

**▼ REPORT TO THE PUBLIC ON THE  
WORK OF THE COMMISSION IN 2007 ▲**



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## ▼ FOREWORD ▲

This report, the seventh to be presented pursuant to article 9-1 of decree no. 99-778 of September 10, 1999 as amended, reflects the continued activity of the CIVS, one of whose objectives in 2007 was to significantly reduce the interval of time between the end of the investigation of a file – which process is itself incompressible – and its examination by a panel of decision-making members of the Commission.

Thus by comparing the statistics on a like-for-like basis, one can see that the number of sessions this year rose by nearly 8%, reaching a figure of 243 (of which 26 for the month of June alone). Thanks to the activity of the decision-making members and the dynamism of the Commission staff, this year the Commission adopted 3,756 recommendations.

Thus the CIVS will shortly be operating “just in time” which, as we shall see further on, will of necessity entail new arrangements for its hearings and its organization along lines that will enable it to maintain the quality of its work, which relies on the study of files that have had the benefit of in-depth archive searches and the experience acquired by the rapporteurs.

Indeed, it should be remembered that when issuing recommendations, the Commission bases itself on the stories of individuals or of families, through the contacts it establishes with claimants whose testimonies are compared with the documents retrieved and then supplemented by what equity suggests would be fair reparation.

This “case by case” examination is the culmination of a process that is very different to the system of lump-sum compensation implemented in other countries. It demonstrates a commitment to make reparation that goes further than mere compensation for pecuniary losses and combines the commemorative and the moral to the purely financial aspect. The Commission has a duty – which is what sets it apart – to remember what befell the private individual, and in front of each claimant, to symbolically demonstrate that the French State accepts the spoliations endured by their family.

This is the message we hope to transmit to the victims, or their heirs, who attend our sessions. It was particularly well received, and understood, by the claimants we encountered during missions carried out in 2007 in New York, Tel-Aviv and Jerusalem – where the CIVS held a hearing for the first time.

In Israel, nearly all claimants responded positively to the invitation sent to them and went personally to the French Embassy or Consulate General, often accompanied by spouses or relatives, keen to learn about their family history.

The year was also marked by an important, but delicate, information campaign aimed at claimants who, having applied to register a claim, had not replied to the questionnaire sent out by the CIVS. According to the results of this inquiry, referred to later in this report, approximately a third of the people consulted have now decided to pursue their claim.

2007 saw the completion of the project to set up a History Committee. This was officially installed on November 29, under the chairmanship of the Government Secretary General. The work – already well under way – of the scientific team directed by Ms. Anne GRYNBERG, will lead to more accurate knowledge of the extent of the spoliations organized by the Occupying Forces and the Vichy régime, and will preserve many precious witness statements collected during investigations of cases and the examination of claims at hearings. The work will also enable our country to better “draw lessons from its own history”, to borrow the phrase used by the Prime Minister on October 6, 1997, and will render an account, beyond our borders, of France’s total commitment to its work of reparation.

It was with this in mind that in December 2006, the chairman and the director of the CIVS went to Berlin to raise awareness of the Commission in the course of some twenty or so encounters with representatives of the Jewish Community in Berlin and Germany, political personalities, members of the Administration and those in charge of organizations active in the same field as our own. A return visit took place on October 5 when we received a delegation from the German Consultative Committee for the restitution of cultural property, led by its chairman Ms. Jutta LIMBACH. The ties forged on this occasion are destined to grow stronger and will be most productive.

The way the CIVS operates has been explained in detail in our previous reports and in essence has undergone little change, such that only a few sectors of the Commission's activity call for comments to illustrate the results obtained this year.

As at December 31, 2007, around 2,500 files still remained to be investigated or examined; however, the number of new claims has fallen in relative terms: a monthly average of 84 claims in 2007 (although this figure rose to 109 in January 2008!).

This trend, which began a few years ago, has already led to a reduction in staff at the Commission, in particular in the number of rapporteurs, now down to 25, with other departures being envisaged.

Whilst the task of the CIVS may be nearing completion, there are nevertheless two factors to take into consideration:

- Investigating a new file still takes several months, because of the time needed to consult the Archive Centers.

- The Commission must remain in standby-mode so as to be able to respond efficiently to a foreseeable increase in new claims, if a cut-off date were to be announced.

For the time being, however, the only issue for us is to continue our work with the concern to fulfill the mission entrusted to us in the best possible manner.

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## ▀ FINANCIAL AND ADMINISTRATIVE FRAMEWORK ▀

The institution of the organic law relating to the finance laws (LOLF) of August 1<sup>st</sup>, 2001, found expression, for the CIVS, in a **new budgetary architecture**. Henceforth, its budget appropriations are amalgamated into the new Program 158 (National War Veterans, Memory and Links with the Nation mission), which comprises staff and administrative appropriations in addition to appropriations for support measures, and falls within the remit of the Secretary General of the Government. Implementation of the staff and administrative appropriations is taken charge of by the Department of Administrative and Financial Services in the Prime Minister's office.

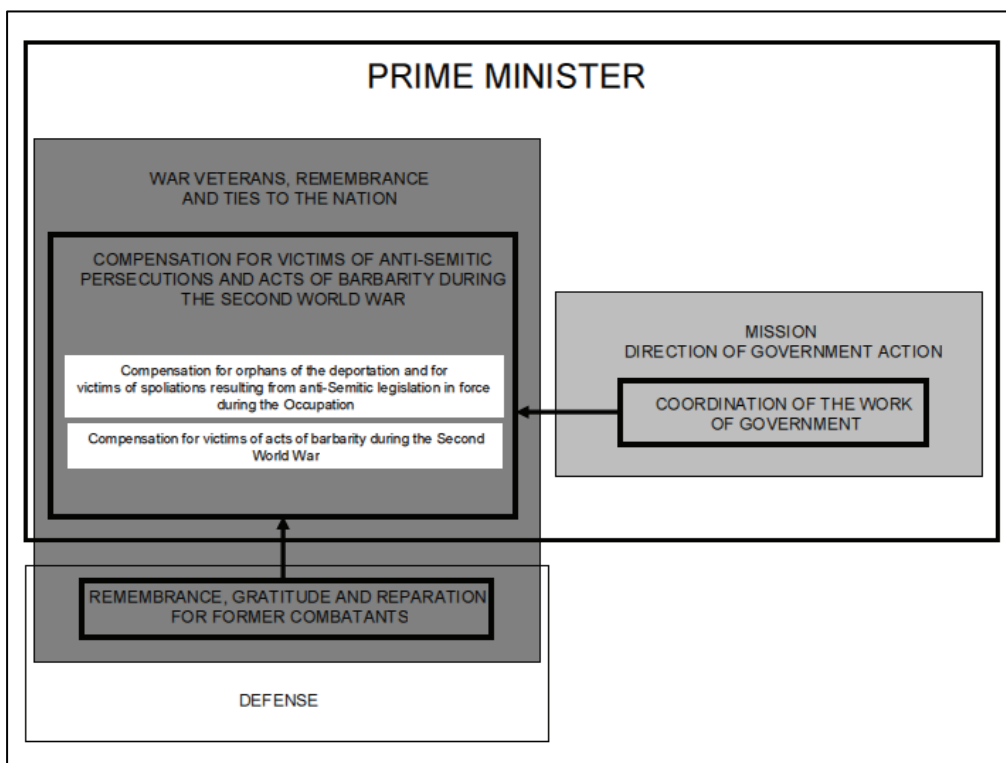
**Programme 158** "Compensation for victims of anti-Semitic persecutions and acts of barbarity during the Second World War" covers financing of the mechanism for compensation put in place in favor of the victims from the Second World War, or their heirs and successors. This mechanism implements compensation for three categories of victim:

- victims of spoliations resulting from anti-Semitic legislation (decree no. 99-778 of September 10, 1999),
- orphans whose parents were the victims of anti-Semitic persecutions (decree no. 2000-657 of July 13, 2000),
- orphans whose parents were the victims of acts of barbarity (decree no. 2004-751 of July 27, 2004);

The CIVS proposes measures for reparation, restitution or compensation to the Prime Minister, for the reparation of spoliations of assets. In accordance with the regulatory provisions, the decisions granting or refusing measures of financial reparation are taken by the Prime Minister. Payment of the compensation is made through the National War Veterans and Victims of War Office (ONAC = *Office National des Anciens Combattants et Victimes de Guerre*).

### Program Analytical Flow-chart

(this chart shows the connections between the actions of the program and the actions of other programs)



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## ▼ COMMUNICATION AND INFORMATION ▲

### ① ACTIVE COMMUNICATION

The dynamics of a communication policy centered on overseas and more particularly on Germany and countries in the East continue to bear fruit. The objective of these exchanges conducted in close cooperation with the Berlin office since 2005 is to increase awareness of **French policy on reparation and the relevance of its compensation mechanism.**

In the course of the past year, the Commission traveled abroad as follows:

- **Germany** where in March, it attended a public session of the *Bundestag's* Cultural Affairs Commission on the **“Application of the principles of the Washington Declaration in Germany and internationally”**.

In April, the CIVS took part in the conference on **“A never-ending debate? Stolen art and restitution in German-speaking areas”** organized by the Moses Mendelson Center and Potsdam University.

Among the most significant actions undertaken in Germany this year was the working trip to Koblenz organized in August on the **presentation of the Federal Archives fund.**

- **The Netherlands**, in March, where after meeting with the President of the Dutch Restitution Commission, the CIVS was represented at the international conference **“Pillaged, but from whom? The limits of the search for provenance”** prepared jointly by the Museum of Jewish History of Amsterdam and the Dutch Ministry of Education.
- **Austria** within the framework of the **“Restitutions”** conference held in Vienna at the initiative of the Austrian representatives from Sotheby's auction house.
- **The Czech Republic**, in October, in Liberec where the Director was invited to give a talk on the question of reparation by the CIVS for looted cultural property, within the framework of the international conference on **“Restitution of works of art: wish or reality”**.

As in previous years, the Commission held sessions abroad on two occasions during 2007: in April-May in the United States, in New York, its third visit; and in December in Israel, where the Decision-making Panel held hearings for the fifth consecutive year in Tel-Aviv and for the first time in Jerusalem. **Close on 160 files were examined during these two missions.**

As in the past, the CIVS met with public personalities and community leaders within the framework of these trips. Thus in the United States, the members of the delegation had the opportunity to meet with officials from the Holocaust Claims Processing Office (HCPO) in New York.

