



PREMIER MINISTRE

2016
Report
to the public
on the work
of the **civvs**

Commission
for the compensation
of victims of spoliation
resulting from the anti-semitic
legislation in force
during the Occupation

**Speech by French President Jacques Chirac, on July 16, 1995,
at the commemoration of the Vel' d'Hiv' roundup (July 16, 1942).**

Excerpts

In the life of a nation, there are times that leave painful memories and damage people's conception of their country.

It is difficult to evoke these moments because we can never find the proper words to describe their horror or to express the grief of those who experienced their tragedy. They will carry forever, in their souls and in their flesh, the memory of these days of tears and shame. [...]

On that day, France, land of the Enlightenment, of Human Rights, of welcome and asylum, committed the irreparable. Breaking its word, it handed those who were under its protection over to their executioners. [...]

Our debt to them is inalienable. [...]

In passing on the history of the Jewish people, of its sufferings and of the camps. In bearing witness again and again. In recognizing the errors of the past, and the errors committed by the State. In concealing nothing about the dark hours of our history, we are simply standing up for a vision of humanity, of human liberty and dignity. We are thus struggling against the forces of darkness, which are constantly at work. [...]

Let us learn the lessons of history. Let us refuse to be passive onlookers, or accomplices, of unacceptable acts."

**Decree No. 99-778 of September 10, 1999 establishing a Commission
for the Compensation of Victims of Spoliation Resulting from the Anti-Semitic
Legislation in Force during the Occupation.**

Article 1

"A commission shall be set up under the Prime Minister tasked with examining individual applications presented by the victims or their heirs to make reparations for losses resulting from the spoliations of property that occurred due to anti-Semitic laws passed during the Occupation, both by the Occupying forces and by the Vichy authorities.

The Committee is responsible for seeking and proposing appropriate means of reparation, restitution or compensation."

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Foreword

In 2001, the French and United States Governments, committed to building "legal, global and lasting peace" in terms of the blocking and spoliation of assets held by financial institutions and banks during the Occupation, signed, in Washington, an agreement founding a bank-related compensation mechanism, which immediately endowed the CIVS' work with a central international purpose.

Fifteen years later, amid a confirmed downturn in compensation volumes, it was time to perform an initial assessment of the Washington Agreement. This comes ahead of the necessary history of French compensation policy, which has not yet been written but will be able to turn to the Commission's archives for guidance. Such operations as the digitization of the CIVS' recommendations, completed in 2016, will help to expedite this work.

This year also marked the start of efforts to extend the CIVS-led reparations mechanism: underpinning the search for heirs, who have not yet been able to receive their fair share of the compensation owed to them, are the principles of fairness and effectiveness of public action. To deliver in this regard, the Commission has invested in upskilling its staff – training them in the practical application of the law of succession – and in new partnerships aimed at harnessing genealogy for the benefit of reparations.

The opportunity was also taken in 2016 to commit new resources to the compensation of spoliated artworks and to their restitution, including scaled up human and technical means and new cooperation with the Ministry for Europe and Foreign Affairs' Directorate of Archives.

The duty to remember, the proactive search for heirs and reinforcement of means for spoliated artworks: these strategic aims provide the road map on the basis of which the CIVS could develop over the years to come. In the meantime, the Commission has more immediate matters to attend to: renewing the membership of its Deliberative Panel in September 2017 and, a month later, moving to the new site of Ségur-Fontenoy.



