

PRIME MINISTER

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*Commission pour l'indemnisation des victimes de spoliations  
intervenues du fait des législations antisémites  
en vigueur pendant l'Occupation*

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Commission for the Compensation of Victims of Spoliation  
resulting from the Anti-Semitic Legislation in Force during the  
Occupation  
**C.I.V.S.**

## **ACTIVITY REPORT FOR THE COMMISSION**

presented to the Prime Minister

(pursuant to Article 9-1 of Decree n°99-778 of September 10, 1999, as amended)

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**20 November 2001**

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Pursuant to Article 9-1 of Decree n° 99-778 of 10 September 1999 (as amended), which created a Commission for the Compensation of Victims of Spoliation resulting from the Anti-Semitic Legislation in Force during the Occupation, “the Commission submits an activity report to the Prime Minister every year”.

The present report, the first of its kind, is for the year 2001. It brings together, in condensed form, all the information gathered since the establishment of the Commission and the beginning of operations on 15 November 1999.

The report to the Prime Minister which led to the issuance of the above-mentioned Decree sought to realize the call for truth and justice made by the highest authorities of the State.

The Commission noted that, on 6 October 1997, the Prime Minister had stressed that France needed to “learn from its own history and make amends wherever possible”.

The goal which was thus established for future activities underpins the efforts of all those who take part in the work of the Commission: the Commission’s sitting members, its rapporteurs, and the different units of the staff who assemble the information, the material affecting the decision-making process and the items of evidence which together lead to the formulation of a “recommendation”.

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## **I The Commission's beginnings: a profusion of problems**

From the very outset, the Commission's work was beset by all manner of problems.

These are discussed below.

An institution had to be set up as speedily as possible. Moreover, the task had to be accomplished "*ex nihilo*".

From the time the Commission began operations, it was required to implement a regulatory text which was very concise about both in its content and in the procedures which it directed be established.

Furthermore, the criteria for compensation and the conditions under which claims could be regarded as admissible required the Commission to exercise imagination and creativity.

Very quickly, the staff operating from the Commission's premises in the *rue de Bellechasse* found themselves deluged by claims on a scale no-one had foreseen. The Commission had barely opened its doors when it received 900 claims which, even before the Commission itself had been created, had been lodged with the Working Party chaired by Mr Mattéoli and the *Secrétariat d'État aux Anciens Combattants* (State Secretariat for War Veterans).

From the time of issuance of the Decree of 10 September 1999, victims or their heirs began applying to the Commission in ever-increasing numbers - as many as 80 per day - with the result that within six months the Commission already had on its books 5,000 claims from elderly individuals, in most cases over 70 years of age.

Training staff in registering claims and following the relevant search and investigation procedures would have required material and human resources far greater than those which were provided when operations began. Resource inadequacy quickly became apparent.

In any event, steps had to be taken to deal with a most unusual assignment. Tasked with examining individual claims, the Commission had to take care to avoid the wholesale application of the legal and evidentiary rules commonly used in the courts and tribunals.

It was particularly difficult to gather information about events which took place more than sixty years previously.

There was thus a need to ensure a degree of flexibility consistent with the large number of claims and the needs of the claimants, many of whom were of advanced years and would not have understood why court-like procedures were being followed.

## **II Changes over time: modifications designed to improve the Commission's effectiveness.**

The Commission's initial circumstances, as outlined above, gave rise to the need for changes with regard to resources, methods and the regulatory texts.

### *A The need for increased resources*

It was apparent that increased resources, both material and human, were required.

#### *1 Material resources*

In October 2000 the Commission relocated from the *rue de Bellechasse* to a renovated private building with a floor area of around a thousand square meters at *1, rue de la Manutention -75116 Paris*.

The move resulted in a marked improvement in staff working conditions and in the conditions in which claimants are received.

The registration and processing of claims and the compilation of statistics, formerly performed using a very basic system requiring multiple manual operations and yielding insufficiently reliable results, have now been computerized.

The computers used by Commission staff have been networked, and this has helped to streamline internal communications.

#### *2 Staff resources*

Three people were engaged to receive applicants and look after their information needs.

There has been an increase to twelve in the number of expert archivists and historians who carry out searches of German archives, French National Archives and the Paris archives on behalf of the Commission, both to establish the fact and the extent of material spoliations and to verify whether compensation has already been approved in respect of losses pursuant to the provisions of the Brüg Act or of *la loi sur les dommages de guerre* (the War Losses Act).

At the same time, 6 people make up the staff responsible for receiving and registering claims and ensuring that questionnaires are filled in, and another team is responsible for coordinating the archival searches.

The implementation of the Franco-American Agreement signed in Washington on 18 January 2001 necessitated the creation of a special section for bank-related archival searches. Three staff members were recruited for this purpose.

There has also been an increase in the number of rapporteurs. Starting with a team of 8 *magistrats* (judicial officers) at the beginning of operations, there were 21 in July 2001. The number is expected to reach 28 in the period ahead.

This increase was deemed vital, not only to write the reports on the growing numbers of claims being processed by the archival sections, but also to help deal with the influx of claims for compensation by victims of bank-related spoliations, especially as these need to receive priority treatment.

The Secretariat serving the sitting members of the Commission increased from 2 to 3, given the increased number of recommendations drawn up as a consequence of the amendments of the Decree of 10 September 1999 (See below). These amendments allowed the use of the sub-commissions and enabled the Chair to decide on claims on his own in urgent cases or in the absence of any significant impediment to such determination.

### ***B Review of methodology.***

In the early months of the Commission's work the rapporteurs themselves, assisted by a secretary, carried out archival searches, filed the information obtained through these searches and, in some cases, sent out reminder notices. This led to the presentation of reports in differing formats, which made reading them more difficult. At times, the conclusions reached were also inconsistent.

It was quickly recognized that rapporteurs had to be relieved urgently of some of their functions so that they could fully devote the two days they spend at the Commission each week to their proper function: assessing the existence and extent of spoliations and the resulting losses, trying to reach agreement with the claimant and drafting a report for presentation to the Commission of the hearing on the claim.

It was therefore decided that the task of compiling claims files and, in particular, performing archival searches, would be carried out by specialized teams to which expert historians and archivists had been assigned.

It was then necessary to set up procedures for coordinating archival searches and assuring that the information they yielded could be quickly centralized into complete files. Files were given priority based on applicants' age and material needs as well as the length of time that had elapsed since their claims had been lodged.

Efforts were also made to establish a repertoire of standard solutions adopted by the Commission, to ensure that reports were presented in a uniform format and that the advice submitted by rapporteurs was consistent.

### ***C Amendments to the regulatory texts were sought and obtained.***

An evaluation of the first few months of operations revealed that conducting hearings in plenary sessions only would not only prevent the speedy processing of all the cases which the rapporteurs had prepared for decision but had an intimidating effect on applicants. Yet the Decree of 10 September 1999 did not provide for any other procedure.

A certain number of amendments to the law which set up the Commission were therefore submitted to the Prime Minister for consideration. These amendments were given effect in two decrees: No.2000-932, of September 25, 2000, and No. 2001-530, of June 20.

The first of these enables the Commission to establish sub-commissions, comprising only three of its ten members.



The second enables any member of the Commission to chair a sub-commission. It also provides for the Chair of the Commission to decide alone on a recommendation for compensation “when the claimant’s personal situation requires speedy processing of his or her claim or when the matter does not present any particular difficulty”.

### III How CIVS operates today: a series of actions

The Commission has a permanent administrative staff, including a team to receive, guide and advise claimants, a telephone answering team that can be reached by dialing a toll-free international number, an administrative team to compile case files, an Internet communications team managed by a “webmaster” and a Secretariat to keep notes on meetings of the Commission.

A research network of historians and archivists has been put in place to carry out the investigations necessary for presenting files to the Commission. Three research centers have been set up, at the German Archives in Berlin, the French National Archives and the Paris archives. These are supplemented by a center for the consultation of the CD-Rom “Banks,” which contains computer files on accounts blocked during the occupation. The head of the research network centralizes and collates the information obtained from these various units and coordinates their activities.

#### *A Information and response to potential claimants*

##### *1 General information is provided to victims prior to filing of claims*

CIVS has done everything within its power to ensure that all victims of spoliations or their beneficiaries, wherever they live, are made aware of this effort at making reparation.