While the overseas actions were numerous, it is important to mention that the Commission was also very active in terms of events organized in Paris. In particular, we refer to the colloquium on **“Repairing the Harm done by History”** held in February in the Court of Cassation, France's highest civil jurisdiction, and that hosted in June by the Franco-Russian Legal Society on the **“Law and the Art market in France and Russia.”**

The most significant event however was the working visit by the **German Consultative Commission for the Restitution of Cultural Property** which took place in October at the head office of the CIVS and which initiative was saluted by Madam Professor

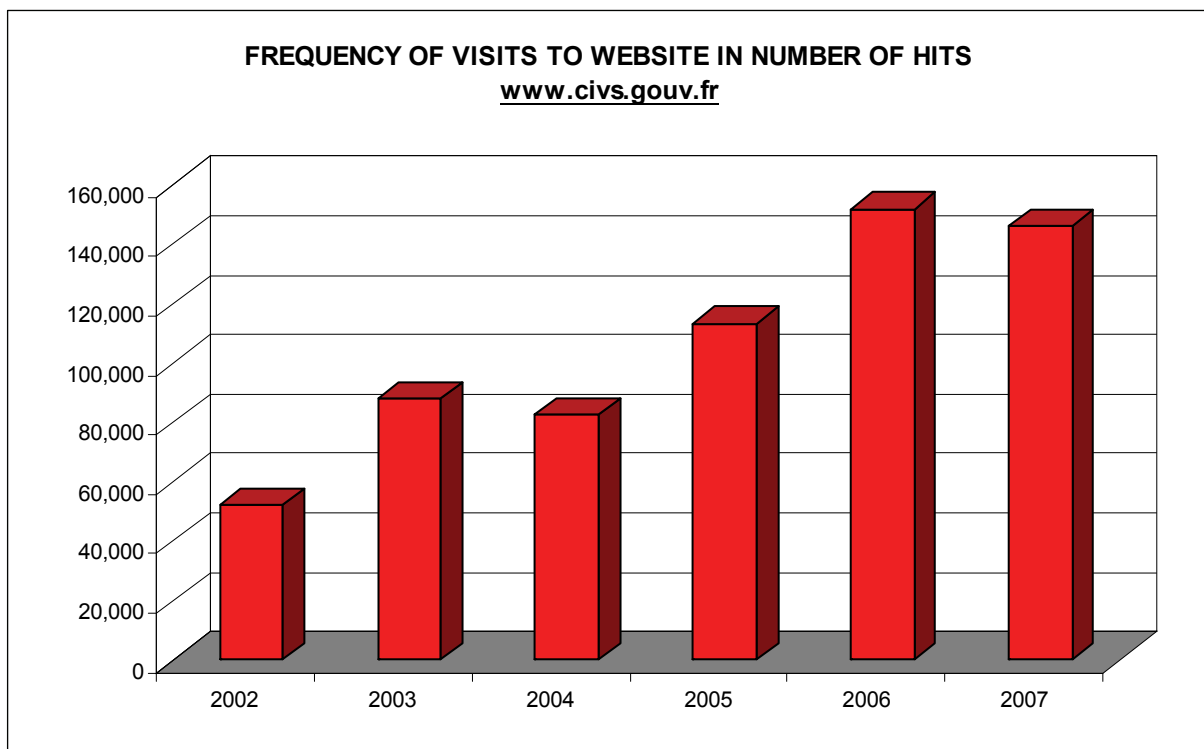
Jutta LIMBACH, chairman of the German Consultative Commission, former president of the Constitutional Court of Karlsruhe and chairman of the Goethe Institutes.

The day was devoted to a presentation of the CIVS (administrative operation, compensation criteria, etc.). The members of the German Consultative Commission were given the opportunity of sitting in on one of the plenary sessions of the Decision-Making Panel (with the agreement of claimants), during which files on material assets, bank-related claims and movable cultural property were examined.

Following on from the meeting held in June 2002 and the exchanges that took place in 2006, this move illustrates the willingness of the German and French authorities to pursue and develop their dialogue on the procedures for compensation and restitution that have been put in place by each country.

2007 also saw a re-working of the Website in French, English and German. The Hebrew version will be operational during the first half of 2008. Its modified and more current architecture has been totally designed with a view to providing the best response to claimants and in the most relevant way. The "Questions/Answers" (FAQs) page illustrates this well: it groups by topic a collection of the actual queries made by claimants in the course of their dealings with the CIVS.

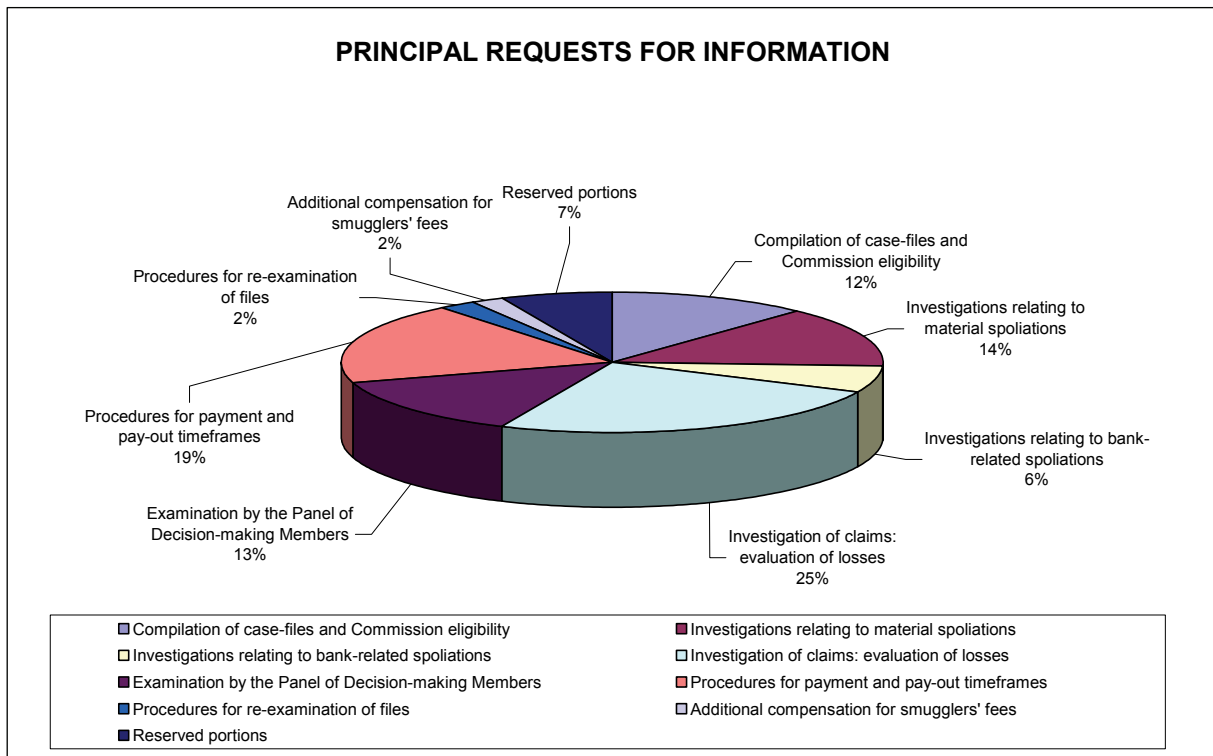
The number of visitors to the Website is still high, nearly 146 000 hits. It continues to be the interface of reference in terms of communication and information. The pages with the greatest number of visits cover News of the CIVS, its origin, constitution and terms and conditions of compensation.



The most frequently downloaded documents are the questionnaires requesting a file to be opened, the activity reports and informative documents such as brochures and leaflets.

## 2 INFORMATION: THE DIVERSITY OF CLAIMS

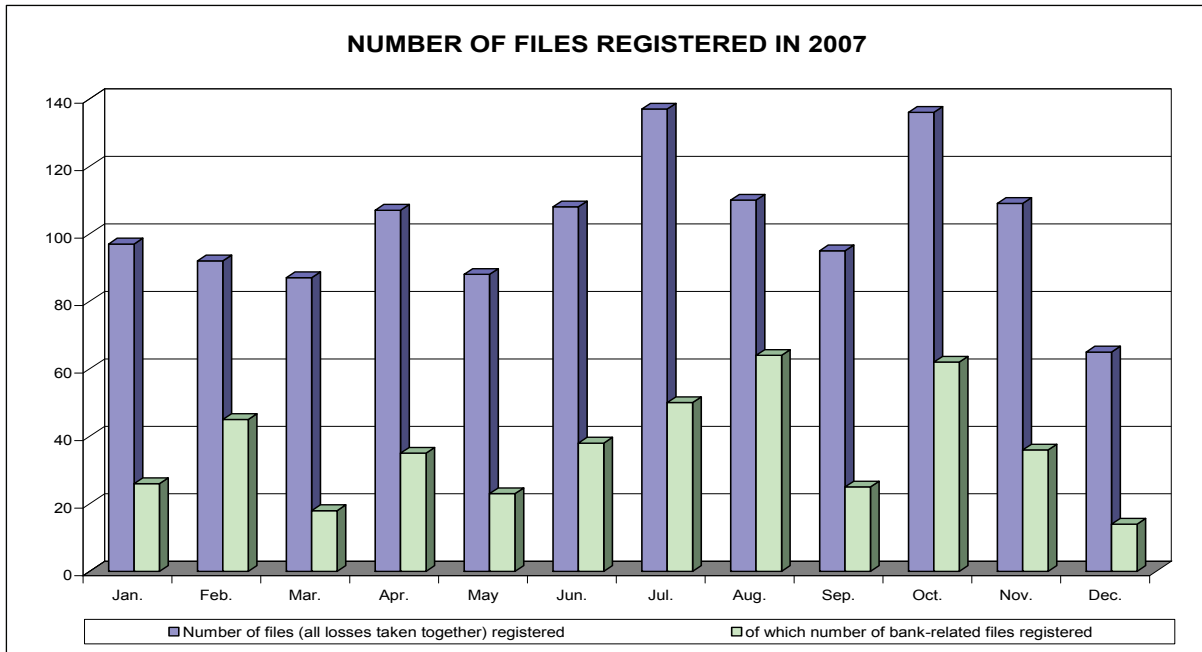
Claimants continue to call the Telephone Contact and Information Unit (CERT) in order to monitor the progress of their files. They are concerned with payment timeframes and the procedures relating to the lifting of reserved portions.



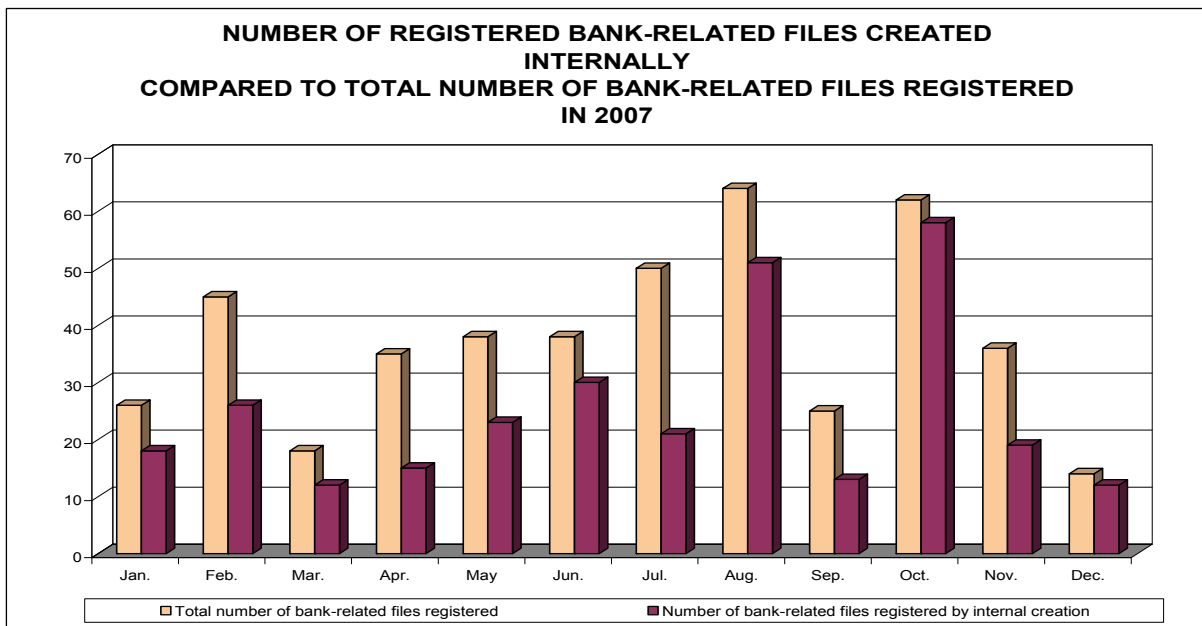
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## ▶ FILING CLAIMS ◀

### ① RATE CONTINUES TO HOLD UP



Despite a relative fall in the number of claims received<sup>1</sup> – an average of 104 per month in 2004, 93 in 2005, 95 in 2006 and 84 in 2007 – the number of files, all losses taken together, registered in 2007 remains significant, **on average 105 new files every month, and this is due to the internal creation of bank-related files increasing in 2007** (over 300 files in one year).

