

06 December 2018: Freedom of establishment for notaries: approval of the map proposal for 2018-2020

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The Autorité de la concurrence welcomes the adoption of Decree of 03 December 2018 which takes up the recommendations the *Autorité* presented to the government on 31 July.

More than 700 new private notaries will be able to establish offices by 2020.

The joint order of 03 December 2018 sets a goal of 733 new private notaries

The joint order of the Ministers of Economy and Justice of **03 December 2018** made under Article 52 of Law 2015-990 of 6 August 2015 for Growth, Activity and Equal Economic Opportunities (known as the "Macron law") adopted the map proposed by the *Autorité* in the framework of **Opinion 18-A-08** of 31 July 2018 (**see the press release of 31 July 2018**).

The joint order of 03 December 2018 established 229 free-establishment areas (in a total of 306 areas) in which 733 new private notaries are expected to establish between December 2018 and December 2020. In line with the *Autorité's* proposal, this target includes the remaining notaries who could not be appointed during the previous time period (2016/2018).

The *Autorité* welcomes the publication of this Order, which reaffirms the determination of the government to continue to gradually rebalance the number of notaries to meet the needs of the French public and economy, in particular by providing opportunities to newly graduated notaries wishing to establish private notarial practices. With 90% of the appointed notaries for the period 2016-2018 being those establishing for the first time, the Macron law reached one of its goals.

Improvements to the application and appointment procedure

Further, the *Autorité* also welcomes the improvements which were implemented in the application and appointment procedure. Decree n° 2018-971 of 9 November 2018 now provides for:

- a **single application per natural person per area**;
- a renouncement after more than **two months following the availability of the application procedure** induces the annulment of all the candidate's applications in the class of area concerned (green or orange).
- the drawing of lots can only take place **two months after the availability of the application procedure**
- The opening of the application procedure for the orange areas occurs six months after the one for the green areas.

These new dispositions are intended to rationalize the appointment procedure and to increase the share of applications which lead to the creation of an office. For the 2016-2018 period, more than 2/3 of the 36,500 applications were closed after being investigated, due to the annulment of the application or rescission, among other reasons.

This measure should thus ensure a better match between applications and the candidates' professional projects by limiting the number of applications that every applicant can submit per area, in order to diminish the phenomenon of « multi-applications ».

The second phase of office creations

For the 2018-2020 period, the application calendar is as follows:

- **February 2019**: Availability of the application process in the green area;
 - **April 2019**: Beginning of the drawing of lots in the green areas (if applicable) ;
 - **August 2019**: Availability of the application process in the orange area;
 - **June 2020**: End of the application process in all areas.
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Steering committee of the National Assembly for the assessment of the Macron law

The *Autorité* fully concurs with the recommendations of the steering committee of the National Assembly (*mission commune d'information de l'Assemblée Nationale*) for the assessment of the Macron law, which especially aims at improving market access for newly appointed notaries:

- adopt at the earliest opportunity the decree regarding the use of « personalized solicitation » in order to ease the conditions in which offices can make themselves known and communicate with potential clients;
- reinforce the candidate's knowledge of the progress of their case's investigation;
- lengthen the period between the publication of the appointment order and the oath taking.

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