In the framework of implementation of the Agreement, and in conformity with the goals that were reiterated during the visits of the delegation to New York and Washington, the notice was translated into several languages and published in the press of many countries during September and October 2001, with the help of French diplomatic posts and the French Government Information Service (SIG). In all, it appeared in 272 different media in 50 countries. In France, it was published in 9 national and 25 regional dailies.

The Commission has also followed up on the agreement reached in July 2001 with the Holocaust Memorial Museum. It sent 2,000 English-language and 300 French-language copies of the folder and the brochure, destined for the 2,000 Holocaust survivors which the Museum determined had had ties to France. The Commission also sent an equal number of copies of a letter recalling its operating principles, to be inserted in the folders.

Since July 16, 2001, these arrangements have been supplemented by making available to potential claimants and any other person interested **a series of international toll-free numbers**, which vary with the country from which the call is placed. These are also mentioned in the notice and in the folders and brochures.

**The "universal" toll-free number is 00 800 2000 4000.** It can be dialed from 19 countries: Argentina, Australia, Austria, Belgium, Canada, Denmark, Finland, France, Germany, Hungary, Israel, Italy, New Zealand, Norway, the Netherlands, Spain, Sweden, Switzerland and the United Kingdom.

There are five country-specific numbers. The call number from **Brazil**, is 000 849 181 42 26; from the **United States** 1 866 254 3770; from **Poland** 00 800 491 21 97, from the **Czech Republic** 0 800 142 042 and from **Russia** 810 800 2015 1033. The state of telephone service in Romania makes it impossible to set up a toll-free number for residents of that

country. They, like residents of other countries not covered by the toll-free system, may of course make toll telephone calls to CIVS. The toll-free numbers are open 24 hours a day, 7 days a week, with answers given in English, French or Hebrew.

Interested parties who connect to the Web site can be called back immediately by telephone advisors by simply dialing their telephone numbers. These are the same telephone advisors who respond to toll-free calls.

The telephone advisors' answers to calls are based on very complete briefing books prepared at CIVS headquarters, which contain responses to all the questions posed by victims of spoliations or their beneficiaries. The advisors have been specially trained to answer these calls in a friendly and receptive way, with full understanding of the psychology of the callers.

The questions asked, and the answers given, are included in the same monthly statistics that show the number and frequency of calls received, their country of origin, the nature of the questions and how they were handled and the status of the callers, i.e., victims, beneficiaries, associations, journalists, etc.

The Web site is of course a major vehicle of information, aimed at all persons having suffered spoliations and their beneficiaries. Detained information is provided to potential claimants. The basic texts on the foundation of CIVS, the Washington Agreement and all other pertinent documents are included. The different steps and components of the claims procedure are spelled out. The forms needed to make a claim – the questionnaire, power of attorney, proxy, etc. – may be downloaded and printed from the site. Since September 2001, it is also possible to download the information notice and obtain information on the toll-free numbers. The public is informed of new additions to the site through newsletters to which Web surfers can react.

A special heading in the Site, called "**Other programs to compensate victims of the Holocaust**" reviews the different programs for compensation of victims of anti-Semitic persecutions, with a view of easing Web surfers' way through the maze of procedures.

There are also **links** that provide access to other sites: those of institutions that work with the Commission, sites about indemnification of the victims of the Holocaust, about the principal Jewish organizations and more general sites about the Holocaust. There are also links to other documents and organizations: the report of the Mattéoli working party, CDC, the *Conseil du Patrimoine privé de la Ville de Paris* (Council on the Private Heritage of the City of Paris) on spoliations as well as the reports of the extra-municipal investigative commission on the spoliation of Jewish assets in Bordeaux and Mérignac during the Second World War. A permanent link to access the report on the spoliation of Jewish assets in Lyons should soon be available, as will those pertaining to Marseilles and Grenoble, two other cities that have made the same kind of research.

In this way, [www.civs.gouv.fr](http://www.civs.gouv.fr) is constantly increasing its visitors rate. Between May 1 and October 31, 2001, the Site received 9,700 visits. The headings most often consulted are those that explain the compensation procedures. There is increasing downloading of both French- and English-language forms: with 985 requests for the French forms and 925 for those in English. The cross-headings also attract the attention of Web surfers, more and more of whom visit the heading "other programs of compensation for Holocaust victims."

## *2 Continuous information for those filing claims*

Claimants may seek either general information or information pertaining to their personal situation. In either case, the welcome provided, ready access and a basic sense of

humanity must characterize the treatment all CIVS persons with whom claimants come into contact. The Commission works with unwavering conviction to ensure that fairness prevails.

The importance of the **assistance unit** is repeatedly confirmed. Between January 1 and October 31, 2000, members of the unit had 670 meetings with claimants and had 3,500 telephone discussions, of which 2,030 were with people calling from Paris, 1,370 from the rest of France and 100 from abroad.

The publication of the information notice will certainly increase the number of calls from outside France. The calls pass through the toll-free number to the assistance unit, leading to in-depth personalized contacts.

The administrative unit that sets up the files and the financial verification unit can also have continuous contacts with claimants. These are most often by telephone, but many claimants also come to CIVS headquarters when necessary to meet staff members. This is true of claimants who have problems filling out the questionnaire or who are afraid that documents mailed may get lost.

These contacts are followed by contacts those with the rapporteurs. Their willingness to listen to evocations of the past, and to the viewpoints expressed by claimants, is matched by their willingness to help these victims understand the inquiries made on their behalf. Sometimes the rapporteurs are able to pass on to claimants documents that have been found by the archival services. Claimants are often unaware of the very existence of such material, in effect the only material memories of their family history.

Once the rapporteur has prepared his report, claimants are informed of the date on which the Commission will examine their file, and are invited to attend. Once the Commission makes its recommendation, they will be informed without delay.

The Web site provides interactive e-mail communication between CIVS and claimants. Their questions must be answered within 48 hours, and in practice answers are ready in 12. These exchanges usually concern requests for forms and for personal information. Electronic mail is particularly common from English-speaking countries. Since the site was launched, the Commission has received 80 e-messages, 40 of them in October.

An interactive forum will also soon be created on the Site, in order to provide practical or technical answers to questions on history, law or Commission policy on an ongoing basis.

Commission policy is still being set in many areas, particularly spoliations of bank assets. It should be noted that the Commission is forced to develop its jurisprudence on a case-by-case basis, as there are no legal texts that lend themselves to interpreted as in the normal French procedure.

## ***B Preparing a file for the rapporteurs: receiving claims and requesting information from the archive services***

### ***1 Registering claims***

There are no formal procedures for setting up a file. Claimants can contact the Commission by letter, fax or e-mail or by downloading the questionnaire from the Web site, filling it out and mailing it to CIVS.

Correspondence in any of these forms is first received by the administrative unit that sets up the file. The unit then verifies the information and enters it in the CIVS database. Each file is assigned a number. This approach permits clear and orderly management of each file by the Commission and the different parts of its staff.

Once a claim is received, the administrative unit sends a questionnaire to the claimant – unless he or she has already downloaded it from the Internet. A proxy and power of attorney are also sent. The former is used should the claimants wish to be represented by a third party of their choosing. The proxy also permits the claimant to specify if he or she is acting alone or on behalf of other victims or their beneficiaries. In filling out the power of attorney, the claimant authorizes the commission to obtain information on the case held by other institutions concerned.

As of October 31, 2001, 985 files, including 62 bank-related files, were on hold pending return of the questionnaires by claimants.

Once these are received, the administrative unit checks to ensure that the essential information needed, such as the full civil status (birth, marriage, divorce, death) of the person whose assets were confiscated and the geographic location of these assets, have been supplied by the claimant. The administrative unit has assisted many claimants in preparing their file. Claimants have also been able to resolve some of their problems in calling the CIVS switchboard or in using the international toll-free number that directs them to the appropriate services.

When additional information is needed before the file can be sent to the research coordination unit, the administrative unit requests this from the claimants.

### *2 Special procedures for registering claims on banks*

Beginning on January 18, 2001, CIVS has kept a separate accounting of bank-related claims transmitted to the *ad hoc* unit for checking against the database on blocked assets. These are given a purple color code, with registry numbers including the **letter B**. The **letter M** is added if the claim covers **spoliation of both material and bank assets**. This tagging system for easy identification of bank-related claims makes it easier to give them diligent **priority treatment**.

