Justice Barbara in the trial of two OPL 245 middlemen

In that case, the judge also found that Descalzi had personally supported one of the middlemen who sought a \$200m fee for his role in the deal because he had been “subdued to the demands” of an Italian power broker whose name she noted appears “in some of the most controversial and well-known investigations in Italian judicial history.”⁵ The ruling does not in any way determine the guilt of defendants in the ongoing trial involving Eni, Shell, Descalzi and others, though it shows that the corruption and kickback allegations must be taken seriously.

Adding further to the intrigue, Descalzi was also named in November 2020 as a formal suspect in a separate Italian investigation into alleged attempts to interfere in the OPL 245 investigation.⁶ Italian police are looking into an alleged conspiracy involving Eni managers to bribe a public prosecutor in the Sicilian town of Siracusa to set up a fake investigation into Descalzi’s critics, including Eni’s own board members, with the aim of protecting Descalzi.⁷ The former Siracusa prosecutor, Giancarlo Longo has since admitted that he was paid €30,000 to open the fake investigation, money he believed came from Eni.⁸ Longo and Piero Amara, a former Eni lawyer who submitted false information to the prosecutor, have both been jailed for their role in the Siracusa scandal.⁹

Police reportedly suspect that Massimo Mantovani, Eni’s former legal affairs manager who was then promoted to be the company’s gas chief, directed the conspiracy to concoct the Siracusa investigation. Mantovani also represented Eni on the board of Eurogas, the European pro-gas association, retaining his position until April 2019, over a year after the Italian police’s investigation of Mantovani’s role in the scheme became public. Mantovani was fired by Eni in July 2019.¹⁰ Mantovani has denied wrongdoing and called his dismissal illegitimate.

Prosecutors have also told the Milan court in the OPL 245 trial that Eni ordered surveillance against journalists, prosecutors, and possibly judges as part of a campaign to interfere with the judicial process.¹¹

Despite the scandals surrounding Descalzi being widely reported, his access to public officials appears to be unhindered.

High profile EU officials have met Descalzi while he is on trial for alleged corruption, including then-European Commissioner for Internal Market Elżbieta Bieńkowska in September 2018 and current Energy Commissioner Kadri Simson. Simson met with Descalzi in June 2020 to discuss Eni’s strategy, decarbonisation of the gas system, and clean energy investments.¹² In November 2019 Descalzi also attempted to meet Frans Timmermans, the EU’s Executive Vice President leading work on the European Green Deal.¹³

Since 2018, the year Eni and Descalzi’s criminal trial began, Eni and the gas industry associations that the company holds prominent roles in have held 129 lobby meetings with senior European commission officials, a rate of nearly a meeting every week for the past two years.¹⁴

Any defendant, including Shell and Eni, found guilty by the Italian court for its role in the OPL 245 deal should be held accountable. However, this report focuses on Eni due to the extensive and recent allegations of attempts to corrupt and undermine Italian institutions. Current Eni senior executives have been accused of wrongdoing while at the same time actively lobbying EU officials around climate policies.

Eni and Descalzi have denied any wrongdoing in the Siracusa scandal and in 2019, attempted to sue their accusers for defamation.¹⁵ The information for this report is sourced from court findings and testimony, prosecutors’ statements and public statements by the individuals involved.

While the Milan trial is ongoing and a ruling is expected in March 2021,¹⁶ the serious corruption and obstruction of justice allegations levelled against Descalzi and Eni should be cause for concern for any public official dealing with him or the company – even as both Descalzi and Eni stand by their not guilty pleas and deny any wrongdoing.

Eni has lobbied hard in Europe for pro-gas policies calling fossil gas “a bridge to a low-emissions future” and “undoubtedly” a required tool in the near future while aiming to make gas 85% of the company’s business by 2050.¹⁷ Eni lobbyists have met with senior EU officials regarding gas infrastructure, pipeline projects and European climate policies.

Eni presentations to EU officials have touted the “Gas Revolution” and showed a vision of the EU as the “largest and most liquid gas market in the world”. A 2020 presentation by Eni to the Commission’s climate officials, ostensibly on the European Green Deal, argued for gas as a “clean and safe partner” for renewables, called for

“Support for the coal-to-gas switch” and pitched for “Support for the construction of new import capacity”¹⁸.

Eni’s pro-gas policies would allow the company to carry on with business largely as usual but delay the action needed to tackle the climate crisis. Gas is a fossil fuel. And its use is growing at a rate faster than any other on the planet. Since 2016 fossil gas has been responsible for more than half of the increase in global greenhouse gas emissions. In the European Union carbon dioxide emissions from fossil gas are now projected to have exceeded those from coal.

A Global Witness analysis has found that any production from new oil and gas fields, beyond those already in production or development, is incompatible with limiting global heating to 1.5°C, the goal of the Paris Agreement¹⁹. According to Rystad, an independent energy research firm, Eni is expected to invest \$40bn over the next decade on oil and gas fields that are not yet in production or development and therefore incompatible with limiting warming to 1.5°C²⁰.

Eni’s lobbying pitch, like its core business model, is fundamentally at odds with the urgent need for action to deal with the climate crisis. Eni illustrates the fundamental conflict between the oil and gas industry’s interests in continuing with their current business model of fossil fuel use and the public interest in dealing with the climate crisis.

Despite this fundamental contradiction and even in the case of Eni and its managers facing serious and credible allegations of corruption and polluting the process of

accountability in Italy, fossil fuel companies continue to enjoy easy lobbying access to Brussels decision makers.

Allegations of corruption and other criminality in Europe’s gas companies only add to the need to question the role of fossil fuel companies like Eni in public life, their dealings with governments, and other policy-making institutions across the EU. Eni’s actions undermining effective action on climate and allegations of attempts to undermine the rule of law, clearly show a company that is all too willing to ‘pollute the process’ in its own self-interest. A self-interest that comes at great cost to the rest of the world.

The allegations against Eni are part of the wider story of the fossil fuel industry polluting the process of tackling the threat of climate change, delaying action and sowing confusion and endangering every creature on the planet.

Global Witness believes that much like the tobacco industry was excluded from lobbying on health policy, the fossil fuel industry’s lobbying on climate and energy policy making must stop. We can no longer afford to let the fossil fuel industry pollute the process as we try and halt climate chaos, fix our energy system, and protect people and the planet.

To tackle the climate emergency, and ensure that climate policy making is conducted entirely in the public interest, we must cut fossil fuel interests out of politics. Before it’s too late.

Along with nearly 200 other organisations we are calling for a fossil free politics²¹.

KEY RECOMMENDATIONS

- European officials should institute a firewall to end the fossil fuel industry’s access to decision-making and ability to lobby.
- Interactions with the fossil fuel industry should only occur where strictly necessary to enable lawmakers, regulatory bodies, and public authorities to effectively regulate the industry and accelerate the transition to a fossil free Europe.
- Where interactions do occur, they must be requested by public officials or law makers and be conducted transparently, for example through public hearings, public notice of interactions and minutes of meetings. The names of executives who lobby public officials should not be secret.
- European Commissioners and other public officials should decline any further lobbying meetings with Eni and its senior executives given the credible allegations of serious criminality against them.

ENI'S EU LOBBYING

On the 12th September 2019 a telegram arrived at the offices of new European Commission President Ursula von der Leyen. The telegram – sent by Eni, the Italian oil and gas giant pushing pro-gas policies in Europe – congratulated von der Leyen on her new appointment. While the telegram was later released to Global Witness under EU transparency rules with its signature redacted, the signatory was likely Claudio Descalzi – Eni's CEO and a man at the centre of several major corruption scandals who is accused of orchestrating attempts to pollute the process of accountability by interfering with criminal investigations.

The telegram was the formal opening of communications with new EU leadership by Eni and it presaged an onslaught of lobbying by Eni and the lobby groups it holds central roles in on the future of the fossil fuel industry. That future is set to be determined in part by Von Der Leyen's signature policy, the European Green Deal²².

The telegram arrived one day after Descalzi's criminal trial had resumed in Milan after a summer break.

Eni has endeavoured to portray itself as a progressive force on climate issues among the oil and gas industry. Descalzi announced in June 2020 that he intends to put Eni on an “irreversible path” towards becoming a greener business with the company emphasizing its interest in biofuels and the as yet unproven technology of carbon capture and storage (CCS) to offset pollution from burning gas²³.

However, Eni has lobbied hard in Europe for pro-gas policies calling gas “a bridge to a low-emissions future” and “undoubtedly” a required tool in the near future while aiming to make gas 85% of the company’s business by 2050²⁴.

Energy consultancy firm Rystad predicts that Eni will be one of the biggest investors in fossil gas, projecting the

company will spend over \$36bn on investments in gas alone between 2021 and 2030 and will be the biggest private investor in gas in Africa²⁵.

A Global Witness analysis found that any production from new oil and gas fields, beyond those already in production or development, is incompatible with limiting global heating to 1.5°C, the goal of the Paris Agreement²⁶. \$40bn of Eni's projected investments this decade are projected to be in oil and gas fields that are not yet in production or development and are therefore incompatible with limiting global heating to 1.5°C²⁷.

Eni appears to have ignored these risks to the climate in its pitches to European officials reviewed by Global Witness.

An Eni presentation to a senior EU Commission official in 2014 touted the “gas revolution” and showed a vision of the EU as the “largest and most liquid gas market in the world.”²⁸ A 2020 presentation by Eni to the Commission's climate officials – ostensibly on the European Green Deal – argued for gas as a “clean and safe partner” for renewables, called for “support for the coal-to-gas switch” and pitched for “support for the construction of new import capacity.”²⁹

These arguments in favour of committing further to gas and investing in yet more fossil fuel infrastructure threaten to lock Europe into the use of fossil gas for decades to come, with profound implications for the climate.

Eni and the pro-gas industry groups it holds membership in have collectively declared spending €100 million euros lobbying in Europe since 2014³⁰. Eni in-house lobbyists also hold six European Parliament passes, more than any other oil and gas company lobbying in Brussels³¹. Since 2014, EU Commissioners and their cabinet members or directors general have reported 49 meetings with Eni

I WOULD LIKE TO EXPRESS MY SINCERE CONGRATULATIONS FOR
THE APPOINTMENT AS PRESIDENT OF THE EUROPEAN
COMMISSION.
I WISH YOU ALL THE BEST FOR YOUR WORK AND FULL SUCCESS
IN YOUR VERY IMPORTANT COMMITMENT.

ENI S.P.A.

? Telegram

A telegram sent to EU
President Von Der Leyen
by Eni.

lobbyists -- the second most of any Italian company after energy giant Enel³².

European Commission documents show that senior officials have met Descalzi while he has been on trial for alleged corruption. Commission officials have attempted to redact details about which Eni executives its senior officials have met and corresponded with in response to document requests from Global Witness, citing the need to protect personal information.

Most recently, Descalzi met over video conference with EU Energy Commissioner Kadri Simson to discuss Eni's strategy, decarbonisation of the gas system and clean energy investments³³. Simson's diary named Descalzi, however documents released by the Commission redacted his name. Descalzi, listed in documents as the CEO of Eni, also appears to have met the European Commissioner for Internal Market in September 2018³⁴.

Correspondence released to Global Witness by the Directorate General for Climate revealed an offer in November 2019 for Descalzi to meet Vice President Frans Timmermans, who leads the Commission's work on the European Green Deal³⁵. The department wrote to Global Witness again in August 2020 to say that the documents had been released erroneously and should have had the names redacted. The Commission asked for the documents to be deleted. Global Witness declined to do so as we believe their publication to be in the public interest.

Claudio Descalzi or other Eni executives accused of wrongdoing may have had further meetings with EU public officials but the lack of transparency around who is lobbying Brussels decision makers prevents public oversight even in cases where there is a specific public interest favouring disclosure.