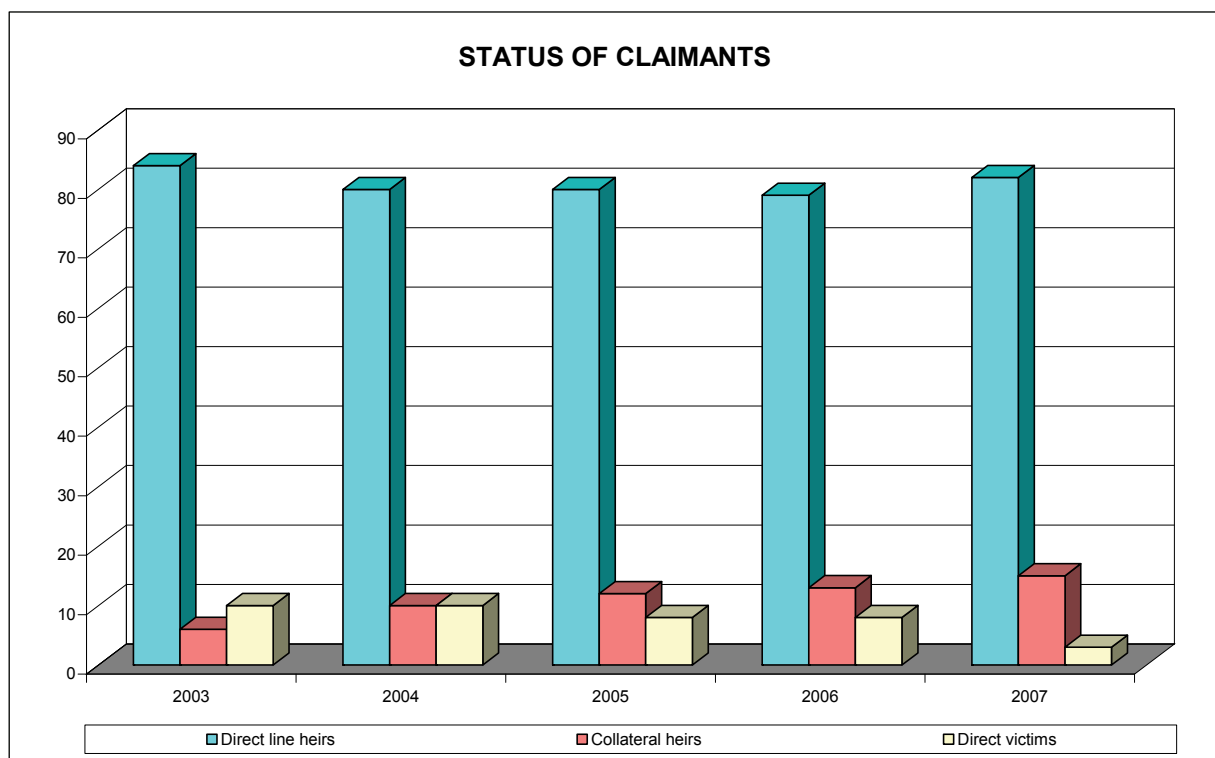


<sup>1</sup> Two files may correspond to a single claim: one material and one bank-related.

## 2 THE CLAIMANTS

In 2007, **82% of new claims for compensation registered were filed by direct-line heirs** (79% for 2006), **10% by collateral heirs** (13% for 2006) and **8% by direct victims**, that is to say, claimants who apply to the CIVS following losses which they suffered personally during the Occupation, either because their personal property was looted, or because they were interned and/or deported.

While claimants are often led to engage new proceedings for other members of their family, once they have filed a claim for their parents or grand-parents, **new claims by direct heirs still account for the majority of claims made in 2007**. Certain claimants, therefore, have only referred the matter to the CIVS some 7 years after it was set up.



## 3 OUR COMMITMENT TO LEAVE NO FILE WITHOUT HEIRS

In March 2007, more than a thousand registered claims (some having been on file for several years) had not yet been investigated, for lack of questionnaires returned by claimants, in spite of routine reminders having been sent out by post after **six months**. Yet properly completed questionnaires are essential for determining the relevance of claims and for undertaking searches in the archive centers. **In fact the Commission is committed to not leaving any files in abeyance**, whatever the reasons that dissuaded claimants from pursuing their claim (ill health, change of permanent address, etc.).

It therefore organized **two follow-up operations on these files, by telephone and by letter, in March and October 2007.**

The large majority of claimants who were able to be contacted by phone were appreciative that we had not lost sight of their claim. **Approximately 40% of the people contacted indicated that they had not followed up the claim “for lack of proof in support of their claims”** or because they found filling in the questionnaires awkward. It is important to remember on this occasion that the Commission takes account of the difficulty in supplying proofs and makes the assumption that claims for common plausible losses are made in good faith. It must also be said that the Commission itself carries out the searches that are necessary and that the members of its staff are always available for claimants who, thanks to a direct-dial phone line, can receive help and assistance in compiling their file. That being the case, it should also be noted that a good many claimants choose not to continue to press their claim, in order not to stir up memories of the tragedies they experienced.

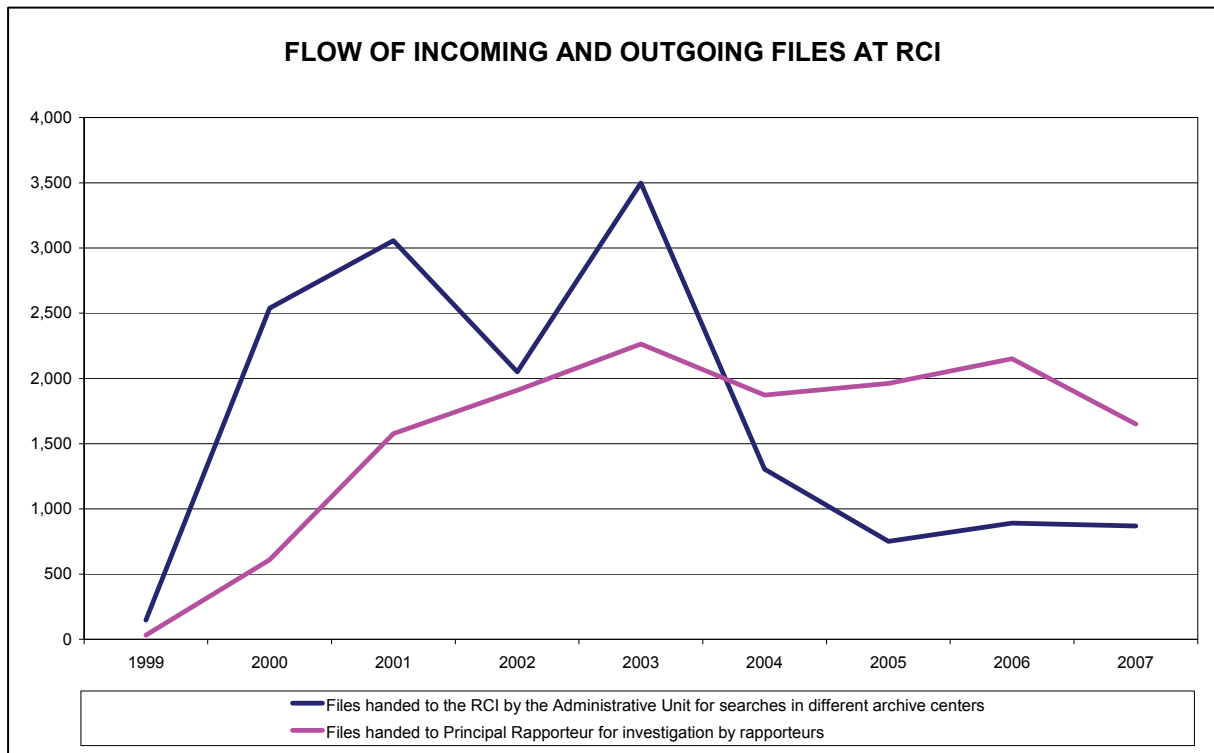
To conclude, therefore, this reminder operation enabled **over 350 questionnaires to be received for more than 1,000 so-called “temporarily archived” files.** As at December 31, 2007, 782 files were declared finally closed though, after a final letter failed to produce any response.

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## THE MATERIAL FILES

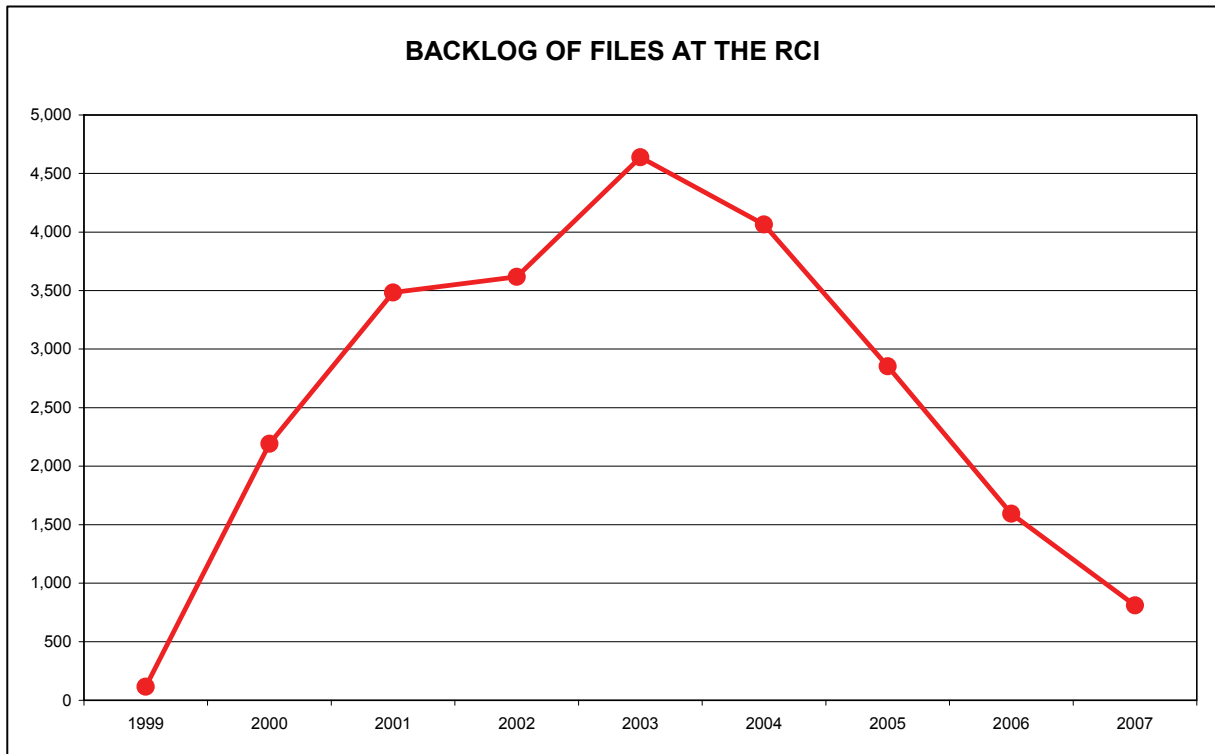
### 1 THE CONTROL & INVESTIGATION NETWORK ("RCI")

Since 2005, the RCI has been transmitting more files to the principal rapporteur for investigation by the rapporteurs than it has itself received from the Administrative Unit for sending off to the archive centers for searches. The backlog of files having almost been cleared, the length of time taken to carry out the searches does not now exceed six months except for certain files requiring special investigation (works of art) or more lengthy research (files on the Aryanization of businesses or companies with subsidiary branches).