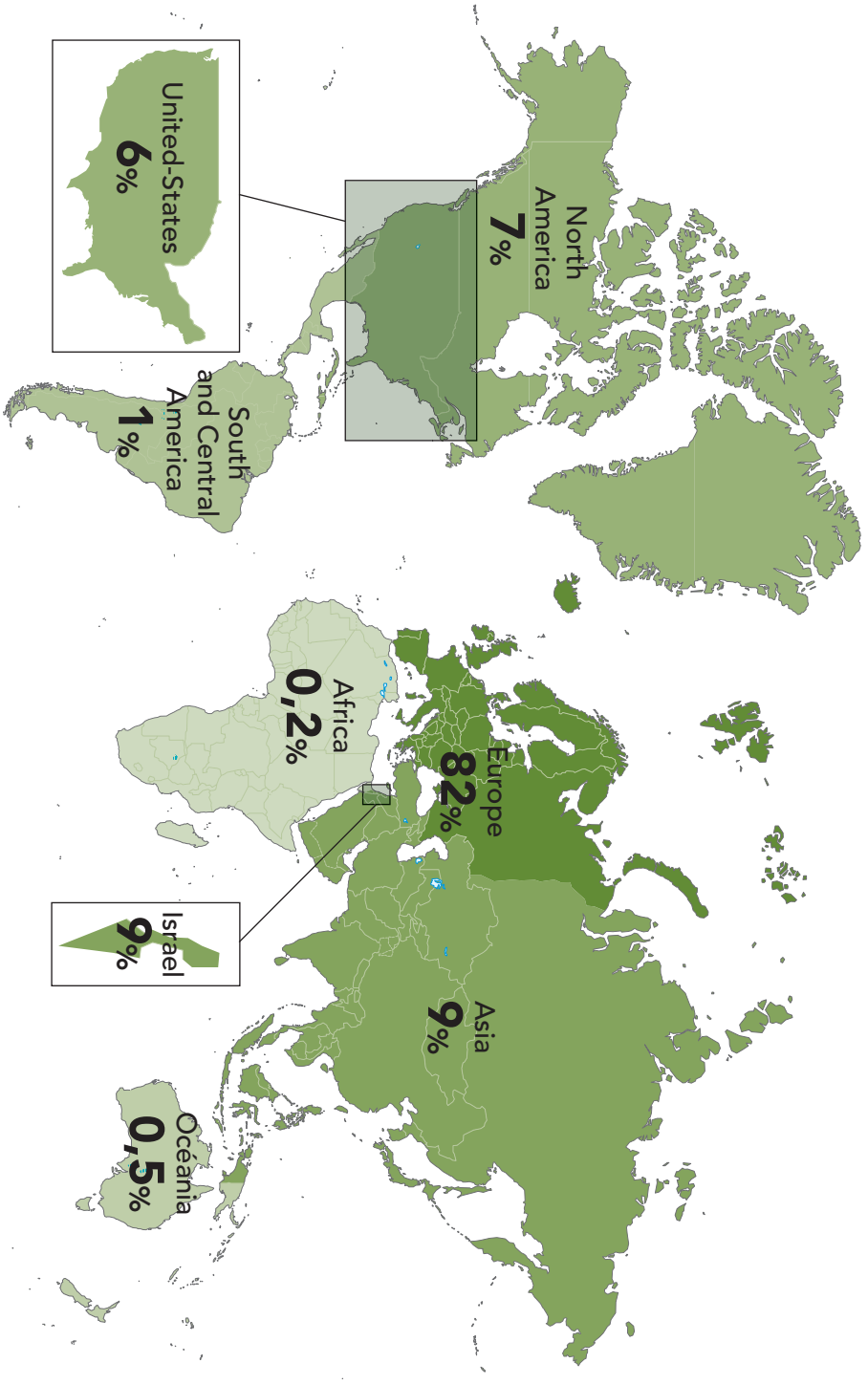
Reparations and memory

One of the hallmarks of the French mechanism for compensating spoliations is its international focus. Individuals – whether victims or victims' heirs – of any nationality may claim compensation from the CIVS, since the criteria determining the Commission's competency in the matter is that the spoliation took place in an area over which France had sovereignty,¹ pursuant to the application of Anti-Semitic legislation.

Action on an international scale

The vast majority of the more than **47,000 heirs** of compensation recommended by the CIVS live in France (79%), but some 10,000 are residents of more than 70 other countries across all continents.

