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## Laudatio: Francesco Parisi

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The European Association of Law and Economics (EALE) asked me to write a Laudatio. It is a great pleasure and honor to introduce Professor Francesco Parisi for the 2019 EALE Lifetime Achievement Award and Honorary Membership to the European Association of Law and Economics. Beginning in 2019, the recipient of the award will deliver the EALE Award lecture the year after the announcement of the prize. In the Award lecture, which will be published following these remarks in the Review of Law and Economics, Professor Parisi gave us a charming narrative of how he came to discover law and economics, and the important encounters in his life that brought him to where he is in the field of law and economics. I have known Professor Parisi for many years, and in this Laudatio, I shall take the liberty to refer to him as Francesco. Several factors contributed to his achievement of becoming one of the most influential writers in our discipline, including his dedication, tenacity, intelligence and sharp-mindedness. For many years, Francesco studied law at the University of Rome and later at Berkeley School of Law. He is a lawyer through and through, possessing comprehensive knowledge and a subtle understanding of concepts and systems in law. He does not make readers believe that law is a sub-field or an appendix of economics, or as one prominent scholar – my friend Robert Cooter, who will forgive me for referring to him in this context – once suggested, that torts, contracts and property form a unity, are all the same, and have no life of their own. Also, in my view, it is important that Francesco received his first academic training in Italy, a country with a rich tradition of institutional thinking and scholarship, and a country that has produced some of the most important contemporary research results for institutional economics. This tradition has always been kept alive in Italy and was not crowded out by neoclassical economics, which disregarded the economic importance of institutions.

Francesco made early contacts with the civil law scholar Pietro Trimarchi from Milan, who in the late 1960s and early '70s, single-handedly and independently, published a series of foundational papers, which contain essential insights for our discipline. The pioneering Guido Calabresi, who has an Italian background too, once told me that he has the highest regards for Trimarchi's

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writings. I reason that these writings would not have been possible or even thinkable in any other European country. And I remember the respect, admiration and affection, with which Francesco always talked about Trimarchi, about his constant desire to learn, and the creativity and practical relevance of his academic writings. A third aspect about Francesco is that, although he completed his Italian legal training, he obtained his legal and economic academic training again in the USA, a country where, for more than 60 years, legal realism evolved, reducing the role of legal formalism in law. Neither on the European continent nor in the United Kingdom, did such an influential non-formalist and non-doctrinal approach to legal scholarship ever develop. In Europe, conceptual and systematic doctrinal jurisprudence had elevated the scholarship of law to Olympic levels in the nineteenth century. Alternative approaches, which tried to analyze consequences of the law explicitly, were met and are still met with suspicion and even rejection. This was not the case in the USA, where there existed a strong tradition of legal realism and a comparatively weaker tradition of conceptual jurisprudence and formalism.

In the USA, Francesco had the fortune to meet and work with great scholars. During his graduate studies in economics, his U.C. Berkeley field advisors were Oliver Williamson and Daniel Rubinfeld, and later his George Mason colleagues and teachers, James Buchanan and Charles Rowley, served as his academic advisors. During his career, he had the opportunity to be a faculty colleague of some of the founding fathers of law and economics, including Henry Manne and Gordon Tullock at George Mason School of Law. Browsing through his curriculum vitae, we can see that he has co-authored and co-edited articles and books with many of the most prominent scholars in our field, including Richard A. Posner,<sup>1</sup> Vernon Smith,<sup>2</sup> Robert Cooter,<sup>3</sup> Ariel Porat,<sup>4</sup> Larry Ribstein,<sup>5</sup> Mark Grady,<sup>6</sup> Nuno Garoupa,<sup>7</sup> Thomas Ginsburg,<sup>8</sup> Lisa Bernstein,<sup>9</sup> and many others.

While these privileged interactions helped shape his career, Francesco also gave back and learned from his junior colleagues and students. In his EALE Award lecture, he tells us that the work he has done with his junior colleagues

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<sup>1</sup> Posner and Parisi (1997, 2002, 2013).

<sup>2</sup> Parisi and Smith (2005).

<sup>3</sup> Cooter and Parisi (2009a, 2009b, 2009c).

<sup>4</sup> Bigoni et al. (2017).

<sup>5</sup> Parisi and Ribstein (1998).

<sup>6</sup> Grady and Parisi (2006).

<sup>7</sup> Garoupa et al. (2006).