The Commission told Global Witness that "As regards meetings, it is largely at the discretion of the Members of the Commission whether they meet someone or not." though they also said that "companies and associations which are active in the fossil fuel sector are affected by the EU policies on the European Green Deal and have a right to make their views heard." They added "many companies in the energy sector have diverse interests and have diversified their energy production, which often includes renewable energy sources. It would therefore be a simplification to reduce their role to one single aspect of their activities and interests. Readiness to read or listen to others' views does not necessarily mean political agreement, but is an essential part of democracy in the Commission's view".

The Commission also said that the redactions of who is meeting EU officials is "a standard administrative



EU President Ursula von der Leyen and EU Energy Commissioner Kadri Simson. Geert Vanden Wijngaert/Bloomberg via Getty Images

practice, in line with the relevant legislation on access to documents in conjunction with the applicable rules on the protection of personal data, to disclose only the names of the organisations met, but not the names of the individuals concerned, unless where certain specific conditions are met." The Commission's full response is available on the Global Witness website.

Gas is not the answer

With the world having woken up to the dangers posed by other fossil fuels, the industry is looking increasingly to gas to continue to reap huge profits - but this would come at the expense of both people and planet. We cannot let that happen. If gas continues to be produced at the current rate, even the complete phasing out of coal and oil would not be enough to avoid the worst impacts of climate breakdown³⁶.

Gas is a fossil fuel. As such, and contrary to Eni's lobbying, it is neither clean nor safe. Its use is growing at a rate faster than any other fossil fuel on the planet. Since 2016, fossil gas has been responsible for more than half of the increase in global greenhouse gas emissions³⁷.

KEY FACTS



Eni's in-house lobbyists hold

6 European Parliament passes

More than any other oil and gas company lobbying in Brussels.



Since 2014 EU Commissioners/ their cabinet members/ director generals have reported

49 meetings with Eni lobbyists

Second most of any Italian company.



Eni and the pro-gas industry groups it declares membership in have collectively declared spending

€100 million lobbying in Europe since 2014.



Eni has held prominent positions in all major pro-gas lobbies in the EU that have held

129 meetings with senior European Commission officials since 2018

Nearly 1 meeting per week



Rystad predicts Eni will be one of the biggest investors in fossil gas, projecting

\$36 billion in gas investments over next 10 years.

Global gas production has increased by 60% since 2000³⁸ but it needs to fall by 40% this decade if we're to limit warming to 1.5°C, without excessive reliance on the unproven technology of carbon capture³⁹.

What's more, the fossil gas industry leaks methane into the atmosphere at almost every step in the supply chain⁴⁰. Methane is a greenhouse gas that is, in the short term, 86 times more potent than carbon dioxide and has driven more than a quarter of global warming to date⁴¹.

Gas is a fossil fuel. As such, and contrary to Eni's lobbying, it is neither clean nor safe

The dramatic reduction in the costs of wind and solar energy in recent years has also damaged any short-term cost argument in favour of gas⁴². Battery storage is also quickly becoming competitive in the role of balancing renewable energy supply to grids, meaning that gas “peaker” power plants are no longer essential⁴³ and gas is no longer necessary as a partner for renewables as Eni argued to EU officials.

Companies argue that existing gas infrastructure can be converted to transport “renewable or low carbon gases”. This is a term that covers a whole range of technologies such as making hydrogen out of fossil gas, or gas from crops or agricultural waste. The problem is that many of these ideas are unproven, eye-wateringly expensive and may only be able to provide a tiny amount of the energy that fossil gas currently does⁴⁴.

One technology that industry figures often reference to “decarbonise gas” is carbon capture. However, despite considerable effort, including the commitment of billions of public funds to carbon capture projects, only 28 projects are operational worldwide, and 22 of those use the captured CO2 to enable further oil and gas extraction, in turn leading to further CO2 emissions rather than restricting pollution⁴⁵.

The IPCC warned in its 2018 report that “[Carbon dioxide removal] deployed at scale is unproven, and reliance on such technology is a major risk in the ability to limit warming to 1.5°C.”⁴⁶

The industry is attempting to justify continuing business as usual by pointing to distant technologies that could ‘decarbonise gas’ that may never prove viable.

The biggest risk of this promise of ‘decarbonised gas’ is that it justifies more and more investment in fossil gas

infrastructure like import terminals and pipelines. This then risks locking economies into reliance on fossil gas, with the promised future shift to ‘renewable gas’ never being realised. The damage caused by gas emissions until that hypothetical future moment would be irreparable⁴⁷.

Eni argues that fossil gas should be given greater public support and that the fossil fuel should still be seen as a “bridge to a low-emissions future”. Eni is central in the pro-gas lobbying push in Europe for continuing the use of fossil gas, even arguing for increasing investment in fossil fuel infrastructure while touting the possibility of unproven technologies like carbon capture to mitigate the inevitable carbon pollution.

This strategy allows fossil fuel companies like Eni to carry on with business as usual and stymies the action that is needed on the climate crisis.

In response to these concerns regarding Eni’s gas strategy and lobbying the company stated that “its plan is ambitious, detailed, and wider in scope commitments than our peers and has been welcomed by a number of external experts and commentators” and that it rejects “the allegations and insinuations” regarding the company’s “commitment to the energy transition.”

Eni NEXT

Eni NEXT, Eni’s venture capital initiative, aims to invest in carbon capture, as well as other technologies including renewables, artificial intelligence, and industrial innovation⁴⁸. The division is headed by Roberto Casula,⁴⁹ – Eni’s former Head of Sub-Saharan Africa at the time of the OPL 245 deal (described in chapter two), and then Chief Development, Operations and Technology Officer until he took a leave of absence in 2018 amid scandal over the OPL 245 case and corruption allegations over the company’s deals in the Republic of Congo⁵⁰.

Casula is currently on trial over the OPL 245 case and facing a possible seven-year prison sentence but continues in his role at Eni. He has pleaded not guilty. That Eni has entrusted its initiative to invest in new technologies to an executive mired in scandal should raise questions over their stewardship of technologies they tout as a public good.

WHO'S WHO



Claudio Descalzi has been Eni's CEO since 2014 and was Eni's exploration and production chief from 2008⁵¹.



Emma Marcegaglia was Eni's Chairperson from 2014 to May 2020 and also served as president of the lobby group BusinessEurope until July 2018⁵².

Vincenzo Armanna is a former Eni executive who was the company's project manager on the 2011 OPL 245 deal. He has accused his colleagues of knowing about bribes and kickbacks in the OPL 245 deal⁵³.

Massimo Mantovani was Eni's legal chief from 2005. In 2016 he was promoted to be the company's Chief Marketing Gas & LNG and Power Officer, in charge of the company's gas division⁵⁴. He was also Eni's representative on the board of Eurogas, the pro-gas lobby group.



Claudio Granata is Eni's Director of Human Capital & Procurement Coordination⁵⁵. Granata is described by the Italian press as Descalzi's right hand or his chief of staff⁵⁶.

Giancarlo Longo was a public prosecutor in the Sicilian town of Siracusa. He has admitted to taking bribes in exchange for interfering with criminal investigations and has been sentenced to five years in prison⁵⁷.

Piero Amara is a former Eni lawyer who has admitted to corrupting the Siracusa public prosecutor and being involved with the attempt to tamper with Armanna's evidence. He has been sentenced to four years in prison⁵⁸.



Karina Litvack is a corporate governance expert and board member of Eni who was targeted by the false allegations of a conspiracy to remove Descalzi⁵⁹.



Luigi Zingales was a board member at Eni between 2014 and 2015 when he resigned after being rebuked for asking questions around the company's anti-corruption processes⁶⁰.

Giuseppe Cacace/AFP; Giulio Napolitano/Bloomberg; Vincenzo Pinto/AFP; Graham Barclay/Bloomberg; Alessia Pierdomenico/Bloomberg. All images via Getty Images

Eni's role in European gas lobbying associations

Eni is an integral part of wider European lobbying efforts by the gas industry through lobby groups and industry associations.

Eni and its executives have held prominent positions in all major pro-gas lobby groups in the EU. Since 2018, the year in which Eni and Descalzi's criminal trial began, Eni and the industry associations lobbying for gas that the company holds prominent roles in have held 129 lobby meetings with senior European Commission officials, a rate of nearly one meeting every week⁶¹.

Massimo Mantovani, Eni's former chief legal officer and then-head of midstream gas, served as President of the Italian gas association Anigas from December 2017 until July 2019 promoting gas as "playing a central and primary role in meeting the growth in global energy demand"⁶². Anigas' current President is Eni's Deputy Chief Operating Officer for Natural Resources, who also holds the role of Director of Global Gas & LNG Portfolio of Eni⁶³. Mantovani also represented Eni on the governing board of Eurogas from November 2016 to April 2019.

Mantovani told Global Witness that questions regarding climate change should be addressed to Eni. Anigas told Global Witness it is "fully committed towards the European targets on climate change" and that "Gas can be a low-carbon alternative to solid fossil fuels and a valuable support to renewable energy, as well as an effective and efficient support to decarbonization in the transitional phase."

Mantovani's suspected role in the Siracusa scheme was prominently reported in February 2018 after his home and office were raided by police⁶⁴. Mantovani remained President of Anigas and on the board of Eurogas for over a year.

Mantovani was fired by Eni in July 2019 reportedly for "incorrect behaviour towards the company", Mantovani has denied wrongdoing and called his dismissal illegitimate⁶⁵. He has since been replaced on the board of Eurogas by Eni's new gas chief⁶⁶. Eurogas told Global Witness that it would be improper for the group to comment on matters subject to an ongoing legal process and noted that its board is elected by its members. Eurogas also stated that they have a strong commitment to delivering on the European Union's climate ambitions.

Eni's chairperson until May 2020, Emma Marcegaglia was president of the mega-lobby group BusinessEurope



Eni is one of Europe's most active lobbyists for fossil gas. Barnaby Pace / Global Witness

until July 2018⁶⁷ and had previously headed Italy's business lobby Confindustria.⁶⁸ Eni is a member of BusinessEurope's "ASGroup," which, for a fee, promises its members influence on policy makers through "high-level contacts with the EU institutions (Commissioners, Cabinets, MEPs, Ministers)" and "participation in four high-level meetings a year, with guests such as Commissioners, Heads of Cabinet, Director Generals and MEPs."⁶⁹

In March 2020, Marcegaglia shared a stage with the EU Energy Commissioner Kadri Simson to discuss the European Green Deal at a BusinessEurope event⁷⁰. BusinessEurope lobbies on a wide range of topics but has a history of taking pro-gas positions including arguing in favour of fracking for shale gas in Europe⁷¹.

In response to questions from Global Witness, BusinessEurope stated that Marcegaglia has been "extremely esteemed by our members, reputed for her expertise and has been particularly respected for her impartial approach in representing the views of the entire business community across sectors."

BusinessEurope added that the group "does not represent the views of individual companies, but speaks on behalf of the whole business community carefully balancing all positions". The lobby group also stated that it supports the EU Green Deal and Europe's ambition to become climate neutral by 2050 and noted that Eni has announced an energy transition plan.

Eni sits on the management committee of the International Association of Oil and Gas Producers (IOGP)⁷², in addition an Eni executive chairs the group's communications committee. The committee highlights its increased engagement at the UN Climate Change Conference (COP) climate talks and describes its purpose advocating for oil and gas to be "recognised as part of the solution" in a lower carbon future and "sensitising stakeholders to the continuing need for upstream investment to counteract field depletion" – in other words continuing to drill for more fossil fuels⁷³.

IOGP told Global Witness that they support the EU's climate neutrality objective and that "Natural gas already plays an undeniably strong role in enabling and facilitating the energy transition at national, regional and global levels, by replacing coal power and providing grid flexibility for the integration of renewables." While "upstream investments to replace depleting fields are needed because climate neutral societies will still use oil & gas for a wide range of purposes, often times in a non-burnable manner, while residual emissions are removed and sequestered as projected in the most ambitious climate scenarios of the European Commission, IPCC [and] the IEA."

