Parliamentary Assembly
Assemblée parlementaire
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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Doc. 14776
07 December 2018

Election of Judges to the European Court of Human Rights

List and curricula vitae of candidates submitted by the Government of Italy

Communication
Secretary General of the Parliamentary Assembly

Contents **Page**

1. List and curricula vitae of candidates submitted by the Government of Italy 3

2. Report on the procedure to select three candidates for election as judge to the European Court of Human Rights 3

Appendix 1 – Antonio BALSAMO 6

Appendix 2 – Ida CARACCIOLO 11

Appendix 3 – Raffaele SABATO 15

1. List and curricula vitae of candidates submitted by the Government of Italy

Letter from Mr Marco Marsilli, Ambassador of Italy to the Council of Europe, to Mr Wojciech Sawicki, Secretary General of the Parliamentary Assembly, dated 14 November 2018.

[…]

I am referring to your letter of 9 November 2017 concerning the expiry of the term of office of Mr Guido Raimondi, Judge and current President of the European Court of Human Rights.

In this regard, […], I have the honour to submit to you the names of the three candidates nominated by the Italian Government for the election of the new judge to the European Court of Human Rights in respect of Italy. The names are:

Mr Antonio BALSAMO

Ms Ida CARACCIOLO

Mr Raffaele SABATO

You will also find enclosed their curricula vitae and the information relating to the selection procedure followed at national level which led to their appointment, together with a courtesy translation.

[…]

2. Report on the procedure to select three candidates for election as judge to the European Court of Human Rights

In view of the expiry of the non-renewable term of office of the Italian judge at the European Court of Human Rights, Mr Guido Raimondi, the Secretary General of the Parliamentary Assembly of the Council of Europe, Mr Wojciech Sawicki, in a memorandum dated 9 November 2017 informed Mr Marco Marsilli, Ambassador Extraordinary and Plenipotentiary, Permanent Representative to the Council of Europe, that it was necessary for Italy to initiate the procedure for the selection of candidates for the election of judge at the aforementioned court, and drew attention to the regulatory framework within which this procedure should be implemented.

Accordingly, in a memorandum dated 2 March 2018 addressed to the Italian Prime Minister, the acting Minister of Foreign Affairs initiated the procedure to shortlist three Italian candidates interested in holding this position.

The selection of candidates is regulated by Parliamentary Assembly Resolution 1646 (2009), which stipulates the selective nature of the procedure and outlines the procedure to be followed. The subsequent Resolution CM/Res(2010)26 adopted by the Committee of Ministers of the Council of Europe on 10 November 2010 provided for the establishment of the Council of Europe's Advisory Panel of Experts. Lastly, in document CM(2012)40-final, adopted on 28 March 2012, the Committee of Ministers of the Council of Europe outlined the guidelines on the selection of candidates for the post of judge at the European Court of Human Rights.

In order to meet the criteria set out in the above regulations, the Presidency of the Council of Ministers, in agreement with the Ministers of Justice and Foreign Affairs, adopted the procedure outlined below.

Public notice

The selection process was initiated by a public notice adopted by the Secretary General of the Presidency of the Council of Ministers on 25 May 2018, published in the Official Gazette 4ª Special Series – Competitions and Exams – No. 43 of 1 June 2018. Expressions of interest were received by the Presidency of the Council of Ministers within the mandatory deadline of thirty days from the publication of the notice (1 July 2018).

The public notice indicated the requirements deemed necessary for participation in the selection procedure, as provided for by the abovementioned regulations, and specified the need for interested parties to submit a declaration stating that they were aware that the job was full time, incompatible with the performance of any other professional activity, even for a fixed period, and required a continuous period of residence in Strasbourg.

In addition, in order to ensure maximum transparency in the selection procedure and evaluation of the candidates by persons having the necessary expertise, point 6 of the notice provided for the establishment, by means of a specific subsequent provision, of an inter-ministerial committee comprised of five experts tasked

with producing a shortlist of three candidates. One of the experts would be appointed by the Presidency of the Council of Ministers (acting as Chair), two by the Ministry of Foreign Affairs and International Co-operation and two by the Ministry of Justice.

Establishment of a Committee of Experts

In a memorandum dated 5 July 2018, the Minister of Justice appointed Dr Filippo Spiezia, National Member for Italy of Eurojust, and Dr Vladimiro Zagrebelsky, former judge of the European Court of Human Rights, to represent the Ministry. In a memorandum dated 13 July 2018, the Secretary General of the Ministry of Foreign Affairs and International Co-operation notified the appointment of Minister Manuel Jacoangeli, former Permanent Representative of Italy to the Council of Europe in Strasbourg and currently serving at the Ministry, and Minister Plenipotentiary Francesca Tardioli, Deputy Political Director/Principal Director for the United Nations and Human Rights, as members representing the Ministry.

Pursuant to the provision of 26 July 2018 issued by the Secretary General of the Presidency of the Council of Ministers, the Inter-ministerial Committee of Experts was therefore established to shortlist the three candidates, chaired by Prof. Giuseppe Tesauro, President Emeritus of the Constitutional Court, and composed of the abovementioned appointees, Dr Manuel Jacoangeli, Dr Filippo Spiezia, Dr Francesca Tardioli and Dr Vladimiro Zagrebelsky.

The Committee's work

The Committee of Experts, assisted by a Technical Secretariat set up within the Department of Administrative Co-ordination at the Presidency of the Council of Ministers, held its first meeting on 1 August 2018. At that meeting, the Committee examined the documentation and, on the instructions of the Chair, members were given special pen-drives containing the files relating to the expressions of interest and all the documents of the procedure in order to enable them to examine the CVs of the 63 candidates more quickly. At its next meeting on 28 August 2018, the Committee collectively examined all the expressions of interest received, together with the related documentation as forwarded by the candidates.

