Freedom of establishment for notaries and commissioners of justice: the Autorité launches two public consultations

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Freedom of establishment for notaries and commissioners of justice - The *Autorité* launches two public consultations to prepare opinions on the freedom of establishment of these professionals and propose a review of the maps adopted in 2021

Background

In application of Article L. 462-4-1 of the French Commercial Code (*Code de commerce*), the *Autorité de la concurrence* launched two public consultations to prepare two new opinions on the freedom of establishment of notaries and commissioners of justice and propose a review of the maps adopted in 2021.

On this occasion, the *Autorité* will, for the first time, issue an opinion and a proposal for a single map for the profession of commissioner of justice.

To contribute to the new opinions and proposed maps of zones for the installation of notaries' and commissioners of justice's offices, interested stakeholders are invited to answer the questionnaires available online by clicking on the links below before 2 March 2023.

The law provides for a review of the installation maps at least every two years

The maps for court bailiffs, judicial auctioneers and notaries, made public by the joint decrees of the Ministers of Justice and Economy of 20 July [1] and 11 August 2021 [2], must be revised within two years of their adoption. These maps are subject to a prior proposal by the *Autorité de la concurrence*.

In addition, the *Autorité* is required to make "*all recommendations to improve access to public or ministerial offices with a view to strengthening the territorial cohesion of services and gradually increasing the number of offices in the territory*" (Art. L. 462-4-1 of the French Commercial Code (*Code de commerce*)).

The first installation map for commissioners of justice

Since 1 July 2022, the professions of court bailiff and judicial auctioneer have been brought together within the new profession of commissioner of justice. Consequently, since this date, the Minister of Justice only creates offices of commissioners of justice, to which all qualified professionals or "qualified" commissioners of justice may be appointed, regardless of their original profession.

As a result, for the first time, in 2023 the *Autorité* will issue an opinion and a proposal for a single map for the profession of commissioner of justice.

The previous recommendations of the *Autorité*

The first two maps for notaries, relating to the periods 2016-2018 and 2018-2020, had set a target of 1,650 and 733 new notaries to be appointed to created offices, respectively.

For their part, the first maps for the establishment of court bailiffs and judicial auctioneers, only for the period 2017-2019, had set a target of 202 and 42 appointments respectively.

In 2021, the *Autorité* took into account the short, medium and long-term impact of the Covid-19 pandemic on the activity of professionals and therefore decided to adopt a particularly cautious approach. It had therefore recommended the free establishment, by summer 2023, of 250 new notaries, 50 new court bailiffs and no judicial auctioneers, this last profession having been the most severely

affected of the three by the health emergency.

Important issues for new map proposals

The public consultations launched today mark the beginning of work to revise the map of zones for the establishment of notary offices and the beginning of work on the first map for the profession of commissioner of justice.

In addition to the recurring themes of the public consultations (the evaluation of the appointment procedure, the impact of the creation of offices on the various stakeholders or the territorial cohesion of the services), the *Autorité* has identified several important issues on which the interested parties are invited to comment, including:

- the consequences of the health emergency on the volume of activity and the organisation of the offices;
- the risks to the activity of professionals due to the deterioration of the economic situation (slowdown in growth, increase in inflation, tightening of the conditions for granting property loans, etc.);
- the impact of the reform of the discipline and ethics of the legal profession;
- the implications of the merger of the professions of court bailiff and judicial auctioneer into the single profession of commissioner of justice since July 2022.

As in previous years, the *Autorité's* objective is to have as accurate and objective an overview as possible of the economic situation of notaries and commissioners of justice, particularly those whose offices have recently been created, in order to formulate its recommendations to the government.

[1] Decrees of 20 July 2021 issued pursuant to Article 52 of Law 2015-990 of 6 August 2015 for Growth, Activity and Equal Economic Opportunities for the profession of courts bailiffs and the profession of judicial auctioneers.

[2] Decree of 11 August 2021 issued pursuant to Article 52 of Law 2015-990 of 6 August 2015 for Growth, Activity and Equal Economic Opportunities for the

profession of notary.

QUESTIONNAIRE FOR NOTARIES

Access the questionnaire

QUESTIONNAIRE FOR COMMISSIONERS OF JUSTICE

Access the questionnaire

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