From 2018⁷⁴ until October 2020,⁷⁵ The European Chemical Industry Council (CEFIC) was headed by Daniele Ferrari, Eni's chief of its chemical division, Versalis. CEFIC makes no bones about its support for "affordable gas" in Europe and says it expects that "for the chemical industry,

gas will retain its importance in the long run.”⁷⁶ From 2017 to 2018, Ferrari was President of PlasticsEurope,⁷⁷ the European plastics producers’ association. Versalis remains a member of CEFIC and PlasticsEurope, while a Versalis executive holds a seat on the PlasticsEurope steering group and a position on the CEFIC executive committee.⁷⁸

CEFIC told Global Witness that the European chemical industry fully supports the Paris Climate Agreement, the European Green Deal and Europe’s ambition to become climate neutral by 2050. The group added that while they have reduced their greenhouse emissions since 1990 they need to do more and that the industry can be key to producing climate neutral and circular technologies.

PlasticsEurope told Global Witness that they support the European Green Deal and endorse the environmental objectives set forth by the European Commission and EU governments and commit to support the current programmed legislative schedule to be maintained.

In 2020, Eni board member Nathalie Tocci was accused of having a conflict of interest after being appointed as special adviser to the High Representative for Foreign and Security Policy of the European Union, Joseph Borrell, with the remit of providing “advice on the elaboration of the EU’s global strategy.” According to the Italian NGO Re:Common, it appears that an assessment of Tocci’s conflict of interest only occurred after the group raised concerns. Mitigating measures, including having Tocci refrain from having bilateral contacts with the Directorate General for Energy and from intervening in matters

concerning Eni’s field of activities, have been criticised as being too vague and difficult to apply.⁷⁹

The Commission told Global Witness that the mitigation measures in place were “adequate to protect the general interest” and that Borrell is “well aware of Ms Tocci’s other professional activities and the mitigating measures. He has underlined that Ms Tocci has never been in contact with the High Representative/Vice-President on any issue related to the companies for which she works.

Eni’s central role in these industry associations has continued despite the serious and well reported allegations against the company and its executives, including executives serving as the company’s representatives to these bodies.

BusinessEurope, IOGP, Eurogas, Anigas, PlasticsEurope and CEFIC all either declined to comment on individual members activities or said they cannot comment while proceedings are ongoing.

Anigas added that publishing allegations against Eni and its managers that are currently part of legal proceedings “is inappropriate and detrimental to the reputation of Eni, damaging also Anigas and the gas industry that the Association represents.” Global Witness disagrees that reporting on public legal cases is inappropriate.

The fossil fuel industry is already losing its public legitimacy over its role in the climate crisis yet these industry associations continue to collaborate to push polluting products. Public trust stands to be eroded still further when they turn a blind eye to alleged criminality.

Gas company influence over EU funding

In “Pipe Down”, Global Witness exposed the conflicts of interest in Europe’s gas infrastructure decision making through the remarkable power over EU policy that has been given to an obscure cadre of gas companies called the European Network of Transmission System Operators for Gas, or ENTSOG. Under the law, ENTSOG companies help the EU predict how much gas Europe needs and helps the Commission decide what gas infrastructure projects to support.

Despite this quasi-governmental function, ENTSOG also has the appearance of a lobbying outfit. It is registered as a trade association with the EU’s lobbying database and shares membership – and a Brussels office – with the major gas lobbying trade group, Gas Infrastructure Europe (GIE)⁸⁰. GIE is in turn a member of the Gas Naturally group of lobby groups that includes Eurogas, IOGP and other pro gas associations⁸¹.

This has worked out well for the companies: having regularly – and substantially – overestimated how much gas Europe will use, projects backed by ENTSOG members have received the lion’s share of the EU’s gas infrastructure subsidies – over €4 billion⁸². ENTSOG has told Global Witness that there is no conflict of interest, it has stopped overestimating gas demand and it acts only as an expert while the Commission decides which gas projects to back. Global Witness’ report and ENTSOG’s response can be read on the Global Witness website⁸³.

THE OPL 245 DEAL



Shell and Eni partnered to buy OPL 245, a massive Nigerian oil block. Budrul Chukrut/SOPA Images/LightRocket via Getty Images

In 2011, Shell and Eni paid \$1.1 billion for an oil block located off the coast of Nigeria called OPL 245. The block, containing hundreds of millions of barrels of oil, is one of Africa's most promising untapped fields. Global Witness, which has been working alongside investigative journalists and partner NGOs HEDA, Re:Common and The Corner House since 2011, tracked down documents showing that this money didn't benefit the Nigerian people⁸⁴. Instead prosecutors in Italy allege that this money fuelled a vast bribery scheme to pay off senior Nigerian officials, including then-President Goodluck Jonathan⁸⁵.

In April 1998, Dan Etete, Nigeria's Minister of Petroleum during the dictatorship of Sani Abacha, awarded the OPL 245 oil block to Malabu Oil and Gas, a company that Etete owned alongside Mohamed Abacha, the dictator's son⁸⁶.

Created only five days before the award, the company had no experience, no assets, and little cash. Just two months later, Sani Abacha died and Etete lost his position of power. Nevertheless, he effectively still controlled the valuable OPL 245 licence, his shareholding hidden behind a fake name⁸⁷.

In 2001, the Anglo-Dutch energy giant Shell agreed to buy a 40% stake in the licence from Malabu⁸⁸. Shell claimed it did not know of the company's link with Etete, telling the *Financial Times* years later: "Inspection of Malabu's company records as part of due diligence did not establish any connection between Dan Etete and Malabu."⁸⁹

However, as far back as 2000, when Shell was first considering a deal over OPL 245, Shell executives discussed the names on the shareholders' register for Malabu, saying in leaked emails: "We will have to find out from Etete who is holding shares on his behalf."⁹⁰

But before Shell's deal with Malabu was sealed, the new Nigerian government revoked Malabu's licence. A presidential spokesperson said of the decision at the time that Etete and Abacha had abused their positions in the past, while in office, to award themselves the OPL 245 at a ridiculously low price⁹¹.

In 2002 Shell secured a fresh deal to exploit the oil block jointly with the Nigerian National Petroleum Corporation. Shell agreed to pay \$210m in an upfront signature bonus, though the money was put in an escrow account, untouched by either Nigeria or Shell as Malabu sued, attempting to wrest control of the license back⁹². Shell explored the area for several years finding promising oil and gas deposits⁹³.

Malabu's legal challenge failed in the Abuja High Court. However, despite a ruling against Malabu, Bayo Ojo -- the then Nigerian Attorney General -- arranged a settlement returning the oil block back to Etete's company in 2006⁹⁴. The FBI later traced \$10 million from the 2011 deal for OPL 245 to Ojo⁹⁵; he claimed in court testimony that this money was for legitimate services he provided but was unwilling to explain his work further, citing professional secrecy⁹⁶.

The 2006 settlement deal required Malabu to pay a \$210m signature bonus for the OPL 245 block within a year, the same amount that Shell had agreed in their 2002 deal with Nigeria⁹⁷. The fee would go unpaid for five years.

Oil companies around the world were offered a stake in the OPL 245 license by Malabu. However, Shell opposed any other company taking a stake in a block they still regarded as their own⁹⁸. Eni was among the companies approached by Malabu and they took enough interest to commission a private intelligence company, The Risk Advisory Group, to conduct due diligence on Malabu. The advice was clear that sources in the industry and a "plethora" of press reports confirmed that Dan Etete was the "controlling force behind the company and major shareholder." Eni's due diligence also identified Etete's role in awarding the OPL 245 license to Malabu and serious corruption allegations against him⁹⁹.

Dan Etete's reputation, and his ability to find business partners on OPL 245 suffered further in 2007 when he

was convicted *in absentia* of money laundering by a Paris court. The court found he had received millions of dollars in bribes from oil companies. Etete had used the laundered money to buy a speedboat, a chateau in northern France and to settle bills from the Ritz¹⁰⁰.

Meanwhile, Shell had filed an arbitration case against the Nigerian Government over losing the OPL 245 license, but at the same time kept up a behind-the-scenes negotiation with Etete¹⁰¹.

In 2010 Eni negotiated with Shell to jointly buy the OPL 245 license from Malabu. The two companies made several direct offers to Malabu over the course of 2010, but Etete wanted more money.¹⁰² Ultimately, after Etete turned down an offer of over one billion dollars in October 2010, the negotiations were taken over by the Attorney General of Nigeria, Mohamed Adoke, mediating between the parties and putting pressure on Etete to accept an offer¹⁰³.

In the Attorney General's office, representatives from Eni, Shell, and Malabu agreed to a \$1.1bn price for the OPL 245 license, as well as remarkably favourable terms for the oil companies to exploit the oil field¹⁰⁴.

The deal was also revised so that instead of a single sale and purchase agreement with Malabu, the companies and Nigerian officials would sign three different contracts, allowing Shell and Eni to avoid signing a direct deal with Malabu. The new arrangement shielded the international oil and gas companies from being seen dealing directly with Dan Etete and Malabu or dealing with claims brought in November 2010 by Mohamed Abacha that Etete had pushed him out of his stake in the company¹⁰⁵.

Mohammed Adoke told Global Witness in 2018 that he denied wrongdoing emphasising that the President and other Nigerian agencies had agreed the 2011 deal. He is currently standing trial on money laundering charges in Nigeria for taking money from an alleged middleman in the OPL 245 deal, having pleaded not guilty in the case¹⁰⁶. Adoke's lawyer told Global Witness in 2018 that: "Evidence presented by the EFCC [Nigeria's Economic and Financial Crimes Commission] in support of their charges did not disclose any allegation of bribery against our client but that he authorized payment of over \$800 million to Malabu Oil and Gas Limited. Our client therefore views your questions and constant insinuations and portrayal of him as having been involved in the collection of bribes as an unjust attempt to malign and attract public opprobrium to him."

Adoke additionally cited a 2018 Judgement of the Nigerian High Court which ruled that he could not be "held personally liable for discharging the functions of his office by carrying out such lawful directives of the President"

Nigeria's economic stakes

Four weeks before the deal was signed in April 2011, Nigeria's most senior civil servant in the Department of Petroleum Resources wrote to the Attorney General calling the deal "highly prejudicial to the interests of the Federal Government."¹⁰⁷ Nigerian ministers appear to have overruled the advice of their civil servants.

A study by oil industry experts Resources for Development, commissioned by Global Witness and our partners HEDA, Re:Common and The Corner House in 2018, reviewed Shell and Eni's contracts, assessments, and development plans for the block. The study found that Nigeria would have been likely to lose an estimated \$5.8 billion in future revenues compared to standard terms for Nigerian oil deals in place at the time, based on the then current oil price of \$70 per barrel¹⁰⁸. The projected lost revenue would have been enough to fund Nigeria's combined Health and Education budgets for over two years¹⁰⁹. In contrast, Nigeria, one of the most oil rich countries on the planet, was estimated in 2018 to have the world's highest number of people living in extreme poverty in the world, at 87 million, nearly half the population¹¹⁰.