The number of files sent to the archive centers for 2007 is identical to that for 2006. On the other hand, however, the number of files handed to the rapporteur general for assignment to a rapporteur has decreased by over 500. This drop can be explained by the decrease in the number of claims as well as by the complexity of certain files requiring more lengthy and numerous searches.



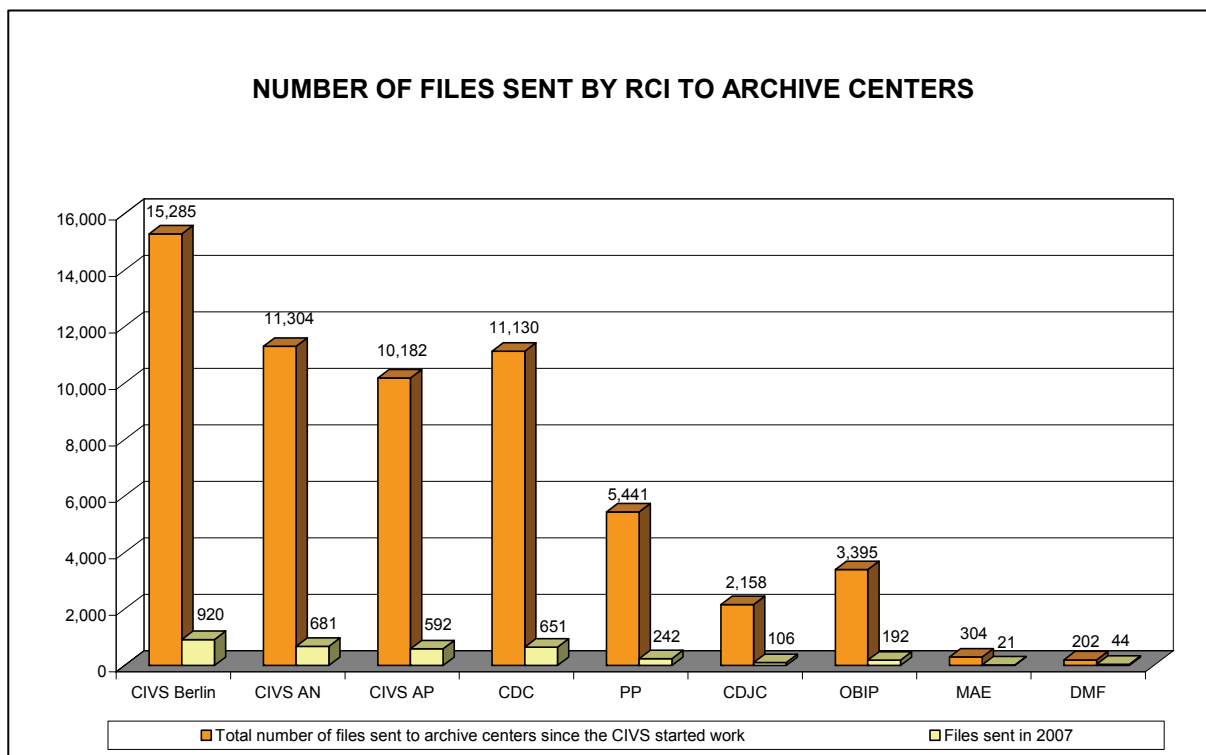


At this stage, three observations are called for:

- First, priority was given to the bank-related files at the end of 2007, such that the RCI forwarded a large number of mixed files relating to Aryanized businesses which require a longer investigation than the “standard” files relating to the pillaging of apartments, the loss of furniture or equipment from workshops.

- Secondly, many files raise difficulties because of the scant information provided. Indeed, some questionnaires provide very little detail on the victims, the circumstances or nature of the spoliations, since the claimants, being remote heirs, did not know either the persons involved or the events recounted. It is thus up to the services of the CIVS – the Administrative Unit, RCI and rapporteurs – to bring the clarifications necessary for these matters to be processed.

- Finally, it is very important to point out, by way of explaining the extent of the spoliations and reparation, that many of the files relate to several households.



The number of files handed over by the RCI for investigation is bound to decrease again in 2008, hence the current reduction in the number of rapporteurs.

## ② “MOVABLE CULTURAL PROPERTY” (“BCM”)

### ➤ Definition

By “movable cultural property” we mean *“all movable assets of archeological, historical, artistic, scientific or technical interest or value”*<sup>2</sup>.

The BCM claimed often differ only from simple furniture by their use or by the greater value placed upon them (musical instruments, antiquarian books or photographic equipment, for example). On the other hand, there are rarer cases where claimants report lost works of art, in the strict sense of the term.

### ➤ The procedures followed in the context of a claim for restitution or for compensation

First, in the context of a **claim for restitution of an identified work of art on, say, the “National Museums Recoveries Register” (MNR)**, the claimant must apply to the Archives Department of the **Ministry for Foreign Affairs (MAE)**.

However, claimants may also **get in touch with the CIVS** which, according to article 1 of the decree of September 10, 1999, is charged with *examining the individual claims*

<sup>2</sup> Extract from Recommendation for the protection of movable cultural property, UNESCO (28 November 1978).

*presented by victims or their heirs and of seeking and proposing the measures for **reparation, restitution or compensation** as appropriate.*

There are therefore several different scenarios:

⇒ Where the property claimed is on the MNR list and falls within the scope of works entrusted to the safekeeping of the national museums, it is **restitution** that is called for. The Commission is competent to recommend that the French State, where needs be via the MAE, makes such restitution in favor of the victims or their heirs.

⇒ If the property cannot be traced, the only possible reparation consists of the award of **damages covering the value of the assets as at the date of the loss.**

### ➤ Archive searches

The number of files including movable cultural property **declared** by claimants as at **December 31, 2007** is **1,232 out of 24,420** (total number of files registered since the CIVS began its work).

The investigations to which they are subject are first of all conducted in conjunction with certain French official bodies and organizations:

- the Ministry for Foreign Affairs (MAE), which houses a group of archives including those of the Commission for the Recovery of Works of Art (CRA - *Commission de Récupération Artistique*) and the restitutions department of the Office for Personal Property and Interests (OBIP – *Office des Biens et Intérêts Privés*) – the body charged with collecting statements from victims of spoliation in the aftermath of the war,

- the Culture Ministry – Directorate of French Museums (DMF) and the database of the MNR,

- the *Drouot* Auction Rooms,

- the National Museum of Modern Art (MNAM),

- certain museums in the provinces or abroad, etc.

Internationally, the CIVS is also in touch with official bodies such as:

- the Federal Archives in Koblenz (Germany),

- the Lost Art Register in Magdeburg, (Germany),

- the National Archives and Records Administration (*NARA*) and the National Gallery in Washington (United States),

- The Art Loss Register (United Kingdom),

- the Federal Archives in Berne (Switzerland),

- the Looted Art Collection (Netherlands),

- the auction houses Christie's, Sotheby's, etc.

Research is often made **difficult by the lack of precision** in the way the claim is formulated as well as by the **absence** of photographs and uncontested lists or expert appraisal reports.

### ➤ Statistical data

The claims of this nature are limited. They account for only about **5%** of the claims that the Commission has processed or that it still has to examine.

⇒ **A few key figures:**

- Number of claims laying claim to BCM: **1,232**;

- Number of claims of this type examined by the Commission: **924**;
- Number of claims with BCM compensated: **289** (of which **112** works of art in the strict sense);
- Number of claims undergoing investigation: **308**;
- Number of claims considered as relating to “furniture” and not to BCM: **635**;
- Total amount of compensation granted by the CIVS for BCM (excluding mediations: **€14,339,551** (i.e., approximately 4% of the total amount), not including the mediation over a painting by BRAQUE.

### ➡ **The inventory of “Movable Cultural Property (BCM)”**

The objective is to put in place a **working tool** that enables all the data relating to **“objects of greater artistic interest than items essential for everyday living”**.

This list of available data provides better knowledge of claims relating to BCM.

This same database is intended to improve the **Commission’s** general statistical data destined for French and foreign official institutions which might be interested in the same.

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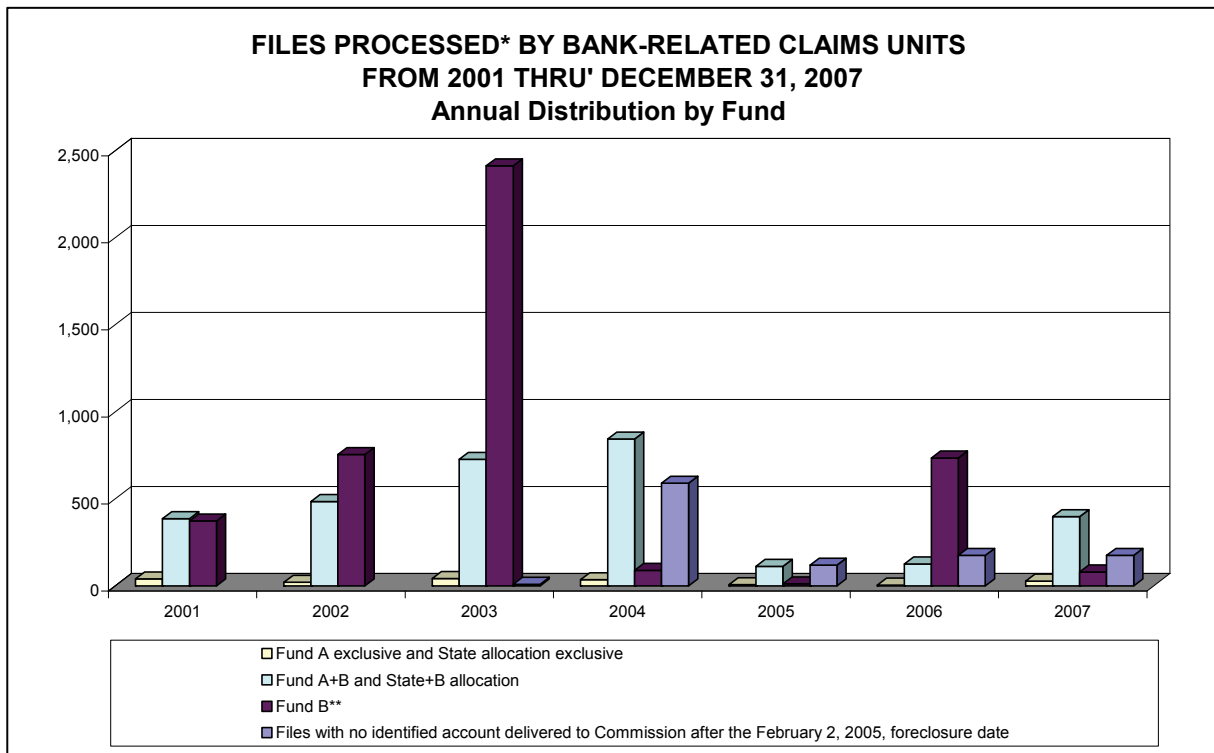
## ▀ BANK-RELATED FILES ▾

### ① PROCESSING IN “REAL-TIME”

In the course of 2006, the priority given to the exchange of diplomatic letters signed on February 21, 2006 modifying the Washington Agreement relating to the principles of compensation of bank-related claims resulted in a significant increase in the number of bank-related files to study. The objective for 2007 has been to clear this backlog.

Henceforth, the Agreement applies to the flow of claim files reaching the Commission. These new claims are intended to be processed and investigated **throughout the existence of the Commission**. In this regard, it should be remembered that some of these **will not be able to lead to lump-sum compensation from Fund B because of the applicant being foreclosed**. However, if **accounts were identified** during searches carried out by the specialist department, compensation may be **recommended from Fund A or the State Budget; Fund B will only be drawn on for additional compensation** as is provided in the Agreement.