In assessing the CVs, the Committee took into account the criteria set out in the guidelines adopted by the Committee of Ministers of the Council of Europe on 28 and 29 March 2012 (CM(2012)40-final), including the criterion of gender equality, and the requirements set out in the notice published in the Official Gazette 4ª Special Series – Competitions and Exams – No. 43 of 1 June 2018. On the basis of those requirements and criteria, the Committee, after extensive and in-depth examination and discussion, shortlisted, by a majority of four votes to five, the following three candidates: Dr Antonio Balsamo, judge at professional seniority level VI (24-28 years of service), Professor Ida Caracciolo, professor of international law in the Department of Political Science at the University of Campania "Luigi Vanvitelli" and Dr Raffaele Sabato, judge at the Italian Supreme Court of Cassation. Their CVs are appended.

In the light of the information contained in the CVs and documents examined, the Committee did not consider it necessary to interview the candidates.

The Committee's decisions were submitted, for information, to the Italian Council of Ministers on 7 September 2018 and following that meeting, the President of the Council of Ministers that day sent a memorandum to the Chair of the Committee of Experts for the Selection of the Italian Judge to the European Court of Human Rights, asking him to explain the reasons behind the choices made with regard to the evaluation of the candidates.

In view of that request, the Head of the Department of Administrative Co-ordination at the Presidency of the Council of Ministers expressed the need to inform the Secretary General of the Council of Europe, via the Permanent Representative of Italy to the Council of Europe, that an additional period of time was required in which to complete the necessary formalities. On 13 September 2018, the Advisory Panel of Experts on Candidates for Election as Judge to the European Court of Human Rights granted an extension to the original deadline of 6 September 2018, set at no later than 5 October 2018.

The Committee met on 12 and 20 September 2018.

At its meeting on 12 September 2018, the Committee reviewed and confirmed the reasoning that supported the assessments and choices made at the meetings on 1 and 28 August 2018 and, after reviewing all the CVs, drafted and discussed a summary of their contents, accompanied by a final summary opinion on each candidate profile. The Committee noted that of the 63 candidates, the majority (52) did not sufficiently meet the requirements laid down in the public notice to be positively assessed for the position in question.

On the basis of the above exclusions, the Committee shortlisted 11 candidates whose profiles it considered particularly impressive and therefore deserved further consideration.

In-depth reports were drafted and discussed with a final summary opinion on four candidates and the work was adjourned to be finalised at a subsequent meeting. At its meeting on 20 September 2018, the Committee drafted and discussed the reports on the remaining seven candidates, together with the related final opinions and, on the basis of the discussions and comments at the meetings on 1 and 28 August 2018 and 12 September 2018, it confirmed, by a majority (four out of five), the following three candidates: Dr Antonio Balsamo, Professor Ida Caracciolo and Dr Raffaele Sabato. It considered that, although the remaining candidates had impressive profiles and possessed the relevant qualifications, they could not be evaluated at the same level as the three shortlisted candidates.

A report on the Committee's work was presented at the Council of Ministers' meetings on 27 September and 4 October 2018.

The Committee's work was recorded in the minutes of the meetings, signed by the members of the Committee.

Shortlisting three candidates

Following the report given to the Council of Ministers, the President of the Council of Ministers, via the Permanent Representative of Italy to the Council of Europe, provided the Council of Europe Advisory Panel of Experts with the list of the three candidates: Dr Antonio Balsamo, Professor Ida Caracciolo and Dr Raffaele Sabato, already recommended by the Committee of Experts.

Secretary General

(Professor Roberto Chieppa)

Appendix 1 – Antonio BALSAMO

CURRICULUM VITAE[1]

I. Personal details

Name, forename: Balsamo Antonio

Sex: Male

Date and place of birth: 10 August 1964, Palermo

Nationality: Italian

II. Education and academic and other qualifications

– 1986 – University of Palermo, Degree in Law ('*Magna cum laude*')

– 1991 – University of Palermo, Diploma of Specialization in Regional and Local Government Law ('*Magna cum laude*')

– 2002–2007 – Contract Professor of Criminal Law and Procedure at the University of Palermo, Postgraduate School of Specialisation for the Legal Professions

– 2007–2008 – Contract Professor of Anti-Organised Crime Law and Procedure at LUMSA University, Faculty of Law

– 2010–2016 – Contract Professor of Criminal Law at LUMSA University, Faculty of Law, Postgraduate School of Specialisation for the Legal Professions

– **2016–to date – Contract Professor of Criminal Law (taught in English) at LUMSA University, Faculty of Law**

III. Relevant professional activities

a. Description of judicial activities

– 2017–to date – **Judge of the Constitutional Court Chamber (Reserve Judge) of the Kosovo Specialist Chambers, The Hague:** An internationalized tribunal established to try grave international crimes, including, war crimes and crimes against humanity. Delivered Constitutional Court Judgment in June 2017 on the relevant European human rights standards required of the *Rules of Procedure and Evidence*; participated, where appropriate, in all Plenary Sessions of the Court; contributed to all meetings of the Chamber and engaged in the drafting of the Rules of Procedure of the Specialist Chamber of the Constitutional Court

– 2016–2018 – Deputy Prosecutor General of the Italian Supreme Court of Cassation

Prosecutor in criminal proceedings before the Court (including in trials for terrorism, organised crime, corruption, offences against the European Union's financial interests), also when sitting in Joint Chambers

Member of the Working Groups with competence for Extradition, Recognition of Foreign Judgments, Patrimonial Prevention Measures (Seizure and Forfeiture of Assets) and the Resolution of Conflicts of Competence between Prosecution Offices

– 2011–2016 – President of the Court of Assize of the Tribunal of Caltanissetta and President of the Division competent for Patrimonial Preventive Measures; in particular, President of the Court competent for the most serious crimes committed against the Judges and Prosecutors of Palermo, including the new trial of those charged with responsibility for the *Capaci Massacre* and the *Via D'Amelio Massacre* in which the Judges Giovanni Falcone and Paolo Borsellino were victims of terrorist killings within the context of organised crime; this judicial activity has continued via secondment until 2018

– 2007–2011 – Tribunal Judge seconded to the Supreme Court of Cassation

1. Text in bold indicates posts or missions held at present.

– 1995–2007 – Judge of the Tribunal of Palermo – with responsibility for several high-profile trials relating to organised crime, such as, for example, the *Giulio Andreotti* trial

– 2000–2007 – Judge of the Court of Assizes of Palermo – the Judicial Body dealing with the most serious crimes of the '*Mafia War*, including those committed by members of *Cosa Nostra* against journalists, public officers and entrepreneurs