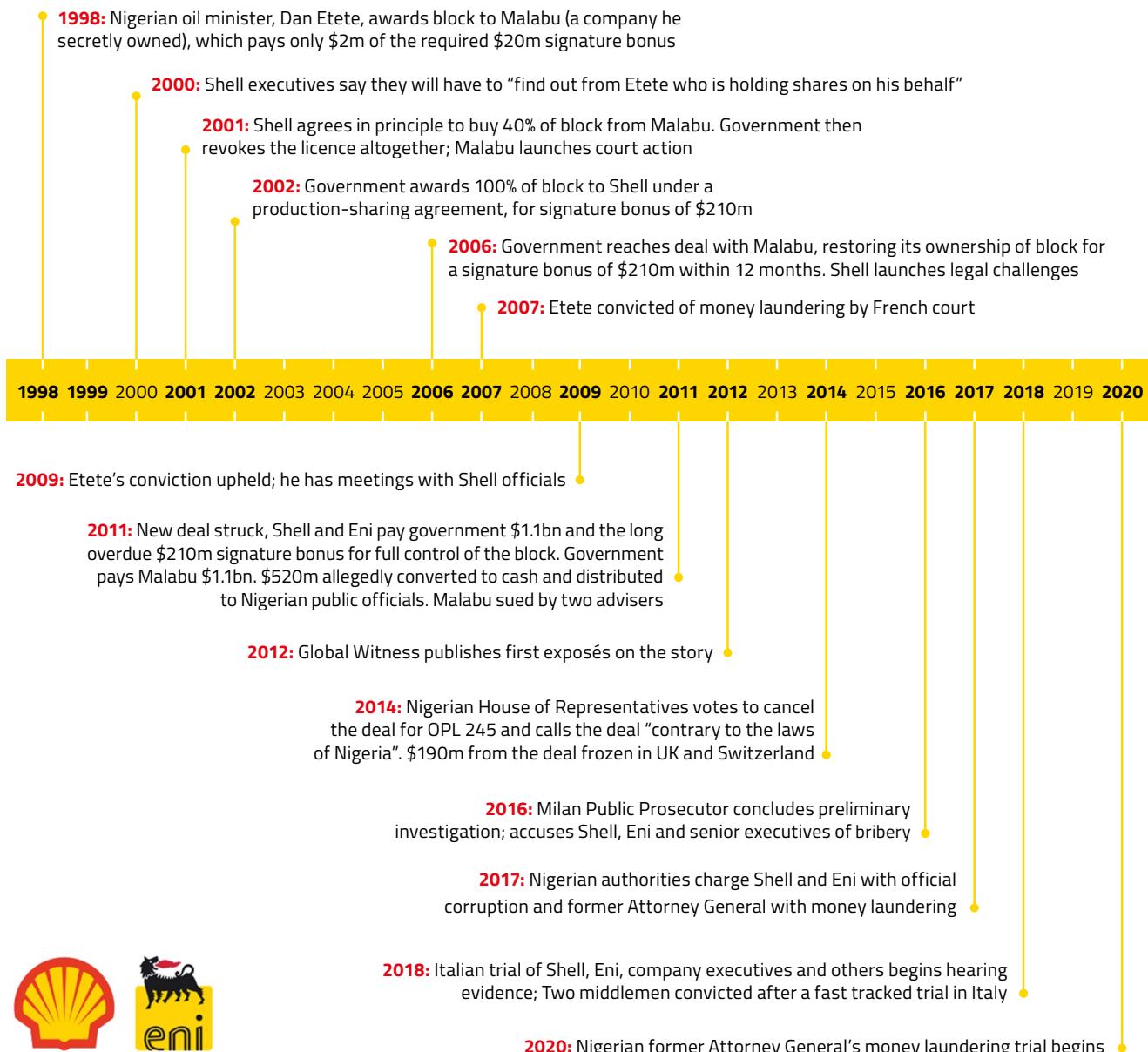
Adoke commented in 2018 that the deal was concluded following consultations with relevant ministries, no attempt was made to prevent civil servants voicing their concerns, and issues were resolved following inter-ministerial discussions.

Where did the \$1.1bn go?

Shell and Eni agreed to pay \$1.1bn for the block via a special account set up by Nigerian government officials at JP Morgan Bank in London with Shell paying the long overdue \$210m signature bonus¹¹¹. Shell and Eni would construe the \$1.1bn payment as being only to the Nigerian government¹¹², but in reality, the deal was designed for the money to be passed on to Malabu.

Global Witness asked Eni and Descalzi whether they were aware of Dan Etete's role in Malabu Oil and Gas. In response, at the company's 2014 shareholders meeting, Descalzi said "no clear evidence was found during the preliminary audits conducted by the Eni legal department under the anti-corruption procedures, particularly in relation to his connection with the company." In our view, Descalzi misled Eni's investors regarding their knowledge

PASS THE PARCEL THE SAGA OF NIGERIA'S OIL BLOCK OPL245



of the role of a former oil minister and convicted money launderer in the billion-dollar transaction¹¹³.

In September 2018 an OPL 245 middleman, Emeka Obi, was convicted of international corruption by Justice Giuseppina Barbara. In her judgement she blasted any suggestion that Eni was not aware of Etete's role in the scheme. She wrote, "Claiming, therefore, that Eni did not negotiate through its top management the acquisition of OPL 245 with Etete and did not know that Etete would receive a large part of the price from Eni not only is clearly contradicted by the evidence gathered by the investigators, but also offends the intelligence of anyone who has read, or will read, the documents of record of these proceedings."¹¹⁴

Eni has a history with Nigerian corruption scandals. The company paid \$365m in penalties in 2010 after admitting to its part in a scheme to pay over \$180m in bribes to win \$6bn worth of contracts for work on Nigeria's Bonny Island Natural Liquefied Gas Project. The scandal resulted in a deferred prosecution agreement with US authorities in July 2010, essentially putting the company on probation in the middle of negotiations for OPL 245¹¹⁵.

Despite the agreement with US authorities to clean up the company's anti-corruption efforts Eni's senior executives continued their negotiations with Dan Etete.

Shell Knew

In 2017 Global Witness and other journalists who published leaked Shell emails about the deal concluded they showed that Shell managers knew they were paying into a vast bribery scheme that was likely to pay off senior Nigerian officials¹¹⁶.

In 2009, one of Shell's staff on the ground in Nigeria wrote to two of Shell's most senior Africa executives, relaying a conversation with "my Delta man," whom he did not identify further: "He spoke to Mrs E this morning. She says E claims he will only get 300m we offering—rest goes in paying people off." "E" is understood to mean Etete.

Shell managers were briefed by their staff that the negotiations for President Goodluck Jonathan and Petroleum Resources Minister Diezani Alison Madueke were about “personal gain and politics.”¹¹⁷ They were later told that the “President is motivated to see 245 closed quickly – driven by expectations about the proceeds that Malabu will receive and political contributions that will flow as a consequence”.

Shell's executives were briefed that a letter from the Nigerian government in 2010 re-confirming Malabu's ongoing control of the OPL 245 block was part of an attempt to "deliver significant revenues to GLJ as part of any transaction," GLJ being shorthand for Goodluck Jonathan.

Milan public prosecutors noted that Shell staff were more candid in their emails around the deal, possibly because they were less accustomed to scrutiny from the authorities. In the prosecutors' view, the Shell emails created a "Dutch Mirror" to show what Eni staff also knew but were too careful to write down¹¹⁸.

Law enforcement authorities who traced Shell and Eni's \$1.1bn payment found that \$520m was turned into cash in withdrawals and through Nigerian money changers. The cash – which would weigh over five tonnes in \$100 bills – was, according to the Milan prosecutors, "intended to be paid to President Jonathan, members of the government and other Nigerian government officials."¹¹⁹

Dan Etete has denied wrongdoing and pleaded not guilty in the Milan trial. In a November 2019 interview regarding the allegations against him Etete said “Where is the evidence? Where is the money Jonathan received from Malabu? Jonathan comes from the same state as me, I knew him too well to corrupt him,” and “I wonder by what right the Italian court can stick its nose in Nigeria, a sovereign state. This block is the property of the Nigerian government, not that of the Italian government and its prosecutor!”¹²⁰

In a May 2019 statement Goodluck Jonathan also denied wrongdoing calling the allegations a “fabricated bribery claim” and said “Former President Goodluck Jonathan did not ask for or collect any bribes, neither has he been charged for asking or collecting bribes, neither will he ever be charged with asking for or collecting bribes, because such never happened.”¹²¹

Diezani Alison Madueke commented in a 2017 interview “As Minister of Petroleum Resources, I did not participate in any activity relating to financial payments on the Malabu matter, other than those statutorily mandated to the Minister of Petroleum Resources by the Petroleum Act.” She argued that “In spite of all the allegations that have been made against me, not one has been factually proven.”¹²²

Shell told Global Witness that they “maintain that the 2011 settlement of long-standing legal disputes related to OPL 245 was a fully legal transaction with Eni and the Federal Government of Nigeria (FGN). Based on everything we have seen before and during the trial, we continue to believe there is no basis to convict Shell or any of its former employees in Milan.” They added that “There is no place for bribery or corruption in our company.”

Shell managers discussed where money from the QBL 245 might flow.

From: "Colegate, Guy J SIEP-UIB/O/P" <SHELL/SI/RECIPIENTS/NLGC01>
Sent: 7/16/2010 2:13:05 PM +0000
To: "Robinson, Peter L SEPA-UIB/G" <Peter.L.Robinson@shell.com>;
"Copleston, John DC SEPA-UIB/G/SI" <John.Copleston@shell.com>
Subject: Block

Long meeting yesterday in Paris- salient points:
1) Etete claims he has and has shown (though not copied) a letter from President reiterating malabu's 100pc equity/contract "award"
2) This letter clearly an attempt to deliver significant revenues to GLJ as part of any transaction
3) Our source says this letter "has really damaged deal" as etete now "uncontrollable"- he stated deal was almost there on a proposed 50/50 split with RDS. I made no comment.
4) Italians look like they might abandon whole thing as they realise there will be no RDS agreement on this basis and the letter has torpedoed reasonable discussion with chief

THE OPL 245 KICKBACK SCHEME



The Milan Palace of Justice. Barnaby Pace / Global Witness

Part of the Italian prosecutors' case against Descalzi and other Eni managers argues that they were motivated not only by securing a valuable asset for the company, but also by the prospect of kickbacks for themselves¹²³.

Prosecutors have homed in on the role of middlemen in the transaction, above all a British-Nigerian businessman, Emeka Obi¹²⁴.

At the end of 2009, Eni received two offers to negotiate for the OPL 245 block within a matter of hours, from two different middlemen. The first came from a former Eni Nigeria executive who had continued to be employed by Eni as a consultant after leaving a few years earlier. The second offer came from the relatively unknown Obi¹²⁵.

The offer to negotiate through Obi came without proof that he had any mandate to negotiate on behalf of Malabu. The offer was unusual as it required Eni to commit to negotiate exclusively via Obi, and demanded substantial upfront fees merely to enter negotiations¹²⁶.

Eni had a company policy that they would not pay intermediaries in their business transactions¹²⁷. Obi was – on paper – acting on behalf of Malabu and not Eni, and sought up to \$200m as a fee for his role¹²⁸.

Obi, however, had backers in Eni. Obi was introduced to Eni's managers by Luigi Bisignani. Bisignani was a friend of Eni's then CEO Paolo Scaroni and he was known as an Italian power broker with a criminal history -- including convictions for criminal conspiracy and unauthorized access to IT systems, embezzlement, illegal financing of political parties and corruption¹²⁹. Scaroni had introduced Bisignani to Descalzi at a meeting in Scaroni's home in Rome¹³⁰.

In February 2010, Claudio Descalzi, then Eni's head of exploration and production, met Obi and Etete for dinner at Milan's Principe di Savoia Hotel restaurant, kicking off negotiations for the OPL 245 license and seemingly blessing Obi's role as a middleman in the transaction¹³¹.

Eni agreed to Obi's onerous terms and carried on negotiations through Obi for five months without any proof of his legal standing to act for Malabu¹³². Eni's internal investigation later concluded that a €500,000 upfront payment made by Eni to Obi was apparently without precedent in the company¹³³. No due diligence was conducted on Obi or his company, according to the testimony of Eni managers¹³⁴.

