Public consultation - Lawyers at the Conseil d'État (French Administrative Supreme Court) and the Cour de Cassation (French Supreme Court)

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The *Autorité de la concurrence* has launched a public consultation with a view to preparing a new opinion on the freedom of establishment of these professionals.

The law provides for a review at least every two years of the recommendations for the creation of counsel positions at the Conseil d'Etat and the Cour de cassation

The *Autorité* is today launching the procedure provided in Article L. 462-4-2 of the *Code de commerce (*French Code of Commercial Law) in order to prepare a new opinion on the freedom of establishment of lawyers at the Conseil d'État (French Administrative Supreme Court) and the Cour de Cassation (French Supreme Court) and reviewing its recommendations for the creation of positions.

The law stipulates that these recommendations, which are made "with a view to improving access" to these offices "must be published at least every two years". This task of the *Autorité* is based on the provisions of Article 57 of Law 2015-990 of 6 August 2015 relating to growth, activity and equal economic opportunities (known as the "Macron Law").

As a reminder, the last opinion[1] on this profession was published in the Official Journal of the French Republic on 1 November 2018. The *Autorité* recommended increasing the number of counsel positions at the Conseil d'État (French Administrative Supreme Court) and the Cour de Cassation (French Supreme

Court) from 64 to 68.

Four additional counsel positions were created by order of the French Minister for Justice (*garde des Sceaux*)[2] and, after the opinion of a commission set up by regulation was issued[3], assigned by orders[4] to three professionals exercising on an individual basis and to one professional partnership comprising two associates.

In total, since the coming into force of the Macron Law, the recommendations made by the *Autorité* in 2016 and 2018 have enabled ten new professionals to embark on careers in private practice in newly created positions.

A public consultation to inform the new recommendations of the Autorité

The public consultation launched today marks the start of the review of the recommendations for 2020-2022. The following are invited to take part: lawyers at the French Administrative Supreme Court and French Supreme Court (including position creators), any person that meets the requirements to exercise the profession (including candidates for establishment), representative bodies of the profession, accredited consumer associations, professional associations, organisations and unions, as well as any other persons who believe they have an interest in taking part in the consultation. The various contributions received will be useful for the analysis conducted by the *Autorité*.

The *Autorité* has identified several key issues on which those concerned are invited to comment:

- feedback from newly established lawyers at the French Administrative Supreme Court and French Supreme Court;
- impact of the new establishments on the various stakeholders (incumbent professionals, clients and courts);

- procedure for appointment to newly created positions;
- access for women and young graduates to the profession.

Contributors are invited to complete the online questionnaire by clicking on the link below before 9 April 2020[5].

Individual responses to this questionnaire will remain confidential. Only aggregate and anonymous results may be made public.

[1]Opinion 18-A-11 of 25 October 2018 on the freedom of establishment of lawyers and recommendations for the creation of counsel positions at the French Administrative Supreme Court and French Supreme Court, JORF 0253 of 1 November 2018.

[2]Order of 22 March 2019, JORF 0071, text 10.

[3]Article 27 of Decree 2016-652 of 20 May 2016 amending the conditions of access to the profession of lawyer at the French Administrative Supreme Court and French Supreme Court.

[4]Orders of 28 May 2019, JORF 0126 of 1 June 2019, text 101 and JORF 0128 of 4 June 2019, text 46, and the Orders of 11 December 2019, JORF 0288 of 12 December 2019, texts 57 and 58.

[5] Following the suspension, then the reinstatement of the deadlines in relation to the state of health emergency, the deadline for responding is extended to 30 June 2020 (see press release of 18 May 2020)

QUESTIONNAIRE

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See the questionnaire