1 - [...] the loss must be attributable to the French authorities or the Occupying powers on French or assimilated territory (e.g.: Tunisia), including Alsace-Moselle, annexed during the war. Algeria and Tunisia pose specific problems, first of all because spoliations did not occur systematically, as they had in Metropolitan France, and also because archives concerning them are very incomplete." David Ruzié, *Compensation of Victims of Spoliation Resulting from the Anti-Semitic Legislation in Force During the Occupation in France*, Paris, 2007, p. 11.



The reasons for this geographic dispersal are known. First and foremost they can be explained by the nationality of victims of persecutions on French soil. Even if the estimates in terms of numbers of Jews in France at the outbreak of the war can only be approximate, *"it is generally accepted that, in France in the summer of 1939, there were at least 300,000 Jews, half of whom were foreign nationals and that, one year later, their number had swelled by around 10% owing to the upheavals brought about by the war – that is to say, to the arrival of Belgian and Dutch Jews and the expulsion towards the unoccupied zone of Jews from Baden and the Palatinate."*² But they can also be explained by the emigration of Jews from France since the 1940s.

The high number of heirs in the United States (6%) and Israel (9%) in particular has prompted the Commission to work at regular intervals with the Holocaust Claims Processing Office³ (the US organization that has been advocating on behalf of Holocaust victims and their heirs since 1997), and to convene past Deliberative Panel meetings in Tel-Aviv, Jerusalem and New York.

Through the international scope of its activities, the CIVS also coordinates its work with that of the Ambassador for Human Rights, notably responsible for the international dimension of the Holocaust, spoliations and the duty to remember⁴.

This international dimension has been bolstered by the signature of the agreement signed on January 18, 2001 in Washington between the French and United States Governments concerning reparations for bank-related spoliations. The presentation and assessment bearing on this agreement on its fifteenth anniversary can be found in Part two of this report. The increasing attention that States are paying to the question of spoliated artworks is developing this dimension further still.

International processes on the spoliation of artworks

Given that, in this context, the geographic dispersal of looted property must be considered in addition to that of the victims, reparations for spoliations of artworks can only be made effectively at international level. This awareness has particularly materialized in the form of the Declarations of Washington (1998) and Vilnius (2000).

2 - Translation of excerpt from André Kaspi, *Les Juifs pendant l'Occupation*, Paris, Editions du Seuil, 1991, p. 20.

3 - HCPO. <http://www.dfs.ny.gov/consumer/holocaust/hcpoindex.htm>

4 - Since February 15, 2017, Mr François Croquette has replaced Ms Patriziana Sparacino in this role (Decree of January 19, 2017).

Through the Washington Conference Principles on Nazi-Confiscated Art, 44 Governments committed to identifying and restituting the latter: *"The principles finally adopted in Washington on December 3, 1998 can be summed up as follows: all the nations must endeavor to open their archives and simplify the work of researchers; Nazi-confiscated cultural property must be reported and efforts should be made to establish a central registry of such information; the requirement for the provision of proof must take the historical circumstances into account; when an artwork is recognized as having been spoliated, steps should be taken expeditiously to achieve a just and fair solution"*⁵.

In light of the cooperation required for effective processing of spoliations of artworks, the CIVS participates in **international events** at regular intervals: in The Hague in November 2012 and December 2014, and Krakow in November 2014; a new conference is scheduled to take place in London in September 2017. These conferences provide the CIVS with the opportunity to maintain and expand its network with the other researchers, enrich its knowledge of existing procedures in other European countries and promote the compensation and restitution mechanism that has been set up in France.

On April 26 and 27, 2016, the head of the CIVS Berlin-based branch thus took part in the conference organized by the *Work Circle of Provenance Researchers* in Karlsruhe.

An example of international cooperation: the restitution of the Signac painting in the Vienna Philharmonic Orchestra's possession

In April 2015, the Vienna Philharmonic Orchestra performed a series of concerts at the Théâtre des Champs Élysées in Paris. Through a music critic for the *Le Figaro* newspaper, its President was able to meet with the CIVS on this occasion to ask it to help track down the current rightful owners of Paul Signac's painting, *Sailing ship in a Western port*.