It will also be recalled that if it were to be depleted, compensation which the Agreement provides should be drawn from Fund B will be taken from Fund A, as has been agreed by the banks.



\* Estimates prior to recommendations being made.

\*\* The high number of Fund B for 2006 is the result of resumption of the claims from foreclosed applicants lodged before February 2, 2005, pursuant to point 4 of the exchange of diplomatic letters signed on February 21, 2006.

## **② A COMMITTED APPROACH**

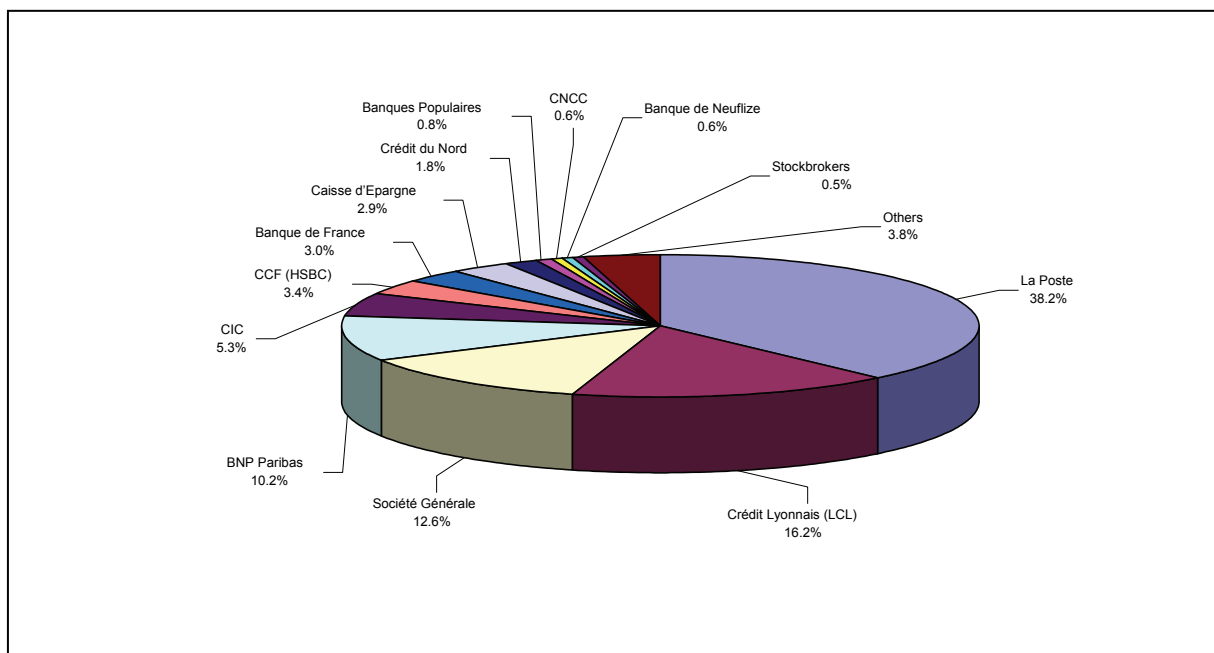
For the sake of exhaustiveness and justice, the CIVS has generalized the **routine verification of the existence of business-related or personal bank accounts** in the documents gathered from the various archive centers questioned, within the framework of claims for compensation for material losses. This account-identification procedure is at the origin of **internal creation of bank-related files**. It should be emphasized that by making the commitment to create files internally, **the CIVS is acting on its own initiative, outside any approach from claimants**, thus somewhat exceeding the strict application of the Agreement.

## **③ REGULAR CONTACTS**

As was agreed with the stakeholders to the Agreement at the final sitting of the Fund B Supervisory Board, the CIVS has disclosed information relating to the management of bank-related files and the amounts drawn down from Funds A and B.

In addition, this year was marked by many official and unofficial exchanges between the CIVS and the American party, during meetings in the United States or in France, which enabled **a few recurring topics of reflection: movable cultural property, reserved portions, unpaid settlements, date of foreclosure, European commissions, etc.**, to be brought up to date.

## **④ DISTRIBUTION OF ACCOUNTS IDENTIFIED BY CREDIT INSTITUTION FROM 2001 THROUGH DECEMBER 31, 2007**

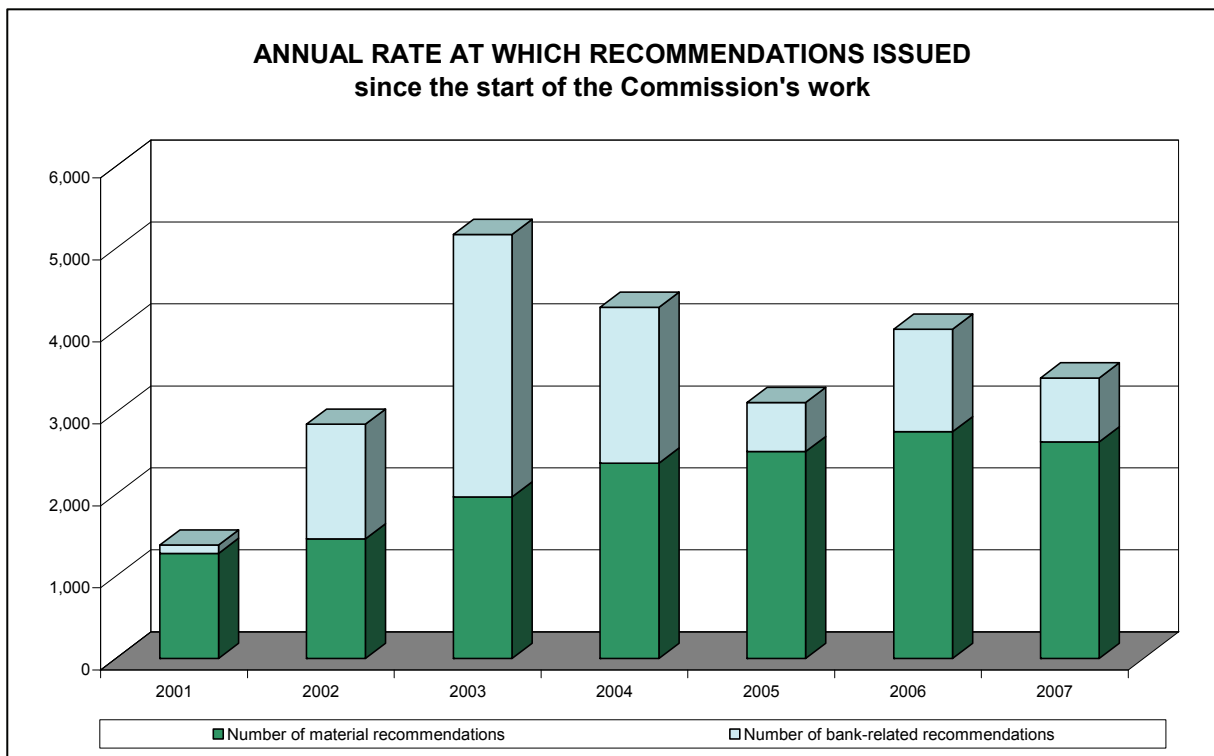


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## EXAMINATION OF CLAIMS

### 1 CLOSE ON 25,000 RECOMMENDATIONS

**24,891 recommendations** have been adopted since the start of the Commission's work, of which 9,957 – i.e., 40% - relate to bank-related spoliations. 14,934 recommendations relate to material spoliations. These figures include recommendations for compensations, decisions for dismissal and recommendations for the lifting of reserved portions.



### 2 THE RESERVED PORTIONS

The investigation and examination of a file may reveal the existence of heirs who are not joined to the current procedure either because they did not wish to give the initial representatives the power to represent them, or because their identity and contact details were unknown or undisclosed. The Commission **then “expressly” reserves** portions of compensation that are lawfully theirs by right, and it falls to them, the beneficiaries, to come forward and request the award.

The procedure for **lifting their portions** entails the beneficiaries applying in writing to the Commission, providing evidence of their identity and capacity as heir. **A new recommendation is then made** most often according to the procedure whereby the Chairman makes the decision alone.

Of the 22,401 recommendations for compensation handed down by the Commission, 9.60% are recommendations for the lifting of portions. In this regard, it is not without

relevance to note that **a recommendation can involve the awarding of several portions**. Since the start of the Commission's work, 2,151 recommendations of this type have been adopted, of which 367 are connected to bank-related files.

The portions set aside for which an application for lifting has yet to be received are preserved without limit of time, pending the heirs concerned coming forward.

What becomes of those portions which are unclaimed at the time the work of the Commission is nearing its end, is the subject of query from various claimants, who have approached the CIVS to learn what the procedure will allow them to be allocated the reserved sums.

In this regard, it should be remembered that **the Commission must comply with the rules of succession law in France**. The bonds of marriage do not confer any tradition of succession; **you cannot inherit from the spouse of a member of your family**.

When the time comes to determine the fate of the sums still held in reserve, there are **very different situations to be considered**:

- ⇒ portions reserved in favor of identified heirs from claimants' families,
- ⇒ portions reserved in favor of heirs in this family whose identity and number are unknown,
- ⇒ portions reserved in favor of close relatives (by marriage), over which in theory claimants have no rights.

At the end of the work of the CIVS, a decision will have to be taken on what will happen to the unclaimed reserved portions.

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## ▀ PARTICULARS ON COMPENSATION CRITERIA ▀

The rules drawn up and implemented by the CIVS in the initial stages of its operation have undergone no significant alteration. On the other hand, however, they have been subjected to audit by the administrative jurisdiction in the circumstances explained below, it being worthy of note, however, that only two judgments were handed down.

The Commission is authorized to issue opinions only; these cannot be contested before the courts. However, according to the general principles of French law, an action may be brought before the administrative jurisdiction contesting the (explicit or implicit) decisions made by the Prime Minister to dismiss applications on the basis of these opinions. At first instance, it is the Administrative Court of Paris that has competence.

### **The two judgments of which the Commission has been apprised are as follows:**

⇒ In that of November 17, 2006 (application 016487/7, Madame L.), the Court dismissed the appeal against a decision of May 21, 2001 by which the Prime Minister, on the basis of the opinion of the Commission sitting in plenary committee, had refused to allow a claim for payment of compensation which exceeded that proposed by the CIVS.

This case related to the armed robbery of jewelry and cash and the Administrative Court ascertained, as had the Commission, that this act was unrelated to the anti-Semitic legislation in force at the time of the events. Moreover, those responsible for this act of aggression were found guilty of similar offences against other persons, and in 1944 and 1945 were convicted of theft and of posing as police officers.

Insofar as concerns the theft of gold ingots and coins which occurred during another operation conducted shortly afterwards by agents of the German police acting on behalf of the *Devisenschutzkommando*, the Commission found that this was directly related to anti-Semitic legislation because on this occasion, the German police had confiscated currency entrusted to Mr. L. by a Jewish friend. It therefore recommended the payment of compensation in addition to the sums already obtained, by way of partial reimbursements by the French and German authorities.

In its decision, the Administrative Court, considering that the CIVS was not bound to propose to the Prime Minister the payment of compensation that would have the effect of compensating “to the nearest euro” the whole of the losses incurred, dismissed the claim for damages considering that “it had not been established that the administration would not have made a fair and appropriate compensation for the loss suffered by the family of the interested party in respect of the assets of which it had been spoliated”.

⇒ In the judgment of June 8, 2007 (claim 0507913/7, Mr. F and others), the Court **partially overturned** a decision of November 17, 2004 by which the Prime Minister declined to reverse the decision taken on the basis of the CIVS’ opinion.