To be sure, at this point it is impossible to distinguish between claims that will be paid from Fund A or from Fund B. When claimants mention a confirmed or presumed bank account, they are rarely able to name the bank in which it was opened, much less the amount or the account number.

Before signature of the Washington Agreement, bank-related claims had been received from 289 French claimants, 18 Americans, 17 Israelis 4 others. These claimants sought compensation for spoliation of furniture and other household goods, or for the “aryanization” of business property. The existence of a bank account, conformed or not, was only mentioned vaguely and incidentally. At that time, CIVS took the initiative to create a **“bank assets” sub-file**, used whenever the claimants mentioned a bank account, whether in the official questionnaire or in meetings with Commission personnel.

Since signature of the Agreement, claimants expressly file bank-related claims with the Commission, more systematically including an **affidavit** supplied to them by their lawyer or by certain associations when they are given the questionnaire. They then affirm the existence of a bank account without supplying any additional information, without

mentioning or expanding on any other losses such as spoliation of furniture or other household goods or the “aryanization” of business property.

### 3 *Researching the claims*

After the administrative unit has registered a claim, it is sent to the research network, which identifies the archival services to be queried and sends them a copy of the fully completed questionnaire.

The work of the archive centers is carefully planned. They receive weekly work plans, drawn up on the basis of the priorities as set down in the decree – i.e., depending on age, health and total resources of the individual and, subject to these priorities, the length of time since the file was opened.

CIVS’s outside archive centers, such as the *Office des Biens et Intérêts Privés* (OBIP – Office for Personal Property and Interests) and CDC, are part of this organization. This obviates the need to send special reminders to them, making the operation more efficient. There has been noteworthy progress since June 2001.

Research in the archive centers has three purposes.

The first is to identify the nature and magnitude of the asset confiscation. The second is to determine whether the losses were effectively due to anti-Semitic legislation, and not losses of property due to acts of war such as bombings.

The investigation seeks to avoid double compensation when reparation for spoliation has already been made, whether in France under the War Damages Act or in Germany, by virtue of the BRüG Act. The same loss cannot be compensated twice, unless facts unknown at the time of the first compensation are of the kind to justify an exceptional re-estimation. This notwithstanding, partial compensation received at the beginning of the 1970s by virtue of the **special hardships** (*duretés particulières*) clause may be supplemented by the initial amount applicable under the BRüG Act in order to arrive at a full level of compensation.

Finally, because consulting the archive centers may lead to the **discovery of other spoliations**, unknown to or forgotten by the claimants and not mentioned in the questionnaires.

The Commission has set up contact points directly at the major archive centers. The Berlin contact point is responsible for verifying whether spoliations under consideration have not already been compensated under the German BRüG Act. The contact point at the French National Archives has access to the archives of the Occupation-era “*Commissariat Général aux Questions Juives*” (CGQJ – “General Commissariat for Jewish Questions”), where, in particular, the files on the “aryanization” of Jewish-owned businesses are kept. The contact point at the Paris Archives can access the documentation on war damages, the registry of businesses and orders issued for the restitution of assets, including real estate, household goods and furniture and professional and business equipment.

If a claimant makes mention of confiscation of banking assets, whether in his or her first contact, in filling out the questionnaire, or in a subsequent meeting with a rapporteur, the in-house **ad hoc unit** checks this against the database on the blocked assets of each financial institution (the “Banks” CD-Rom installed at CIVS).

If information thus acquired reveals the need, it may be necessary to consult other sources. For example, the Paris *Préfecture de Police* (Police Headquarters), *the Caisse des*

*Dépôts et Consignations* (CDC), the *Centre de Documentation Juive Contemporaine* (CDJC – Contemporary Jewish documentation center) are consulted when it is necessary to trace bank deposits of persons who were interned at the Drancy camp. Data concerning camps outside the Paris area have been brought together on another CD-Rom called “*Camps de province.*” The *Office des Biens et Intérêts Privés* (OBIP - Office for Personal Property and Interests) can provide information on claims for compensation made right after the war.

OBIP also has special files on gold coins and bars (“*or monétaire*”) and on art works. For spoliations of the latter, CIVS also consults the central management of French Museums (*Direction des Musées de France*) at the Ministry of Culture and Archives Department at the Foreign Ministry.

Life insurance policies are investigated with the cooperation of the *Fédération Française des Sociétés d'Assurance* (FFSA – French Association of Insurance Companies) and of CDC. CDC is also consulted on the liquidation of businesses and real-estate holdings and on sums confiscated from bank accounts, either as part of the collective billion franc fine imposed on the Jewish population (“*l'Amende du Milliard*”) or for the benefit of the “*Commissariat Général aux Questions Juives*” (CGQJ).

When a claimant contests the fact of a previous compensation, a final check is made with the archives of the United Jewish Welfare Fund (*Fonds Social Juif Unifié -FSJU*) in Jerusalem, for purposes of finding a record of the payment made.

Research conducted by the in-house *ad hoc* unit for bank assets often reveals the existence of bank accounts that are part and parcel of spoliation of material assets that took place at the same time. Information can then be obtained in the records of the CGQJ.

By the same token, investigations at the National Archives of confiscations of professional equipment also reveal information on the existence of bank accounts not mentioned in the questionnaires. Useful information of this kind is then transmitted to the *ad hoc unit* for bank assets.

#### *4 Special procedures for claims on banks*

Before signature of the Washington Agreement, the head of the research network requested information from financial institutions in only two cases: when the claimant mentioned a bank account, equities or other securities, a strong box, etc., or when the name of a bank appeared in “aryanization” records.

At present, the first step on bank-related claims is to consult the “Banks” CD-Rom, which contains a database on blocked accounts. In effect, the data base contains 26 files – one for each of the 25 banks that have conducted research on their own and one large file set up by the Mattéoli working group (See p. 5), covering 160 banks, including some already covered in the 25 files as well as subsidiary banks or smaller banks.

The banking unit has made technical improvements on some files to make it possible to consult them more rapidly. An index was set up for each file containing from 1 to 1999 names. Files on large banks containing from 2,000 to 20,000 names, i.e., the Banque de France, BNP, the *Caisse d'Epargne* (savings bank network), *Crédit Commercial de France* (CCF), *Crédit Industriel et Commercial* (CIC), the Postal Savings system, *Crédit Lyonnais*, and *Société Générale*, were not touched.

These improvements brought the total number of files in the data base down to 17, and has made it possible to check each claim with the files on about a hundred banks in operation in 1941, even if the claimant mentions only one. In all, some 50,000 names and 86,000 accounts

are now in the database. The investigation is based on the family name of the victims and their address until 1941.

Sometimes several variant spellings need to be checked, to the degree that names vary from one archive document to another. CIVS is investigating the purchase of software on family names, and has made contacts for this purpose with the Holocaust Memorial Museum in Washington and the Yad Vachem Memorial in Jerusalem.

This system permits archivists familiar with banking practices to verify the existence of an account by consulting the CD-ROM, unless of course the claimant provides proof directly.

There are then **two possible conclusions** to the research process.

**Research is successful and positive**, i.e. the civil status (birth, marriage, divorce, death) of the claimant corresponds to records found in the files, and these make it possible to ascertain the type of assets (demand deposits, securities, strong-box, etc.) held in one or several banks.

**Research is negative**, i.e. no record of the civil status of the victim is found in the blocked accounts file.

Of the 609 bank-related claims handled through October 31, 2001, 349 (57%) have led to evidence of bank accounts opened by the claimants or their relatives, while no evidence of any name, bank or account has been found for 260 claims, or 43%.

When the results of the research are negative, there is little point in checking further with the twelve present-day banks that are the successors to the 106 banks in existence during the period 1940-1945. These banks are contacted only if the claimant produces a document referring to a bank account. The unit then checks with the bank or its successor even if research in the blocked accounts file has proved negative. In all other courses, the procedure leading to compensation from Fund B is applied.

Under this procedure, a claimant who has not already filed an **affidavit** is sent a letter informing him or her that no further action can be taken on the claim unless such an affidavit is filed in accordance with the Washington Agreement. A model affidavit is sent with the letter, which varies slightly depending on whether the claimant has mentioned only confiscation of banking assets or also spoliation of material assets. The **affidavit** allows the claimant to state that it is probable that the victim had opened an account in France. At the same time, the banking unit confirms the outcome of its investigation by making a written certification that research in the computer files has produced no evidence of the existence of a bank account.