– 1998–2002 – Presiding Judge of the Panel of the Tribunal of Palermo seized of important patrimonial prevention proceedings, ordering the confiscation of hundreds of millions of euros worth of assets belonging to members of the Sicilian Mafia

– 1992–1995 – Judge of the *Pretura* of Palermo

b. Description of non-judicial legal activities

– 2018–to date – **Legal Adviser of the Permanent Mission of Italy to the United Nations** in Vienna: responsibilities include participation in the negotiations for the approval of the deliberations of the Working Groups and the Conferences of the States Parties to the UN Conventions against Transnational Organized Crime (UNTOC) and against Corruption (UNCAC), in the coordination meetings with EU countries, in the activities of the Commission on Crime Prevention and Criminal Justice (CCPCJ) and of the United Nations Commission on International Trade Law (UNCITRAL), in the initiatives of the United Nations Office on Drugs and Crime (UNODC)

– 2013 – Member of the Committee established by the Minister of Justice, with the task of drafting a proposal for the reform of the Anti-Mafia Code with particular regard to illicit asset recovery

– 2010–2012 – Presiding Member of the Human Rights Review Panel of EULEX

Based in Kosovo, the Panel is an independent, external and impartial body established by the European Union with responsibility for reviewing human rights violations allegedly committed by EULEX Kosovo in the conduct of its executive mandate

– 2006–2008 – Member of the Commission for Reform of the Criminal Code established by the Minister of Justice

– 2002–2006 – Member of the Scientific Committee of the High Council of the Judiciary

IV. Activities and experience in the field of human rights

Human rights and, in particular, fair trial requirements have been the central to my entire professional life whether as a Judge in charge of proceedings, a Prosecutor before the Court of Cassation or a Professor of Criminal Law.

– As a national Judge in trials concerning some of the most serious crimes committed within the State over the last decades, I have handed down several judgments that have developed an interpretation of Italian legislation in a manner consistent with the jurisprudence of the European Court of Human Rights with a view to proactively creating a legal culture within which Convention rights are promoted rather than merely observed.

– As an International Judge, I was and remain charged with responsibility for ensuring that the Kosovo Specialist Chambers conducts hearings at all times in a manner that is consistent with international human rights standards and, in particular, with those guaranteed under the European Convention on Human Rights.

– As Presiding Member of the Human Rights Review Panel of EULEX Kosovo, I had the opportunity of disseminating and enforcing European and international human rights standards and strengthening the conditions necessary for the effective functioning and development of democratic institutions.

– Through my academic and scientific work, as well as my activities in the fields of training of judiciary, capacity building and draft legislative reforms, I have contributed in a concrete manner to the spread of a human rights culture.

V. Public activities

a. Public office

Judicial office and other offices, as above

b. Elected posts

Not applicable

c. Posts held in a political party or movement

None

VI. Other activities

Field: Training of Judges and Prosecutors of the Supreme Court of Cassation

Duration: 2009-2011 and 2016-2018

Functions: Member of the Body for the professional training of judges and prosecutors of the Supreme Court of Cassation

Field: European Parliament meetings

Duration: 2017-2018

Functions: Speaker at European Parliament meetings in Brussels on various subjects (on “Judicial cooperation in the field of terrorism” in the meeting of the Special Committee on Terrorism of 19 June 2018; on “The fight against corruption in the judicial sector: case study of Italy” in the meeting of the ACP-EU Joint Parliamentary Assembly of 22 March 2018; on the Proposal for a Directive on countering money laundering by criminal law in the shadow meeting of the LIBE Committee of 6 September 2017)

Field: Judicial training, technical assistance and capacity building in other countries

Duration: 2005-2017 (over various dates and bodies)

Functions: Council of Europe Expert in seminars and workshops on the role of prosecutor in criminal proceedings (Podgorica, Montenegro, 12 July 2010), on the exchanging of good practices in the area of asset recovery (Sofia, Bulgaria, 23 June 2016), on the review of legislative mechanisms and practical approaches to enhance effective prosecutions, convictions, confiscations for proceeds generating offences, including money laundering (Tirana, Albania, 20 October 2017)

Expert in EU Projects regarding the reform of the penal procedure in Bulgaria (2005-2006), the establishment of a Public Prosecutors Office to deal with organized crime and corruption in the “former Yugoslav Republic of Macedonia” (2007-2008), the confiscation of assets and the amendments of anti-mafia law in Albania (2015 and 2017), and the TAIEX Peer Review Mission on Criminal Procedure and Organised Crime in Bosnia and Herzegovina (2017)

Consultant of the International Organization for Migration in a project aimed at efforts to combat human trafficking especially in the field of the protection of victims (2008)

Field: Scientific, Editorial and Executive Contributions

Duration: 2006-2018 (over various dates and bodies)

Functions: Co-Director of the Journal *La Magistratura* from 2007 to 2010

Member of the Scientific Committee of the Journal *Il Diritto Penale della Globalizzazione;*

Member of the Scientific Committee of the Journal *Archivio Penale*;

Member of the Regional Scientific Committee of the International Institute of Higher Studies in Criminal Sciences (ISISC) from 2006 to 2008 and from 2011 to 2012;

Member of the Executive Board of the Italian National Association of Judges (ANM) from 2007 to 2012;

Included in reserve list as a **Potential Member of the Supervisory Committee of the European Anti-Fraud Office (OLAF)** by the Decision (EU, Euratom) 2016/1201 of the European Parliament, the Council and the Commission of 13 July 2016.

