

Candidature à l'élection de nouveaux membres de l'AIDC

Application for the election of new members of the AIDC

Ce formulaire peut être rempli en français ou en anglais
This form can be filled in English or French

Qui propose ce candidat ? / Who proposes this candidate?

Remplir la partie 1 ou la partie 2 / Fill part 1 or part 2

PARTIE 1 / PART I: Si proposé par un membre / If proposed by a member

Nom du membre / Name of the member:

Lauro Gama Jr.

Statut du membre / Status of the member (indicate with an "X"):

Membre associé / Associate member

Membre titulaire / Titular member

Adresse électronique professionnelle du membre / professional email address :

lauro.gama@laurogama.adv.br

PART II : Si proposé par un comité national / If proposed by a national committee

Pays ou juridiction du comité national / Country or jurisdiction of the national committee

Nom d'une personne à contacter au comité national à propos de cette nomination / Name of a contact person to contact regarding this nomination

Adresse électronique de cette personne / Email address of that person

Le membre ou le comité qui propose un nouveau candidat doit joindre une lettre d'appui signée.

The member or committee who proposes a new candidate must attach written statement of support of membership with signature.

Le candidat ou la candidate / The candidate

Adhésion demandée (ajoutez un « X ») / Membership applied for (add an 'X')



Membre associé / Associate member



Membre titulaire / Titular member

Notez : Un poste de membre titulaire sera de préférence attribué à un membre associé, mais exceptionnellement un collègue senior qui jouit d'une excellente réputation pourrait être élu(e). Mais il est normalement préférable que le candidat au poste de membre titulaire soit déjà membre associé.

Note: A position of titular member will preferably be awarded to an associate member, but exceptionally a senior colleague who enjoys an excellent reputation could be elected. But it is normally preferable that the candidate for the position of full member already be an associate member.

Nom du candidat ou de la candidate (souligner le nom the famille le cas échéant)
/ Name of the Candidate (underline family name if any):

Francisco Paulo De Crescenzo Marino

Sexe / Gender

M

Pays ou juridiction de résidence / Country or jurisdiction of Residence

Brasil

Institution, faculté, université, etc. / Institution, faculty, university, etc. :

Universidade de São Paulo

Adresse électronique professionnelle / professional email address :

fmarino@usp.br

Adresse électronique alternative (personnelle) / Alternate (personal) email address (ne sera utilisée que si votre adresse professionnelle ne répond plus / will only be used if we can no longer reach you are your professional address)


fmarino@fmarino.com.br

Engagement du/ de la candidat(e) / Undertaking by the candidate

J'accepte cette nomination et si je suis élu(e), je m'engage à assumer les obligations incombant aux membres de l'Académie, y compris le paiement annuel de ma cotisation.

I accept this nomination and if elected, I undertake to fulfil the obligations incumbent upon the members of the Academy including the payment of the annual fee.

Signature:



Date:

September 30, 2024

Pièces jointes / Attachments:

1. Une lettre de soutien à la candidature par le proposeur / A written statement of support of membership by the proposer, a list of publications of the candidate
2. Un curriculum vitae du candidat ou de la candidate / A curriculum vitae of the candidate
3. Une liste de ses publications / A list of publications of the candidate

Important :

Afin de faciliter la tâche du secrétariat, nous apprécierions que ce formulaire et toutes ses pièces jointes nous soient envoyés en un seul document PDF à l'adresse suivante :

votes-membres@aidc-iacl.org

Le nom du fichier PDF serait préférablement le nom du candidat ou de la candidate.

To facilitate the task of the secretariat, we would appreciate if this form and all its attachment could be sent to us in one PDF document at the following address :

votes-membres@aidc-iacl.org

The name of the PDF file would preferably be the name of the candidate.

To:

Professor Giuditta Cordero-Moss,
President of the International Academy of Comparative Law

Professor Gary Bell,
Secretary-General of the International Academy of Comparative Law

Dear Professor Cordero-Moss and Professor Bell,

It is with great enthusiasm that I, Professor Lauro da Gama e Souza Jr., write to support the nomination of Professor Francisco Paulo De Crescenzo Marino, a distinguished member of the Faculty of Law at the University of São Paulo, for membership in the International Academy of Comparative Law.