Throughout the OPL 245 negotiations Claudio Descalzi met with Obi on numerous occasions and exchanged



The COIN department store in Milan. Barnaby Pace / Global Witness

messages¹³⁵. They met early in the morning and after working hours in the bar at the COIN department store in Milan, just a few hundred metres from the Milan Palace of Justice where Descalzi's trial has been held. As the judge in Obi's case noted this means Descalzi had these meetings "outside the offices of San Donato [Eni's headquarters] and in quite unusual hours for ordinary business meetings."¹³⁶

Descalzi told investigators he kept working with Obi because "substantially, to me Bisignani represented Scaroni, I wanted somehow to please him."¹³⁷ According to Vincenzo Armanna, Eni's project manager on OPL 245, Descalzi seemed concerned that the politically influential Bisignani would run a media campaign against Descalzi to try to prevent him becoming the next Eni CEO¹³⁸.

Armanna, who is also on trial alongside Descalzi for his own role in the OPL 245 deal, is also accused of receiving €900,000 as part of the deal. Armanna claims the money came from an inheritance though prosecutors point out this money came through Nigerian former Attorney General Bayo Ojo and called the inheritance explanation a pretext¹³⁹. Armanna claims he did not meet Ojo until 2012 and did not discuss OPL 245 with him.

Armanna had been fired by Eni in 2013 over disputes over his expenses claims¹⁴⁰.

Eni's and Descalzi's lawyers have challenged Armanna's credibility in court, though the defendants declined to cross-examine him when he gave evidence¹⁴¹.

However, Etete insisted that he did not want to pay Obi, accusing him of being placed into the deal to pay "the Italians."¹⁴² Etete, Eni and Shell had essentially come to terms on the price the companies would pay for OPL 245 in late 2010, but Etete still refused to pay Obi.

Obi's demand for a vast fee continued to be a sticking point even as he dropped his proposed fee down to \$100m and Etete agreed to pay \$55m after being implored to pay Obi's commission by Nigeria's Attorney General Mohammed Adoke¹⁴³.

Obi was pushed out of the negotiations at the end of October 2010, with negotiations afterwards being mediated by Nigeria's Attorney General Mohammed Adoke.

Phone calls between Descalzi, Bisignani and other middlemen were caught on wiretaps ordered as part of a separate Italian police investigation into Bisignani and others over a scheme to obtain confidential information around criminal investigations, blackmail and interference with government appointments¹⁴⁴.

The wiretaps recorded Descalzi and Bisignani speaking in coded language about the then-ongoing negotiations for the OPL 245 deal including Bisignani's outrage and demands to Descalzi in October 2010 when Obi was on the verge of being ousted from the negotiations¹⁴⁵.

When Obi was convicted of international corruption offences for his role in the OPL 245 deal in September 2018 the judge found that "Obi did not have adequate connections at international level nor the experience to be taken into consideration as an interlocutor by other oil companies; Obi was not capable of closing the sale of OPL 245 without Eni; without Scaroni and Bisignani's sponsorship, Eni would have also probably ignored him."¹⁴⁶

The judge also found that the evidence demonstrated "in an unequivocal manner" that Descalzi was "subdued to the demands made by Luigi Bisignani ... a private citizen whose name had already come out in some of the most controversial and well-known investigations in Italian judicial history."¹⁴⁷

According to the judgement convicting Obi for his role in the deal "what is claimed by the Public Prosecutors on the basis of irrefutable documentary and declarative

evidence that commission was an essential element of the agreement... because Eni was not available to conclude the deal without Obi given that some of its managers had agreed with him since the end of 2009 to receive sums of money resulting from the price paid by the Italian oil company for the purchase of the prospecting licence.”

Obi sued Malabu in England’s High Court after the deal was concluded without him in 2011. He claimed up to \$200m in unpaid commissions saying the deal done by Shell and Eni was substantially the same as the one they had reached when he was still handling negotiations¹⁴⁸.

Obi was awarded \$110m from Malabu with Lady Justice Gloster, then of England’s High Court, ruling in 2013 that Etete had at points agreed to Obi’s role and the deal was in substance the same as when Obi had been involved¹⁴⁹.

Etete alleged in court that Obi was truly acting for Eni, however his testimony was largely dismissed by Gloster who found Etete’s claim’s “incredible”¹⁵⁰.

She found that: “Although, at all times when giving his evidence, Chief Etete was unfailingly courteous to the court, his evidence was almost invariably self-serving, self-contradictory, unrealistic, argumentative or, at times, almost impossible to follow. He frequently changed his story, often within a few minutes of having given a directly opposing answer. The manner in which he gave his evidence was argumentative and extravagant. He was prone to make wild allegations of fraud and forgery, or point the finger of blame at others, including his own trusted financial advisers and lawyers, without any appreciation of the serious implications of his accusations. His recollection was very poor and, at times, the only conclusion which I could reach was that he was being deliberately dishonest.”¹⁵¹

Eni has publicly pointed to Lady Justice Gloster’s conclusion that Obi was not acting for Eni¹⁵². However, as a civil case only the parties could bring arguments and evidence. As Justice Barbara of the Milan court pointed out Lady Justice Gloster’s finding “undoubtedly is the result of the English judge not being aware of a series of documents that have been acquired in these criminal proceedings”¹⁵³.

Before Obi could enjoy his winnings from the case his \$110m was frozen in Switzerland at request of Italian prosecutors. In addition to a four-year prison sentence, the money in Switzerland is set to be confiscated¹⁵⁴. Obi is appealing his conviction¹⁵⁵.

The approximately \$85m that remained with Malabu at the conclusion of the High Court case was also frozen and was recovered by Nigeria¹⁵⁶.

Kickbacks beyond Obi

According to prosecutors, Eni managers’ attempts at securing kickbacks did not end with Obi¹⁵⁷.

After Shell and Eni’s payment of \$1.1bn was transferred to a special account set up by Nigerian government officials at JP Morgan Bank in London, Malabu then asked for the money to be sent to accounts in Switzerland and Lebanon controlled by Petrol Service¹⁵⁸. Petrol Service was owned by Gianfranco Falcioni, a prominent Italian businessman in Nigeria. Falcioni had served as an honorary diplomat for Italy in Nigeria. His company, an oil services firm, did business with Eni and many Eni managers lived in houses owned by Falcioni while in Nigeria¹⁵⁹.

Backdated contracts were arranged to justify the attempted transfers to Petrol Service¹⁶⁰. The contracts outlined that Falcioni’s company would receive \$50m for receiving and passing on the money¹⁶¹. In court it was claimed this arrangement was necessary because Malabu had no bank accounts itself¹⁶². Falcioni has pleaded not guilty in the trial.

The payments failed after two banks BSI Lugano in Switzerland and Banque Misr Liban of Beirut both declined to take the massive payments, with BSI citing compliance concerns¹⁶³. BSI was shut down a few years later after being engulfed in money laundering allegations connected to the Malaysian 1MDB scandal¹⁶⁴.

In response, Etete then set up two bank accounts at a pair of Nigerian banks which did accept the payments¹⁶⁵. Malabu then transferred most of the money to five other companies who held bank accounts at the same two Nigerian banks Keystone Bank and First Bank Nigeria¹⁶⁶. All of these companies were connected to or controlled by one man: Aliyu Abubakar, who prosecutors allege was a front for Nigerian politicians behind the deal¹⁶⁷. Abubakar is currently standing trial in Milan and Nigeria and has denied wrongdoing¹⁶⁸. From these accounts over \$520m was either withdrawn in cash or transferred to local money changers who turned it into cash. Prosecutors allege that money was then passed to Nigerian officials¹⁶⁹.

Armanna, Eni’s project manager on OPL 245, reported to prosecutors that he was told that \$50m in cash was delivered to the Abuja home of Eni’s then-head of Sub Saharan Africa Roberto Casula as kickbacks as part of the 2011 deal¹⁷⁰.

The source Armanna claimed for this information, a Nigerian policeman called Isaac Eke, wrote to the Milan prosecutor offering to provide evidence. Eke confirmed he had indeed known Armanna since 2009. However, when he appeared in court Eke claimed he had not in fact known Armanna until 2014, three years after the events in

question implying that he could not therefore have told Armania about the cash delivery¹⁷¹.

Asked if he had been contacted by anyone before travelling to Milan to testify, Eke told the court that he had been summoned by Nigerian national security adviser General Mohammed Babagana Monguno who Eke called “head of the secret services”. Eke claimed he had simply told Monguno what he knew and what he would say in court¹⁷².

The Milan prosecutor said Eke’s evidence represented “a total denial of signed declarations”. Eke is now under investigation for providing false testimony and according to prosecutors could face trial soon¹⁷³.

Armania explained in court that he discussed the routing of Malabu’s payment through Falcioni’s Petrol Service with other Eni managers, including a conversation he had with Claudio Descalzi at Eni’s London offices while Descalzi smoked on the office’s fire escape¹⁷⁴.

Justice Barbara’s findings in the separate, fast-tracked trial of Obi, convicting the middleman and sentencing him to four years imprisonment, casts further light on these allegations, though it does not in any way determine the guilt of defendants in the ongoing trial involving Eni, Shell, Descalzi and others.

Justice Barbara found that though it was beyond her remit to identify the role of the specific Eni managers in the kickback scheme, it was “proven, beyond any reasonable doubt, that … some managers of the Italian oil company planned and possibly achieved… a criminal plan to increase the price paid by Eni in order to obtain originally through Emeka Obi and later Gianfranco Falcioni the kickback of a considerable sum of money, in the order of \$50 million, to share between themselves.”¹⁷⁵

Justice Barbara also found that “the management of Eni and Shell oil companies … were fully aware of the fact that a part of the \$1.092 billion paid would be used to remunerate the Nigerian public officials who had a role in this affair”¹⁷⁶.

In his defence, Descalzi’s lawyer has argued that there was “no proof” of any agreement to pay bribes or kickbacks. For this reason she asked the judges to acquit Descalzi “because the facts do not exist.” Descalzi is, according to his lawyer, “a man, a senior executive who has always and always had only one goal: to have advantageous results, for one of the largest Italian groups, in full compliance with the rules.”¹⁷⁷

Potential penalties

The consequences from the OPL 245 case could be severe for Eni and Descalzi. In July 2020, the Milan prosecutor in the OPL 245 trial, Fabio De Pasquale, requested an eight-year prison sentence for Mr Descalzi and his predecessor Paolo Scaroni, seven years for Eni’s former chief development operations and technology officer Roberto Casula and six and half years for Ciro Pagano, Eni’s Executive Vice President for International Negotiations¹⁷⁸.

The prosecutor has also asked for a seven-year prison sentence for Shell’s former head of Exploration and Production Malcolm Brinded and six-year prison sentences against the other former Shell executives on trial and Falcioni. Dan Etete faces the longest requested prison sentence at ten years¹⁷⁹.

The prosecutor has asked to confiscate \$1.1bn in profits from Shell, Eni and a further seizure of up to \$1.1bn from the other defendants¹⁸⁰. Nigeria, also represented in the Milan court case as a victim, has requested a further \$1.1bn in interim damages from Shell and Eni¹⁸¹.

In response to the legal cases brought by Nigeria, Eni has filed a lawsuit in the World Bank’s ICSID arbitration court as Nigeria has yet to agree to regulatory moves that would allow the companies to develop the oil block¹⁸². Without this approval the license will expire in 2021¹⁸³. In a court filing, Eni stated that it believes Nigeria’s “actions against Eni are driven by undisclosed interests.”¹⁸⁴

There is also the possibility of prosecution in other jurisdictions. In Nigeria corruption charges have been laid against Eni and Shell’s subsidiaries and Dutch authorities continue to investigate Shell’s involvement the case. US authorities closed their investigation into Eni and Shell over the OPL 245 deal in April 2020, but made clear that its action “must in no way be construed as indicating that the party has been exonerated or that no action may ultimately result from the staff’s investigation”¹⁸⁵.

