# 25 January 2017: Creation of new notary offices in accordance with the zoning map

Published on January 25, 2017

---

**The *Autorité de la concurrence* has for the first time issued Opinions regarding requests to establish notary offices in orange areas (regulated-establishment areas)**

**The *Autorité* proposes to create an additional office in approximately a quarter of orange areas (17 out of 60).**

Under the new powers entrusted to it by the Law of 6 August 2015, in June 2016 the *Autorité* proposed a zoning map defining areas in which notary offices may be established freely (247 "green" areas, in which 1,650 notaries may set up practices by 2018), and areas regulated by the Ministry of Justice (60 "orange" areas). This proposed map was approved in a Regulation issued jointly by the French Minister of Justice and the Minister of the Economy on 16 September 2016[1].

Establishment of new professionals will not, in principle, be prohibited in orange areas, but will require prior assessment to eliminate the risk of "*jeopardising continuity of service by existing offices and compromising the quality of service provided*"[2]. Before rejecting an application to create a new office, the Minister of Justice is required to seek the opinion of the *Autorité*. In the two months period following the submission of the complete file, the *Autorité* assesses the potential for notary services in the relevant area.

**The *Autorité* recently issued Opinions in response to the first applications to establish offices in orange areas**

The procedure for establishing offices in restricted areas has attracted great interest from potential applicants. The Ministry of Justice has indeed referred

numerous cases to the *Autorité* for consideration: as of 23 January 2017, some 275 cases have been logged.

Between 16 and 25 January 2017, the *Autorité* examined and issued decisions regarding 166 applications, systematically submitting a personalised, reasoned Opinion to the Minister of Justice. This work is expected to continue, resulting in more than 100 additional opinions by the end of March.

**The *Autorité* has consulted extensively with stakeholders**

Each applicant was sent an email inviting them to submit any and all relevant information to the *Autorité*, regarding the economic and demographic profile of the area in which the planned office would be established, for example, or information concerning the viability of their project. Similarly, all affected regional councils and département-level notary chambers were contacted regarding the potential impact of establishing new offices in their respective catchment areas. This consultation exercise received a particularly high response rate, with around two-thirds of applicants and 90% of local authorities responding.

Furthermore, the French notary services regulator (*Conseil supérieur du notariat* - CSN) provided the most recent available final data (from 31 December 2015) regarding the activity and demographics of notary offices. The *Autorité* welcomes the quality of this dialogue as well as the decisive, constructive contribution of the CSN during this process.

**The *Autorité* applied its usual analytical method to updated data**

When considering requests to establish offices in restricted areas, the *Autorité* applied the same methodology that informed its previous Opinion of June 2016. While applying this analytical framework, the *Autorité* had access to more recent data relating to notary office staffing and activity.

The activity data for 2015, which the *Autorité* was able to use when considering orange areas (that was not available when the map of green areas[3] was produced ) revealed a significant increase in revenue from notary services [+ 6.3% for offices in all areas] and a slight decrease [- 0.3%] in the number of private

notaries in France. Although this upturn in activity is particularly marked in green areas, in which the *Autorité* had identified a probable need to establish new offices (+ 6.4% in such areas), a number of orange areas have also seen a recovery in notary services. In certain orange areas, dynamic notary services activity is opening up the prospect of local opportunities for establishing offices.

In light of the more recent data, and proceeding in accordance with the methodology described in its Opinion of June 2016[4] , the *Autorité* assessed the impact of establishing new offices on the viability of nearby practices and the quality of notary services provision in the area. The areas suitable for new offices are those in which demand for notary services is likely to increase and/or those in which the number of private notaries has decreased since 2014. Lastly, special assessments were conducted for certain territories, such as Saint-Pierre and Miquelon, to reflect specific local factors.

**The *Autorité* has already issued Opinions regarding the first 166 applications submitted by the Ministry of Justice. It recommended the establishment of an additional notary in 17 areas**

The 166 Opinions issued by 25 January 2017 concern 84 different applicants (candidates are free to apply in multiple areas, but may only be appointed in one).

In 80% of these Opinions, the *Autorité* opposed the requested creation, considering that it might adversely affect the viability of existing offices in the area and compromise the quality of service provided.

In 20 % of its Opinions, concerning 17 (of 60) regulated-establishment areas, the *Autorité* considered that an application to establish a new office could be approved, thereby enabling a new notary to set up a private practice. Its favourable Opinions are conditional: due to the significant number of applications relating to such areas, a screening process will be necessary in order to approve only one applicant in each area. This mission is the responsibility of the Ministry of Justice.

Through this consultation exercise, it can be seen that the legal framework enables the supply of notary services to be regularly adjusted to suit the needs

of businesses and the general public, and to reflect changing local economic circumstances. The recommended changes are measured and prudent: the number of additional notaries proposed by the *Autorité* represents only 1% of the total number expected to be established in green areas by 2018 (1,650 private practitioners). None of the orange areas offer sufficient potential to create more than one additional office and allow the establishment of more than one new private notary.

The *Autorité's* Opinions are submitted to the French Minister of Justice upon adoption, to enable decisions concerning applications to establish offices to be made promptly. The *Autorité* is legally required to provide reasoned Opinions only when rejecting applications. As these Opinions are intended to be published on the Internet site of the French Ministry of Justice5, an anonymised public version compliant with business secrecy requirements has systematically been submitted to the Ministry of Justice.

[1] *Regulation of 16 September 2016, pursuant to Article 52 of Law no. 2015-990 of 6 August 2015 For Growth, Activity and Equal Economic opportunities*

[2] *Article 52, III, of the Law of 6 August, 2015*

[3] *The analysis resulting in Opinion 16-A-13 was based on data from 2010-2014.*

[4] *Note that in each area, the Autorité calculated a revenue projection for 2024, based on revenue from the past five years, INSEE population change forecasts and the effects of the pricing reform. The Autorité considered development potential to exist in areas in which the predicted revenue per private notary exceeded €450,000. However, it also verified that establishing new offices would not cause the average revenue per existing office to fall by more than 35% (cf. § 222 et seq. of the aforementioned Opinion 16-A-13).*

[5] *Article 55 of Decree 73-609 of 5 July 1973, relating to notary services vocational training and access to notary positions*

***> Press contact:***
***Chloé Duretête Tel : +33 (0)1 55 04 01 20/ Mail***