



Fundamentals on Defence Rights before International Courts

Defence rights are fundamental to fair and effective judicial systems. This is recognised in international and regional conventions, as well as constitutional charters and bills. The importance of defence rights is recognised whether our legal system belongs to common or civil law traditions, or is governed by Islamic law or any other legal system. It is also true whether we are lawyers, legislators, magistrates or clerks, governmental officials, functionaries of international organisations, human rights activists, jurists or independent legal consultants. At the national and international level, defence rights and the right to a fair trial are fundamental to upholding the rule of law, and ensuring equal access to justice, equality of arms and fairness.

The Siracusa International Institute for Criminal Justice and Human Rights¹, in partnership with the *Association Internationale des Avocats* (UIA), the Italian *Scuola Superiore dell'Avvocatura*, the *Association Internationale de Droit Pénal* (AIDP), the International Criminal Justice Consortium (ICJC), and the *Centre d'Etudes sur la Sécurité Internationale et les Coopérationes Européennes* (CESICE), is pleased to present its inaugural course *Fundamentals on Defence Rights before International Courts* (*Fundamentals Course*). The *Course* is the entry-level course in the *Siracusa Institute's International Defence Counsel Training Programme* (the *Programme*), an innovative, globally-oriented programme that is the first of its kind to be dedicated to defence lawyers and other legal professionals involved in the protection of defence rights. The *Fundamentals Course* will be held in Siracusa, Italy between 15 and 19 May 2017 and conducted in English.

The *Fundamentals Course* is designed for lawyers, in-house counsel and international jurists appointed to defend clients in cases before international courts and tribunals such as the International Criminal Court, the European Court of Human Rights, and so-called mixed international criminal tribunals. The *Fundamentals Course* will also train professionals dealing with investigations and litigation related to transnational crimes, as well as those engaged in

¹ **The Siracusa International Institute for Criminal Justice and Human Rights** is the new public name adopted by the *International Institute of Higher Studies in Criminal Sciences* (ISISC). A new name and logo, but the same core, longstanding values, vision and expertise: the global pursuit and promotion of criminal justice, human rights and the fight against transnational crime.

TM Foundation International Institute of Higher Studies in Criminal Sciences- ISISC (Onlus)

human rights protection through other legal processes, justice sector reform and technical assistance programmes.

Thanks to the multi-disciplinary approach of this training course, participants will acquire substantive knowledge, practical skills and training in proven techniques relevant to: the exercise and protection of defence rights at the international level; international justice mechanisms and processes; international procedural norms and standards; and, domestic legal requirements to engage with international jurisdictions. In addition, the course will provide an invaluable opportunity for lawyers and other practitioners to engage and network with likeminded peers, and international lawyers' and bar associations.

Core areas of training tackled by the *Fundamentals Course* will be expanded on and deepened in a series of *Specialisation Courses*. These *Specialisation Courses* will develop attendees' expertise in specific fields, connecting defence rights to a wide array of European and International Criminal Law matters including: international trafficking in humans and drugs; cybercrime and data protection matters; financial crime, money laundering and terrorist financing; and corruption in international trade and business. Other *Courses* will address challenges to the exercise of defence rights in certain jurisdictions, such as courses covering: the European Public Prosecutor's Office, EUROJUST, EUROPOL, the European Arrest Warrant, and the European Investigation Order; international courts and tribunals; the European Court of Human Rights; the African Court on Human and Peoples' Rights; the European Court of Justice; and justice reform and technical assistance programmes.

The *Programme* will be conducted by international experts who are leading international lawyers, jurists, and representatives of the Siracusa Institute's Partner Organisations. Lecturers will also include judges, prosecutors, court officials of international courts and tribunals including the International Criminal Court and the European Court of Human Rights, as well as the national prosecutorial and judicial agencies dealing with international and transnational crime proceedings.

To get the maximum benefit from the *Fundamentals Course*, it is of vital importance that participants remain in attendance for the duration of the training. A certificate of attendance will be issued to each participant who has met attendance and participation requirements at the end of the *Course*. Where possible, arrangements will be made to have participants' completion of the *Fundamentals Course* credited towards the continuing legal education (CLE) system of their respective bar associations.

Participants are required to study reading materials that the Institute will distribute in advance of the *Fundamentals Course*. In addition, participants are strongly advised to refresh their knowledge of their respective constitutions and national legislation, including in relation to criminal law and procedure, international cooperation in criminal matters such as mutual legal assistance, and other legislation related to cooperation with international courts and tribunals.

We look forward to welcoming you in Siracusa!

