

14 December 2016: Appointment procedure for new notary positions

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The *Autorité de la concurrence* suggests several ways of improving the system

The *Autorité* reviewed the ordinance of 14 December 2016 issued by the judge responsible for dealing with urgent matters of the French Administrative Supreme Court (*Conseil d'État*), which suspended the execution of the Regulation of 14 November 2016 establishing the procedures for drawing names to appoint new positions in certain areas in France.

The *Autorité* reaffirms its interest in a reform to gradually rebalance the number of notaries required to meet the needs of the French public and economy, in particular by giving opportunities to newly graduated notaries wishing to establish private notarial practices. In its desire for efficiency, the *Autorité* has always advocated for a transparent procedure that ensures compliance with the intent of the law and that guarantees peaceful public debate.

The *Autorité* remains confident of the Government's intention to complete the reform of the regulated professions.

Beyond the reservations expressed by the judge responsible for dealing with urgent matters, the *Autorité* suggests potential avenues for improvement that will ensure that the procedure is legally sound, from the registration of applications, to the publication of appointments to new positions:

- The rules determining the order in which names are drawn could stand to be further defined;
- The order and date on which names are drawn in each area could be

announced in advance and published on the OPM (*Officiers publics et ministériels*) portal;

- Along with the representative of the High Council of French Notariat (*Conseil Supérieur du Notariat ,CSN*), assessors representing candidates and other administrations responsible for implementing the freedom of establishment (Directorate General for Competition Policy, Consumer Affairs and Fraud Control, *DGCCRF* and the *Autorité*) could be invited to be in attendance when the names are drawn;

- If necessary, a videoconferencing portal could be set up to enable candidates to see the names drawn in real-time, or watch the video at a later time.

As the *Autorité* is about to make public its recommendations concerning court bailiffs and judicial auctioneers, it would like regulations that establish the procedures for drawing names to be adopted as soon as possible, in line with the concerns which influenced the decision of the Judge responsible for dealing with urgent matters of the French Administrative Supreme Court (*Conseil d'État*). This could provide an opportunity to resolve issues observed during the first freedom of establishment process so that they may be avoided for the other two professions concerned.

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