QUESTIONS AT ENI



Eni is at the centre of several scandals. *Barnaby Pace / Global Witness*

Scandals at companies like Enron, Worldcom and Parmalat have brought increasing focus to the issue of corporate governance in the early 2000s, however this focus did not prevent the scandals at giants like Samsung, Volkswagen and Petrobras¹⁸⁶.

Eni has a governance system of internal controls and oversight meant to ensure sound management practices, promote accountability and prevent fraud.

Eni's system starts at the top from the board level and specialised audit and risk committees down through training, compliance functions and internal auditing meant to check processes are working as they are supposed to¹⁸⁷.

In the wake of Eni's own scandals with the TSKJ/ Bonny Island case and allegations of bribes in the company's deals with Algeria's state oil company¹⁸⁸, the shareholders were keen to bring in fresh governance experts.

In 2014, Karina Litvack was appointed as a director by Eni's institutional investors and Luigi Zingales was appointed by the Italian Government, which owns 30% of Eni's shares¹⁸⁹. Zingales is an Italian economist and a professor at Chicago's Booth School of Business while the French-Canadian Litvack had most recently been a

Governance and Sustainable Investment Specialist at the UK investment firm F&C¹⁹⁰.

Litvack was appointed to an important position on Eni's Control and Risk Committee, overseeing internal controls in the company¹⁹¹.

At company meetings the pair stood out as being willing to raise questions following articles published in the press alleging corruption in Eni's deals. They asked what due diligence had been done on the OPL 245 deal and what the potential risks could be if law enforcement in the US or elsewhere acted against the company¹⁹².

These questions were not received well by Claudio Descalzi or Eni's board chair Emma Marcegaglia.

In 2014 Eni's Control and Risk Committee and Board of Statutory Auditors unanimously agreed to hire a law firm to conduct a review of the OPL 245 deal. Litvack voiced concerns that nobody involved in the deal should be involved in overseeing the review. This meant that Eni's Chief Legal and Regulatory Affairs officer, Massimo Mantovani, who had held the same position at the time of the OPL 245 deal should not be involved in overseeing the review¹⁹³.



Claudio Descalzi, CEO of Eni. GIUSEPPE CACACE/AFP via Getty Images

According to Litvack's court testimony "There was immediately a strong disagreement" with the other committee members who insisted Mantovani should be involved in the review, even if he was involved in the deal. Litvack explained that one fellow committee member "forbade me to use the word 'involved'." She continued "I had nothing against Mantovani, but for me, especially in big deals, every head of department is responsible, it's normal. Neutrality in the definition of the mandate and in the investigation had to be guaranteed. That's how these things are done in the rest of the world."¹⁹⁴

The issue was referred to the next board meeting. Descalzi arrived at the meeting furious and told the room "some people have made baseless accusations about the integrity of the [company's] leaders. This is intolerable. Those who criticize the executives criticize me. If you don't trust the managers, you have to fire me." Litvack, told the court she learned many vulgar expressions from Descalzi that day.¹⁹⁵

The board sided with Descalzi and Mantovani was part of commissioning Eni's review of the OPL 245 deal. Eni has frequently cited the investigation saying it found "no evidence of misconduct"¹⁹⁶. However, Milan prosecutors, Global Witness and our partners have raised concerns about the quality of the investigation after Eni confirmed the investigation did not include interviews with any of the Eni staff under investigation, including the CEO.¹⁹⁷

Litvack and Zingales' concerns about Eni's OPL 245 deal were not limited to the company's internal investigation. Zingales explained in court testimony how at one board meeting he had asked Mantovani whether it was normal

for the company not to perform due diligence on a middleman they were entering into negotiations with, such as in the case of Emeka Obi. Mantovani apparently refused to answer the question in the meeting, claiming he did not like Zingales' tone. After the meeting, Mantovani accused Zingales' tone of being defamatory¹⁹⁸.

According to Zingales, Descalzi took him aside and told him "my interest, my asking questions was paralyzing the company." Zingales understood he was being rebuked for asking too many questions about the company's OPL 245 deal¹⁹⁹.

In her evidence to the Milan court, Litvack described how Marcegaglia, in a 2015 board meeting, told the other board members that an upcoming peer review on the functioning of the board "was an opportunity for everyone to say what they really thought of Zingales. Because the time had come for this to go away"²⁰⁰.

Zingales chose to leave the company's board after peer reviews blasted him, Zingales later recalled "The kindest thing I was told was that I was a policeman."²⁰¹ Zingales resigned in July 2015 for what was described as "irreconcilable differences of opinion," in an Eni press release.²⁰²

Zingales' difficult questioning on the board had been stopped by Marcegaglia and Descalzi. However, Litvack remained in an influential position on the board while investigations into Eni and Descalzi over the OPL 245 deal were closing in. According to prosecutors Eni managers decided to intervene.

THE SIRACUSA SYSTEM

Pressure over the OPL 245 deal increased through 2014 with police raiding Eni's headquarters, naming Descalzi as a formal suspect in their investigation and freezing around \$190m from the deal in London and Switzerland in the aftermath of Emeka Obi's lawsuit²⁰³.

In January 2015 the prosecutors' office in the southern seaside Italian town of Trani received the first of a series of anonymous letters claiming that there was a conspiracy to destabilize Eni²⁰⁴.

The letters' author claimed that they knew of a plot between Zingales and Litvack, a manager at Eni's oil services subsidiary Saipem, lawyers working for Eni on their anti-corruption probes, and businessmen from Italy and Nigeria. According to the author, these characters aimed to replace Eni's CEO Claudio Descalzi by manipulating the company's legal advice and defaming Descalzi in a negative press campaign²⁰⁵.

Details in the letters showed that the author must have been familiar with the internal working of Eni's senior management with commentary on the behaviour of Eni's board members in meetings²⁰⁶. The letters sparked an investigation by Trani's prosecutor.



Il Kaimano restaurant, Milan. Barnaby Pace / Global Witness

In August 2015, Alexander Ferraro, an Italian businessman with a previous conviction for fraud, reported similar allegations to the prosecutor's office in Siracusa, Sicily²⁰⁷. Ferraro claimed he had been kidnapped by unidentified Nigerian and Italian men in an incident he asserted might be related to dinners²⁰⁸ he had had at "Il Kaimano" restaurant in Milan with a former manager at Eni's subsidiary Saipem and mysterious Nigerian characters. Ferraro claimed that at these dinners he found out about the plot against Descalzi. Ferraro added further details claiming the plot involved corrupt members of Nigerian intelligence and Iranian political interests²⁰⁹.

Giancarlo Longo, the Siracusa prosecutor began an investigation.

The complaint was enough for Siracusa's prosecutor to launch a criminal investigation into the phantom plot and take over the Trani prosecutor's investigation. The investigators reviewed Eni's board members' emails and meeting minutes.

Litvack said in court testimony that she received explicit pressure from Marcegaglia and other board members to step down from her position on the Control and Risk Committee after the Siracusa investigation began, but she refused. She was ultimately removed from the committee in July 2016, accused of having a potential conflict of interest due to the allegations²¹⁰.

Litvack's removal from the Control and Risk Committee, not long after the departure of Zingales rang alarm bells with investors. The removal of Litvack on the basis of apparently flimsy allegations was in stark contrast to the lack of action taken against Descalzi despite public evidence of his role in the OPL 245 scandal.

As the Economist reported at the time, "To many outsiders, the episode looks trumped-up. One investor says the defamation case appears to be a 'brazen attempt to silence board critics'. Eni denies this. Another notes that it smacks of double standards for Eni to allow executives accused of corruption to stay in their jobs while insisting that a director ensnared in a vague defamation case relinquish a role."²¹¹

Emma Marcegaglia was replaced as the Chairperson of Eni in 2020. She did not reply to a request for comment on this report.



Karina Litvack, Eni board member. *Graham Barclay/Bloomberg via Getty Images*



Luigi Zingales, Former Eni board member. *Alessia Pierdomenico/Bloomberg via Getty Images*

The Siracusa System falls

The Siracusa investigation failed to find any evidence of wrongdoing by Zingales and Litvack. The investigation was transferred to the Milan Prosecutor's office, which after further investigation dismissed the allegations in September 2017²¹². Questions about the Siracusa scheme didn't end there though.

In February 2018 police raids and the arrests of fifteen people revealed that Longo, the Siracusa prosecutor, had been under investigation by Italian law enforcement across the country. The investigators alleged that the Siracusa investigation had been concocted to interfere with the Milan Prosecutor's investigation into the OPL 245 deal and other cases²¹³.

Police searched the home and office of Massimo Mantovani, Eni's former legal chief who had been promoted in 2016 to be the company's Chief Marketing Gas & LNG and Power Officer, in charge of the company's gas division²¹⁴. Police reportedly suspected that Mantovani directed the conspiracy to concoct the Siracusa investigation²¹⁵.

Mantovani told Global Witness that he denies any wrongdoing though he is unable to take a public position on the investigation until the preliminary phase of the investigation is closed. He stated that he spent 25 years as an Eni manager, 15 reporting to the CEO and had never been involved in any criminal investigation until now. He stated that his dismissal by Eni in July 2019 was not a consequence of the investigation, he considers it illegitimate and labour litigation is ongoing.

Police also arrested one of Eni's external lawyers, Piero Amara²¹⁶. After his arrest Amara began giving evidence to the authorities who found that the phantom investigation into Zingales and Litvack was just the tip of the iceberg.

Prosecutors found that Longo, Amara and others had created a system of bribes paid to Longo in exchange for interfering with criminal investigations, starting with the attempted interference in the OPL 245 case²¹⁷.

Amara and his fellow conspirators had paid Longo tens of thousands of euros and paid for Longo's expenses including a lavish holiday to Dubai²¹⁸.

Amara was later convicted for his role in the scheme. It was found in court that Amara had ghostwritten documentation attesting to the supposed plot and had conspired with Ferraro to file a false report about the fictional kidnapping²¹⁹.

Longo was given 30,000 euros to start his investigation. Longo told Italy's RAI Report investigative TV show in 2019 that he thought the money came from Eni²²⁰.

Amara and Longo pleaded guilty to criminal charges of conspiracy to commit corruption for their roles in the Siracusa scheme. The guilty pleas were in exchange for plea bargains reducing their potential prison time. Longo was sentenced to a five-year prison sentence²²¹ and Amara to four years²²².

Prosecutors alleged in a search decree that Amara and his accomplices were motivated by a desire to protect Claudio Descalzi²²³.

Witness tampering allegations

In 2014 Vincenzo Armanna, Eni's project manager on OPL 245 who had been fired by the company a year earlier, was the first Eni insider to go public with allegations about the OPL 245 deal. He gave a voluntary statement to Milan prosecutors in July 2014 and an interview to La Repubblica newspaper in October 2014²²⁴. In the interview Armanna explained that, with regards to Shell and Eni's payment for OPL 245 "We were aware that a good part would go to the benefit of the political sponsors of the operation."²²⁵

Armanna claimed that Descalzi was among the Eni executives who agreed to negotiate the OPL 245 deal through Emeka Obi. Armanna told the paper that he was certain "that Obi would have relegated part of the sum of his mediation to the Italians," meaning his colleagues at Eni²²⁶.

Armanna says he was approached by Eni, through their lawyer Amara and asked to submit a new statement to the prosecutors, withdrawing or watering down his allegations. His new statement "partly removed the content on corruption" and the points on "Nigerian political sponsors" were "re-written and handed to me" Armanna told the Milan court.

Armanna says he was handed a piece of paper with his new talking points by Claudio Granata, Eni's Director of Human Capital & Procurement Coordination. Armanna told the court he understood Granata was working on behalf of Descalzi²²⁷. Granata is described by the Italian press as Descalzi's right hand or his chief of staff²²⁸.