**Insofar as concerns the admissibility** of the action, the Court upheld its jurisdiction on the grounds that the decisions of the Prime Minister were not merely *ex gratia* measures and were thus open to being contested before the courts.

**On the merits**, the court first ruled that the CIVS was “neither a jurisdiction of domestic law, nor a court in the meaning of the provisions of article 6 paragraph 1 of the European Convention on Human Rights” and thus set aside as inoperative the cause of action based on the plea that it should have made its recommendations within a reasonable period.

Secondly, the Court considered that in order to comply with the adversarial principle (*auditur et altera pars*), the CIVS was not obliged to disclose to the applicant “the whole of the exhibits and documents gathered within the framework of the investigation”.

Insofar as concerns the arrangements for the investigation before the CIVS, the Administrative Court considered that processing an application for re-examination could be entrusted to the initial rapporteur whose proposals are not binding on the Commission.

It was also allowed that because the rapporteur and the Commission are entitled to hear any person whom they consider it relevant to hear and to seek opinion from or consult with any qualified third party, they are at liberty therefore to enter into contact directly with the victims of spoliations or their heirs, even if an attorney had been appointed to represent them. In this regard, it should be stressed that **very often, the victims alone are the only ones able to answer some of the questions intended to enlighten the Commission.**

Insofar as the **terms and conditions for fixing the amount of the compensation recommended**, the Administrative Court considered that “the role of the CIVS is to propose to the Prime Minister payment of compensation in reparation that seems (to the Commission) to be as exact as possible, bearing in mind, in particular, the difficulties inherent in the search for supporting evidence in relation to events that happened a long time ago and in determining the real value of the assets in question”.

**The Administrative Court upheld the position of the Commission which has always maintained that the decree of September 10, 1999 entrusted it with the duty of compensating the losses ensuing from “spoliations of assets” and therefore that it was not empowered to take into account the loss of income or earnings resulting from the impossibility of continuing to carry on a professional activity throughout the war.** It also dismissed the cause of action based on protocol no. 1 of the European Convention on Human Rights, guaranteeing the right to peaceful enjoyment of one’s possessions, because it considered that in the case in point, “the right balance between requirements of general interest and the absolute obligations to safeguard the right to peaceful enjoyment of possessions” had not been disregarded.

**The sole point on which the Administrative Court condemned the decision taken on the advice of the CIVS** related to the fact that having proposed compensation for the loss of professional premises, the Commission declined to compensate for the “intangible items” in two dental surgeries and one dental prosthesis laboratory on the grounds that the interested party had decided not to resume his professional activity at the Liberation for reasons of his age – 74 years. It considered “that the sole circumstance that the age of the interested party would have prevented him from resuming his activity as a dental surgeon at the end of the war cannot exclude the right to be compensated for the loss of the intangible items of this professional activity”. It therefore considered “that in adopting the recommendation of the Commission, the Prime Minister thereby committed a manifestly obvious error in dismissing the application for compensation for intangible assets that had been spoliated”.

In order to avoid any error in interpreting its practice in the light of this last judgment, which relates to a particular case, **the Commission would re-state that it has always allowed compensation for intangible items (tenant’s right to lease, to customers, good will, etc.), in an industry, commerce, craftsman’s business or learned profession, where that activity could not be resumed after the Liberation because of the death of the person spoliated or as a result of the business having been wound up**, as is stated in the Commission’s annual reports for 2001, 2002 and 2006.

It is not without relevance to point out that the Commission is not always in a position to evaluate the amount of the compensation that it recommends with rigorous calculation, based on reliable and adequate numbers of accounting records that enable specialist works to be consulted. It finds itself constrained to **make a flat-rate assessment based on fairness and depending on the particulars it has available.**

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## ▼ ARCHIVE MANAGEMENT AND THE CREATION OF AN ADMINISTRATIVE MEMORY ▲

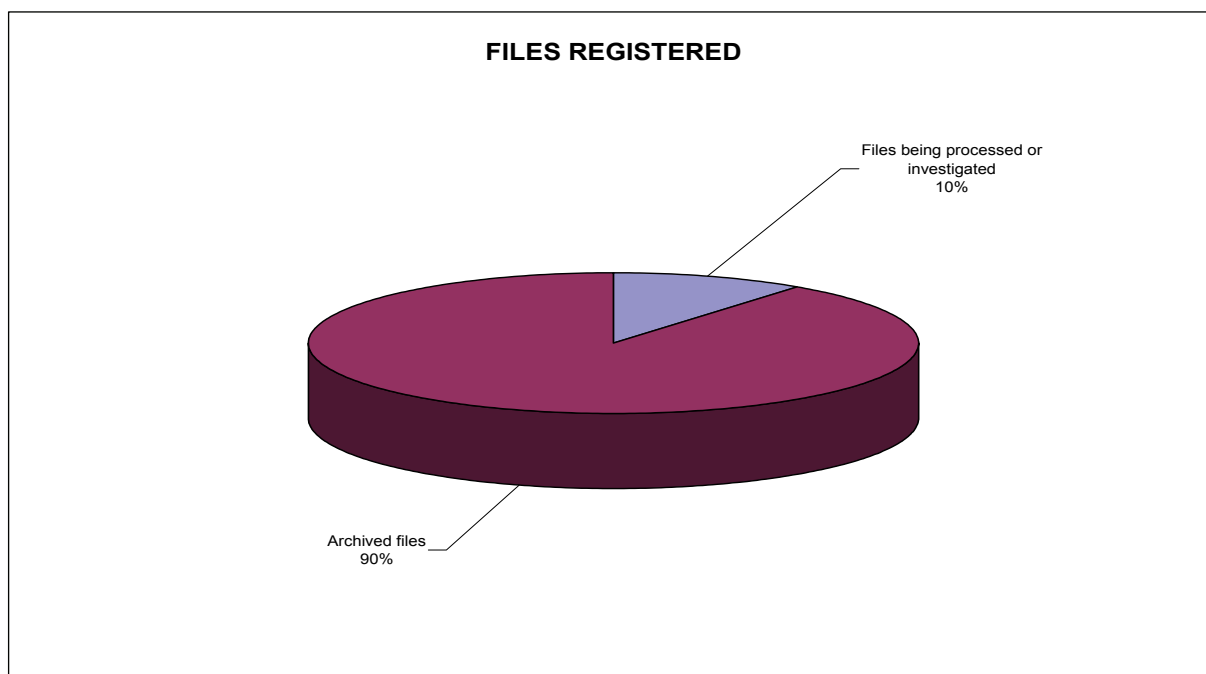
### ① TRANSMISSION OF A RELIABLE DATABASE (“BDD”)

Following the increase in the number of files transmitted by the *Secrétariat des Séances* (SDS) (CIVS hearings secretariat) in 2007, the Supervision Unit took on additional staff. This has entailed a re-organization of the department so that the files transmitted are processed and archived in a continuous flow.

In May, the Supervision Unit was responsible for coordinating operations for a second manual file count, an operation initiated by the Chairman. After analysis, the discrepancy between the total figure for the manual count and the figures in the BDD is currently being cleared.

### ② OVERALL STATUS OF REGISTERED FILES

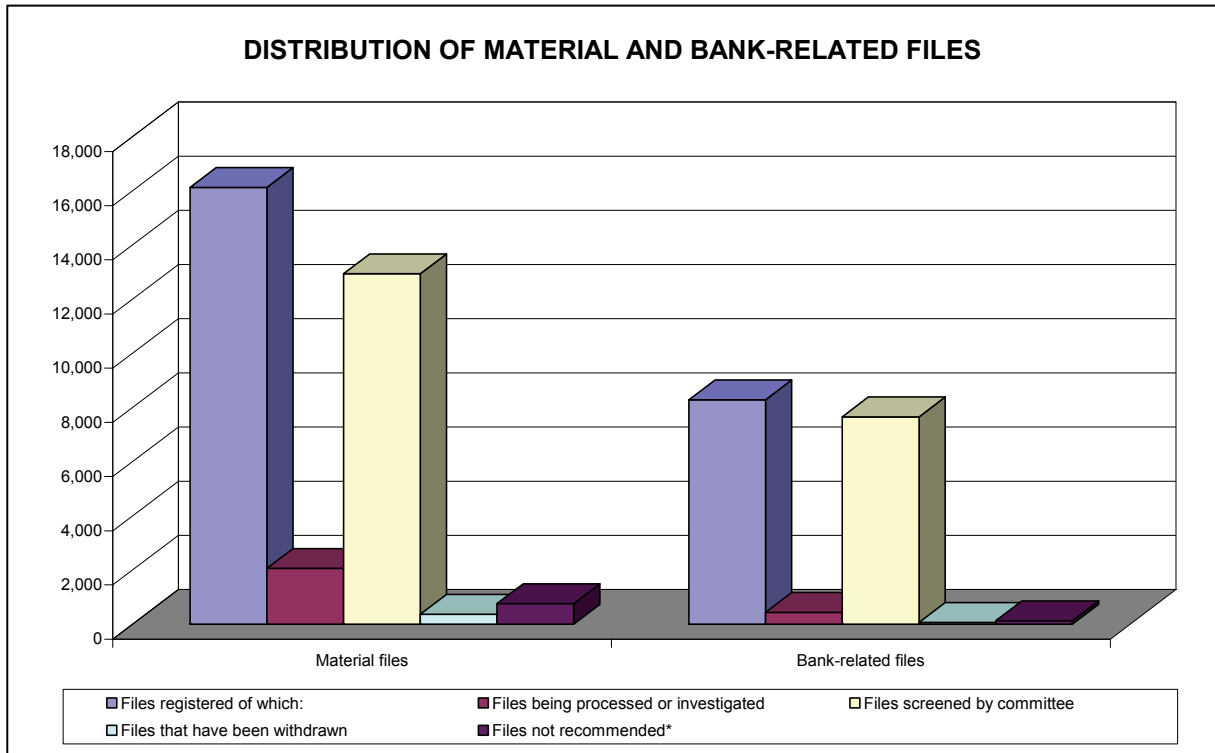
Since the CIVS was set up, **24,420 files, all losses combined, have been lodged.** As at December 31, 2007, **22,066 of them have been archived, closed or are awaiting the lifting of portions.**



As at the same date, the Commission had registered **16,129 material files.** Amongst these, 13,077 have been the subject of a recommendation and 368 have been withdrawn. Added to which are 759 files that came to nothing<sup>3</sup>.

<sup>3</sup> Finally closed and archived, disqualification, lack of jurisdiction.

Furthermore, **8,291 bank-related files** have been opened. 7,671 of them have been examined and 64 have been withdrawn. Finally, 127 files have been closed without action<sup>4</sup>.



\* So-called "Finally closed" for disqualification, lack of jurisdiction.

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<sup>4</sup> Finally closed and archived, disqualification, lack of jurisdiction.

## ▼ THE CIVS HISTORY COMMITTEE ▲

The setting up of the History Committee within the CIVS was confirmed during the past year thanks to an order given by the Prime Minister dated August 3, 2007. Formed for a period of three years, the mission of this Committee is “to contribute to a better awareness of French policy on compensation for anti-Semitic spoliations, of the history and operation of the Commission for Compensation of Spoliations as well as to carry out a study of comparable bodies existing in other countries”.

### **This project consists of two portions:**

⇒ **Retrace** French policy on restitution and compensation for the looting of assets resulting from the anti-Semitic legislation in force under the Occupation and the Vichy régime, from the immediate aftermath of the war up to the present day, within the framework of the CIVS which was set up directly as a result of the work and recommendations of the Mattéoli Mission. How the German BRÜG law was actually applied from the 1950s onwards will also be examined. What financial, political, moral stock can be taken therefrom?