### ***C Preparing a report on the claim for deliberation by the Commission: the work of the rapporteurs***

#### *1 Reports on material spoliations*

Once replies are received from the archival services, which are consulted as a matter of course, claims files are referred to the Principal Rapporteur who distributes them among the rapporteurs as equitably as possible.



The rapporteur analyzes the files that are sent to him. This first step is always fraught with difficulties stemming from the legibility of old documents, the need to have some of them translated, and gaps in the information available to the rapporteur. Most complicated of all are the files involving the "aryanization" of multiple businesses,

Quite often, information obtained in response to preliminary searches proves to be inadequate. The rapporteur must then carry out or ask the staff to carry out additional inquiries, which prolong the time needed to complete the investigation. Replies are not always received as quickly as he would wish, but it has to be recognized that the archival offices which are consulted often have to undertake difficult research in order to answer the very precise and sensitive questions that are referred to them.

When he is in a position to make a preliminary assessment of the extent of the spoliation, the rapporteur contacts the claimant and invites him to attend an interview, accompanied, if the claimant so wishes, by persons of his choice such as relatives or a lawyer.

Once they know which rapporteur is going to be dealing with their claim, most claimants telephone him to ask what will be involved in having their claim settled. At that point the rapporteur must reassure the claimant and explain the investigation process in some detail.

While the meeting between the rapporteur and the claimant generally takes place at the Commission's headquarters, the rapporteur may instead visit a claimant at his or her home (particularly if they reside in the Paris area) if health or age make moving around too difficult. Claimants living abroad are interviewed by telephone.

The interview with the claimant is an important step, and has three objectives.

**First, to listen:**

This aspect of the rapporteur's work is vital. For claimants, recalling the war and the ordeals they lived through is a trying, intensely emotional experience. Quite apart from their own claims, it has been noted that many claimants are keen to bear witness to a tragic period of which there remain fewer and fewer survivors.

**Second: to inform** claimants as to what their families went through during the Occupation by giving them documents concerning their relatives which have been located in the archives and of whose existence they were previously unaware.

For many, these documents represent the only traces of a painful past, which they are once again required to confront. They are just as important to the claimants as the compensation they are seeking.

**Third, to establish a dialogue** with the claimant, chiefly in order to establish who may be entitled to compensation. This involves an analysis of lines of succession for which, in some cases, a family tree needs to be drawn, so that a compensation proposal may then be prepared for submission to the Commission by the rapporteur.

Quite often, the interview provides an opportunity to inform the claimant about spoliations revealed by archival records of which he or she was unaware and hence had made no reference in the initial claim. This is particularly likely when talking with an heir of a now-deceased direct victim.

Conversely, the claimant may also reveal spoliations that he or she had failed to mention in his claim. Fresh investigations must then be instigated.

Once the extent of the spoliations has been established, the rapporteur must assess the loss that may be attributed to them.

In some cases, this assessment requires a second interview, which is held at a later stage, to take account of the fresh investigations made necessary by the first interview.

The assessment of loss is always a difficult process that often leads to very approximate results. The assessment process assumes that the rapporteur is equipped with knowledge of such diverse fields as business capital, tools of production and art works — knowledge that he may simply not possess. In any court or tribunal, this lack of knowledge would automatically give rise to the appointment of specialist experts.

This option is not available to rapporteurs, in part because of the cost which would result (the relevant texts do not provide for the Commission to meet such costs), and in part because of the delays which it would cause in the investigative process. The Decree of September 10, 1999 did provide for requests for information from ANIFOM (*l'Agence Nationale d'Indemnisation des Français d'Outre-mer* - the National Compensation Agency for French Citizens Living Abroad), but this office proved unable to respond with the speed required in the processing of claims. Requests are accordingly no longer referred to it.

The rapporteur thus makes the most of his own abilities, his creative powers and his imagination. For example, he calculates the value of business capital by extrapolating from the meager information he has managed to put together on the last known sales figures or on staff numbers. He assesses the value of looted inventories of raw materials by comparison with those of a similar enterprise. He estimates the worth of paintings by reference to the current value of the artist's work, as measured by the average value of sales at art auctions or in galleries over an extended period, etc. Very often, the rapporteur must fall back on his own enquiries directed to enterprises, professional organizations or employers' federations in the relevant fields of business.

Quite obviously, in this kind of setting, any topic may become the subject of endless discussion without to any certain conclusions.

Once the assessment has been completed, the rapporteur advises the claimant and asks for his comments. In most cases, the claimant agrees with the sum suggested by the rapporteur.

Seeking the claimant's agreement is very much in the spirit of the Decree of 10 September 1999, which specified that the Commission examines only claims on which the parties have failed to reach agreement in a spirit of conciliation.

In practice, it proved very difficult to implement this text without the modifications added *a posteriori*:

- Despite the above, the Decree does not allow the rapporteur to reach an agreement with the claimant that is binding on the Commission. Hence the commission must pass on all claims;
- And, even though one may readily envisage conciliation when a demand for compensation or restitution has been directed against a natural person or a private

corporation outside the CIVS process, it is another matter altogether when such demands are directed against the State alone, as is the usual case at CIVS.

- A solution which involved securing the concurrence of the Government Commissioner could require the latter's permanent presence at the Commission, or else an arrangement under which the entire file, together with a preliminary report, might be sent to him in advance of any final decision. This is quite impracticable, indeed unthinkable, given the level of resources available to the Commission.

When all the steps described above have been completed, a process taking 8 to 12 months at the very least, the rapporteur prepares a written report (which he usually types himself), summarizing the circumstances in which the spoliations occurred and setting out his own assessment of the resulting losses, while also noting the position of the claimant in the context of the proposal he is submitting.

His report is referred to the Principal Rapporteur who, after checking it, passes it to the Commission Secretariat, indicating his advice on how the matter should be heard: by the Chair sitting alone, consistent with the provisions of the Decree of 5 June 2001; by a sub-commission; or by the full Commission.

Other than when the chair decides alone, the rapporteur attends the hearing and makes an oral presentation on the contents of his report. He answers questions from members of the Commission, the claimant and the Government Commissioner. His role requires him to prepare thoroughly, going over the file and bringing along copies of documents that underpin his proposals.

### *2 Reports on bank-related spoliations*

The following procedure, incorporating considerably more flexibility, was developed as a means of dealing with claims of this kind. These are being filed in ever-increasing numbers and the French-American Agreement signed in Washington requires that they be accorded priority treatment:

- When it is proposed that a \$1,500 lump sum be awarded from Fund B, on the basis of an affidavit sworn by the claimant. In such cases, a rapporteur with special expertise in banking drafts a report setting out his proposal. The claimant is advised of the proposal only if it recommends rejection of the claim, which is thus far highly exceptional. After the Principal Rapporteur has approved the proposal, the case is usually referred to the Chair, acting alone.

- Where the existence of an account or a bank safety deposit box has been demonstrated, justifying a compensation award from the \$50 million escrow account (Fund A). The relevant bank is then asked to make its position known, both with regard to the principle of payment of compensation from the funds and to the level of the proposed compensation payment.

The rapporteur informs the claimant of the bank's position and of his own position, and asks the claimant if he wishes to submit any comments.

He then passes his report to the Principal Rapporteur, who after verification passes it to the Chair, acting alone, if the various positions are in agreement. If they are not, the file is referred to a Commission or a sub-commission.

All these procedures require a minimum of four months to be completed.

### *3 Reports regarding requests for review of findings.*

The request is submitted to the rapporteur who dealt with the matter previously. After carrying out further investigations where appropriate and interviewing the claimant again, the rapporteur then records his comments as to whether any new facts, new evidence or material errors have been provided. According to the Decree of September 10, 1999 (as amended) these are the only grounds on which a request for a review of findings may be considered.

The rapporteur's views on the need for a review of the initial findings are referred to the Chair by the Principal Rapporteur. If the Chair so decides, the matter is submitted for consideration by the Commission meeting in plenary session, at which the rapporteur will obviously be present.

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### **A day in the life of a rapporteur**

**It can already be seen from the details provided here that the task, to which rapporteurs can devote only two days per week, is a particularly complex and difficult one that does not lend itself to the thorough and speedy handling of claims. But that is nevertheless precisely what should be happening, given the large number of claims and the understandable impatience of victims for whom compensation has been so long in coming.**

Nonetheless, the rapporteurs cannot be said to be lacking in motivation, and also have the satisfaction of carrying out their responsibilities with the compassion demanded by efforts to atone for the past. This is borne out by the appreciative comments made by many claimants, either in writing or in the course of hearings.