Yours sincerely,

Jean-François Thony
President

The Siracusa International Institute for Criminal Justice and Human Rights



Fundamentals on Defence Rights before International Courts

Arrival of participants

Day 1 – 15 May 2017:

09.00 – 09.30 **OPENING CEREMONY**

Welcome by:

- Jean-François Thony, President of the Siracusa Institute, and Andrea Chmieliński Bigazzi, Programme Director

Opening address (video-link):

- Silvia Fernández de Gurmendi, President of the International Criminal Court (ICC)

Guests of honour:

- Christine Van den Wyngaert, Judge at the International Criminal Court (ICC)
- Hassan Bubacar Jallow, Prosecutor at the International Criminal Tribunal for Rwanda (ICTR) and the United Nations Mechanism for International Criminal Tribunals (UN MICT)
- Diego García-Sayán, Special Rapporteur on the Independence of Judges and Lawyers on the United Nations Office of the High Commissioner for Human Rights (UN OHCHR) [TBC]

09.30 – 10.30 **SESSION 1: INTERNATIONAL CRIMINAL LAW AND INTERNATIONAL AND MIXED-MODEL TRIBUNALS** – Jean-François Thony, President of the Siracusa Institute; Christine Van den Wyngaert, Judge at the ICC, Vice-President of the *Association Internationale de Droit Pénal* (AIDP); Hassan Bubacar Jallow, Prosecutor at the ICTR and the UN MICT

- Basic principles of International Criminal Law

- Investigation, prosecution, adjudication and defence of international crimes at international courts and tribunals, and international *ad hoc* commissions
- Substantive and procedural aspects of the complementarity principle

10.30 – 11.00 General discussion

11.00 – 11.30 Break

11.30 – 12.30 **SESSION 2: HUMAN & DEFENCE RIGHTS** – Diego García-Sayán, Special Rapporteur on the Independence of Judges and Lawyers, UN OHCHR, former President of the Inter-American Court of Human Rights, former Justice and Foreign Affairs Minister of Perú [TBC]

- Conventional and International Law protection of the right to defence
- International Human Rights mechanisms and committees

12.30 – 13.00 General discussion

13.00 – 14.30 Lunch break

14.30 – 15.30 **SESSION 3: DEFENCE RIGHTS IN INTERNATIONAL AND SUPRA-NATIONAL JURISDICTIONS** – Christine Van den Wyngaert, Judge at the ICC, Vice-President of the AIDP; Hassan Bubacar Jallow, Prosecutor at the ICTR and the UN MICT; Julie Goffin, Counsel before the ICC and Human Rights and Protection of Lawyers' Coordinator at the *Union Internationale des Avocats* (UIA)

- Sources of defence rights in international and supra-national jurisdictions
- National proceedings and supra-national jurisdictions: confidence still to be built
- How can lawyers access and advocate in these jurisdictions

15.30 – 16.00 General discussion

16.00 – 16.30 Break

16.30 – 17.30 **SESSION 4: ROLES AND RESPONSIBILITIES OF INTERNATIONAL LAWYERS AND BAR ASSOCIATIONS AT THE INTERNATIONAL LEVEL** - Diego García-Sayán, Special Rapporteur on the Independence of Judges and Lawyers, UN OHCHR, former President of the Inter-American Court of Human Rights, former Justice and Foreign Affairs Minister of Perú [TBC]; Julie Goffin, Counsel before the ICC and Human Rights and Protection of Lawyers' Coordinator at the UIA

- The international lawyer: a modern global Cicero?
- Education and training of international defence lawyers
- Relevance of the adoption of common codes of conduct
- Roles and responsibilities of lawyers' associations at the international level

17.30 – 18.00 General discussion

Day 2 – 16 May 2017:

09.00 – 10.00 **SESSION 5: THE PROMOTION OF FAIR TRIAL AND DEFENCE RIGHTS: RELEVANT NATIONAL AND INTERNATIONAL LAWS** - Diego García-Sayán, Special Rapporteur on the Independence of Judges and Lawyers, UN OHCHR, former President of the Inter-American Court of Human Rights, former Justice and Foreign Affairs Minister of Perú [TBC]; Julie Goffin, Counsel before the ICC and Human Rights and Protection of Lawyers' Coordinator at the UIA; David Young, Lead Defence Counsel before the Special Tribunal for Lebanon (STL), Barrister at Red Lion Chambers, London

- Constitutions, bills and the evolution of the principles of fair trial and defence rights
- The influence of International Law on such evolution
- Lawyers' role in promoting and fostering the exercise of defence rights

10.00 – 10.30 General discussion

10.30 – 11.00 Break

11.00 – 12.00 **SESSION 6: INTERNATIONAL CRIMINAL DEFENCE AT THE INTERNATIONAL CRIMINAL COURT AND OTHER INTERNATIONAL COURTS AND TRIBUNALS** – Diego García-Sayán, Special Rapporteur on the Independence of Judges and Lawyers, UN OHCHR, former President of the Inter-American Court of Human Rights, former Justice and Foreign Affairs Minister of Perú [TBC]; Christine Van den Wyngaert, Judge at the ICC, Vice-President of the AIDP; Julie Goffin, Counsel before the ICC and Human Rights and Protection of Lawyers' Coordinator at the UIA; David Young, Lead Defence Counsel before the STL, Barrister at Red Lion Chambers, London

