Lawyers at the French Administrative Supreme Court (Conseil d'État) and French Supreme Court (Cour de cassation) - The Autorité de la concurrence launches a public consultation to prepare a new opinion on the freedom of establishment of these professionals

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The law provides for a review of the recommendations for the creation of offices for lawyers at the French Administrative Supreme Court (Conseil d'État) and French Supreme Court (Cour de cassation) at least every two years.

The *Autorité* is today launching the procedure provided for in Article L. 462-4-2 of the French Commercial Code (Code de commerce) with a view to drafting a new opinion on the freedom of (business) establishment of lawyers at the French Administrative Supreme Court (Conseil d'État) and French Supreme Court (Cour de cassation) and revising its recommendations on the creation of offices.

The law provides that these recommendations, made "*with a view to improving access*" to these offices, "*will be made public at least every two years.*" This task of the *Autorité* stems from the provisions of Article 57 of Law 2015-990 of 6 August 2015 for Growth, Activity and Equal Economic Opportunities (known as the "Macron Law").

For the record, the last opinion[1] relating to this profession was published in the *Official Journal* on 9 April 2021. The *Autorité* recommended increasing the number of offices for lawyers at the French Administrative Supreme Court (Conseil d'État) and French Supreme Court (Cour de cassation) from 68 to 70.

Two additional offices were therefore created by decree of the Minister of Justice[2] and, after the opinion of a commission established by regulation[3], were attributed by decrees[4] to a professional practising individually and to a professional management company with two partners.

In total, since the Macron Law came into force, the recommendations put forward by the *Autorité* since 2016 have enabled 13 new private practitioners to embark on this career in a created office.

A public consultation to explain the Autorité's new recommendations

The public consultation launched today marks the start of the work to revise the recommendations for the period 2023 - 2025.

The following are invited to participate: practising lawyers at the French Administrative Supreme Court (Conseil d'État) and French Supreme Court (Cour de cassation), (including those who have set up their own offices), any person who meets the conditions required to practise this profession (in particular candidates for establishing offices), bodies representing the profession, approved consumer associations, associations, groups and trade associations of professionals, and any other person who considers that they have an interest in taking part in this consultation. The different contributions collected in this way will be useful for the analysis conducted by the *Autorité*.

The *Autorité* has identified several important issues on which the stakeholders concerned are invited to comment:

- the assessment of the consequences of the health emergency on the activity of professionals;
- feedback from newly established lawyers at the French Administrative Supreme Court (Conseil d'État) and French Supreme Court (Cour de cassation);

- the impact of the establishments on the various parties involved (existing professionals, office clients, jurisdictions);
- the procedure for appointment to the created offices;
- access to the profession for women and young graduates.

To contribute to the Autorité's opinion and the associated recommendations, the stakeholders are invited to answer the questionnaire available online by clicking on the link below before 14 October 2022.

[1] Opinion 21-A-02 of 23 March 2021 on the freedom of establishment and recommendations for the creation of counsel offices at the French Administrative Supreme Court (Conseil d'Etat) and the French Supreme Court (Cour de cassation), Official Journal of the French Republic (JORF) 0084 of 9 April 2021

[2] Decree of 20 April 2022, Official Journal of the French Republic (JORF) 0095 of 22 April 2021.

[3] Article 27 of Decree 91-1125 of 28 October 1991 on the conditions for admission to the profession of lawyer at the French Administrative Supreme Court (Conseil d'Etat) and French Supreme Court (Cour de cassation).

[4] Decrees of 25 August 2021, Official Journal of the French Republic (JORF) 0205 of 3 September 2021
Text 38 and Official Journal of the French Republic (JORF) 0202 of 31 August 2021
Text 49.

Individual responses to this questionnaire are confidential. Only the aggregated and anonymous results can be made public.

Access the form

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