On September 15, 1940, the Head of the *Geheime Feldpolizei* gave this painting to the Philharmonic Orchestra as a thank you gift for a three-concert tour put on for the Wehrmacht in Salins-les-Bains, Besançon and Dijon. But it had actually been obtained through a roundup at the Institut d'Études Européennes in Strasbourg, and belonged to Marcel Koch, the Secretary-General of this Institute, a Resistance fighter, prominent public servant and, after the war, co-founder of the Direction de la Documentation française.

5 - Translation of excerpt from Isabelle le Masne de Chermont and Laurence Sigal-Klagsbald, *A qui appartenaient ces tableaux ? La politique française de recherche de provenance, de garde et de restitution des œuvres d'art pillées durant la Seconde Guerre mondiale*, 2008, p. 44.

Drawing on the work conducted by the Austrian researcher Sophie Lillie, the CIVS would be able to identify the heirs of Marcel Koch, who died childless, and go on to initiate a **mediation procedure** which would lead to an acceptable solution for all the heirs. Thanks to the joint efforts of the Head of its Research Coordination Department and one of its Judge-Rapporteurs, the CIVS finally enabled restitution of this painting to the legatees in March 2017.

Sailing ship in a Western port (Paul Signac, 1883)



1/ Making reparations

From its creation, back in 2000, until December 31, 2016, the Commission has recorded 29,326 case files. 19,463 concern material spoliations, in the meaning of Decree No. 99-778 of September 10, 1999, and 9,863 bank-related spoliations. 900 have been closed because no duly completed questionnaire was received, and 939 because they did not come within the Commission's competence, or owing to the default of claimants or abandonment of claim during review.

In 2016, the CIVS filed **225 new claims**: 131 material and 94 bank-related. The year before, 272 case files had been opened, which therefore represents a 17% drop in one year. This trend affects material (158 in 2015) and bank-related (114 in 2015) claims in the same proportion.

Recommendations are made by the CIVS Deliberative Panel, meeting in plenary session or subcommittee, or under the Chairman ruling alone procedure (see *inset*). In 2016, 15 hearings were held in a plenary session. They allowed for the examination of 62 case files (57 in 2015). 25 hearings were held in subcommittee, during which 211 case files were examined (270 in 2015). 131 case files were examined under the procedure known as "Chairman ruling alone".

391 recommendations were made in 2016 (514 in 2015), 252 of which concerned material spoliations and 139 bank-related spoliations. The total amount of compensation recommended for 2016 is **€4,920,952** at the State's expense (of which €122,851 for bank-related spoliations).

Chairman ruling alone procedure

The Decree of June 20, 2001 gave the CIVS Chairman the possibility of ruling alone. Claims examined in this fashion are selected based on the urgency of the personal circumstances of the claimant when the claim does not present particular difficulties.

In 2002, the procedure was extended to bank-related claims for which the banks concerned had agreed in principle to award any compensation the Commission may grant.

This procedure is also used, on the one hand, to establish recommendations for collection of reserved portions for heirs who are identified but not associated with the initial claim and, on the other, following the review of certain additional claims (e.g. fees for refugees being smuggled to unoccupied France, looting of refugee shelters, money confiscated during an arrest, internment in French camps, etc.).

131 case files were examined according to this procedure in 2016.

Among the 391 recommendations, 81 were rejected (spoliations not proven, etc.): 34 in the context of a material case file; 47 in the context of a bank-related case file. Finally, 98 recommendations for the collection of reserved portions were made (51 material and 47 bank-related)⁶.

The reparations made by the CIVS for losses in 2016

The CIVS is responsible for examining individual applications submitted by the victims or their heirs to obtain reparation for losses due to the spoliation of material or financial assets that took place due to anti-Semitic legislation enacted during the Occupation⁷.

When the CIVS issues a recommendation for compensation at the State's expense, the decision on the basis of this recommendation is made by the Prime Minister, then paid by the National Office of Veterans and War Victims. When the recommendation states that the compensation must be borne by the banks, the payment authorizing body is the United Jewish Social Fund (FSJU), and Caisse des dépôts et consignations (CDC) pays the heirs.