⇒ **Analyze** the creation of the CIVS in the context of France’s developing remembrance during the 1990s, put into perspective compared to the situation in other countries – inside and outside Europe – where commissions for compensation have also been set up. A comparative study will be made by the researchers and “actors” of these “reparation” policies, and will be the subject of an international colloquium in 2009.

To carry out this work, the CIVS History Committee will rely on various sources of archive material, both public and private, which it will handle with the greatest respect for legislation and professional etiquette. Collecting witness statements from various different players is also planned.

Chaired by the Secretary General of the Government, the committee is composed of:

- a research team, under the scientific direction of Ms. Anne GRYNBERG, professor of contemporary history, kindly made available by assignment from the Ministry for Higher Education and Research;
- eleven members appointed by virtue of their competence and knowledge of the topics addressed by the History Committee (conservators, historians, political scientists, etc.);
- five ex officio members, amongst whom the Director of the *Archives de France*, the Director of the Department of Administrative and Financial Services of the Prime Minister’s office and the Chairman of the CIVS.

In addition to the offices of the Prime Minister and the Department of Administrative and Financial Services (DSAF), various other private institutions have supported the creation of the History Committee at the CIVS:

⇒ the *Fondation pour la Mémoire de la Shoah* (FMS), the *Verbe et Lumière* Association (connected to Barclays Bank) and the *Institut Alain de Rothschild* which are financing remuneration for the researchers;

⇒ the *Mémorial de la Shoah* which is providing premises and office equipment; and

⇒ an agreement in principle has been given by the United States Holocaust Memorial Museum in Washington to participate in financing video recordings of testimonies.

Moreover, the *Institut d’Histoire du Temps Présent* (IHTP-CNRS) is taking part in the organization of the international colloquium planned for 2009, in partnership with the *Mémorial de la Shoah*.

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## ▼ SUMMARY OF THE SUMS ALLOCATED SINCE THE START OF THE WORK OF THE COMMISSION UP TO DECEMBER 31, 2007 ▲

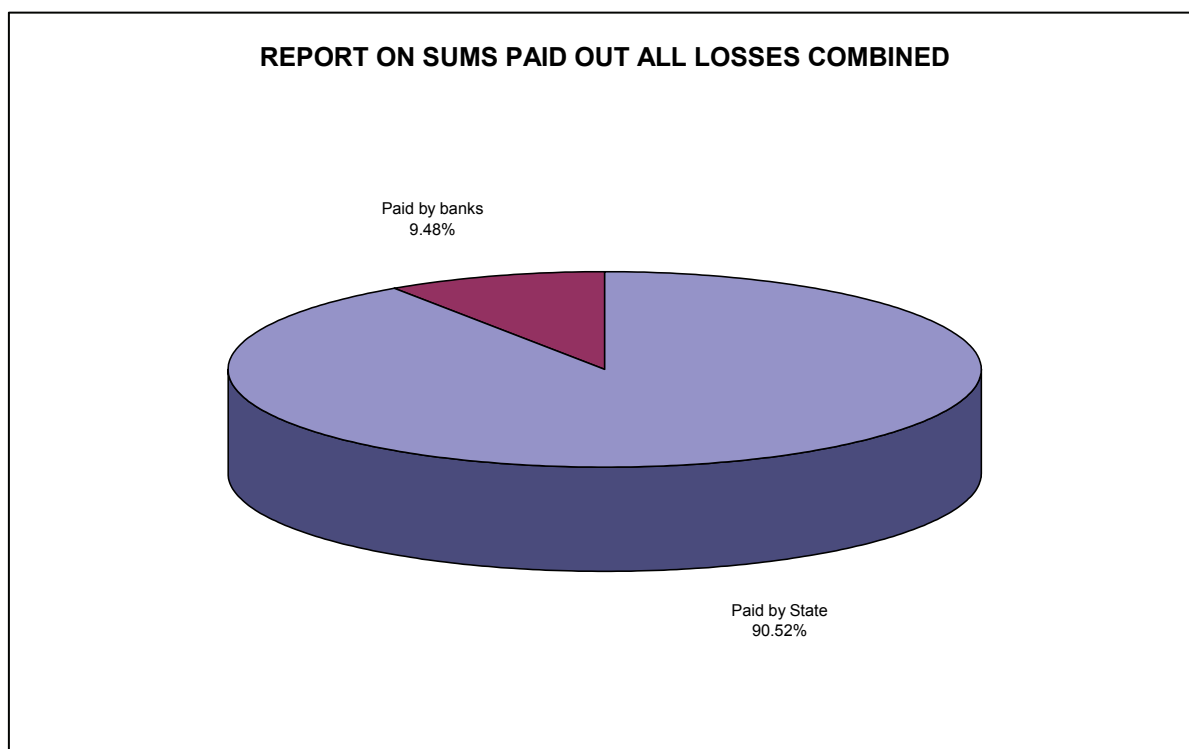
The average value of the compensation granted is **€28,000** per material claim and **€4,100** per bank-related claim.

### ① THE TOTAL AMOUNT OF COMPENSATION AWARDED, ALL LOSSES COMBINED

**€371,966,283**

⇒ Paid by the State: **€336,712,270** (including bank-related recommendations, that is to say compensation for accounts under temporary administration).

⇒ Paid by the banks: **€35,254,013**.

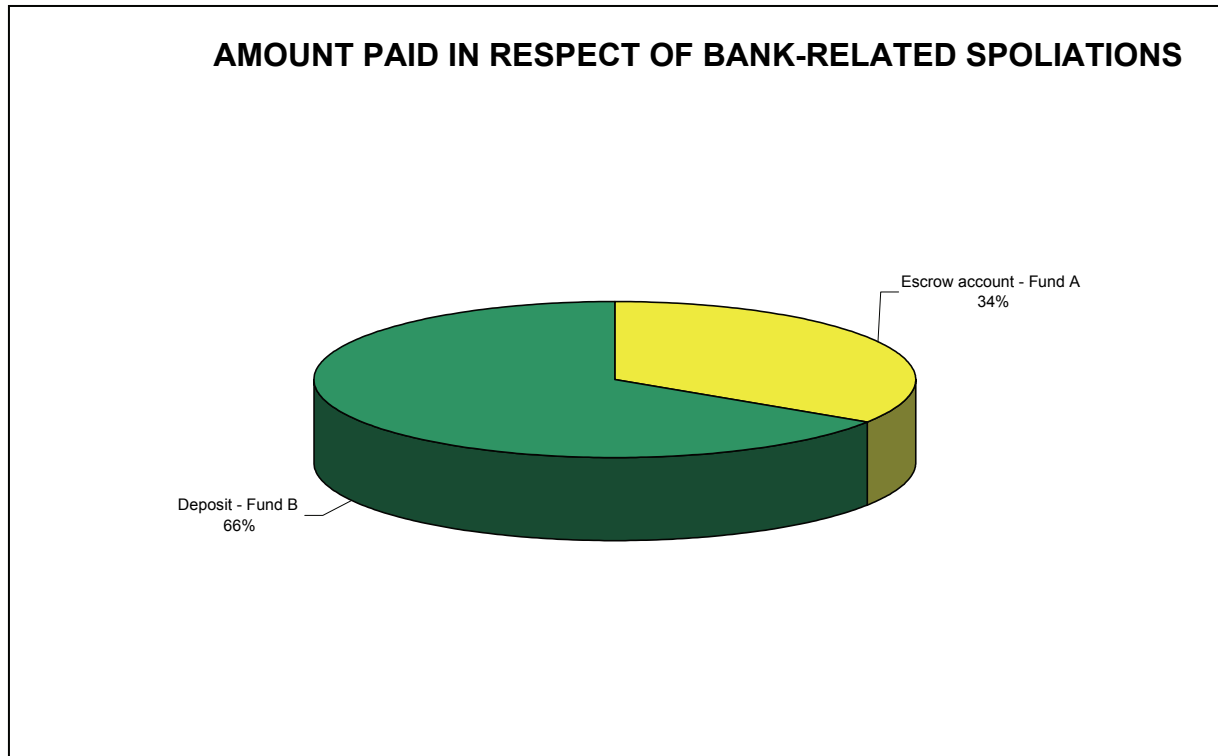


**2 THE AMOUNT OF COMPENSATION AWARDED FOR BANK-RELATED SPOILIATIONS:**

**€35,254,013**

⇒ Escrow account – Fund A: **€12,093,805**

⇒ Fund B: **€23,160,208**



**3 DISTRIBUTION OF BANK FUNDS USED**

⇒ Escrow account – Fund A: **35.60%** of the initial endowment (50,000,000 USD)

⇒ Fund B: **151.53%** of the initial endowment (22,500,000 USD) supplemented by interest accrued and the foreign exchange effects generated.

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## MEMORANDUM

### EXECUTIVE BOARD OF THE COMMISSION:

- ⇒ Chairman: **Mr. Gerard GELINEAU-LARRIVET**, Honorary President of Chamber at the Court of Cassation
- ⇒ Director: **Mr. Lucien KALFON**, Prefect
- ⇒ Principal Rapporteur: **Mr. Jean GERONIMI**, Honorary Advocate General at the Court of Cassation

### MEMBERS OF THE DECISION-MAKING PANEL: 9

- ⇒ **Mr. François BERNARD**, Honorary *Conseiller d'Etat*, Vice Chairman of the Commission,
- ⇒ **Mr. Jean-Pierre BADY**, Honorary Master of the *Cour des Comptes*
- ⇒ **Mr. Bernard BOUBLI**, Honorary Senior Counselor at the Court of Cassation
- ⇒ **Ms. Anne GRYNBERG**, Professor at the *Institut National des Langues et Civilisations Orientales* (INALCO) and researcher at the *Institut d'Histoire du Temps Présent* (IHTP)
- ⇒ **Mr. Gerard ISRAEL**, philosopher, writer and member of the steering committee of the *Conseil Représentatif des Institutions Juives de France* (CRIF)
- ⇒ **Mr. Pierre KAUFFMANN**, Honorary Secretary General of the *Mémorial du Martyr Juif Inconnu* and of the *Centre de Documentation Juive Contemporaine* (CDJC)
- ⇒ **Mr. Pierre PARTHONNAUD**, Honorary Master of the *Cour des Comptes*
- ⇒ **Mr. David RUZIÉ**, Honorary Dean and Professor Emeritus of the universities
- ⇒ **Mr. Henri TOUTÉE**, *Conseiller d'Etat*

### GOVERNMENT COMMISSIONERS: 2

- ⇒ **Ms. Martine DENIS-LINTON**, *Conseiller d'Etat*, Government Commissioner
- ⇒ **Mr. Bertrand DACOSTA**, *Maître des requêtes* (Master in Chambers) at the *Conseil d'Etat*, Deputy Government Commissioner

### RAPPORTEURS: 25

- ⇒ **Ms. Monique ABITTAN**, Magistrate of the regular court system
- ⇒ **Mr. Jean-Michel AUGUSTIN**, Magistrate of the regular court system
- ⇒ **Mr. Christophe BACONNIER**, Magistrate of the regular court system
- ⇒ **Ms. Françoise CHANDELON**, Magistrate of the regular court system
- ⇒ **Mr. Brice CHARLES**, Magistrate of the administrative court system
- ⇒ **Mr. Claude COHEN**, Magistrate of the regular court system
- ⇒ **Mr. Jean CORBEAU**, Magistrate of the regional audit office
- ⇒ **Ms. Rosine CUSSET**, Magistrate of the regular court system
- ⇒ **Ms. Chantal DESCOURS-GATIN**, Magistrate of the administrative court system
- ⇒ **Ms. Marie FRANCESCHINI**, Magistrate of the regular court system
- ⇒ **Mr. François GAYET**, Magistrate of the administrative court system
- ⇒ **Ms. Nicole JULIENNE-SAURIN**, Magistrate of the regular court system
- ⇒ **Ms. France LEGUELTEL**, Magistrate of the regular court system
- ⇒ **Mr. Jean LILTI**, Magistrate of the regular court system
- ⇒ **Mr. Ivan LUBEN**, Magistrate of the administrative court system
- ⇒ **Mr. Jean-Pierre MARCUS**, Magistrate of the regular court system
- ⇒ **Ms. Eliane MARY**, Magistrate of the regular court system
- ⇒ **Mr. Michel MOREL**, Magistrate of the regular court system
- ⇒ **Ms. Nicole MORIAMEZ**, Magistrate of the regular court system