VII. Publications and other works

Author or co-author of over 100 publications (including four books) concerning, for the most part, the jurisprudence of the European Court of Human Rights and other issues of EU and International Law, a small sample of which include:

– The Content of Fundamental Rights, in Handbook of European Criminal Procedure, Springer International Publishing, 2018

– Lutter contre le terrorisme et l'État de Droit: les nouvelles frontières de la justice pénale, interview by Daniela Piana, in La lutte contre le terrorisme et les droits fondamentaux en droit comparé, Société de législation comparée, Paris, 2018

– The delocalisation of mafia organisations and the construction of a European law against organised crime, in Mafia-type Organisations and Extortion in Italy, Routledge, London and New York, 2017

– Intercettazioni ambientali mobili e cooperazione giudiziaria internazionale: le indicazioni desumibili dalla giurisprudenza della Corte di Strasburgo, in Cassazione Penale, 2016

– Balsamo-Trizzino, La Corte europea, l'ergastolo e il 'diritto alla speranza', in Cassazione Penale, 2013

– Balsamo – Contrafatto – Nicastro, *Le misure patrimoniali contro la criminalità organizzata*, Giuffrè, Milan, 2010; dealing with seizure and confiscation in the light of the jurisprudence of the European Court of Human Rights and quoted in the judgments adopted by the Federal Penal Tribunal of Switzerland on 2 June 2016, 21 January 2011 and 1 December 2010, regarding international judicial cooperation

– Balsamo-De Amicis, Terrorismo internazionale, congelamento dei beni e tutela dei diritti fondamentali nell'interpretazione della Corte di giustizia, in Cassazione Penale, 2009

– Balsamo – Kostoris (eds.), ***Giurisprudenza europea e processo penale italiano***, Giappichelli, Turin, 2008; contains an in-depth analysis of the case-law of the European Court of Human Rights and its impact on Italian criminal procedure and was the first of its kind to be published in Italy after the two judgments of the Constitutional Court in 2007 that transformed the status of the European Convention in the domestic legal system thereby enhancing the effectiveness of fundamental rights

– Operazioni sotto copertura ed equo processo: la valenza innovativa della giurisprudenza della Corte europea dei diritti dell'uomo, in Cassazione Penale, 2008

– Balsamo – Lo Piparo, *La prova "per sentito dire". La testimonianza indiretta tra teoria e prassi applicativa*, Giuffrè, Milan, 2004; dealing with hearsay evidence in a comparative perspective based on the case-law of the of the European Court of Human Rights and quoted in the judgments adopted by the *Tribunal da Relação* of Lisbon on 4 July 2012 and 11 October 2006

VIII. Languages

Language	Reading			Writing			Speaking		
	very good	good	fair	very good	good	fair	very good	good	fair
a. First language:									
Italian	**X**			**X**			**X**		
b. Official languages:									
English	**X**			**X**			**X**		
French		**X**			**X**			**X**	

IX. In the event that you do not meet the level of language proficiency required for the post of judge in an official language [the second], please confirm your intention to follow intensive language classes of the language concerned prior to, and if need be also at the beginning of, your term of duty if elected a judge on the Court.

I confirm my intention to follow intensive language classes in order to improve my language proficiency prior to, and if necessary also at the beginning of, my term of duty if elected a judge on the Court.

X. Other relevant information

I believe that my suitability for nomination to the Office of Judge of the European Court of Human Rights is evidenced by:

– Extensive judicial experience both in national courts and within an internationalised tribunal exercising supervisory jurisdiction in relation to European human rights standards

– Assignment as Presiding Judge in complex and sensitive high-profile cases coupled with senior court management experience

– Delivery of Judgments that are promotive of a human rights culture

– Renowned competence as Senior Prosecutor with extensive trial experience coupled with significant contributions made to the training of judges, prosecutors and lawyers

– Significant experience of working within a culturally diverse context and a multi-linguistic legal environment

– The character requirements necessary to serve as an International Judge

A reputation for integrity, independence and sound judgment

A strong sense of respectful collegiality, combined with the willingness to challenge and be challenged

A reputation for managing relationships, listening well and articulating positions in a concise, coherent and open-minded manner

The right blend of personal confidence and humility.

XI. Please confirm that you will take up permanent residence in Strasbourg if elected a judge on the Court.

I confirm that I will take up permanent residence in Strasbourg if elected a judge on the Court.

Appendix 2 – Ida CARACCIOLO

CURRICULUM VITAE[2]

I. Personal details

Name, forename: Caracciolo Ida

Sex: Female

Date and place of birth: 24 November 1961, Rome

Nationality: Italian

II. Education and academic and other qualifications

– **Full Professor of International Law, Department of Political Sciences, University of Campania "Luigi Vanvitelli" (previously University of Naples 2) since 2005**

– Associate professor of International Law, Faculty of Law, University of Naples 2 (2001-2005)

– Assistant Professor of International Law, Faculty of Law, University of Rome "Tor Vergata" (1992-2001)

– **Barrister in Rome (since 1989)**

– Master's degree in Law *magna cum laude* – "La Sapienza" University of Rome, Faculty of Law (1985) with a dissertation on the criminal liability of physicians

– Classical High School Diploma (Liceo Classico "Francesco Vivona", Rome) with full marks (1980)

III. Relevant professional activities

a. Description of judicial activities

– **Judge *ad hoc* in the European Court of Human Rights, cases *Berlusconi v. Italy* (Application No. 58428/13) and *Miniscalco v. Italy* (Application No. 55093/13) since 2017**

– **Member of the Permanent Court of Arbitration since 2013**

– **Conciliator in the Court of Arbitration and Conciliation of OSCE since 2012**

b. Description of non-judicial legal activities

Academic activities

– **Full Professor of International Law, Department of Political Sciences, University of Campania "Luigi Vanvitelli" (previously University of Naples 2) since 2005**

– **Professor of International Law, Link Campus University, Rome since 2004**

– Scientific and Didactic Director of the Courses for "Legal Advisors in the Armed Forces" and the connected refresher Courses, Center for High Defence Studies, CASD, Rome (2016-2018)

– Professor of International Humanitarian Law at the Academy for Officials of Carabinieri, Rome (2017-2018)

– Professor of International Law in various Institutes of High Education in Italy such as:

the High Studies Institute of Economics and Finance, (Scuola Superiore dell'Economia e della Finanza), Rome

the Italian Society for International Organization (SIOI), Rome

the High Studies Institute of the Ministry of Interior, Rome

the High Studies Institute for the Italian Public Administration (SNA), Rome

2. Text in bold indicates posts or missions held at present.

the Center for Air and Sea Cooperation of the Financial Police

the High Studies Institute for the Financial and Economic Policing, Rome

– Visiting Professor of International Law in the University of Paris 8 in 2012 and in 2016

