

**KOBER-SMITH & ASSOCIATES**  
NOTARY PUBLIC

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Le Garde des Sceaux  
Ministère de la Justice  
13 Place Vendôme  
Paris 75001  
France

2<sup>nd</sup> June 2006

Dear Sir,

**Notaries – My right to work in Paris**

**Your reference : V-J/BDC-Parl. No. 200600025995**

I still await a reply to my letter to you of 6<sup>th</sup> January 2006, a copy of which is enclosed. As you see that letter asked both about my working as an English notary and about qualifying as a French one.

I have no doubt that you will refuse both requests, but could you make clear, when you reply, that you are refusing me the right to supply services even occasionally as an English notary, international notary or French notary, as well as refusing a right of establishment either as an English or French notary?

I would also be grateful if you would give fully argued reasons for your refusal. As of course you are aware, this is a basic legal obligation, and a statement in the form “Notaries in France exercise official authority and are hence exempt from the provisions of the EU Treaty concerning free movement, by virtue of Articles 39(4) and Article 45”, though admirably brief, would be completely inadequate.

What you would need to demonstrate, in the case of each activity carried on by notaries, is how notaries exercise coercive power in the general interests of the State. This would need to be shown for each of the activities listed and all other activities carried on by notaries.

- transfers of property
- mortgages
- recognition of illegitimate children
- authentication of copies of documents
- the signing of contracts
- the setting up of companies
- drawing up of wills

- the administration of estates
- the sale of properties as estate agents
- general advice given by notaries

I would also be grateful if you could deal with the fact that the Cour de Cassation has stated that notaries are just private lawyers. To quote them:

**« - les officiers ministériels : les notaires ne peuvent être considérés ni comme des fonctionnaires publics, ni comme des dépositaires ou agents de l'autorité publique, ni comme des citoyens chargés d'un service public ; ils n'exercent leur ministère que dans les intérêts privés (Crim., 5 janv. 1935, *D.H.*, 1935, p. 165) ; »**  
{Translation: notaries cannot be considered either as civil servants or agents of public authority, nor as agents put in charge of a public service, they do their work only for private interests}

I would also be grateful if you could indicate who will pay any damages when I win the right to work. Are you expecting the notaries to pay, or the taxpayers as a whole?

I look forward to hearing from you.  
Yours sincerely,

Mark Kober-Smith  
Notary Public