6 - For an explanation of the notion of "reserved portions", the reader should see the paragraph on reserved portions and the search for heirs in this report.

7 - Decree No. 99-778 of September 10, 1999, amended by Decree No.2000-932 of September 25, 2000.

Although damages of a moral nature, such as psychological suffering and the conditions of the deportation, do not enter into the scope of compensation, the French mechanism is characterized by the sheer range of losses which can be compensated for:

The looting of apartments and refugee shelters

Beginning in May 1940, the German Occupying Forces removed personal property in the context of requisitioning offices, apartments and houses, and also looted housing, including refugee shelters, abandoned by Jews who had fled persecution or were deported (the operation known as Möbel Aktion, or "Furniture Action"). Nearly 72,000 apartments were thereby emptied of their contents in occupied France, including 38,000 in Paris⁸. This "civil theft"⁹ by Nazi Germany concerns all property that can be found in housing: clothing, furniture, silverware, professional equipment, pianos, etc. These objects were, for the most part, sent to Germany.

> **Total recommended in this respect by the CIVS in 2016: €1,226,177¹⁰**

> **Total recommended in this respect by the CIVS since 1999:
€159,733,187¹¹**

Business and real property spoliation

The objectives of this economic aryanization policy, first conducted by the Germans in the occupied zone (orders and instructions of May 20, 1940, September 27, 1940 and November 12, 1940) and then by the Vichy government across the entire country (Law of July 22, 1941), were to confiscate property belonging to Jews and to ban them from the majority of professional activities. Under the authority of the General Commissariat for Jewish Questions (CGQJ), 50,000 businesses and buildings¹² were "aryanized"¹³ between March 1941 and June 1944. These sales and liquidation

8 - Annette Wiewiorka, Floriane Azoulay, *Le pillage des appartements et son indemnisation*, Mission d'étude sur la spoliation des Juifs de France, Paris, La documentation Française, 2000, p. 17.

9 - Mission d'étude sur la spoliation des Juifs de France, *Rapport général*, Paris, La documentation Française, 2000, p. 41.

10 - Excluding shelters; jewelry included.

11 - Excluding shelters; jewelry included.

12 - Few claims concern compensation for real property. The restitution of real property and cancellation of sales were addressed by simplified procedures at the time of the Liberation.

13 - "Aryanization", a term of German origin, refers to the transfer of property from "Jewish hands" to "Aryan hands."

operations were conducted by provisional administrators. Economic aryanization gave rise to spoliations valued at more than EUR 450 million¹⁴. Moreover, numerous business assets were spoliated outside the framework of this procedure.

> **Total recommended in this respect by the CIVS in 2016: €1,325,198¹⁵**

> **Total recommended in this respect by the CIVS since 1999: €166,190,794¹⁶**

Theft or forced sale of cultural personal property (including works of art and liturgical objects)

Looting of art began in the first days after the occupation of Paris. From the fall of 1940, this activity was assigned to a German organization, the ERR (*Einsatzstab Reichsleiter Rosenberg für die besetzten Gebiete*, or Reichsleiter Rosenberg Taskforce, in the occupied territories)¹⁷. The ERR seized works over a period of four years, targeting 200 prominent collectors. Numerous cultural and religious objects were also stolen from homes. Overall, 100,000 artifacts and several million books were spoliated.

> **Total recommended in this respect by the CIVS since 1999: €35,754,012**

The payment of fees for smuggling to unoccupied France or across borders

From June 1940 to November 1942, a 1,200km frontier separated occupied France from so-called "free" France. Clandestine networks of smugglers formed to help people cross this "frontier". Some smugglers charged fees for their services; others seized all the assets, cash, jewelry and silverware of those they transported. During this period, several thousand Jews had to call upon the services of smugglers to flee persecution, often leaving behind cash and valuables.

Confiscation of money during internment in a camp

75,000 Jews were deported from France to foreign extermination camps. 67,000 passed through the Drancy camp. Others were interned in other camps scattered across France (in particular, Pithiviers, Beaune-la-Rolande, Gurs and Compiègne). All the assets they possessed were confiscated and the money was deposited into Caisse des Dépôts et Consignations. This spoliation amounted to over EUR 750 million.