A rapporteur was asked to give an account of a typical day in his working life, including the difficulties with which he had to contend. This provides a vision that is distinct from the strictly formal description outlined above.

The first thing a rapporteur finds upon returning to the Commission after his 5 days of absence is a very diverse pile of mail. Letters and phone messages from claimants, new files to be processed, in-house circulars, summaries of significant decisions taken by the Commission (which has held several hearings during his 5-day absence) and interesting press articles have all piled up on his desk. He has scarcely begun to work his way through these papers when the telephone starts ringing, as in most cases claimants have had to wait for several days to reach him. Between telephone calls, the rapporteur will also want to speak with the Principal Rapporteur and the other rapporteurs about the Commission's most recent decisions and their implications for the future processing of claims.

The rapporteur's first morning back at the Commission (and sometimes rather longer than that) is thus spent catching up on what has happened in his jurisdiction over the 5 preceding days.

Then he generally has to get through a series of meetings with claimants. Having first examined the file compiled by the case officers of the research unit in order to determine the losses suffered and the amount of compensation which might be paid, the rapporteur makes an appointment with the claimant to explain how the Commission operates and discuss the file. The rapporteur thus gets to meet the claimant(s), usually in the Commission's offices. They may be accompanied by persons of their choice such as a relative or lawyer.

Even for simple claims, the interview with the claimant(s) is usually quite long (from 45 minutes to more than 2 hours) and quite trying. Even though the formal aim of the interview is to agree on an amount of compensation to propose to the Commission, in fact it serves many other unspoken purposes. For many claimants, the interview is an opportunity to "bear witness", to tell of their personal experiences during the war and to explain the consequences that the ordeals they suffered have had right up to the present, not only for them but also for their children and often even their grandchildren. This means that they have to recall painful matters, cast their minds back to a time of trauma and sorrow and relive dramatic events in their past. To get them to open up to him about these matters, the rapporteur must do his utmost to put claimants at ease and to listen to them with maximum attentiveness, while at the same time taking care not to upset them, knowing that revisiting the memories of this era may be extremely distressing.

For most claimants, this interview represents a rare contact with the authorities. Claimants have often kept in their minds an image of an aloof administration which, 60 years ago, helped to strip them of their assets and even played an active part in having them or their loved ones deported. The rapporteur must therefore strive to overcome that image by the care with which he receives claimants and listens to their concerns and recollections.

These interviews are emotionally charged, and are thus often distressing both for the claimant and the rapporteur.

Once he has finished the day's interviews – and it is difficult to fit in more than 3 a day – the rapporteur then has to go over the files of the claimants he has seen to assess exactly what compensation might be payable. These assessments frequently require him to undertake further enquiries aimed at obtaining information about the value of some asset looted from the claimant: it might be the value of a violin bearing the name "Stradivarius", the worth of a dentist's surgery and a dental prosthesis laboratory, the value of a furrier's workshop or of a stock of oriental carpets.

This in-depth examination of the files is constantly interrupted by telephone calls from one claimant or another wanting to know what is happening with his case or to add some points to what he said at interview, or else to dispute the amount of compensation proposed by the rapporteur or granted by the Commission, or simply to say "thank you" for what has been done for them.

The rapporteur therefore has to wait until the phone calls have abated, i.e. until after 6.00 p.m., to really focus on the files and begin drafting reports. When a report is completed – and some of them run to more than 10 pages – the rapporteur must get in touch with the claimant and advise him of the exact amount of compensation he intends to suggest to the Commission. This second interview, usually conducted by telephone, sometimes provides an opportunity to go over the substance of the claim again and to explain once more the various ways in which the total value of the compensation sought can be calculated.

During his two days of on-site work at the Commission, the rapporteur must also devote part of his time to presenting his reports to sub-commissions or a full commission and, from

time to time, take part in internal coordination meetings or meetings with outside bodies which work with the Commission.

Suffice it to say that the rapporteur's two days at the Commission go by with lightning speed. He usually leaves the Commission thinking, "if only I had a little more time..."

#### ***D The role of the Principal Rapporteur.***

The limited number of rapporteurs, the fact that they work at the Commission on a part-time basis, and the wide variety of issues which need to be resolved, often as a matter of urgency, mean that a permanent Commission staff member must play a coordinating role. This is the job of the Principal Rapporteur.

This coordination relates to preparation and presentation of reports as well as to the opinions that the rapporteurs are called upon to state.

To assist in meeting these objectives, the Principal Reporter held a meeting of all rapporteurs on October 11, 2000. Following the meeting he drafted and distributed a circular setting out the procedures which had to be observed by case officers carrying out archival records searches and by rapporteurs in their task of preparing files so that they met the Commission's expectations.

Rapporteurs were given a standard model, which they were asked to use as a way of harmonizing the format of reports and making it easier for the Commission to read them.

To ensure that proposals put forward by the rapporteurs are consistent, the Principal Rapporteur takes part in meetings with those outside organizations whose assistance is required by the Commission.

He prepares and distributes a summary of the recommendations that help to resolve questions of principle that have not yet been settled. He attends and speaks at sessions at which those questions are raised.

Through his examination of reports, and the discussions he regularly has with each of the rapporteurs and the case officers who receive claims and carry out archival records searches, the Principal Rapporteur is able to satisfy himself that the directives he has issued are properly understood and are being adhered to.

The Principal Rapporteur must, of course, make himself available to resolve the specific problems that those working under his direction encounter from time to time.

The Principal Rapporteur writes to claimants to acknowledge receipt of the questionnaires that the Chairman asks them to complete at the time they file their claim, and sends out reminder notices if the claimant does not reply within 6 months. He may decide to put on hold any claims that the claimants appear to have allowed to lapse.

The Principal Rapporteur also assigns cases to the rapporteurs, reserving the possibility of preparing the report on certain sensitive claims himself.

#### ***E Examination of claims by the Commission***

## *1 The role of the Commission Secretariat*

### a) Preparation for the hearing

As soon as a rapporteur completes his report, the file is passed to the Secretariat, which is responsible for setting up the agenda for the Commission's sessions.

Files are selected on the basis of specific criteria, of which the most important ones are the claimant's age, state of health and personal circumstances.

Once the agenda has been set, the claimant is invited to attend the session at which his claim will be examined. Copies of all reports are sent to each Commission member so that he can acquaint himself with the matter, and they are also sent to the Government Commissioner. The latter prepares written comments on each of the claims presented to the Commission.

If the claim before the Commission relates to a bank account, and there is no agreement between the rapporteur, the claimant and the bank, a representative of the bank is asked to attend the hearing.

### b) The session

In the course of the hearing, the rapporteur who has investigated the claim presents his report to the sitting members, in the presence of the claimant and the Government Commissioner. He then suggests an amount of compensation, drawing on information obtained from various archives centers (the Berlin Archives, the National Archives, the Paris archives, the *Caisse des dépôts et consignations* (CDC – State bank handling official deposits), etc.

The claimant may, if he so wishes, comment on the proposed amount of compensation. Commission members may also ask the claimant to provide further information about the circumstances in which the spoliation arose. The Government Commissioner then presents his own comments on the conclusions put forward by the rapporteur.

Following the hearing, the members deliberate and determine the amount of compensation, based on the principle of fairness. The Commission's deliberations are held behind closed doors, with only the sitting members and the Secretary present, and conclude with the adoption of a recommendation.

## *2 The Commission's various deliberative bodies*

Decree 2001-530 of June 20, 2001 extended the range of the Commission's deliberative bodies. Claims may now be examined by three distinct bodies.

### a) Plenary sessions

Plenary sessions, for which a quorum is six members, deal only with issues of principle that raise problems relating to the most complex historical and factual situations. The number of files presented - from five to seven - varies according to the complexity of the claims.

### b) Sub-commissions

Sub-commissions are the most frequent form in which the Commission sits. Claims examined by sub-commissions present no difficulties with regard to questions of principle. Article 5 of the Decree defined a quorum as three members, and also widened the definition of chair of a sub-commission to “any member designated by the Chair of the Commission”. All Commission members thus assume the chair, in turn.

