07 June 2018: Lawyers at the French Administrative Supreme Court (Conseil d'Etat) and the French Supreme Court (Cour de Cassation)

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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 lawyer offices at the French Administrative Supreme Court (*Conseil d'État*) and the French Supreme Court (*Cour de Cassation*)

The *Autorité* is today launching the procedure established in Article 462-4-2 of the French Commercial Code (*Code de commerce*) with a view to preparing a new Opinion on the freedom for lawyers to establish themselves at the French Administrative Supreme Court (*Conseil d'État*) and the French Supreme Court (*Cour de cassation*) and reviewing its recommendations for the creation of offices.

The law indeed 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 economic growth, activity and equal opportunities (known as the "Macron Law").

By way of a reminder, the first Opinion on this profession was published in the Official Journal of the French Republic on 1 November 2016. In this opinion, the *Autorité* recommended increasing the number of lawyer offices at the French Administrative Supreme Court and the French Supreme Court from 60 to 64, the

first increase since 1817.

These four additional offices were created by order of the French Minister for Justice (*Garde des Sceaux*) on 5 December 2016 and, after the opinion of a commission set up by regulation was issued , assigned by order of 5 May to two professionals exercising their profession on an individual basis and to two professional partnerships each comprising two partners. Six new professionals were thus given the opportunity to take up this career during the period 2016-2018.

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 the period 2018-2020. The following are invited to take part: lawyers at the French Administrative Supreme Court and the French Supreme Court (including the office creators), any person that meets the requirements to exercise this profession (including the candidates for establishment), representative bodies of the profession, accredited consumer associations, professional associations, organisations and trades unions, as well as any other person that believes s/he has an interest in taking part in this consultation. The various contributions received will feed into the analysis conducted by the *Autorité*.

The *Autorité* has identified several key issues, in respect of which the stakeholders are invited to make observations:

- Feedback from lawyers at the French Administrative Supreme Court and the French Supreme Court;

- The impact of the new establishments on the various stakeholders (professionals already established, client base of the offices, jurisdictions);

- The procedure for being appointed to the offices created;

- Access to the profession of lawyer at the French Administrative Supreme

Court and the French Supreme Court for women and new entrants to the profession;

In order to contribute to the opinion of the *Autorité* and the related recommendations, stakeholders are invited to respond to the online questionnaire by 8 July 2018 by clicking on the link below.

> Access the questionnaire

The individual responses to this questionnaire are confidential. Only the aggregated and anonymous results are likely to be published.

[1] Opinion 16-A-18 of 10 October 2016 on the freedom of establishment of lawyers and recommendations for the creation of lawyer offices at the French Administrative Supreme Court (Conseil d'État) and the French Supreme Court (Cour de Cassation) , **JORF n°0255 of 1 November 2016**.

[2] 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 (*Conseil d'État*) and the French Supreme Court (*Cour de Cassation*).

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