> **Total recommended in this respect by the CIVS in 2016: €187,386**

14 - Mission d'étude sur la spoliation des Juifs de France, *Rapport général*, Paris, La documentation Française, 2000, p. 59.

15 - Excluding shelters.

16 - Excluding shelters.

17 - Mission d'étude sur la spoliation des Juifs de France, *Le pillage de l'art en France pendant l'Occupation et la situation des 2000 œuvres confiées aux musées nationaux*, Paris, La documentation Française, 2000, p. 17

> Total recommended in this respect by the CIVS since 1999: €21,303,598

The confiscation of banking assets and consignments of insurance policies

A German order dated May 28, 1941 stated that: "Jews and Jewish businesses, for which an administrator has not been appointed, shall not dispose of means of payment, receivables and securities or transfer them to another place without the approval of the Control Service of the provisional administrators" (paragraph 1). The Law of July 22, 1941 goes even further, stating that "[...] the balances of deposit accounts and more generally all sums belonging to Jewish people shall be transferred to Caisse des Dépôts et Consignations" (Article 21). During the war, 80,000 bank accounts and 6,000 safe-deposit boxes were blocked. Financial spoliation (insurance contracts, banking assets and stock market holdings) amounted to EUR 520 million¹⁸.

> Amount recommended by the CIVS for insurance policies since 1999: €257,352

> Amount recommended by the CIVS for banking assets in 2016: €122,851 at the State's expense and €389,091 compensated at the expense of the banks¹⁹

> Amount recommended by the CIVS for banking assets since 1999: €9,849,946 at the State's expense and €43,048,260 at the banks' expense²⁰

Supplements to previous compensation

Supplements to compensation awarded after World War II by the French authorities (French War Damages Act) and German authorities (BRüg Act²¹) need to be added to the above-mentioned amounts when the Commission considers these reparatory measures to have been insufficient in view of the losses that victims endured.

> Total recommended in this respect by the CIVS in 2016: €716,671

18 - Mission d'étude sur la spoliation des Juifs de France, La spoliation financière. Volumes 1 et 2, Paris, La documentation Française, 2000

19 - Data communicated by Caisse des dépôts et consignations.

20 - Data communicated by Caisse des dépôts et consignations.

21 - The BRÜG Act (Bundesrückerstattungsgesetz, federal restitution act), passed in 1957, organizes the compensation of spoliated items outside of the Federal Republic of Germany and Berlin. This legislative framework has allowed for the processing, over two stages (from July 19, 1957 to April 1 1959, then October 2, 1964 to May 23, 1966) of over 40,000 case files coming from French Jews.

> **Total recommended in this respect by the CIVS since 1999: €74,199,752**

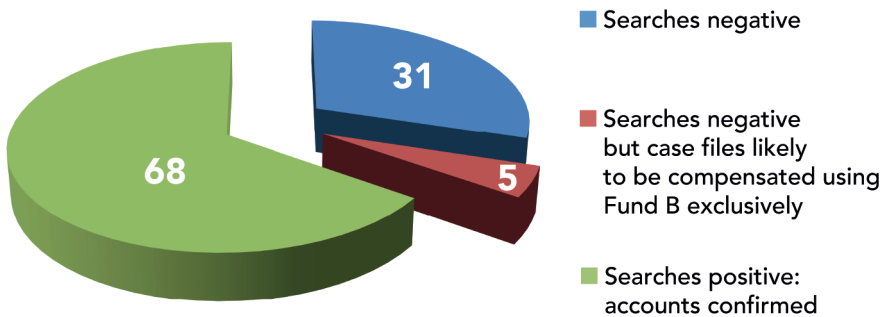
Bank-related spoliations

Over 2016, **71 new bank-related files** referred by claimants were recorded by the Commission. At the same time, 23 additional files (22 in 2015) were created in the context of the archive document control procedure, bearing on 952 files²².