These changes have led to an increase in the number of sessions held and, with it, a marked increase in the number of claims that have been examined.

### c) Examination by the Chair

The Decree of June 20, 2001 also empowered the Chair to rule alone on claims. Claims examined in this fashion are selected on the basis of their urgency, which in turn is determined both by the applicant’s personal circumstances and by the absence of any particular difficulty.

This examination by the Chair is particularly appropriate in the case of bank-related claims presented to the Commission and supported by an affidavit.

## ***F The Commission’s procedures***

### *1 General Principles*

It is the Commission’s intention to follow the Decree of September 10, 1999 to the letter, as elucidated by the report to the Prime Minister.

Drawing on the work of Mr. Matteoli’s working party, it seeks to make an appropriate gesture to victims of spoliation, i.e. to persons or their heirs who were deprived of a material (movable property or real estate) or financial asset as a result of the anti-Semitic laws adopted during the Occupation, either by the occupying power or the Vichy authorities.

Thus, each of three conditions must be satisfied:

- the loss suffered must be related to the anti-Semitic laws<sup>1</sup>, which excludes war-related damage (e.g. from bombardments), requisitioning, the consequences of violations of laws pertaining to foreign currency or the movement of cash, or the consequences of criminal acts such as armed holdups unrelated to the application of the anti-Semitic laws;
- there must have been a material loss (A non-economic loss resulting from being the orphan of a deportee may also qualify, as set out in the Decree of July 13, 2000.);

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<sup>1</sup> The Commission has, however, awarded compensation to a non-Jewish person on the basis that the spoliation the person suffered occurred because the person had been deemed to have been an accomplice to a direct violation of the anti-Semitic legislation in force at the time. On the other hand, it has denied compensation to the heir of a Jewish member of the Resistance who was robbed of a large sum of money at the time of his arrest.



- the loss must be attributable to the French authorities or those of the occupying powers on French or assimilated territory (e.g. Tunisia), including Alsace-Lorraine, annexed by Germany during the war. Spoliations which occurred, for example, in Poland, Germany, Austria or Romania are, however, excluded

And there are limits. Thus there is no provision to award compensation for loss of profit or earnings (e.g. loss of profits, rental payments which were not received, loss of earnings resulting from being prevented from practicing a profession), for costs arising from war-caused relocation (continued liability for rent payments, furniture storage costs) and more generally the costs incurred in staying alive while in hiding. The fact of being poverty-stricken is not regarded as equivalent to forced dispossession within the meaning of the Decree of September 10, 1999.

Similarly, the Commission does not recognize any entitlement to compensation to heirs of persons who had ceased working as shopkeepers or commercial travelers in order to flee the roundups in which other members of their family were caught.

It takes the view that a loss resulting from ceasing work does not constitute an act of theft, through violence or fraud, of a material asset which is the property of another person, as required by the term “spoliation”. Persons who fled the anti-Semitic persecutions and whose vacant apartments were looted are, however, compensated.

The Commission is not required to apply the strict rules of law, which would lead to the rejection of practically every claim as a result of the expiry of the time limits for legal recourse or of the statute of limitations.

Even though the Commission is not a court, it strives to make decisions based on the arguments of both sides during the preparation of the report, during the hearing and during its closed deliberations (which are not attended by the Government Commissioner).

In the interests of fairness towards persons who have already been compensated and do not lodge fresh claims, there can be no question of reassessing the compensation already awarded (compensation by France for war-related losses or restitution by Germany in the framework of the BRüG Act), unless there is evidence of gross error (e.g. in relation to family composition or the composition of the apartment, brought to light by documents held on file or documents supplied by the heirs) or of arbitrary limitation on the amount of compensation awarded (e.g. reduction of an award because of the “particular harshness” of the BRüG Act stemming from the late filing of claims). These give rise to a reassessment not to exceed the amount of such reduction.

The presence of payment orders in the file is regarded as sufficient evidence that the payment has been made.

Furthermore, in view of the time that has elapsed since the losses were suffered, the Commission is mindful of the difficulty of furnishing evidence and proceeds on the assumption that claimants are acting in good faith with regard to current and likely losses (while nevertheless imposing a maximum amount for exceptional losses).

Compensation is assessed in relation to the loss suffered, having regard to the living environment prevailing at the time, regardless of whether an assessment is being made of the spoliation of an automobile, furniture or the equipment in a craftsman’s workshop. Compensation is calculated on the basis of the notional replacement cost of the looted items. Assessing the loss as at the time of payment of compensation is quite out of the question.

The Commission recognizes the possibility of obtaining reimbursement of costs necessarily incurred at the time of the Liberation in instituting legal proceedings aimed at recovering looted assets (an apartment or business), but not the reimbursement of any amounts paid under the terms of an out-of-court settlement.

Given the difficulty of drawing up an exhaustive list of heirs with any sense of certainty, the Commission, in its recommendations, stresses that the recipients of any compensation payments will need to make their own arrangements in sharing the payments with any other heirs who might subsequently step forward. Similarly, it sets aside the share of any known heirs who have not been a party to a claim that has been submitted to it.

### *2 Determining the eligibility of heirs*

The application of the principles of civil law, as foreseen in the report to the Prime Minister, is understood to mean following the rules of both linear succession (without limits) and in the collateral line (brothers and sisters – uncles, aunts/nephews, nieces). The existence of any general devisee and legatee, in accordance with a last will and testament, should also be taken into account.

In the latter case, however, the Commission takes the view that it cannot consider awarding compensation under the terms of the Decree of September 10, 1999 solely on the basis of the existence of a purely legal relationship, unless, in so doing, it complied with the legal principles which are applicable only in the national judiciary system. This in turn would result in the ineligibility of claims by virtue of the 30-year statute of limitations. The Commission has considered that the letter and the spirit of the Decree of September 10, 1999 imply that compensation is payable to those claimants who have suffered, either directly or because, belonging to the “family” through blood ties and/or the bonds formed by living together, also share in the misery suffered person. The Commission has considered that the letter and the spirit of the Decree of September 10, 1999 imply that compensation is payable to those claimants who have suffered, either directly or because they belong to the “family”-- through blood ties and/or the bonds formed by living together--and thus also intrinsically share in the personal misery.

The status of surviving spouses is governed by the joint property statutes of the time applying to household goods and acquisitions. In effect, the surviving spouse receives half of the compensation awarded.

The Commission does, however, agree to award a surviving spouse the whole of a compensation payment if the children formally waive their entitlement to their share.

### *3 Methods used for assessing losses*

While adopting a pragmatic approach in line with the recommendation of the report to the Prime Minister, the Commission has found it necessary to draw up a number of guidelines intended to assist rapporteurs in the preparation of their proposals.

### *4 The various kinds of loss<sup>2</sup>*

#### a) Apartments

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<sup>2</sup> In an exceptional case, the Commission dealt with the alleged looting of copyright.

Buildings are classified by reference to the Act of 1948 (in practical terms, the Commission most frequently refers to Category 3A).

So far as the floor plan of an apartment is concerned, the kitchen is in some cases deemed to be a habitation area, given the small size of certain apartments and the size of the family. The Commission does not accept the notion that certain rooms may benefit from cumulative compensation awards, both as habitation areas and as rooms used as workshops. It does, however, accept that a few items of work-related equipment, such as a sewing machine, may have been set up in a room used for habitation purposes.

To assess compensation, the Commission refers to the lump-sum amounts used in applying the BRüG Act (adjusted to 2001 values), or bases its calculations on an insurance policy in force at the time (with values adjusted). It accepts the principle that additional compensation may be payable over and above any compensation paid in respect of war-related damage; moreover it reserves the right to correct an error in calculation made at the time.

The Commission holds all the more firmly to this position in order to make up for the fact that the government manifestly did not make the compensation payments it should have made. At the time, an order of priority was established based on victims' age, and some victims apparently never received the compensation that was promised to them, given that no document confirming the payment on the settlement sheet.

The additional payment, over and above that provided for in the legislation on war-related damage, matches the BRüG Act payment scales. Similarly, notwithstanding any payment for war-related damage and payment made under the BRüG Act, victims or their heirs may still apply for additional compensation if the total amount of compensation they have already received can be shown to be less than the capital amount covered by an insurance policy.