Professor Marino has established himself as a leading authority in the fields of Private Law, Contract Law, and Arbitration. His academic credentials, including an LL.B., LL.M., and S.J.D. from the prestigious University of São Paulo Law School, complemented by his *Habilitation (Livre-Docência)* from the same University, demonstrate the depth and rigor of his scholarship. Since 2008, he has served as a professor at the University of São Paulo, where he teaches courses on the General Theory of Private Law, Law of Obligations, and Contract Law, among others.

Professor Marino is also a MacCormick Fellow from the University of Edinburgh Law School, where he developed research on contractual interpretation. The outcome of the research was presented at the staff seminar series at University of Edinburgh Law School in 2023 and at the 17th Annual International Conference on Contracts, held earlier this year at the University of Bristol.

In addition to his academic achievements, Professor Marino's legal practice is equally commendable. As the founding partner of Francisco Marino Advogados and an arbitrator affiliated with several prestigious arbitral institutions, he has contributed significantly to the development of contract theory and dispute resolution in Brazil. His publications, including the widely referenced *Group of Contracts in Brazilian Law* [Contratos coligados no direito brasileiro], *Interpretation of legal transactions* [Interpretação do negócio jurídico] and *Contract Adaptation: Hardship and Equitable Adaptation* [Revisão contratual: modificação equitativa e excessiva onerosidade superveniente], are cornerstones in the study of contract law, both in Brazil and internationally. It is also noteworthy that these books were the result of an extensive research on Brazilian and foreign literature, specially Italian and French.

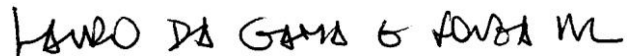
He also reviewed and updated, together with Professor Antonio Junqueira de Azevedo (former Chair of Private Law at the University of São Paulo Law School), the classical work of Professor Orlando Gomes on Contracts [Contratos].

Professor Marino's intellectual contributions extend beyond academia and practice, as evidenced by his participation in various national and international legal institutions, such as the Brazilian Arbitration Committee (CBAr) and the Contemporary Private Law Review Editorial Council. His multilingual capabilities (Portuguese, English, Italian, French, and Spanish) further underscore his suitability for an international body like the Academy.

Professor Marino's nomination is not only an acknowledgment of his past achievements but also a recognition of his potential to contribute meaningfully to the global legal community. His expertise, particularly in the evolving complexities of comparative contract law and arbitration, would undoubtedly enhance the academic and practical discourse within the Academy.

I wholeheartedly endorse Professor Francisco Paulo De Crescenzo Marino's nomination and trust that his membership will be of significant value to the International Academy of Comparative Law.

Yours sincerely,

A handwritten signature in black ink that reads "LAURO DA GAMA E SOUZA JR". The letters are slightly slanted and connected in a cursive-like style.

Professor Lauro da Gama e Souza Jr.
Member of the International Academy of Comparative Law
Lauro Gama Advogados Associados

FRANCISCO PAULO DE CRESCENZO MARINO

Rua Nicolau Gagliardi, 354, Apt. 72 • São Paulo, SP, Brazil • +55 11 98142-4008 • fmarino@usp.br / fmarino@fmarino.com.br

Education

- **University of Edinburgh Law School**
MacCormick Fellowship, 2023
(Seminar: *The role and the limits of context in the interpretation of commercial contracts*)
- **University of São Paulo (USP) Law School**
Habilitation, Private Law, 2018
(Thesis: *Equitable modification of contracts in case of supervening change of circumstances*)
- **University of São Paulo (USP) Law School**
PhD, Private Law, 2007
(Thesis: *Group of contracts in Brazilian Private Law*)
- **University of São Paulo (USP) Law School**
LLM, Private Law, 2003
(Thesis: *Interpretation of legal transactions – Rechtsgeschäft*)
- **University of São Paulo (USP) Law School**
Bachelor of Laws, 1999