The bank-related spoliation reparations mechanism is presented in Part two of this report, along with its assessment 15 years after the signature of the Washington Agreement.

Bank-related research

Results of the investigations conducted in 2016



22 - For more details about the control procedure, see Part two of this report.

104 case files were studied or subject to additional research by the Bank-Related Claims Search Team in 2016, compared to 134 in 2015.

Breakdown by lending institution of the confirmed accounts in 2016	
La Poste Group	18,0%
Crédit Agricole S.A. Group	17,7%
BNP Paribas Group	15,4%
Société Générale S.A. Group	13,6%
HSBC Group	9,4%
Banque de France	7,5%
Banks (unidentified name)	6,5%
CIC Group	3,5%
Banque de Neufлизe	1,9%
BPCE Group	1,4%
Foreign exchange broker	0,9%
Other institutions *	4,2%

**This category combines banks representing less than 0.9% of identified accounts*

The investigations undertaken relating to 68 case files proved the existence of 214 bank accounts, securities accounts or safe-deposit boxes (141 in 2015).

For some of these case files, the Historic Archives of the banking institutions were consulted on more than 90 occasions – offering as they do an additional resource for the Commission to make judgments on a possible reparation.

In accordance with the provisions of the Washington Agreement, if the Commission recommends compensation, it is likely to be withdrawn from the Fund A escrow account, in the event of the spoliation of a personal account, or from the State's budget, in the event of a personal or professional account – the management of which was ensured by a provisional administrator. As a reminder, compensation supplements, where applicable, are organized via the Washington Agreement²³.

In the case of the 36 remaining case files:

- For 5 of them, the Commission received them before February 2, 2005, the foreclosure date associated with Fund B. They are therefore likely to be

23 - Readers are invited to refer to Part two of this report for more details.

24 - Pursuant to the fourth exchange of diplomatic letters, presented in Part two of this report.

subject to a compensation recommendation on the basis of an affidavit and to benefit from a total compensation of USD 3,000²⁴;

- ▶ the other 31, which were received after this date, were rejected due to the foreclosure associated with Fund B.

Review of the case files

In 2016, bank-related investigations were performed for 75 case files, compared to 148 in 2015:

- ▶ 46 of them (so 61% of these case files, compared to 70% in 2015) had the simplified procedure applied to them in which the Chairman of the Commission rules alone;
- ▶ the 29 remaining case files were submitted to the Commission's Principal Rapporteur for their review by a judge-rapporteur.

In keeping with the Washington Agreement, which advises regular monitoring and information, the Commission establishes bi-annual reports relating to the processing of bank-related case files and the compensation granted using Funds A and B and the State budget. In 2016, these reports were sent out on June 15 and December 15.

Audit bearing on the collection of portions in bank-related case files

In 2016, the CIVS completed the audit of bank-related case files for which there were still portions to collect. This operation was carried out on the basis of data communicated by the United Jewish Social Fund (FSJU), the payment authorizing body for bank-related funds; it concerned 515 case files.

This **quality audit** showed that 114 case files presented inconsistencies: some of them have been resolved by comparing CIVS and FSJU datasets, others by the issuing of recommendations for the corresponding collection of portions. Regarding the issuing of new recommendations for the collection of portions, the CIVS has had to get back in contact with the claimants in order to pay them the bank-related compensation portion that was rightfully theirs. On December 31, 2016, research in this respect was still ongoing on 13 case files.

Taking reparation efforts further: the search for heirs

The compensation that the CIVS recommends concerns all of the material or bank-related losses endured by victims of spoliation. Heirs, beneficiaries or descendants

of victims are not always all involved in the claim referred to the Commission. In such cases, the CIVS reserves portions of the compensation amount for heirs who are absent from the proceedings, with a view to ensuring that this share is paid out should such heirs subsequently refer a claim to the Commission in turn.

For example, in the case of a family of three brothers who are heirs of victims of spoliation, only one of whom was identified by the Commission, one third will be allocated to him and the other two thirds will be reserved.