- Rights of the defence in the Statutes and Rules of Procedures of these courts and tribunals
- The Office of Public Counsel for the Defence at the International Criminal Court, and at other similar bodies
- How to organize a defence team/legal representation of victims team for these jurisdictions

12.00 – 12.30 General discussion

12.30 – 14.00 Lunch break

14.00 – 15.00 **SESSION 7: MASTERING THE RULES OF PROCEDURE AND EVIDENCE IN INTERNATIONAL AND SUPRA-NATIONAL JURISDICTIONS: COMMON GROUND AND COMPARATIVE ASPECTS / 1** - Christine Van den Wyngaert, Judge at the ICC, Vice-President of the AIDP; Hassan Bubacar Jallow, Prosecutor at the ICTR and the UN MICT; Julie Goffin, Counsel before the ICC and Human Rights and Protection of Lawyers' Coordinator at the UIA

- Procedural tools available to the defence team/legal representation of victims team
- Rights and limitations of defence counsel in the investigation phase
- Pleas *v.* challenges: defence counsel and the prosecutor in the pre-trial and main trial phases

15.00 – 15.30 General discussion

15.30 – 16.00 Break

16.00 – 17.00 **SESSION 8: MASTERING THE RULES OF PROCEDURE AND EVIDENCE AT INTERNATIONAL AND SUPRA-NATIONAL JURISDICTIONS: COMMON GROUNDS AND COMPARATIVE ASPECTS / 2** - Christine Van den Wyngaert, Judge at the ICC, Vice-President of the AIDP; Hassan Bubacar Jallow, Prosecutor at the ICTR and the UN MICT; Julie Goffin, Counsel before the ICC and Human Rights and Protection of Lawyers' Coordinator at the UIA

- The role of victims in proceedings, and their relationship with the prosecution and the defence
- Interacting with the Registry
- Impact of international rules of procedure and evidence on national jurisdictions

17.00 – 17.30 General discussion

Day 3 – 17 May 2017:

09.00 – 10.00 **SESSION 9: DEFENCE TECHNIQUES / 1** - David Young, Lead Defence Counsel before the STL, Barrister at Red Lion Chambers, London

- Understanding the applicable law, and researching and analysing jurisprudence
- Collection, preparation, and submission of evidence
- Identifying reliable witnesses, and using experts

10.00 – 10.30 General discussion

10.30 – 11.00 Break

11.00 – 12.00 **SESSION 10: DEFENCE TECHNIQUES / 2** - David Young, Lead Defence Counsel before the STL, Barrister at Red Lion Chambers, London

- Constructing and drafting legal arguments
- Presenting the case in front of an international judge; direct, cross- and re-examination; closing statements
- Is there room for appeal? Interim and judgment decisions' appeals

12.00 – 12.30 General discussion

12.30 – 14.00 Lunch break

14.00 – 15.00 **SESSION 11: THE PROTECTION OF FUNDAMENTAL RIGHTS AT THE EUROPEAN COURT OF HUMAN RIGHTS AND OTHER REGIONAL COURTS** – Jean-Paul Costa, former President of the European Court of Human Rights (ECtHR), President of the *Fondation René Cassin*; Andrea Saccucci, Professor of International Law at the *Seconda Università di Napoli*, Italy and Counsel before the ECtHR

- History of the legal system established by the European Convention for Human Rights, its margin of appreciation, and continental and national reactions
- Comparative aspects with the Inter-American Court of Human Rights and the African Court on Human and Peoples' Rights
- Future of Human Rights litigation at regional courts

15.00 – 15.30 General discussion

15.30 – 16.00 Break

16.00 – 17.00 **SESSION 12: RIGHT TO DEFENCE AT THE EUROPEAN COURT OF HUMAN RIGHTS** - Jean-Paul Costa, former President of the ECtHR, President of the *Fondation René Cassin*; Andrea Saccucci, Professor of International Law at the *Seconda Università di Napoli*, Italy and Counsel before the ECtHR

- Basic defence rights: from self-representation to the right to a legal assistance; the right to private consultation with a lawyer; the right to have adequate facilities and time to prepare the defence
- Case law and selected jurisprudence
- Perspectives from a Judge of the European Court of Human Rights

17.00 – 17.30 General discussion

Day 4 – 18 May 2017:

09.00 – 10.00 **SESSION 13: MASTERING PROCEDURAL ASPECTS AT THE EUROPEAN COURT OF HUMAN RIGHTS / 1** - Jean-Paul Costa, former President of the ECtHR, President of the *Fondation René Cassin*; Andrea Saccucci, Professor of International Law at the *Seconda Università di Napoli*, Italy and Counsel before the ECtHR