Teaching and academic experience

- Professor of Private Law at the USP Law School since 2008. I have been teaching the following courses to undergraduate students: General Theory of Private Law; Law of Obligations; Contract Law; Tort Law; Property Law; and Remedies for Breach of Contract. I have been teaching the following courses to postgraduate students: Fundamental Issues in Contract Law; Contract Law: Private Law and International Law Approaches; Patrimonial Rights: interface between Private Law and Procedural Law; Contractual Liability and Remedies for Breach of Contract
- Research supervisor (LLM and PhD) at the USP Law School Postgraduate Program. I have already supervised 21 (twenty-one) concluded researches: 6 (six) PhD's and 15 (fifteen) LLM's. Of these supervised researches, 10 (ten) were published in the form of books. I am currently supervising 10 (ten) researches
- I am currently supervising one PhD research from the University Eduardo Mondlane (Moçambique), as part of a joint program between this University and the USP Law School
- Former elected member of the Faculty Senate and currently an elected member of the Undergraduate Committee of the USP Law School

- Member of the Subcommittee dedicated to analyze the implementation of the Faculty Pedagogical Project, which was altered in 2018
- Member of the Subcommittee dedicated to analyze the implementation of generative artificial intelligence tools in the Law School
- I have examined 73 (seventy-three) theses (LLM and PhD) in 6 different Brazilian Law Schools

Professional

- From 1999 to 2018, I acted predominantly as a litigation lawyer
- Since 2019, I have been acting mainly as Professor, arbitrator and legal expert
- I am included in the list of arbitrators of the most important arbitral institutions in Brazil, namely:
 - Center for Arbitration and Mediation of the Chamber of Commerce Brazil-Canada (CAM-CCBC)
 - Chamber for Mediation and Arbitration of the Commercial and Industrial Association of Florianópolis (CMAA)
 - Arbitration Chamber of Federasul (CAF)
 - Chamber for Mediation, Conciliation and Arbitration of the Brazilian Bar Association, São Paulo (CAMCA/OAB-SP)
 - Chamber for Conciliation, Mediation and Arbitration Ciesp/Fiesp (CMA)
 - Brazilian Center for Mediation and Arbitration (CBMA)
 - Center for Dispute Resolution of São Paulo University (CRC-USP)
 - Chamber for Mediation and Arbitration of the Commercial Association of Paraná (ARBITAC)
 - Business Mediation and Arbitration Chamber – Brazil (CAMARB)
- I am regularly invited to act as an expert on matters pertaining to Brazilian Private Law in Arbitral Tribunals.

Publications

- A list of publications is attached as a separate document

Engagement activities

- Coordinator, since 2022, of the USP Law School Pedagogical Week, held annually and attended by professors and students, with the purpose of discussing learning methods and share attendees valuable experience
- Together with other teachers, I am enrolled with the Law School Affirmative Action Program, which is intended to the admission of persons from ethnical minorities in the Postgraduate Program

Languages

- Fluent in Portuguese and English
- Working knowledge of Italian, French and Spanish

Esteem indicators and other activities

- Former Vice-President and Former Director of the Private Law Institute – IDiP (www.idip.org.br), which is the most prestigious Private Law association in Brazil. IDiP was founded in 2005 in order to develop the research and the study of the Private Law in Brazil. It has organized several congresses (including two international congresses) and other smaller events throughout the years
- Scientific coordinator of a series of law books published by Editora Almedina in partnership with IDiP, which has already published 33 (thirty-three) books on different areas of private law
- Elected by the students to deliver the commencement address in 2011 and 2014
- Lecturer in several specialization courses
- Member of the Editorial Board of Brazilian Law Journals
- My doctrinal work has been often cited and relied upon by Brazilian courts. In the last 5 years, I have been cited 18 times in decisions rendered by the Superior Court of Justice, 310 times in decisions rendered by the São Paulo State Court of Appeals and 297 times in decisions rendered by superior court judges at the state level