<sup>8</sup> Ginsburg et al. (2014).

<sup>9</sup> Bernstein and Parisi (2014).

and students is what ultimately allowed him to “grow younger” in his scholarship. The many doctoral students who had him as a professor remember him fondly as a youthful human being. Francesco was always available and happy to interact with these students, even inviting them out for drinks and a fun evening together at the end of the semester. Many of the younger scholars who worked with him and many of his students, such as Giuseppe Dari-Mattiacci, Jonathan Klick, Ben Depoorter and Matteo Rizzolli, are now leading scholars at top institutions. Many others, such as Alice Guerra, Marco Fabbri, Daniel Pi, Frank Fagan, are rising stars in our discipline. This is a testimony of Francesco’s talent, not only as a scholar and co-author but also as a teacher and coach of younger generations of scholars.

Anybody who looks at Francesco’s educational background, and past teaching and research, would have a difficult time classifying his field of expertise. One could think of him as a generalist, inasmuch as he has written on so many different law and economics topics. But Francesco is more than a generalist. His background and career have been unique in many respects. He graduated in law from the University of Rome “La Sapienza” in 1985, writing a thesis on the “Formation of Contracts Via Computer” under the supervision of a leading Private Law scholar, Professor Natalino Irti. It was a futuristic topic, considering that Francesco was assigned the thesis in 1983. In the thesis, he imagined a world of cybercommerce and electronic stock trading, years before the evolution of the Internet as we know it today. The thesis was later published as *Parisi* (1987) and proved quite useful for the later development of the principles governing internet contracts, especially for stock market transactions. In 1987, after practicing law in Rome at the law firm of Professors Paolo Vitucci and Guido Cervati, Francesco was awarded a Fulbright fellowship to complete an LL.M. and a J.S.D. degree at the University of California, Berkeley. His fields of research were private comparative law and legal history. It was at Berkeley that Francesco – accidentally, as he puts it – discovered law and economics, which led him to pursue an M.A. degree in Economics at U.C. Berkeley and a Ph.D. in Economics at George Mason University.

Francesco’s academic career has seen him active in both Europe and the USA. He has held academic appointments at U.C. Berkeley (1990–1991), Louisiana State University (1991–1993), George Mason University (1993–2006), and he is currently the Oppenheimer Wolff & Donnelly Professor of Law at the University of Minnesota Law School. From 2002 to 2006, he held a Chair as Distinguished Professor of Private Law (“Professore Ordinario per Chiara Fama”) at the University of Milan, and since then has been a Distinguished Professor of Public Economics at the University of Bologna. To my knowledge, Francesco is the only scholar in Italian academia who has been awarded a professorship for

“Chiara Fama” in two different disciplines. From 2002 to 2008, he served as Editor-in-Chief of the Supreme Court Economic Review, and since 2004, he has served as Founding Editor and Editor-in-Chief of the Review of Law and Economics. He was General Editor of the Oxford Handbook of Law and Economics (Oxford U. Press, 2017) and has worked on many other reference collections in the field of law and economics.

Francesco’s scholarship ranges vastly from general methodology<sup>10</sup> and traditional topics, such as contracts,<sup>11</sup> torts,<sup>12</sup> and property,<sup>13</sup> to less explored fields, such as private and public international law,<sup>14</sup> customary law,<sup>15</sup> irrationality, terrorism and cybersecurity,<sup>16</sup> comparative law and legal history,<sup>17</sup> European Union law,<sup>18</sup> tax law,<sup>19</sup> political markets and rent-seeking,<sup>20</sup> lawmaking and legal evolution,<sup>21</sup> and jury decision making.<sup>22</sup>

These works made Francesco a leading thinker within the discipline of law and economics. He combines, in an admirable way, rigorous economic analysis with a subtle understanding of legal methods, comparative law and legal history. He made enlightening contributions to many classical questions of contract, tort and property law. Additionally, his research addressed foundational questions of law, legal development and legal dynamics. His work is read

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**10** Posner and Parisi (1997, 2002); Parisi (2004a); Klick and Parisi (2005b); Parisi and Rowley (2005); Cooter and Parisi (2009b, 2009c); Parisi (2017); Luppi and Parisi (2011); Posner and Parisi (2013).

