Freedom of establishment of notaries and commissioners of justice: proposed maps for 2023-2025

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The *Autorité* recommends the private establishment of 600 new notaries and 33 new commissioners of justice by 2025

In accordance with Law 2015-990 of 6 August 2015 on growth, activity and equality of economic opportunities (known as the "Growth and Activity Law"), the *Autorité de la concurrence* is proposing to the Ministers of Justice and the Economy maps of establishment areas for notaries and commissioners of justice, together with recommendations on the pace of creation of new offices for the period 2023-2025.

A first opinion for the new profession of commissioner of justice

As of 1 July 2022, commissioners of justice are the public and ministerial officers who have replaced court bailiffs and judicial auctioneers. They will exercise the competences formerly entrusted to these two professions within the jurisdiction of the court of appeal of the headquarters of their office.

This is therefore the first time the *Autorité* has issued an opinion on the freedom of establishment of judicial commissioners. Since 2016, it has issued two opinions and one deliberation on the freedom of establishment for each of the two former professions.

Targets for the appointment of new professionals achieved under the latest maps

As far as notaries are concerned, the appointment targets set in the first two maps were almost met. The backlog amounted to 33 unfilled appointments for the 2016-2018 map (the target was 1,650 appointments) and around 87 for the 2018-2020 map (the target was 733 appointments). Appointments are still underway for the 2021-2023 map, but **the target of 250 new notaries will be reached before the map expires (end of August 2023)**.

The appointment targets of the first maps for court bailiffs and judicial auctioneers (2017-2019) were not met. The backlog was estimated at around 59 court bailiffs (out of 202 professionals to be appointed) and six judicial auctioneers (out of 42 professionals to be appointed). **The objectives of the second maps (2021-2023)**, which are more moderate due to the impact of the health emergency on the professions concerned, **have already been achieved (50 new court bailiffs and no new judicial auctioneers)**.

The Autorité finds that the notarial profession is doing particularly well, while the profession of commissioner of justice faces a number of challenges

The notarial profession continues to generate excellent economic results, thanks primarily to the particularly buoyant property business in recent years. This favourable situation has facilitated the development of the offices created since 2017. Nevertheless, the slowdown in the property market since mid-2022 could restrict the activities of notaries over the next two years.

The new profession of commissioner of justice is in the process of being structured, and the consequences of the health emergency are compounding the structural difficulties it is facing. In particular, the *Autorité* notes that staff numbers are falling, as is the profitability of the offices and the demand for services from these professionals.

The Autorité issues new recommendations for appointments for the period 2023-2025

In accordance with the need for gradual progress anticipated by the Legislator, and taking account of inflation since 2017, the *Autorité* recommends that, over the period of validity of the next maps (2023-2025), **only 600 new notaries should be established in 168 free establishment areas (out of a total of 293**

areas), and only 33 new commissioners of justice should be established in 13 free establishment areas (out of a total of 99 areas).

The recommendations and observations of the Autorité to improve access to offices

The *Autorité* accompanies its proposal for a map for notaries and commissioners of justice with qualitative recommendations aimed at improving the implementation of the Growth and Activity Law, while welcoming the major reforms undertaken to respond to its previous recommendations (greater transparency in the procedure for appointments in free establishment areas, introduction of an electronic drawing of lots, etc.).

PRESS RELEASE OF 7 JULY 2023

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See the press release