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Publications¹

- Published books:
 - (i) *Group of contracts in Brazilian Law*. São Paulo: Saraiva, 2009, 246p
 - (ii) *Interpretation of legal transactions [Rechtsgeschäft]*. São Paulo: Saraiva, 2011, 394p
 - (iii) *Contract adaptation: hardship and equitable modification*. São Paulo: Almedina, 2020, 260p
 - (iv) Orlando Gomes' *Contracts*, 26th edition, Rio de Janeiro: Forense, 2007. Revised and adapted together with Professor Antonio Junqueira de Azevedo (former Chair of Private Law at USP Law School)
- I published 19 (nineteen) works, comprising peer reviewed articles and book chapters, among which the following are the most relevant for the research to be carried out:
 - (i) *A commentary on art. 421-A of the Brazilian Civil Code: presumption of symmetry in civil and commercial contracts* [Comentário ao artigo 421-A do Código Civil: presunção de paridade e simetria em contratos civis e empresariais]. In: MARTINS-COSTA, Judith; NITSCHKE, Guilherme Carneiro Monteiro. (Org.). *Private Law and the Economic Freedom Statute* [Direito privado na lei da liberdade econômica] 1ed. São Paulo: Almedina, 2022, p. 511-528
 - (ii) *The general rule of liability for solidity and safety established in art. 618 of the Brazilian Civil Code* [A cláusula geral de responsabilidade por vícios de solidez e segurança do art. 618 do Código Civil]. In: FRAZÃO, Ana; CASTRO, Rodrigo R. Monteiro de; CAMPINHO, Sérgio. (Org.). *Commercial Law and its relationships with other areas* [Direito empresarial e suas interfaces]. 1ed. São Paulo: Quartier Latin, 2022, v. IV, p. 219-237
 - (iii) *The interpretation of juridical acts in the contexto of a share purchase agreement and the limited liability of the seller for the price adjustment* [A interpretação dos negócios jurídicos celebrados no contexto de uma compra e venda de participação societária e a responsabilidade limitada de um dos alienantes pelas consequências pecuniárias do ajuste de preço pactuado]. In: GOUVÊA, Carlos Portugal; PARGENDLER, Mariana; LEVI-MINZI, Maurizio. (Org.). *Mergers and acquisitions* [Fusões e aquisições]. 1ed. São Paulo: Almedina, 2022, p. 81-120
 - (iv) *Electives in the pedagogical project of 2018* [As optativas eletivas no Projeto Pedagógico de 2018]. In: BUCCI, Maria de Paula Dallari; DE SOUZA, Rodrigo Pagani (Orgs.). *Legal education in the bicentennial of the Independence* [O ensino jurídico no bicentenário da independência]. Belo Horizonte, São Paulo: D'Plácido, 2022, p. 123-136
 - (v) *Contract adaptation based on hardship: creditor's exclusive right and limits on judicial intervention* [Revisão contratual fundada em excessiva onerosidade superveniente:

¹ All of my works were published in Portuguese. I have translated its titles into English.

competência exclusiva do credor e limites da atuação do juiz]. In: BARBOSA, Henrique; SILVA, Jorge Cesa Ferreira da. *Developments on Commercial Law and on the Law of Obligations: 18 Years of the Civil Code – Obligations and Contracts [A evolução do direito empresarial e obrigacional: 18 anos do Código Civil – Obrigações e Contratos]*. São Paulo: Quartier Latin, 2021, v. 2, p. 475-502