It should be noted that the payment scales used under the BRüG Act include a percentage for the value of "luxury goods" in each category, so that in general there are no grounds for approving additional compensation for valuable items. The Commission has, however, been faced with the delicate problem of statements concerning the theft of jewelry and valuables (gold ingots and coins, foreign currency, etc...). At times, given the victims' wealth and the circumstances in which the spoliation of other assets occurred, the Commission has agreed to recommend compensation, with the amount calculated on the basis of fairness.

#### b) Work-related losses

These pertain to losses linked to artisan, commercial or industrial activities<sup>3</sup>.

The Commission awards compensation for inventories of merchandise (raw materials and finished products) and equipment and fittings that were seized, damaged or destroyed.

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3 The Commission did not believe it could consider compensation of those losses which arose from a prohibition on practicing a profession, except where the loss resulted from circumstances in which the person concerned was compelled to divest himself of a work-related asset (e.g. the sale of a medical practice) that is considered spoliation of a person's estate.

It awards compensation for the loss of intangible items (the right to assume a lease) when the “aryanization” of a business resulted in its liquidated. However, the Commission also takes into account any post-war resumption of the business, as well as the answers supplied in the questionnaire sent after the Liberation by the Reparations Unit that was headed by Professor Terroine. Where a business was liquidated as a result of "aryanization" and was later reactivated at the same address, trading under the same name, the Commission takes the view that the total value of the "aryanized" business did not disappear entirely. On the other hand, the Commission takes account of the capital loss resulting from the looting of a business that was sold by the owner, in its existing state, at the time of the Liberation.

The Commission also takes account of the contents of statements lodged with the *Office des Biens et Intérêts privés* (OBIP. - the Office for Personal Property and Interests) which did not lead to the grant of compensation payments.

It does not approve compensation for loss of profits or loss of earnings. However it does in principle approve the reimbursement of the emoluments received by the Vichy-appointed "provisional director" as well as any rent which was received and was not passed on to the owners.

For the purpose of valuing artisan workshops located in an apartment, it applies a lump sum that may vary according to the size of the workshop (the number of machines and other items of equipment).

For other matters, the Commission takes account of information appearing in the files (sales, inventories, the value of equipment), especially information contained in the reports of "provisional directors", but it adjusts any deliberately under-valued figures appearing in such statements. The Commission also takes account of the forced nature of certain sales, some of which reflected under-estimated values or took place in particular circumstances, as in the case of auctions.

Where appropriate, the Commission applies the payment scales used in the framework of the legislation dealing with war-related damage.

For the purpose of valuing the elements of a business, the Commission also refers to the information in standard textbooks (e.g. Fauliot, Ferbos and Francis Lefebvre) and to the information supplied by employers' federations (unless such information deals only with amounts corresponding to equipment which is necessary at the present time, depending on the number of workers and employees and the surface area of the work premises.)

### c) Art works

If the artwork appears in the *Musées Nationaux – Récupération* (M.N.R. - National Museums - Recoveries register), the Commission, after a detailed examination of all matters indicating ownership, makes a ruling on such ownership, taking particular account of the time which has elapsed since the claim was first lodged and the absence of other claims to ownership. Where appropriate, it recommends that the art work be returned, on condition, where applicable, that any compensation previously granted be reimbursed.

If no trace can be found of the art work, the Commission takes account of indications of ownership or likely ownership that supporting the claimant's statement. To determine the amount of compensation, it refers, where appropriate, to the current value of the artist's work, as measured by auction sales or private sales, as well to the advice of experts.

d) Valuables confiscated at the time of internment in camps in France

With regard to cash confiscated from by deportees at the time of their internment in camps in France, it is accepted that any valuables that were in their possession were not properly inventoried in the police records of searches (where such were even produced). Drawing on the work of the Matteoli working party, the Commission has taken the view that the average value of assets held was 3,000 francs (at that time), and hence grants a lump-sum payment of 5,000 francs in present-day terms. The *Caisse des dépôts et consignations* (CDC) recently agreed to repay any amounts that were individually identified in the records of searches at Drancy. Therefore the Commission urges the government to pay a lump-sum amount of 5,000 francs, less any amounts which were individually identified in the records referred to above and which were sent to the C.D.C. and not transferred to the Treasury. The latter sums will be deducted from the CDC account which is part of Fund A set up under the Washington Agreement on Bank-Held Assets<sup>4</sup> (see below).

e) Indexation factors

Based on work carried out by I.N.S.E.E. (*l'Institut national de la statistique et des études économiques* - the National Institute for Statistics and Economic Studies), cash valuables are revalued in 2001 using an indexation factor of 1.8 (as compared with 1941) and material assets (merchandise, equipment)<sup>5</sup> are revalued using an indexation factor of 2.7 (as compared with 1938).

f) Bank-held assets

Since June 2001, the Commission has been examining claims relating to bank-held assets on the basis of the French-American Agreement signed in Washington on January 18, 2001.

For identified accounts:

Amounts held in these accounts will be adjusted using an indexation factor of 1.8.

Where the sums total less than \$1,500 (around 11,000 francs in current terms), the exact amount (revalued in 2001 terms) will be charged to Fund A and the balance will be charged to Fund B, up to a limit of \$1,500. This will also apply to the banks, the postal savings bank and the *Caisse des dépôts et consignations* (CDC).

The rule outlined above will apply to each identified account.

As indicated above, CDC will not repay sums corresponding to withdrawals in favor of the *Commissariat général aux Questions Juives* (the Vichy "General Commissariat for Jewish Questions") or for the *amende du milliard* (the billion franc "fine" levied on the Jewish community), for which the government is responsible under the Act of June 16, 1948. These sums will not therefore be charged to Fund A.

For non-identified accounts:

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<sup>4</sup> Unlike other sums confiscated left on deposit at CDC, CDC has agreed to repay in full, from its own funds, any sums confiscated at the Drancy camp.

<sup>5</sup> Except for the valuation of art works.

On the basis of an affidavit, as provided for in the Washington Agreement, the Commission recommends the grant of a sum equivalent to \$1,500 for each person who held an account, regardless of the number of claimants.

## ***G Follow-up to recommendations***

### *I Implementing the recommendations*

Once the Commission has made a recommendation, the notification document is drawn up within one week and sent to both the claimants and the government commissioner.

From there, the chain of implementation depends on the type of compensation involved.

#### a) Compensation paid by the Government

Recommendations are transmitted to the Prime Minister, who makes the formal decision for compensation. His decision is relayed to the *Office National des Anciens Combattants* (ONAC – National War Veterans and War Victims Administration), which assures payment of the compensation.

Under this heading, 949 recommendations were transmitted to the Prime Minister as of October 31, 2001. Of these, 858 provided for compensation for material losses. Thus far, 615 decisions to grant awards have been taken, concerning 1,349 beneficiaries, and 1,077 beneficiaries have already received their awards. Another 243 decisions, concerning 497 beneficiaries, are now in the process of payment.

#### b) Compensation paid by the banks

The compensation awards recommended for confiscation of bank assets are the responsibility of the banks, and are handled under two procedures provided for in the Washington Agreement of January 18, 2001.

Two special funds have been created. Fund A is a revolving escrow fund of fifty million dollars (US\$50,000,000), intended for the compensation of victims with identifiable bank assets. Fund B is a non-renewable fund of twenty-two million five hundred thousand dollars (US\$22,500,000) that provides lump-sum compensation for victims who have submitted credible elements of proof or who have submitted an affidavit.

Both funds are constituted in the books of the *Caisse de Dépôts et Consignations* (CDC – State bank handling official deposits), and are fed by deposits from the banks, the postal savings bank and savings banks, the *Banque de France* (French central bank) and CDC. Both funds are administered by the *Fonds Social Juif Unifié* (FSJU – United Jewish Welfare Fund), with authorizes CDC to make disbursements through transfers to the account of the beneficiaries.

For these claims, the Commission transmits its recommendations to FSJU, with an information copy to the banks.

As of the date of this report, the Commission has sent 62 recommendations to FSJU, and awards have already been paid on 33 of these. Of these, 7 were payable from Fund A, 21 from Fund B and 5 were payments out of both funds.

## *2. Requests for review of recommendations*

Decree 2001-530 of June 20, 2001 enables claimants who dispute a recommendation of the Commission (whether taken in plenary session or in a sub-commission) to request that their file be reviewed.

In this case, claimants have to address their request to the Chair of the Commission, and provide either the new documents or acts on which they base their request or indicate specifically the material errors that they believe vitiate the recommendation.