"They wanted me to water down my statements on Descalzi ... They tried to undermine the reliability of all my previous statements." Armanna explained.

Armanna claimed in his testimony that in exchange for him changing his statements Granata offered to arrange for him to be re-hired by Eni²²⁹. Armanna further alleged in court that Eni's Executive Vice President of Legal Affairs Michele Bianco was also part of the scheme to induce him to change his testimony²³⁰.

Eni's former lawyer Amara, has backed up elements of Armanna's account in statements to prosecutors claiming that Eni's top executives Granata and Bianco managed the conspiracy claims in Trani and Syracuse²³¹. Amara claims Granata ordered him to "manage Armana"²³².

Amara told prosecutors he asked Granata if the plan was his initiative "he told me he had the cover of Descalzi." implying he had permission from Descalzi. "Then he called Descalzi with a video call, introduced him to me and Descalzi himself told me that Eni would need a

lawyer like me in every part of the world, confirming the mandate of Granata"²³³.

According to allegations made by prosecutors in court filings, Amara was also paid "to keep silent on the involvement of Bianco and Granata in the judicial initiatives of Trani and Siracusa"²³⁴.

Armanna testified that he went along with the scheme, fired his lawyer and filed a revised statement with prosecutors in 2016 withdrawing some of his accusations. He then forwarded an email to the lawyer of one of the characters involved in the Siracusa scheme. In the email Armanna claimed he had been pressured by his earlier lawyer to say Eni knew Nigerian politicians would receive OPL 245 money in order to secure favourable treatment from prosecutors. The email ended up with Eni's lawyers who handed it over to the Milan Prosecutors in 2017, specifying that they did not know if it was authentic²³⁵.

Armanna claimed in court that he backed out of this new scheme after he was advised by his new lawyer that this strategy was suicidal and once again, he denounced his former Eni collaborators²³⁶. In the ongoing OPL 245 trial Armanna is a defendant alongside Eni, Descalzi and his other former colleagues, however he has cooperated as a prosecution witness in giving testimony against them.

Prosecutors argue that Armana's account of the attempts to interfere with his evidence is supported by the documentary evidence from the time²³⁷.

In the ongoing trial Milan prosecutor Fabio De Pasquale argued that the attempt to tamper with Armana's testimony was done to help Eni and Descalzi²³⁸. He argued that the attempt "to pollute the process [of the trial] by Descalzi", if found to be proven, can indicate Descalzi's guilt in the OPL 245 case²³⁹.

Spying

In February 2020 prosecutors dropped another bombshell based on statements from Amara. Amara told them that Zingales and Litvack were put under surveillance by Eni after they asked "uncomfortable" questions.

Amara further alleged that Eni also attempted to spy upon journalists reporting on the case, prosecutors, and even judges²⁴⁰. Prosecutors' request to hear testimony from Amara in the OPL 245 was denied and much of his testimony remains secret as an investigation is continuing²⁴¹.

Eni under investigation

The attempted interference in the OPL 245 investigation through the Siracusa scheme and tampering with Armania's evidence is under investigation by a team of prosecutors in Milan. In November 2020 it was reported that they had secured a warrant to search the mobile phone of Vincenzo Armania who had claimed he had evidence of encrypted chat messages between himself, Granata and others regarding the alleged schemes.

The search warrant revealed that Claudio Descalzi is a formal suspect in the ongoing investigation into alleged interference with the work of prosecutors on the OPL 245 case²⁴².

Eni disclosed in its annual report in February 2020 that it is under investigation for "inducement not to make statements or to make false statements to the judicial authority"²⁴³. The senior Eni managers Granata and Bianco and Eni's security chief Alfio Rapisarda were notified that they are also the subjects of an ongoing criminal investigation²⁴⁴. Vincenzo Armania was also listed as a suspect in the investigation in a November 2020 report²⁴⁵. Reuters reported that the Eni managers' offices were searched by police in January 2020²⁴⁶.

Vincenzo Armania denied that he was a suspect in the ongoing investigation and said that he refused to alter his testimony after being approached by Granata.

Eni's response

Descalzi, Granata, and Eni have all denied their roles in the Siracusa scheme and, in 2019, attempted to sue Amara and Armania for defamation. The company said in 2019 that it "categorically denied" Amara's statements as "misdirection, absolutely unfounded statements and defamatory against Eni's CEO."²⁴⁷

In response to questions regarding the alleged offer to re-hire Armania in exchange for altering his testimony Eni told shareholders in May 2020 "Eni considers the assertion concerning the promise to re-hire Mr. Armania wholly ungrounded."²⁴⁸

Eni stated in 2019 that it "has not commissioned any of the activities that Mr. Amara reports"²⁴⁹ and that after allegations about the "alleged misdirection" in the Siracusa scheme came to light, they engaged "various external consultants (including a primary auditing company and two well-known lawyers)" to conduct an internal review of the allegations. The company told shareholders in May that they had identified "negligence and management deficiencies" and taken action to resolve them²⁵⁰. Mantovani was fired by Eni in July 2019

reportedly due to "incorrect behaviour towards the company"²⁵¹. Mantovani told Global Witness his dismissal was unrelated to the criminal investigation and that he is in labour litigation over his dismissal.

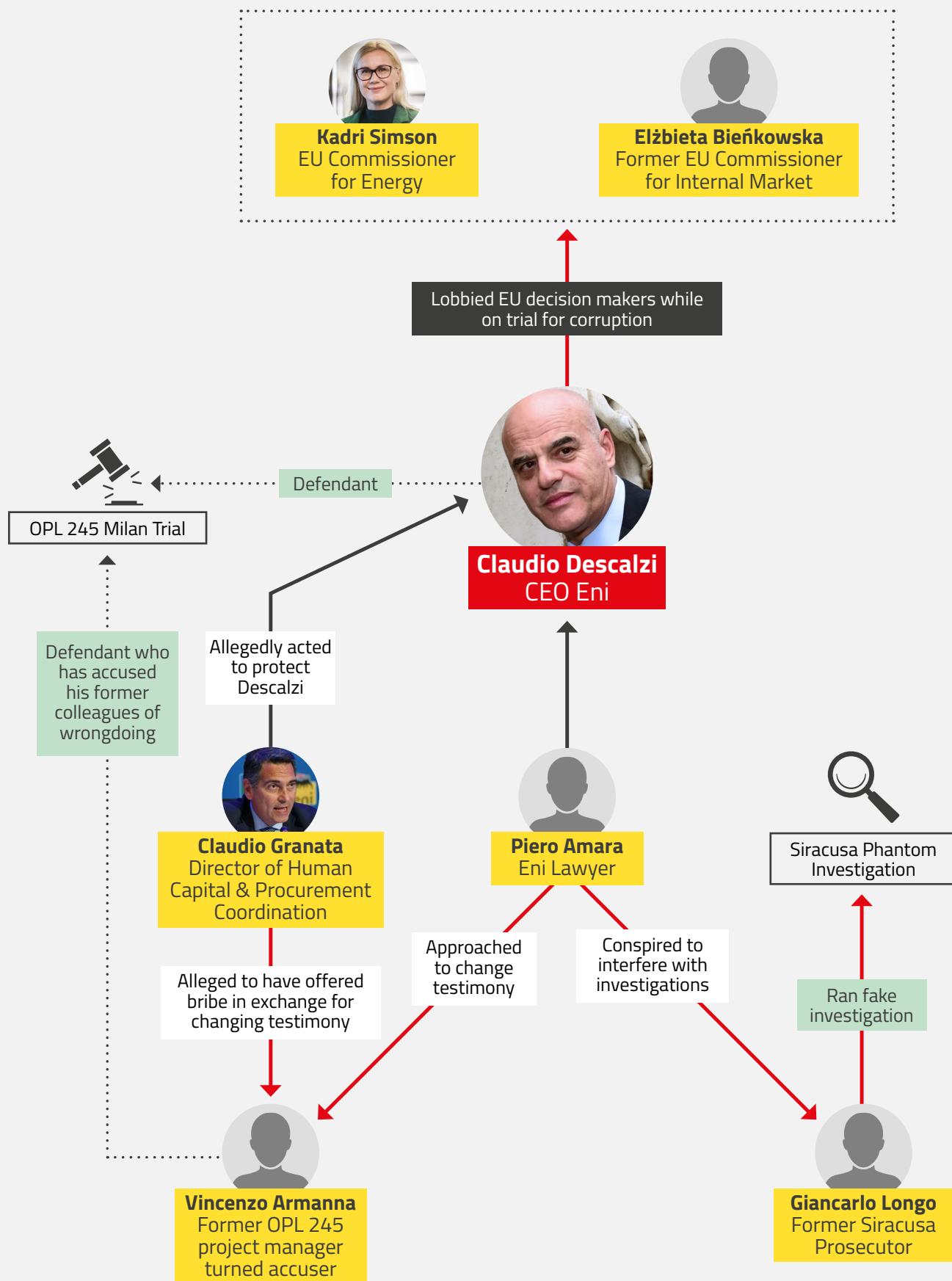
In response to a request for comment for this report Eni stated that all the charges and allegations regarding OPL 245 and the alleged conspiracy are unsubstantiated and they have provided all the evidence to the Milan court and judicial authorities to support this. Eni's full response is available on the Global Witness website.

Senior executives accused of wrongdoing at Eni, including Claudio Descalzi and others who are under criminal investigation, have not been questioned by the company and have not apparently faced any suspension or censure.

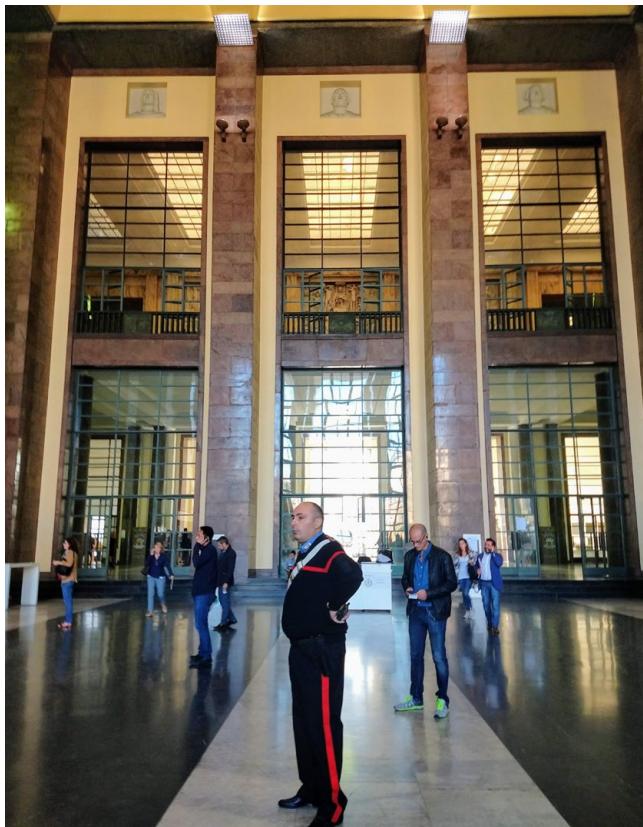
The company explained at their 2020 shareholder meeting that "out of respect for the activities of the prosecutors, as well as to guarantee the rights of people under investigation, it is not possible to interview a person under investigation for internal verification purposes."²⁵² Global Witness has raised concerns that this practice undermines the credibility of Eni's internal investigations and makes their decision not to suspend managers facing criminal investigations even harder to justify.

Claudio Descalzi is a formal suspect in the ongoing investigation into alleged interference with the work of prosecutors on the OPL 245 case

POLLUTING PROCESSES?



THE FOSSIL FUEL INDUSTRY: POLLUTING THE PROCESS



A policeman watches over the Milan Palace of Justice's entrance.
Barnaby Pace / Global Witness

Eni is at the centre of a billion-dollar bribery scandal and its managers are accused of attempts to witness tamper, interfere with a criminal investigation and smear the company's own board members in an effort to protect the company's CEO Claudio Descalzi who has been accused by prosecutors of an attempt to "pollute the process" of his own trial.