- Kinds and forms of applications
- Preparing a case to be submitted to the ECtHR
- Admissibility criteria

10.00 – 10.30 General discussion

10.30 – 11.00 Break

11.00 – 12.00 **SESSION 14: MASTERING THE PROCEDURAL ASPECTS AT THE EUROPEAN COURT OF HUMAN RIGHTS / 2** - Jean-Paul Costa, former President of the ECtHR, President of the *Fondation René Cassin*; Andrea Saccucci, Professor of International Law at the *Seconda Università di Napoli*, Italy and Counsel before the ECtHR

- The Registrar and their role in hearings

- Obtaining interim measures
- ECtHR decisions, judgments, and pilot cases

12.00 – 12.30 General discussion

12.30 – 14.00 Lunch break

14.00 – 15.00 **SESSION 15: USE OF THE JURISPRUDENCE OF THE EUROPEAN COURT OF HUMAN RIGHTS, AND ITS EFFECTS ON NATIONAL LEGAL SYSTEMS** – Jean-Paul Costa, former President of the ECtHR, President of the *Fondation René Cassin*; Andrea Saccucci, Professor of International Law at the *Seconda Università di Napoli*, Italy and Counsel before the ECtHR

- Impact of ECtHR decisions on national legal systems
- Using ECtHR jurisprudence to win a case at the national level
- *Interim measures* according to Art. 39 of the Rules of Procedure of the ECtHR

15.00 – 15.30 General discussion

15.30 – 16.00 Break

16.00 – 17.00 **SESSION 16: OTHER RELEVANT PLAYERS IN INTERNATIONAL PROCEEDINGS: PROCEDURAL ASPECTS** – Paolina Massidda, Principal Counsel of the Office of the Public Counsel for Victims (OPCV) of the ICC; Jean-Pierre Picca, Senior International Defence Counsel, former Senior Legal Advisor to the President of the French Republic

- Role of private parties
- Witness management and protection
- Victim assistance

17.00 – 17.30 General discussion

Day 5 – 19 May 2017:

09.00 – 10.00 **SESSION 17: INTERNATIONAL LEGAL ASSISTANCE IN CRIMINAL MATTERS / 1** - Paolina Massidda, Principal Counsel of the OPCV of the

ICC; Jean-Pierre Picca, Senior International Defence Counsel, former Senior Legal Advisor to the President of the French Republic

- International legal assistance in criminal matters: dualist and monist traditions, and civil and common law legal systems
- International Conventions, domestic law, and the reciprocity principle
- Identifying defence rights and counsel's tools in mutual legal assistance proceedings
- Competent bodies at international and national level

10.00 – 10.30 General discussion

10.30 – 11.00 Break

11.00 – 12.00 **SESSION 18: INTERNATIONAL LEGAL ASSISTANCE IN CRIMINAL MATTERS / 2** - Paolina Massidda, Principal Counsel of the OPCV of the ICC; Jean-Pierre Picca, Senior International Defence Counsel, former Senior Legal Advisor to the President of the French Republic

- Procedural elements of mutual legal assistance (MLA) requests: formal requirements
- Writing mutual legal assistance requests, and acting on incoming requests, and participating in the MLA proceedings
- Defence in evidence collection, interviews, and extradition procedures

12.00 – 12.30 General discussion

12.30 – 14.00 Lunch break

14.00 – 15.00 **SESSION 19: DEVELOPMENT AND CAPACITY BUILDING PROJECTS PROMOTING DEFENCE RIGHTS AND FUNDAMENTAL RIGHTS PROTECTION** – Andrea Chmieliński Bigazzi, Programme Director, Siracusa Institute; Enrico Visentin, Programme Manager on Justice of the European Union Delegation Office in Serbia

- Overview on International Organizations and national programmes aimed at promoting defence rights and fundamental rights protection in developing and post-conflict countries
- Experiences in justice reform projects and development assistance inclusive of defence rights promotion

15.00 – 15.30 General discussion

15.30 – 16.00 Break

16.00 – 17.00 **SESSION 20: INTERNATIONAL DEFENCE COUNSEL: CONCLUSIONS AND CLOSING REMARKS** – M. Cherif Bassiouni, Honorary President, Siracusa Institute and Emeritus Professor of Law, DePaul University; Jean-Paul Costa, former President of the ECtHR [TBC]; Jean-Pierre Picca, Senior International Defence Counsel, former Senior Legal Advisor to the President of the French Republic; Andrea Chmieliński Bigazzi, Programme Director, Siracusa Institute

- Roundtable conclusions

17.00 – 17.30 Closing remarks

19.30 - Official Dinner

Departure of participants