Counsel activities

– **Counsel for Italy in the *M/V Norstar* case between Italy and India before the International Tribunal for the Law of the Sea, since 2016**

– **Counsel for Italy in the *Enrica Lexie Incident* case (the sc "Italian Navy marines case") before the International Tribunal for the Law of the Sea and the Tribunal under the UNCLOS 1982 Annex VII since 2015**

– Advisor for Italy in the case of *Beyler v. Italy* (Application No 33202/96) before the European Court of Human Rights (2000-2002)

– Advisor for Italy in the case C-66/00, *Criminal Proceedings against Dante Bigi,* before the EC Court of Justice (2000-2001)

– Counsel for Italy in the *Legality of Use of Force* (Serbia and Montenegro v. Italy) case before the International Court of Justice (1999-2004)

– Counsel for Italy in the *Immunity from Legal Process of a Special Rapporteur of the Commission on Human Rights* advisory proceedings before the International Court of Justice (1998-1999)

– Counsel for Italy in the *Legality of the Threat or Use of Nuclear Weapons* advisory proceedings before the International Court of Justice (1995-1996)

– Advisor for Italy in the proceedings for the Opinion 2/94 of the EC Court of Justice on the *Accession of the European Community to the Convention for the Protection of Human Rights and Fundamental Freedoms* (1994-1996)

Activities as legal expert

– **Legal expert in the Legal Service of the Italian Minister for the Foreign Affairs since 1994**

– Member of the Italian delegation in various committees of international organisations dealing with public international law issues, such as CAHDI within the Council of Europe, COJUR and COMAR within the European Union

c. Description of non-legal professional activities

– **Vice-Director of the Department of Political Sciences, University of Campania "Luigi Vanvitelli" since 2010**

– President of the MA Course on "International Relations and Organizations", Department of Political Sciences, University of Campania "Luigi Vanvitelli" since 2010

– **Member of the Board of Professors in the PhD Degree in "Comparative Law and Integration Processes" of the University of Campania "Luigi Vanvitelli" since 2002**

IV. Activities and experience in the field of human rights

– **Judge *ad hoc* in the European Court of Human Rights in the cases *Berlusconi v. Italy* (Application No. 58428/13) and *Miniscalco v. Italy* (Application No. 55093/13) since 2017**

– **Director of a Research Project of the Department of Political Sciences of the University of Campania "Luigi Vanvitelli" on "Mediterranean, Migration and Minors" (2017-2018)**

– Professor of International Humanitarian Law at the Academy for Officials of Carabinieri, Rome (2017-2018)

– Member of the Commission established by the Ministry of Economy and Finance and the Ministry of Justice to adapt the Italian legal rules on criminal procedure to international criminal law (2001-2004)

– Member of the Italian Delegation to the first Assembly of the States parties to the International Criminal Court (2002)

– Advisor in the case of *Beyler v. Italy* (Application No 33202/96) before the European Court of Human Rights (2000-2002)

– Advisor for Italy in the case C-66/00, *Criminal Proceedings against Dante Bigi,* before the EC Court of Justice (2000-2001)

– Member of the Italian Delegation to United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court and its preparatory works (1994-1998)

V. Public Activities

VI. Other activities

a. Field

Research project of national interest (PRIN 2009) on “Synallagmatic Relationship between Disarmament and Nuclear Non-Proliferation: Strengthening Treaty Obligations and Countering Nuclear Terrorism” co-financed by the Italian Ministry of the University

b. Duration

2 years

c. Functions

National Director

VII. Publications and other works

Author of four books on Public International Law and EU Law; editor of six books; author of about forty articles in scientific reviews and books in Italian, English and French dealing with public international law, including human rights law, international criminal law and humanitarian law.

Books

– Il diritto internazionale: diritto per gli Stati e diritto per gli individui. Parte generale, Torino, Giappichelli, 2012 (with U. Leanza)

– Il diritto internazionale: diritto per gli Stati e diritto per gli individui. Parti speciali, Torino, Giappichelli, 2010 (with U. Leanza)

– La rilevazione dei valori democratici nell'Unione europea. Una proiezione internazionale per l'identità giuridica occidentale, Editoriale Scientifica Napoli, 2003

– Dal diritto penale internazionale al diritto internazionale penale: il rafforzamento delle garanzie giurisdizionali, Napoli, Editoriale Scientifica, 2000

Articles

– Light and Shade of the Legal Framework on Cooperation between the ICC and Peacekeeping, in Caracciolo I., Montuoro U. (eds.), New Models of Peacekeeping. Security and Protection of Human Rights, Torino, Giappichelli Editore, 2018, p. 147 et seq.

– Some Concluding Remarks on the Twofold Goals of Contemporary Peacekeeping: Security and Human Rights, in Caracciolo I., Montuoro U. (eds.), New Models of Peacekeeping. Security and Protection of Human Rights, Torino, Giappichelli Editore, 2018, p. 233 et seq.

– Il caso Al Mahdi: responsabilità penale internazionale per crimini di guerra e azioni di “pulizia culturale e religiosa”, in Studi in onore di Ugo Villani, Bari, Cacucci, 2017, p. 101 et seq.

– Migration and the Law of the Sea: Solutions and Limitations of a Fragmentary Regime, in Pellet A., Crawford J. et al. (eds.), Collected Studies in Honour of Djamchid Momtaz, Oxford, Oxford University Press, 2017, p. 274 et seq.

– Un nuovo passo nella tutela dei diritti umani sotto il profilo penalistico: i risultati della Conferenza di Kampala sulla revisione dello Statuto della Corte penale internazionale, in Panella L., Spatafora E. (a cura di), Studi in onore di Claudio Zanghì, Torino, Giappichelli, 2011, vol. II, p. 413 et seq.

– Dalla tratta di schiavi alla tratta di migranti clandestini. Eguaglianze e diversità nella prevenzione e repressione internazionali del traffico di esseri umani, in Atti del IX Convegno della Società italiana di diritto internazionale “Le migrazioni. Una sfida per il diritto internazionale, comunitario e interno”, Roma 17-18 giugno 2004, Napoli, Editoriale scientifica, 2005, p. 153 et seq.