**11** Parisi et al. (2011); Parisi et al. (2013); Bigoni et al. (2017).

**12** Dari-Mattiacci and Parisi (2003); Dari-Mattiacci et al. (2014); Luppi et al. (2016); Carbonara et al. (2016).

**13** Parisi (2002b).

**14** Parisi and O’Hara (1998); Parisi and Ribstein (1998); Ghei and Parisi (2004); Carbonara and Parisi (2009); Fon and Parisi (2007a, 2008b, 2009b); Kontorovich and Parisi (2016).

**15** Klick and Parisi (2008); Parisi (1998b); Fon and Parisi (2009a); Carbonara et al. (2008a, 2012); Bernstein and Parisi (2014); Fon and Parisi (2003b, 2008a, 2008c).

**16** Parisi and Smith (2005); Garoupa et al. (2006); Grady and Parisi (2006).

**17** Carbonara et al. (2012); Ginsburg et al. (2014); Parisi (2001); Parisi and Dari-Mattiacci (2004).

**18** Bertolini and Parisi (1996); Bussani et al. (2003); Parisi (2004b); Parisi et al. (2007); Stephan et al. (2003); Carbonara et al. (2009).

**19** Klick and Parisi (2005a); Curry et al. (2007).

**20** Parisi (2002a); Dari-Mattiacci and Parisi (2005, 2014); and Dari-Mattiacci et al. (2007); Dari-Mattiacci et al. (2009); Parisi (1998a); Klick and Parisi (2003); Parisi (2003); Luppi and Parisi (2012a).

**21** Fon et al. (2005); Fon and Parisi (2003a, 2006); Luppi and Parisi (2012b); Luppi and Parisi (2010); Fon and Parisi (2006); Parisi and Ghei (2005); Carbonara and Parisi (2007); Fon and Parisi (2007b); Carbonara et al. (2008b); Luppi and Parisi (2009); Parisi and Fon (2009); Cooter and Parisi (2009a); Parisi (2011).

**22** Luppi and Parisi (2013).

well beyond the law and economics community. It has contributed to a process in which legal scholarship itself is moving from being predominantly doctrinal to a theory-led and evidence-based discipline, which embraces findings from other disciplines, such as economics, psychology and empirical studies.

Interdisciplinary studies in law are often the work of scholars coming from different backgrounds and having different core competencies in either methodology or subject area. This cooperation creates a surplus value which a single scholar cannot deliver. In Europe, legal scholars seldom work as teams when writing papers. This often restricts them from using different methods or asking overarching or extensive questions. Francesco's work sets a standard in this respect too. Most of his papers are co-authored, often with lawyers working in a different legal field. Francesco has also written papers with mathematical economists, like Vincy Fon, with empiricists, and with scholars from other neighboring disciplines. In Europe, comparative law plays an increasingly important role, especially given the efforts to harmonize law or to even enact a civil code or a contract code for the European Union. Francesco contributed to this comparative research with many papers in which he applied economic reasoning to long-standing doctrinal questions. He has offered enlightening papers on civil procedure and causation, on property and the pitfalls of property law, on the commons and anti-commons problems, on pure economic loss in tort and on the remedies for breach of contract. For European scholars, Francesco remains a thought-provoking and often read author even though he teaches mainly in the USA. The EALE prize committee wrote this to the EALE President when proposing him for the award: "Francesco Parisi is a renowned and influential scholar of law and economics in the USA and in Italy. He is a civil lawyer with a diploma and a PhD in Economics and has extensively written in the field of torts, contracts and property. He also contributed much to a reinterpretation of basic concepts of law and economics like the Coase theorem, a political Coase theorem, the tragedy of the anti-commons and recently became engaged in experimental studies. He is also a knowledgeable scholar of comparative law. His writings are very influential and make him one of the best-known law and economics scholars with a European background worldwide. He has written analytical and mathematical papers but also many papers which attract readers from law faculties. He has done much to spread law and economics by writing handbook articles and editing collections of articles, sometimes together with Richard Posner. There is no doubt that his writings and the influence he achieved with them make him an excellent candidate for the EALE scholar prize."

The breadth and depth of Francesco's scholarship reveals that he is a scholar of great stature and proves that he is both creative and essential.

Francesco has visited and lectured in virtually every university that offers a program in law and economics, and many of us have had the privilege to know Francesco either as a student, as a colleague, or as a teacher. Law and economics in Europe would be missing a note of fun and cheerful positivity without Francesco's participation, and I am so glad to see Professor Francesco Parisi's name added to the list of recipients of the EALE Award.

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