It is up to the Chair to decide if the new information or arguments are sufficient to justify the request. If so, the file will be submitted to a plenary session of the Commission, with additional material provided by the rapporteur if necessary.

**As of the date of this report, about 30 requests for a review have been submitted to the Chair of the Commission. These represent 2.3% of the recommendations made, indicating a significantly high "satisfaction rate."**

The Decree of June 20, 2001 also gave claimants whose case had been decided on by the Chair acting alone (for reasons of urgency or apparent lack of any particular difficulties) a period of one month to request that their file be reviewed by the full Commission or a sub-commission. **As of October 31, 2001, only one review of the 84 recommendations made by the Chair acting alone has been requested.**

#### **IV The record to date: Notable progress in all aspects of CIVS's activity**

Thanks to the government's attention to the needs the Commission has expressed, CIVS's human and material resources have been enhanced and its work methods improved. This in turn has led to significant progress in all aspects of its activity.

##### ***A An increase in the number of claims received***

As of October 31 2001, CIVS has registered 7,725 individual claims, corresponding to 7,431 spoliation files. The difference between the two figures is due to the possibility of several members of a family contacting the Commission for the same spoliation – in which case all related claims are placed in the same file. In any case, this is hardly a final figure. The recently completed domestic and international campaign to publicize the role of the Commission has just been completed, and has already provoked a significant jump in CIVS statistics. Prior to the campaign, the administrative unit received some 30 to 40 claims each week. Since October 17, this figure has surged to 80 à 100 per day. This increase is of concern to the management of CIVS.

A total number of 667 bank-related files were registered from the creation of CIVS until October 1, 2001. 523 of these originated were filed from France, 77 from the United States, 34 from Israel and 33 from other countries. There have been 144 claims since signature of the Washington Agreement, of which 81 originated in France, 47 in the United States, 7 in Israel and 9 elsewhere. There was a marked upswing in claims in the first half of October 2001, clearly showing the effects of the Commission's international communications effort. Claims from France likewise increased after notices were published in the French regional and national press on October 21 and 23.

All told, an additional 379 claims on banks arrived at the Commission during October, bringing the total number of bank-related claims received to 1,046.

##### ***B More and more information is being provided by the claimant reception and guidance unit and by the administrative unit***

The importance of the effort of the **team that receives, guides and advises claimants** continues to increase. Between January 1 and October 31, a period of 10 months, this unit had a total of 670 meetings with claimants, and received 3,500 telephone calls, of which 2,030 came from Paris, 1,370 from elsewhere in France and 100 from abroad.

There were 343 meetings in the five months since June 1, up from 327 in the five previous months, while telephone calls received during the June-October period totaled 1,993, an increase of 486 over January-May. Calls from Paris during June-October totaled 1,198 vs. 832 in the previous period, while calls from elsewhere in France rose from 618 to 752. Conversely, calls from abroad declined from 57 to 43, although now most are made to the toll-free number.

Staff members in the administrative unit who handle files also call claimants to request additional information. These repeated contacts with victims or their beneficiaries have in



effect given administrative team members a listening and supporting role that goes well beyond the simple processing of files.

The numerous telephone calls, faxes and letters exchanged demonstrate the confident relationships that have been established over many months. Daily contacts with victims or their descendants reinforce the Commission's image of openness and accessibility. In the last few weeks, faced with the surge in new requests for information resulting from CIVS's communications campaigns in France and abroad, the unit has increased its attentiveness and readiness. Team members must often also ease the psychological stress of claimants, to whom the process of filing often brings back painful memories.

### *C More files are being researched*

Since the creation of CIVS de la CIVS, the research network has extended its activities to new active centers, such as the Paris Archives, the Diplomatic Archives Center in Nantes, the Archives Center for French Territories Overseas, etc. Its familiarity with the mechanisms used for spoliation and of means of reparation continues to increase.

The head of the research network is also increasing the number of questionnaires relayed to the archive centers. Before he took his position, only a few priority files were sent to a limited number of archive centers. Now, the head of research works in real time with the administrative unit, systematically sending all files to the archive centers, thereby optimizing their contribution.

Thanks to this process, the research center can now supply over 200 files a month to the rapporteurs who prepare claims for the decision of the Commission, a noteworthy increase over the previous 40 to 80 files.

As of October 31, 2001, 3,273 claims, including 609 bank-related claims, have been researched in the different archive centers, and another 333 are in the process of being sent for research.

### *D More reports (completed files) are being given the Commission for decision*

In the 12-month period from October 1, 2000 to September 30, 2001, the rapporteurs have passed some **1,300 reports (completed files)** on to the Commission for action. This is an **overall monthly average of 108 reports** in total and **4.9 reports for each rapporteur** (based on a team of 22 rapporteurs).

It should be highlighted that **168 reports** were sent to the Commission in September 2001 alone, a major increase and a new record. The upswing continued in October, with **214 reports submitted**, including **54 on spoliations of bank assets**, even though the number of rapporteurs dropped from 22 to 19.

### *E More meetings of the Commission*

The implementation of the Decree of June 20, 2001, permitting any member of the Commission designated by the Chair to chair a sub-commission, has led to a marked increase in the total number of Commission meetings held.

A planning table for meetings was set up in the beginning of September, providing for five sub-commission meetings per week and two plenary sessions each month.

Taken together, the Decree has permitted a serious increase in the number of claims examined.

### ***F More recommendations adopted***

#### *1 The total number of claims examined by the Commission*

**During the 116 meetings of the Commission held through October 31, 2001, 1,276 recommendations were adopted, including 1,171 recommendations to provide compensation, in a total amount of 173,390,007 French francs. Compensation for confiscation of bank assets reached 1,300,000 francs. The average amount of compensation recommended was 148,000 francs.**

In all, there were 105 recommendations to reject a claim and 31 files were pulled when claims were dropped.

#### *2 Claims examined since June 20, 2001*

**The increase in the number of Commission meetings resulting from the Decree of June 20, 2001 has had a particularly significant effect on CIVS statistics. There were a total of 655 recommendations handed down between June 20 and October 31, 2001, which is more than 50% of all recommendations adopted since the Commission began to meet in December 1999.**

The Commission made 19 recommendations from June 20 to June 30, 189 recommendations in July and August, 195 in September and 252 in October 2001.

### **V Prospects: undoubted satisfaction, but some concerns.**

The Commission's first activity report has related how the different units for assembling files, preparing them for decision by the Commission and then taking decisions have been set up. We can conclude by expressing clear satisfaction.

When the Commission's activity began first two years, no one could predict with any certainty that many claims would be presented. The initial text governing its work also left many gaps to be filled. Despite all this, the Commission has accomplished its out-of-the-ordinary task seriously and reasonably.

In two years, CIVS has received almost 8,000 claims, in addition to the bank-related claims and others likely to arrive in coming months. The Commission has responded to the claimants – mainly elderly people and people in great financial need – with utmost seriousness and great humanity.

Once again, it should be noted that while the Commission is not a court, it has been given many of the attributes of a court in terms of its mission to discover the truth as far as is possible. It seeks to do so even when events date back sixty years, and to find a basis for a confident determination of the facts even if the documents are scattered and not very reliable.

It should be admitted that this "court of law" approach is a guarantee of the seriousness in the Commission's effort to come as close to the truth as possible while protecting the rights of all concerned. As in a real court of law, however, this approach can lead to delays and lateness, given the need to reconcile what can be conflicting points of view.

Finally, thanks to the publication of three successive regulatory texts (Decrees), it is been possible to set up an institution that has already made almost 1,300 recommendations, most of which have benefited elderly, if not very elderly people, who often have modest or indeed extremely modest means.

But, since there is no cut-off date for filing claims (other than those claims on banks that will be compensated from Fund B), an understandable concern has arisen among all of the excellent team members who have taken on their responsibilities in a spirit of prudence, tactfulness and human comprehension.

This concern heightened with the rapid surge of new claims recently sparked by the Commission's worldwide communications campaign.

The concern, of course, is about CIVS's ability to handle this massive increase.

Throughout the entire process that CIVS has organized – from providing initial information and receiving claimants to implementing the recommendations of the Commission, every member of the CIVS team is convinced that his or her role in the process is essential. Good will and devotion are indeed the qualities required for all those who participate in this search for truth and justice that was launched at the highest levels of the State two years ago.

The Chair of the Commission

Pierre Draï