VIII. Languages

Mother tongue

Italian

Official Languages

Language	Reading			Writing			Speaking		
	very good	good	fair	very good	good	fair	very good	good	fair
– English (Cambridge First Certificate, grade A, in 1985)	x			x			x		
– French	x			x			x		

IX. In the event that you do not meet the level of language proficiency required for the post of judge in an official language, please confirm your intention to follow intensive language classes of the language concerned prior to, and if need be also at the beginning of, your term of duty if elected a judge on the Court.

I confirm my intention to follow intensive language classes of the concerned language if I do not meet the level of language proficiency required for the post of judge.

X. Other relevant information

Speaker in numerous conferences, workshops, seminars in Italy and abroad on public international law, human rights law, international humanitarian law and international criminal law.

Member of:

the Italian Society for International Organization (SIOI) since 2006

the Human Rights Committee of the Italian Society for International Organization (SIOI) since 2006

the European Society of International Law-ESIL since 2005

the Italian Society of International Law (SIDI-ISIL) since 1996

Member of the Scientific Boards of various scientific reviews and books series:

Review “La Comunità internazionale”

Series “Studi e documenti di diritto internazionale e comunitario”

Series “Quaderni del Dipartimento di Scienze politiche dell’Università della Campania “Luigi Vanvitelli”

Series “Studi e dialoghi giuridici”

Officer of the Order of Merit of the Italian Republic (2010)

XI. Please confirm that you will take up permanent residence in Strasbourg if elected a judge on the Court.

I will take up permanent residence in Strasbourg if elected judge on the Court.

Appendix 3 – Raffaele SABATO

CURRICULUM VITAE[3]

I. Personal details

Name, forename: Sabato, Raffaele

Sex: Male

Date and place of birth: 1st October 1960, Castellammare di Stabia, Naples, Italy

Nationality: Italian

II. Education and academic and other qualifications

1. He was educated at the "Liceo Classico Plinio Seniore" in his home town, Castellammare di Stabia (Italy, full marks, 1977) and then took a U.S. "High School Diploma" (McAllen, Texas, U.S., *summa cum laude*, 1978) as an AFS scholar.

2. He read law at the University of Naples (later renamed "Federico II"; among his professors, Antonio Tizzano for EU Law). His thesis dealt with comparative law issues in references to Islam contained in some constitutions vis-à-vis international human rights texts (Italy, *summa cum laude*, 1983). Upon recommendation by prof. Benedetto Conforti, chair of his thesis examining board, he was awarded by Italy's "Consiglio Nazionale delle Ricerche" (National Research Agency) a grant to pursue these studies at the University of Alexandria (Egypt, 1985; the scholarship was then given up due to start of employment with the Bank of Italy-see *infra* III.b.1).

3. Upon leave from the Bank of Italy (see *infra* III.b.1), he received an MCJ (Master of Comparative Jurisprudence) degree at the University of Texas at Austin Law School as a Rotary Foundation scholar (Texas, U.S., 1983; prof. Russell J. Weintraub and prof. Kenneth Simmonds from the London University were his supervisors for term papers respectively in Conflicts of Law and International Law).

4. During his service at the Bank of Italy he studied toward a graduate degree in Political Science at the University of Macerata (Italy, *summa cum laude*, 1988) and a post-graduate degree in Commercial Law at the University of Naples "Federico II" (Italy, full marks, 1991).

III. Relevant professional activities

a. Description of judicial activities

1. After appointment as a judge in 1991 on the basis of a public competitive examination, he practised in the Naples Court, for about 20 years, in some core areas of the law, mainly in a civil and occasionally in a criminal court: commercial, banking, real property, wills, personal injury, consumers' contracts, corporations, etc. He often dealt with European law issues connected with cases he adjudicated; he covered the role of coordinating judge in the civil Court for letters rogatory and judicial co-operation. Mostly operating as a single judge, he often participated in panel cases, sometimes serving as presiding judge starting in 2009.

2. Based on a ranking as "Excellent" granted by a mixed National Panel for Judicial Appointments composed of judges, attorneys and law professors, in 2012 he was called by Italy's CSM (Consiglio Superiore della Magistratura – the self-governing body for the judiciary) to serve as a **justice** in the Italian **Supreme Court of Cassation**. He was initially in the Civil Chamber specializing in Tax Law (often with an EU law impact) and then in the Civil Chamber specializing in Property, Wills, Contracts and Supervision on Professionals and Financial Activities. He is serving in this chamber **as of 2018**.

3. In the period **2000-2018**, upon appointment by the Italian CSM, he also served as **member of the Consultative Council of European Judges (CCJE) within the Council of Europe (Strasbourg, France)**. He was member of its Working Party since its very start in 2000; was elected Vice Chair of the CCJE for 2004 and 2005, and Chair for 2006 and 2007 (the latter by a unanimous vote of the Council's Plenary). In 2006 he took up the CCJE's Chair succeeding the previous Chairs, Lord Mance (UK) and Alain Lacabarats (F), and then having Julia Laffranque (EST) as Vice-Chair and successor in the Chair. At present he is still serving in

3. Text in bold indicates posts or missions held at present.

the Council. The CCJE is the advisory body in the area of the judicial profession to the Committee of Ministers of the Council of Europe and has issued several Opinions to the attention of the CM on topics related to art. 6 ECHR, as well as a Magna Carta for Judges and situation reports on the judiciaries of CoE member states (see www.coe.int/ccje).

4. Between 1996 and 2012, he co-operated with Italy's CSM in the field of initial and permanent training of judges, serving as a trainer in civil law, civil procedure, organisation of the judiciary, judicial ethics, alternative dispute resolutions, European and international law, human rights; both for initial and in-service training of judges.

5. On the basis of his experience in training, for the period 1998-2001 he was appointed as a member of the Scientific Committee for Judicial Training at the CSM, with the task of identifying training needs of the judiciary, proposing training initiatives, supervising the same initiatives during realisation. In such capacity he has organised a number of training initiatives at the national level aimed at the training of newly recruited judges, as well as of experienced judges; within the Scientific Committee, he has been responsible for European and international activities in the field of judicial training; in this position, served as *liaison* with foreign judicial training structures, the European Judicial Training Network, as well as the EU (specifically, for the GROTIUS and SCHUMAN projects) and the Council of Europe. Numerous initiatives each year concerned the ECHR and the case law of the ECtHR.