Descalzi and four other Eni executives face possible prison sentences if they are convicted in the ongoing OPL 245 trial in Milan which is expected to conclude in the first few months of 2021 while the company faces paying billions of dollars in penalties and compensation.

The allegations of criminality at Eni are striking, with many of the allegations already resulting in guilty verdicts and prison sentences against others involved in the same alleged schemes. Law enforcement investigations are continuing into the allegations of witness tampering and

attempted interference with legitimate investigations through the phantom Siracusa investigation with Eni, Descalzi and several other managers as formal suspects.

Despite the serious allegations levelled at Eni and its managers it is among the most active lobbyists in Brussels. Shockingly, senior EU officials have continued to meet Descalzi even while he is on trial for corruption.

The company also exerts significant influence through industry associations which collectively spend vast amounts attempting to influence gas policies in Europe. These associations have continued to represent Eni despite the allegations against the company and its senior managers.

Allegations of wrongdoing against major oil and gas companies however are not new. The extractives sector, including oil and gas companies, is responsible for more foreign bribery cases than any other industry according to an OECD study²⁵³.

Europe's biggest oil and gas company²⁵⁴, Royal Dutch Shell, is also on trial for the OPL 245 scandal. The Milan trial, while unprecedented in its scale, is just one among over 50 lawsuits Shell is facing over alleged human rights abuses, corruption and environmental destruction according to a 2018 compilation²⁵⁵.

Shell is currently in court in The Netherlands over claims the company has broken Dutch law by knowingly hampering the global phase-out of fossil fuels including through investing in public relations campaigns that misled the public about Shell's real intentions as well as lobbying against ambitious climate action and policies²⁵⁶. A Shell spokesperson said the company agreed with the plaintiffs that the climate crisis needed to be tackled but added that legal challenges would not speed up the move to renewables.

Shell declares spending more on lobbying the EU than any other fossil fuel company, declaring at least €4.5m in lobbying costs in 2019²⁵⁷.

Shell told Global Witness that they support the goal of the Paris Agreement adding that "We recognise that current Nationally-Determined Contributions will not deliver 1.5C and we support the need for further policy action. We support the development of robust and sustainable

policies to help the world get to net-zero emissions by 2050.” Shell also said that they aim to be at the forefront of the drive for greater corporate transparency, including on corporate political engagement. Shell’s full statement is available on the Global Witness website.

ExxonMobil is Europe’s next biggest fossil fuel lobbyist declaring at least €3.25m lobbying spending in 2019 yet has also been exposed as misleading the public over the consequences of burning fossil fuels. According to a 2015 Pulitzer shortlisted investigation by InsideClimateNews, ExxonMobil was aware of climate change as far back as 1977 but spent decades refusing to publicly acknowledge climate change and millions of dollars promoting climate denial²⁵⁸.

Asked about the allegations by Scientific American ExxonMobil said that it disagreed that any of its early statements were so stark, let alone conclusive at all. “We didn’t reach those conclusions, nor did we try to bury it like they suggest,” An ExxonMobil spokesperson told Scientific American.

ExxonMobil wasn’t alone in its actions, according to research from the Union of Concerned Scientists. Some of the world’s largest fossil fuel companies including BP, Chevron, ConocoPhillips, and Shell are said to have developed or participated in campaigns to deliberately sow confusion and block policies designed to reduce the heat-trapping emissions that cause global warming. The tactics allegedly used included collusion, the use of front groups to hide companies’ influence and avoid accountability, and the secret funding of purportedly independent scientists²⁵⁹.

In response ConocoPhillips accused the Union of Concerned Scientists of misrepresenting their participation in the complex, ongoing dialogue about climate change, BP insisted their position on climate change has been consistent and widely publicised since 1997 and ExxonMobil said that they take the issue of climate change seriously and believes the risks to society from increasing greenhouse gas emissions warrant action²⁶⁰.

Such tactics are reminiscent of elements of the tobacco industry’s campaign of misinformation questioning the health risks of smoking. The fossil fuel industry even used some of the same communications consultants as big tobacco²⁶¹.

The actions of the fossil fuel industry collectively have been to pollute the process of dealing with the threat of climate change, delaying action and sowing confusion, endangering every creature on the planet.

The tobacco industry playbook

In 2006 a US Federal judge found that at least five major tobacco companies had conspired to cover up the dangers of smoking. The judge wrote scathingly that “Over the course of more than 50 years, defendants lied, misrepresented and deceived the American public, including smokers and the young people they avidly sought as replacement smokers, about the devastating health effects of smoking.”²⁶²

The tobacco industry worked to counter public action on smoking through a range of tactics. The industry spent a vast amount lobbying and distributing political talking points while often basing their arguments on studies designed to undermine the scientific consensus around the health effects of tobacco. The industry would also attempt to influence decision makers through proxies not obviously tied to the industry including through secretly funded fake grassroots groups, a practice known as astroturfing, to give the impression of public opposition to action on the health issues²⁶³.

The 2005 UN Framework Convention on Tobacco Control which committed parties to protect both tobacco control and public health policies from the vested interests from the tobacco industry. The guidelines for enforcing the treaty state that: “Parties should interact with the tobacco industry only when and to the extent strictly necessary to enable them to effectively regulate the tobacco industry and tobacco products.” and “Where interactions with the tobacco industry are necessary, Parties should ensure that such interactions are conducted transparently. Whenever possible, interactions should be conducted in public, for example through public hearings, public notice of interactions, disclosure of records of such interactions to the public.”²⁶⁴

The European Union and all of its member states are signatories of the treaty and are committed to enforcing it, showing that action can be taken to restrict the public influence of industry when it is found to be in opposition to the public interest²⁶⁵.

BIG OIL REALITY CHECK: ASSESSING THE OIL MAJORS' CLIMATE PLANS



Ambition								
Stop exploration	Only in new countries	No	No	No	No	No	No	No
Stop approving new extraction projects	No	No	No	No	No	No	No	No
Decline oil and gas production by 2030	<30% drop by 2030	No	Plateau by 2025, decline only for oil	No	No	No	No	No
Set long-term production phase-out plan aligned with 1.5°C	No	No	No	No	No	No	No	No
Integrity								
Set absolute target covering all oil and gas extraction (full equity share)	Absolute; major Scope 3 loophole	No	Yes	Scope 3; intensity target only	No	Scope 3; close to absolute	Scope 3; intensity target only	Scope 3 "net zero" only in Europe
Do not rely on carbon sequestration or offsets	No	No	No	No	No	No	No	No
Be honest about fossil gas as high carbon	No	No	No	No	No	No	No	No
End lobbying and ads that obstruct climate solutions	No	No	No	No	No	No	No	No
Transition Planning								
Commit to explicit end date for oil and gas extraction	No	No	No	No	No	No	No	No
Commit plans and funding to support workers' transition into new sectors	No	No	No	No	No	No	No	No

COLOR CODE FOR RATING COMPANY COMMITMENTS AGAINST CRITERIA

Grossly insufficient	Insufficient	Partial alignment	Close to alignment	Fully aligned
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Read the full discussion paper: priceofoil.org/big-oil-reality-check



Can you smell gas?

Today, most oil and gas companies do acknowledge the threat of climate change. Major fossil fuel companies like BP, Shell and Eni in recent years have pitched green slogans suggesting they understand the need to cut carbon emissions²⁶⁶.

However, these companies and the industry more widely have continued to push their polluting products as part of the future they'd like to see, despite the scientific evidence piling up against their arguments.

A 2020 analysis by Oil Change International found that none of the eight major oil and gas companies' plans they analysed came close to aligning their actions with the urgent 1.5°C global warming limit as outlined by the Paris Agreement²⁶⁷. For example, none of the companies analysed, including Eni and Shell, committed to ending drilling for new oil and gas and all of the companies were judged to be failing at being honest about fossil gas being high carbon. A company's commitment or strategy that depends on growing fossil gas production, or mischaracterizes it as "low carbon," is not Paris-aligned.

A fundamental divide

There is a fundamental conflict between the oil and gas industry's interests in continuing with its current business model of fossil fuel use and the public interest in dealing with the climate crisis.

Despite this fundamental contradiction fossil fuel companies continue to enjoy easy lobbying access to Brussels decision makers.

Allegations of corruption and other criminality in Europe's gas companies should only heighten the concerns around their dealings with governments and other policy-making institutions across the EU.

Even Eni and its senior executives like Claudio Descalzi, facing credible allegations of massive corruption and polluting the process of accountability are still welcomed in the corridors of power.

The fossil fuel industry's actions over climate change and criminality in the industry demonstrate that it is not possible to treat the industry as a good faith participant in climate and energy policy making.

Global Witness believes that much like the tobacco industry was excluded from lobbying on health policy the fossil fuel industry's lobbying on climate and energy policy must be stopped. We can no longer afford to let the fossil fuel industry undermine our democracy as we try

and halt climate chaos, fix our energy system and protect people and the planet.

Oil and gas companies must not be allowed to pollute the process of tackling the climate crisis.

To tackle the climate emergency, and ensure that climate policy is conducted entirely in the public interest, we must cut fossil fuel interests out of politics, similar to existing restrictions on the tobacco industry. Before it's too late.

Along with nearly 200 other organisations we are calling for a fossil free politics²⁶⁸.

RECOMMENDATIONS

➤ European officials and politicians should institute a firewall to end the fossil fuel industry's access to decision-making and ability to lobby:

➤ Interactions with the fossil fuel industry should only occur where strictly necessary to enable lawmakers, regulatory bodies, and public authorities to effectively regulate the industry and accelerate the transition to a fossil free Europe.

➤ Where interactions do occur, they must be requested by public officials or lawmakers and be conducted transparently, for example through public hearings, public notice of interactions and minutes of meetings. The names of executives who lobby public officials should not be secret.

➤ European Commissioners and other public officials should decline lobbying meetings with Eni and its senior executives given the credible allegations of serious criminality.

➤ Shareholders in Eni, including the Italian government, must take immediate action to suspend executives accused of wrongdoing.

➤ Judicial authorities in Italy must be allowed to conduct investigations into wrongdoing without political interference or tampering from suspects.

ENDNOTES

- 1** LobbyFacts, <https://lobbyfacts.eu/reports/lobby-costs/all/0/2/2/21/0?sort=acc&order=desc>
- 2** Lobbyfacts disclosed lobbying spending for Eni S.p.A., EUROGAS aisbl (Eurogas), International Association of Oil & Gas Producers (IOGP), FuelsEurope (FuelsEurope), European Chemical Industry Council (CEFIC) and PlasticsEurope
- 3** 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
- 4** Court of Milan, 20/9/2018, Judgement 2232/18 of Judge Barbara against Di Nardo and Obi, p265, 296
- 5** Court of Milan, 20/9/2018, Judgement 2232/18 of Judge Barbara against Di Nardo and Obi, p143
- 6** La Stampa, 18/11/2020, “Caso “complotto Eni”, nuovo avviso di garanzia per l’ad Descalzi”, <https://www.lastampa.it/cronaca/2020/11/18/news/caso-complotto-eni-nuovo-avviso-di-garanzia-per-l-ad-descalzi-1.39554460>; Domani, 18/11/2020, “Eni, Descalzi indagato per il depistaggio ai danni dei pm di Milano”, <https://www.editorialedomani.it/fatti/eni-descalzi-indagato-per-il-depistaggio-ai-danni-dei-pm-di-milano-vbvr6zo9>
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- 8** RAI Report, 15/4/2019, “L’amara giustizia”, Transcript p9, <https://www.rai.it/programmi/report/inchieste/Lamara-giustizia-f4590853-1a95-4887-a807-185287b9ddc5.html>
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