The Autorité de la concurrence publishes its opinion of 23 July 2024 on the draft decree defining the mechanism for collecting statistical information from lawyers

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Background

At the request of the French government, the *Autorité de la concurrence* issued an opinion on 23 July 2024 on a draft decree (supplemented by a draft ministerial order) on integrating lawyers into a mechanism for collecting economic data from certain legal professions for the purpose of setting their regulated rates.

In particular, the *Autorité* noted that expanding the data collection mechanism provided for in Article A. 444-203 of the French Commercial Code (*Code de commerce*) to include lawyers should only concern lawyers that provide representation or *postulation* (the procedural requirement in French law for parties to be represented by a lawyer registered with the bar of the relevant appeal court for certain types of proceedings) services, regularly and on a fee-paying basis.

Moreover, while recognising the value of integrating, for all the legal professions concerned, economic data on the activity of branch offices into the data collection mechanism, the *Autorité* recommended that an impact assessment should be conducted in order to evaluate the feasibility of such a reform.

The decree and order adopted, respectively, on 18 June 2025 and 3 November 2025 follow the recommendations made by the *Autorité*. Accordingly, data will only be collected from lawyers that have performed at least five *postulation* services subject to regulated fees and branch offices will not be integrated into the mechanism.

Lawyers no longer excluded from data collection

In accordance with Article A. 444-203 of the French Commercial Code (*Code de commerce*), the national bodies listed in Article R. 444-17 must submit, no later than 30 June each year, a set of information and statistical data by office to the French Ministers of Justice and the Economy, as well as to the *Autorité*. The data is used, in particular, to regularly set the regulated fees of the professionals concerned (notaries, commissioners of justice, commercial court registrars, judicial administrators and judicial liquidators).

Before the entry into force of French decree 2025-553 of 18 June 2025, lawyers were exempt from the data collection mechanism provided for in Article A.444-203 of the French Commercial Code. The exemption remained in place despite the fact that French law 2015-990 of 6 August 2015 for Growth, Activity and Equal Economic Opportunities maintained regulated fees for certain representation or *postulation* (the procedural requirement in French law for parties to be represented by a lawyer registered with the bar of the relevant appeal court for certain types of proceedings) services performed by lawyers, in particular in matters relating to property seizures, court-ordered sales of co-owned property (*licitation*), divisions of co-owned property (*partage*) and court-ordered guarantees (*sûretés judiciaires*). In the absence of data from lawyers, the French government was compelled on three occasions to renew the existing fee scales.

The draft decree adopted amends Article R. 444-18 of the French Commercial Code and thus aims to end the exemption by integrating lawyers into the data collection mechanism.

Initially, Article 1 of the draft decree provided that a ministerial order would set out the modalities for data collection, with the French government planning a gradual implementation of the reform.

The **first phase** was to apply to lawyers who, during the calendar year, received fees for at least five *postulation* services in the context of court-ordered sales of movable or immovable property by auction, i.e. services in the areas of property seizure and court-ordered sales of co-owned property (*licitation*) (Article 1 of the draft order).

The **second phase (from 2027 onwards)** was to cover all lawyers who received fees for services subject to regulated fees.

The *Autorité* made the following recommendations:

- to forego the planned two-phase implementation and target only those lawyers who regularly provide fee-based *postulation* services, i.e. lawyers who have provided at least five services during the calendar year in the areas of property seizure, court-ordered sales of co-owned property (*licitation*), divisions of co-owned property (*partage*) and court-ordered guarantees (*sûretés judiciaires*) (Recommendation 1);
- to provide for a staggered entry into force of the mechanism, to give the French government and the French national bar council (*Conseil national des barreaux* – CNB) time to inform the professionals concerned (Recommendation 2).

The *Autorité* welcomes that its recommendations are reflected in the published decree, appearing directly in Articles 1 and 4.

Provisions on branch offices in the draft ministerial order

The draft ministerial order provided for data collection to be expanded to branch offices of the main offices or practices covered by the mechanism.

While collecting such data would be of value to the administrative authorities, the investigation revealed that branch offices and their parent offices rarely maintain separate accounting records, which, according to the professional

bodies consulted, are necessary to implement such a mechanism.

In the absence of clear and consistent responses regarding professionals' ability to rapidly implement data collection from branch offices, the *Autorité* considered that an impact assessment was necessary to evaluate the feasibility of such a reform (Recommendation 4).

Moreover, should the French government decide to maintain the measure requiring data reporting from branch offices, the *Autorité* recommended excluding judicial administrators and judicial liquidators (Recommendation 5) and providing for a staggered entry into force (Recommendation 7).

Lastly, the *Autorité* recommended semantic clarifications in the draft decree and ministerial order (Recommendations 3 and 6).

The ministerial order of 23 November 2025 integrating lawyers into the data and information collection mechanism amends Article A. 444-203 of the French Commercial Code in order to integrate the French national bar council (*Conseil national des barreaux* – CNB) into the economic data collection mechanism and amends Appendix 4-2 of the same article by specifying the reporting modalities for lawyers.

The *Autorité* welcomes that its recommendation to exclude branch offices from the collection of financial data has been taken into account in the published order.

***> See** the full text of the opinion (in French)*

***> See** decree 2025-553 of 18 June 2025, amending the mechanism for collecting statistical information from the French national bar council (Conseil national des barreaux – CNB)*

***> See** the ministerial order of 23 November 2025, incorporating lawyers into the mechanism for collecting data and information*

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