6. In 2010 he was appointed by CSM as a member of the Board of Directors of the Italian School for the Judiciary, the public entity which took up from CSM, starting in 2012, the task of initial and permanent training for Italian judges and prosecutors. In the period 2012-2015 he was responsible within the School for the European and international sector (training on the ECHR and the EU Charter of Fundamental Rights (CFREU)), Consumers' protection, European Civil Procedure and Co-operation in Civil and Commercial Matters, International Private Law [especially in the area of family law, contract and tort law], Asylum Law, Intellectual Property and Antitrust Law, as well as Legal Languages; the training initiatives were developed in co-operation with several Universities and national and European authorities).

7. Starting in 1999, he has been called by the Council of Europe to serve as a judicial expert in a number of programmes of multilateral international co-operation: judicial and prosecutorial training, assistance on law drafts on the organisation and functioning of justice systems vis-à-vis art. 6 ECHR, reforms relating to ADR, etc. (among the Council of Europe bodies involved, the Lisbon Network, for which also served as General Rapporteur and Analyst; the joint programme Council of Europe-European Union for Albania; the co-operation framework with Azerbaijan; etc.); specific programmes involved Croatia and the Russian Federation; a new programme with Albania was active in 2014-2016.

8. Within the European Union, he has been a member of the Steering Party of a Phare Horizontal Programme for training in European Law of judges of countries which were candidates for accession (e.g. Slovakia and Slovenia); he has also been an expert for the TAIEX Programme (e.g. Georgia). Starting in **2013**, in agreement with the Ministry of Justice, he has been serving as **Contact Person within the Italian judiciary** for the **EU Commission Justice Scoreboard** and other initiatives of the Unit Justice Policy and Rule of Law of the same Commission.

9. For the years 2011, 2012, 2013, 2014 and 2015, upon authorization of Italy's CSM, he was one of the co-drafters of the Reports to the Italian Parliament on the implementation in Italy of the decisions of the European Court of Human Rights. These yearly reports, under the authority of the Presidency of the Council of Ministers, are provided for by Law 9 January 2006, no. 12 with the goal of allowing monitoring by the Italian Parliament (see http://presidenza.governo.it/CONTENZIOSO/contenzioso_europeo/relazione_annuale.html).

b. Description of non-judicial legal activities

1. In 1985 he was selected in a national recruitment competition by the Bank of Italy (the domestic agency for banking supervision) to be employed in a position for law graduates. Initially working in Bolzano (in an area of Italy where bilingualism in Italian and German is in force), he then served in the Bank's headquarters in Rome until 1991, when he was appointed a judge, resigning while covering the position as junior manager ("Funzionario II") in the department "Normativa e Affari Generali di Vigilanza", having ranked 2nd on a national basis in the relevant advancement procedure.

2. In the session of 1985 he was admitted to the Bar (admission effective in 1987).

3. He developed an extensive experience in teaching and lecturing in the areas of civil, European and international law, and specifically human rights, as well as in delivering training in the same areas within the legal professions (see *supra* III.a.5-6). E.g.:

- since **1991**, within the **Chair of Private Law** at the University of Naples "Federico II", he has been organising and holding seminars on legal research and current issues of private law;

- starting in the academic year **2000-2001**, he has been holding **part-time professorships on a contract basis** with several Post-Graduate Schools for Legal Professions at the Universities of Naples "Federico II", Siena, Messina, Naples "Suor Orsola Benincasa" and Naples "Parthenope" in the areas of Civil Law, European Law, and judicial deontology in the framework of art. 6 ECHR;

- he has been a **visiting scholar**, on a yearly basis starting in **2006**, at the **Post-Graduate Course "EU Law: the protection of rights"** organised by the Chair of European Union Law at the University of Naples "Federico II".

c. Description of non-legal professional activities

IV. Activities and experience in the field of human rights

1. Starting from his university studies human rights (together with comparative law) have represented one of his core interests (see *supra* II.2). The perspective was enriched by studies in Political Science (see *supra* II.4). The main areas he developed were the impacts of the ECHR on the institutional framework of the state (especially the justice system), on fundamental political freedoms, on property law, on family law, etc.

2. In his judicial activities (see *supra* III.a.1-2) European law in general and human rights in particular have been carefully considered (e.g., recent decisions he drafted as a Supreme Court justice, mentioning the ECHR in the official abstract, are no. 3734 of 15/02/2018 and no. 20539 of 30/08/2017).

3. In the periods 1998-2001 (only for the civil sector) and 2012-2015 (both for the civil and the criminal sector), he has been the coordinator and responsible, in view of roles covered in the judicial training activity of his country (see *supra*, III.a.5-6), of training in European Human Rights Law and other international legal topics of Italy's judges and prosecutors.

4. Having been for over 18 years (2000-2018) a member of the Consultative Council of European Judges (CCJE) within the Council of Europe (see *supra* III.a.3), member of its Working Party since its very start in 2000, Vice Chair for 2004 and 2005 and Chair for 2006 and 2007, he has extensively worked on numerous texts to the attention of the Committee of Ministers relating to the implementation of the ECHR (see e.g. https://www.coe.int/en/web/ccje/ccje-opinions-and-magna-carta).

5. Having served for about 20 years as an expert for the Council of Europe and the European Union in a number of programmes of multilateral international co-operation related to the ECHR and the CFREU (see *supra* III.a.7-8), he has developed a wide experience as to the several approaches to recognition and enforcement of human rights in several countries.

6. He has a large experience teaching and lecturing in the area of human rights (see *supra* III.b.3).

7. He has extensively published on topics relating to human rights (see *infra* VII, and especially: A.1 concerning art. 6 ECHR as to judicial impartiality; A.3 and A.4 concerning independence of justice under the same art. 6 and in general CoE standards; A.2 concerning art. 1 Protocol no. 1 *vis-à-vis* property law in the area of illegal expropriation, as per two landmark decisions of the ECtHR regarding Italy; A.5 concerning enforcement of ECtHR decisions in the Italian domestic system; other publications not listed).