- (vi) *Parsons, Reale and social structures – the concept of abnormally dangerous activity and the strict liability general rule in the Civil Code* [Parsons, Reale e as estruturas sociais – o conceito de atividade geradora de risco na cláusula geral de responsabilidade objetiva do Código Civil]. In: SIMÃO, José Fernando; PAVINATTO, Tiago (coords.). *Liber amicorum Teresa Ancona Lopez: tort law studies [Liber amicorum Teresa Ancona Lopez: estudos sobre responsabilidade civil]*. São Paulo: Almedina, 2021, p. 275-287
- (vii) *Partial rescission for breach of contract: legal ground, criteria and limits* [Resolução parcial do contrato por inadimplemento: fundamento dogmático, requisitos e limites] In: TERRA, Aline de Miranda Valverde; GUEDES, Gisela Sampaio de Cruz. (Org.). *Breach of contract. Criteria, developments and remedies [Inexecução das obrigações. Pressupostos, evolução e remédios]*. Rio de Janeiro: Processo, 2020, v. 1, p. 313-338
- (viii) *Binding effects of the arbitration agreement on third parties: the third-party beneficiary* [Eficácia da convenção de arbitragem perante terceiros: o caso do terceiro beneficiário]. In: BENETTI, Giovana; CORRÊA, André Rodrigues; FERNANDES, Marcia Santana; NITSCHKE, Guilherme Carneiro Monteiro; PARGENDLER, Mariana; VARELA, Laura Beck (orgs.). *Law, Culture, Method. Readings of Judith Martins-Costa's works [Direito, Cultura, Método. Leituras da obra de Judith Martins-Costa]*, Rio de Janeiro: GZ, 2019
- (ix) *Is the third-party beneficiary bound to arbitrate?* [O Terceiro Beneficiário está Obrigado a Arbitrar?]. In: VALENÇA FILHO, Clávio de Melo; VISCONTE, Débora; NANNI, Giovanni Ettore (orgs.). *Notes on the 15th International Arbitration Conference of the Brazilian Arbitration Committee – CBAr: Consent in International Arbitration [Trabalhos do XV Congresso Internacional de Arbitragem do Comitê Brasileiro de Arbitragem – CBAr: Consentimento em Arbitragem Internacional]*. São Paulo: Comitê Brasileiro de Arbitragem, 2017, p. 105 ss.
- (x) *Third-party determination, arbitration and dispute boards: the role of third parties in price determination in share put options* [Arbitramento, arbitragem e *dispute boards*: o papel do terceiro na determinação do preço em opção de venda de ações]. In: *Revista Brasileira de Arbitragem*, ano XIV, n. 54, abr./jun. 2017, p. 7-27
- (xi) *Tullio Ascarelli and the indirect agreement* [Tullio Ascarelli e o negócio jurídico indireto]. In: *Revista dos Tribunais*, ano 101, vol. 925, nov. 2012, p. 44-52
- (xii) *Methods and limits of the interpretation of the law: notes on the legal definition of homestead* [Meios e limites da interpretação da lei: reflexões a partir do conceito legal de bem de família]. In: FERRAZ JUNIOR, Tercio Sampaio; BAPTISTA, Luiz Olavo (coords.). *Revista Brasileira de Filosofia*, ano 60, vol. 236 (Edição comemorativa - Homenagem aos 70 anos do Prof. Celso Lafer), jan./jun. 2011, p. 281-312
- (xiii) *A surgeon's civil liability for an anesthesiologist's act: brief notes in light of a court decision* [Responsabilidade civil do cirurgião por ato do médico anestesista: breves notas a partir de um julgado]. In: FRAZÃO, Ana; TEPEDINO, Gustavo (Coord.). *The Superior Court of Justice and the rebuild of Private Law [O Superior Tribunal de*

Justiça e a reconstrução do Direito Privado. Rio de Janeiro: Revista dos Tribunais, 2011, p. 369-413

- (xiv) *Contractual liability and its effects* [Responsabilidade contratual. Efeitos]. In: LOTUFO, Renan; NANNI, Giovanni Ettore (coords.). *Contract Law [Teoria geral dos contratos]*. São Paulo: Atlas, 2011, p. 409-431
- (xv) *On damages* [Perdas e danos]. In: LOTUFO, Renan; NANNI, Giovanni Ettore (coords.). *Law of Obligations [Obrigações]*. São Paulo: Atlas, 2011, p. 653-685
- (xvi) *Groups of contracts and some types of contracts in recent decisions of the Brazilian Superior Court of Justice* [Contratos coligados e qualificação contratual em algumas decisões recentes do STJ]. In: *Revista do Instituto dos Advogados de São Paulo (IASP)*, nova série, ano 9, n. 19, jan./jun. 2007, p. 142-152
- (xvii) *Interpretation and construction of contracts* [Interpretação e integração dos contratos]. In: PEREIRA JÚNIOR, Antonio Jorge; JABUR, Gilberto Haddad (coords.). *Contract Law [Direito dos Contratos]*, São Paulo: Quartier Latin, 2006, p. 51-80
- (xviii) *Classification of contracts* [Classificação dos contratos]. In: PEREIRA JÚNIOR, Antonio Jorge; JABUR, Gilberto Haddad (coords.). *Contract Law [Direito dos Contratos]*, São Paulo: Quartier Latin, 2006, p. 21-50
- (xix) *Notes on fiduciary agreements* [Notas sobre o negócio jurídico fiduciário]. In: *Revista Trimestral de Direito Civil*, ano 5, vol. 20, out./dez. 2004, p. 35-63