- ⇒ **Mr. Pierre RENARD-PAYEN**, Magistrate of the regular court system
- ⇒ **Mr. Pierre ROCCA**, Magistrate of the regional audit office
- ⇒ **Ms. Marie SIRINELLI**, Magistrate of the administrative court system
- ⇒ **Mr. Xavier STRASEELE**, Magistrate of the regular court system
- ⇒ **Ms. Marie-Hélène VALENSI**, Magistrate of the regular court system
- ⇒ **Ms. Sophie ZAGURY**, Magistrate of the regular court system

CLAIMS REGISTERED: 24,420 of which

- ⇒ 16,129 material claims
- ⇒ 8,291 bank-related claims

FILES AWAITING EXAMINATION: 2,431 of which

- ⇒ 1,504 currently being processed
- ⇒ 420 currently being investigated
- ⇒ 507 pending screening by the Commission or Single Judge

FREQUENCY OF SITTINGS:

- ⇒ Sub-committees: **5 per week**
- ⇒ Plenary committees: **2 per month**

SITTINGS ORGANIZED IN 2007: 243

- ⇒ Sub-committees: 230
- ⇒ Plenary committees: 13

AVERAGE NUMBER OF FILES EXAMINED PER SITTING: 12

- ⇒ Sub-committees: 13
- ⇒ Plenary committees: 5

RECOMMENDATIONS ADOPTED<sup>5</sup>: 24,891 of which

- ⇒ 14,934 material recommendations
- ⇒ 9,957 bank-related recommendations

(Of these figures, 2,151 recommendations regarding the lifting of reserved portions, that is 8.6% of the recommendations adopted for the year 2007 alone).

RECOMMENDATIONS FOR DISMISSAL: 2,490 (i.e., 10% of the recommendations made), of which

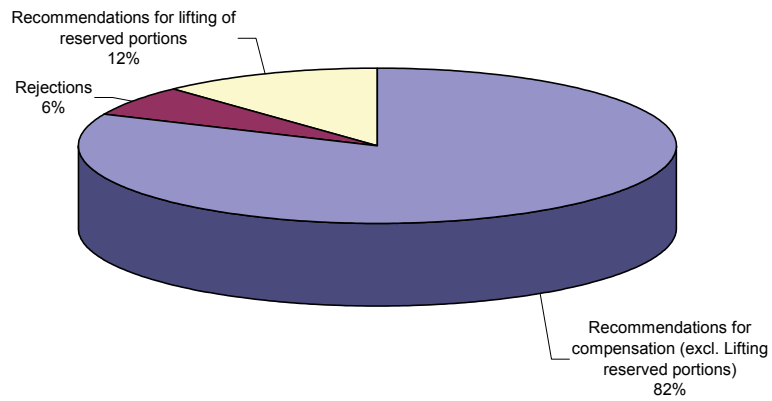
- ⇒ In respect of material spoliations: 937
- ⇒ In respect of bank-related spoliations: 1,553 – of which 993 dismissed on grounds of foreclosure (64%).

APPLICATIONS FOR RE-EXAMINATION SCREENED BY THE COMMISSION: 381

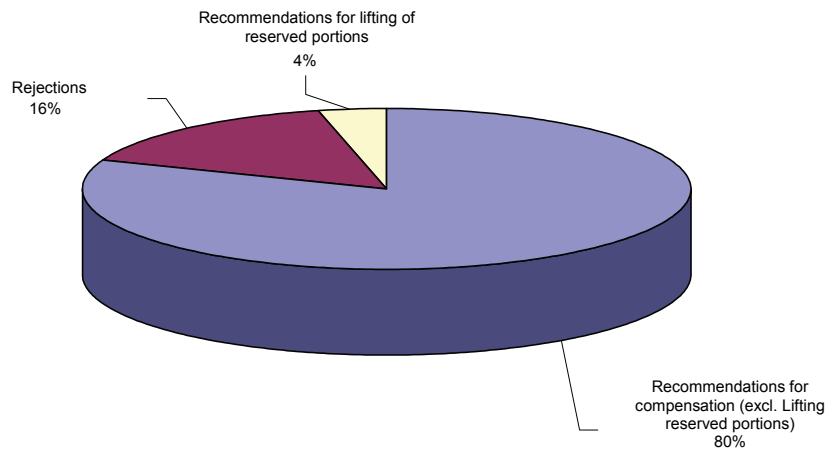
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<sup>5</sup> All losses taken together, dismissals included.

**MATERIAL RECOMMENDATIONS MADE SINCE THE START OF THE COMMISSION'S WORK**

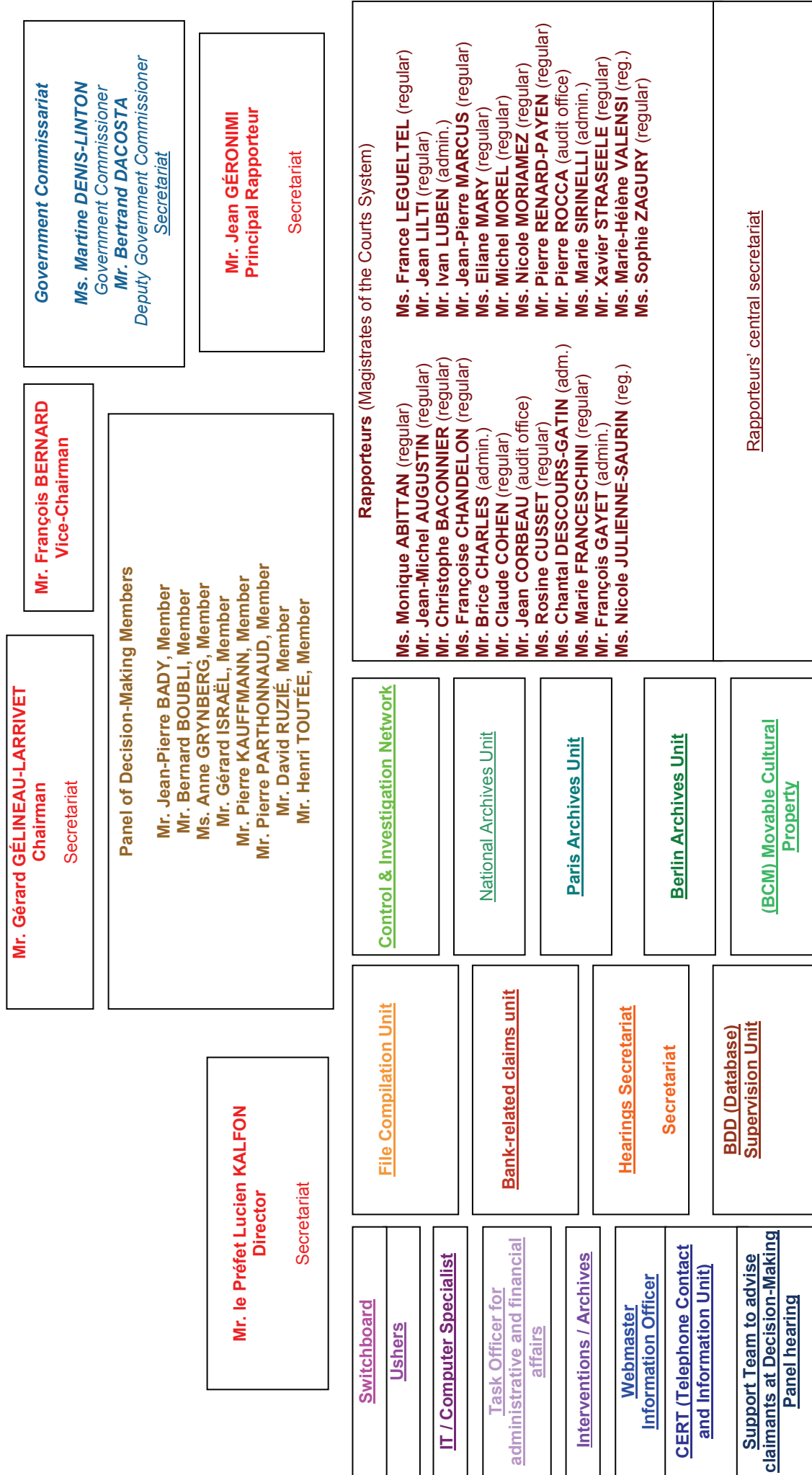


**BANKING RECOMMENDATIONS MADE SINCE THE START OF THE COMMISSION'S WORK**



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# ORGANIZATION CHART



## ▼ ABBREVIATIONS ▲

- AN:** *Antenne des Archives Nationales* (National Archives Unit based in the CIVS)
- AP:** *Antenne des Archives de Paris* (Paris Archives Unit based in the CIVS)
- BCM:** *Biens culturels mobiliers* (Movable Cultural Property)
- BDD:** *Base de Données* (CIVS Central Database)
- CDC:** *Caisse des Dépôts et Consignations* (State bank handling official deposits)
- CDJC:** *Centre de Documentation Juive Contemporaine* (Contemporary Jewish Documentation Center)
- CERT:** *Cellule d'Écoute et de Renseignements Téléphoniques* (CIVS Telephone contact and information unit)
- CCF:** *Crédit Commercial de France*
- CIC:** *Crédit Industriel et Commercial*
- CIVS:** *Commission d'Indemnisation des Victimes de Spoliations* (Commission for the Compensation of Victims of Spoliations)
- CNCC:** *Caisse National de Crédit Coopératif*
- CNRS:** *Centre National de la Recherche Scientifique* (National Center for Scientific Research)
- CRA :** *Commission de Récupération Artistique* (Commission for the Recovery of Works of Art, Ministry for Foreign Affairs)
- CRIF:** *Conseil Représentatif des Institutions Juives de France* (Representative Council of Jewish Institutions in France)
- DSAF:** *Direction des Services Administratifs et Financiers* (Department of Administrative and Financial Services, Prime Minister's office)
- DMF:** *Direction des Musées de France*, (Culture Ministry - Directorate of French Museums )
- FMS:** *Fondation pour la Mémoire de la Shoah* (Foundation for the Memory of the Holocaust)
- HCPO:** Holocaust Claim Processing Office (New York State)
- HSBC:** Hong Kong and Shanghai Banking Corporation
- IHTP:** *Institut d'Histoire du Temps Présent* (Institute of History of Present Time, CNRS)
- INALCO:** *Institut National des Langues et Civilisations Orientales* (National Institute for Oriental Languages and Civilizations)
- LCL:** *Le Crédit Lyonnais*
- MAE:** *Ministère des Affaires étrangères* (Ministry for Foreign Affairs)
- MNAM:** *Musée national d'art moderne* (National Museum of Modern Art)
- MNR:** *Musées nationaux Récupération* (National Museums – Recoveries Register)
- NARA:** National Archives and Records Administration (United States)
- OBIP:** *Office des Biens et Intérêts privés* (Office for Personal Property and Interests)
- ONAC:** *Office national des Anciens Combattants* (National War Veterans Office)
- PP:** *Préfecture de Police* (Prefecture of Police)
- RCI:** *Réseau de Contrôle et d'Investigation* (CIVS Control and Investigation Network)
- SDS:** *Secrétariat des Séances* (CIVS hearings secretariat)

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