8. Having been for the years 2011, 2012, 2013, 2014 and 2015, upon authorization of Italy's CSM, one of the co-drafters of the Reports to the Italian Parliament on the implementation in Italy of the decisions of the ECtHR (see http://presidenza.governo.it/CONTENZIOSO/contenzioso_europeo/relazione_annuale.html – *supra* III.a.9), he has significantly researched on the *acquis* of the Strasbourg Court and has provided analyses of it.

V. Public activities

a. Public office

Please see *supra* III.a.1-2 for what concerns judicial posts held (Naples Court, 1991-2012; Supreme Court of Cassation, 2012 – present; to be kept into account also the period served in the Board of Directors of the Italian School for the Judiciary, 2012-2015).

b. Elected posts

c. Posts held in a political party or movement

VI. Other activities

a. Field

b. Duration

c. Functions

VII. Publications and other works

Having authored more than 30 contributions in print, among which one volume on Property Law (Possession), sections in two Commentaries on Banking Law and in a Commentary on Property Law, he has published widely on various issues in civil, international and European law, procedural law, human rights, mediation, judicial ethics and judicial organisation. Among other topics covered, publications touch upon the European Convention of Human Rights and the EU Charter of Fundamental Rights, Consumers' protection, European Civil Procedure and Co-operation in Civil and Commercial Matters, International Private Law (especially in the area of family law, contract and tort law).

See, e.g.:

A) In the area of human rights and Council of Europe standards:

1) Sabato, R. – L'imparzialità del giudice civile alla luce della giurisprudenza della Corte europea dei diritti dell'uomo, in Proceedings of the Conference Il nuovo art. 111 della Costituzione e il giusto processo civile, Procchio dell'Elba, 9 -10 giugno 2000, Franco Angeli, 2000, 167-176;

2) Sabato, R. – Nota a Corte Europea dei Diritti dell'Uomo 30 maggio 2000, Belvedere Alberghiera s.r.l. c. Italia, e 30 maggio 2000, Carbonara e Ventura c. Italia, in Foro it., IV, 2001, 233 – 258;

3) Sabato, R. – *La independencia del Poder Judicial. El papel de los consejos de la judicatura. Perspectiva y retos,* intervention in the «Coloquio internacional» organized by the Consejo de la Judicatura Federal, México, D.F., 7 November 2005, CJF, 2006, 610-634;

4) Sabato, R. – I recenti strumenti del Consiglio d'Europa in tema di indipendenza e responsabilità dei giudici, in Foro it., 2011, V, 116;

5) Sabato, R. – Judicial Dialogue, in Müller, A. (ed.), Judicial Dialogue and Human Rights – Studies on International Courts and Tribunals, Cambridge University Press, 2017, 267-284;

B) In the area of Commercial (Banking) Law:

6) Sabato, R. – *Commenti agli artt. 59, 77 e 78 della legge bancaria* (autore del secondo commento, coautore degli altri), in Capriglione, F. and Mezzacapo, V. (eds.), *Codice commentato della Banca*, Giuffrè, 1990, tomo I, 696- 708; 945-970; 970-982;

7) Sabato, R. – La sospensione dei pagamenti, Le società del gruppo [bancario], Le disposizioni comuni in materi a di crisi della capogruppo e delle società del gruppo – commenti agli artt. 74 e dal 100 a 105 TUB, in La nuova legge bancaria, Commentario a cura di P. Ferro-Luzzi e G. Castaldi, Giuffré, 1996, tomo II, 1192-1212; 1570-1617; 1617-1632;

C) In the area of Property Law:

8) Sabato, R. – I procedimenti possessori – artt. 703-705 cod. civ., anche in relazione alla disciplina degli artt. 1168-1170 cod. proc. civ. – Ne cives ad arma ruant – collana "Itinerari nel Processo Civile", directed by Lazzaro, F., Giuffrè, 2009 (volume);

9) Sabato, R. – Commentario al Codice di Civile, edited by Bianca, C.M. and Caringella, F.), sub artt. 873 – 907 cod. civ. (distanze nelle costruzioni; luci e vedute), Dike, 2014;

D) In the area of Family Law:

10) Sabato, R. – Gli ordini di protezione contro gli abusi familiari: prime elaborazioni della giurisprudenza, in Nuova giur. civ. comm., 2006, II, 237- 254.

VIII. Languages

Language	Reading			Writing			Speaking		
	very good	good	fair	very good	good	fair	very good	good	fair
a. First language:									
– Italian	X			X			X		
b. Official languages:									
– English	X			X			X		
– French	X			X			X		
c. Other languages:									
– German (Zentrale Mittelstufenprüfung earned in 1984)		X				X			X
– Spanish	X					X			X

IX. In the event that you do not meet the level of language proficiency required for the post of judge in an official language, please confirm your intention to follow intensive language classes of the language concerned prior to, and if need be also at the beginning of, your term of duty if elected a judge on the Court.

X. Other relevant information

1. Soon after the establishment of the European Law Institute (ELI, Vienna) in 2011, in 2012 he was accepted as a Fellow in it. The ELI is an independent organisation aiming to improve the quality of European law, understood in the broadest sense to include the developments within the European Union and the Council of Europe. He is – *inter alia* – in the Human Rights discussions within the ELI. In 2014 he was elected to the Council. **In 2017 was elected for a two-year term a member of the Executive Committee** (see https://www.europeanlawinstitute.eu/about-the-eli/bodies/executive-committee/).

2. Having a non-professional interest in history and philosophy of the law and politics, he has promoted awareness in Italy of research done in France by the IHEJ – Institut des hautes études sur la justice (the Secretary General of which is the French judge Antoine Garapon). The IHEJ is an association proposing a qualitative reflection on the evolution of law and justice in an interdisciplinary and transnational environment. Since 2013 he is chercheur associé at the IHEJ (see https://ihej.org/a-propos/les-chercheurs-associes/). Within this framework he edited the Italian edition – and personally made the translation – of the volume by Antoine Garapon *La raison du moindre État* (Publisher Odile Jacob, 2010; Italian transl. Publisher Raffaello Cortina, 2012).

XI. Please confirm that you will take up permanent residence in Strasbourg if elected a judge on the Court.

I hereby have the pleasure to confirm that, if elected, I will take up permanent residence.