The Commission has always endeavored to identify all heirs concerned in order to avoid the creation of new reserves. However, this cannot always be avoided: the claims currently addressed to the CIVS often come from heirs from the third or fourth generation, or even beyond, or from collateral branches. With family ties no longer existing in some cases, it is possible for our searches to be inconclusive. At other times, although they have been identified, heirs can refuse to exercise their rights with the Commission. And with no claim forthcoming, the reserved portion cannot be paid.

On December 31, 2016, 4,425 recommendations had been issued for collection of reserved portions, of which 3,613 concern "material" case files. On the same date, the total amount of reserved portions pending payment was €27,543,037 borne by the French State²⁵. **For the first time, this figure is down on the previous year**, since a complete mechanism for absorption of the reserved portions was set up in 2016.

Why inject fresh momentum in the search for heirs?

Collection of reserved portions is first and foremost a financial priority, as recognized back in 2011 by the Court of Auditors. The sum of reserved portions is taken into account with respect to the provisions of the CIVS' fiscal program²⁶. At the end of 2015, reserved portions amounted to €27.6 million – four times the amount of annual compensation appropriations. The provision/budget allowance ratio here sheds light on a financial risk that it will not be possible to bear during a single fiscal year.

In 2015, the backlog of portions reserved on State appropriations had risen by €1.2 million. This significant creation of reserved portions means that, over the 2015 fiscal year, the amount of portions collected — i.e. paid out to heirs — was €1.2 million less than the amount of newly created portions.

25 - For bank-related claims, the amount reported by the United Jewish Social Fund (FSJU) is €1,945,054. This concerns 984 recipients.

26 - Program 158 'Compensation for victims of anti-Semitic persecution and acts of barbarism during World War II'.

It would be narrow-sighted, however, to limit the question of reserved portions to their accounting dimension alone, for in terms of public action performance, reserved portions limit the scope of the reparations mission to which the CIVS is committed. What this ultimately means is that heirs of spoliation victims are not compensated in practice.

Finally, **when the time comes to consider closing down the CIVS' work, the question of what is to become of the reserved portions will inevitably be raised**. This is why, for the sake of fairness and sound public management alike, in the spring of 2016 the Commission's authorities decided to step up the efforts devoted to tracking down heirs, with two aims in mind:

- ▶ restrict the creation of new reserved portions in case files under review (action on the flow);
- ▶ collect the reserved portions in case files for which compensation recommendations have already been issued (action on the backlog).

Making changes at the CIVS to accommodate this new goal

The spring of 2016 was devoted to defining the organizational structure that would enable this new role to develop. To restrict the creation of reserved portions, the search for heirs begins as soon as new case files are opened. Conducted by the Commission's research departments, this provides the judge-rapporteurs with wholly worthwhile information that considerably reduces the amount of compensation portions reserved. Action on the backlog of reserved portions involves processing case files that are identified as taking precedence, and benefits from increased means and closer monitoring.

More than half of the Commission's workforce have seen their job descriptions change in order to take this new dimension on board in their work. Procedures and tools were designed over the summer of 2016, and the search for heirs has gradually been scaled up within the Commission. The slight reduction in the total amount of reserved portions, noted on December 31, 2016, is the first indication that this new system is bearing fruit, and that everyone is playing their part. But these searches take time – especially when they bear on individuals who are remote in terms of geography or family ties – and the most significant results are therefore expected for 2017.

Harnessing genealogy for the benefit of reparations

The success of this reform was also dependent on upskilling the Commission's workforce in terms of applying the law of succession, to ensure an accurate and shared application of the notion of heir. Practical guides have been drawn up to that end with the help of a young legal expert, and staff were given training in October and November 2016.

In connection, on October 21, 2016, the CIVS signed a cooperation agreement with the French Jewish genealogical society, **Cercle de généalogie juive** (CGJ). During meetings in 2015 and 2016 between CIVS and CGJ representatives, it became apparent that this association, in keeping with its purpose, could help the Commission with its research, and even lend methodological assistance to its staff. The work of the CGJ, the expertise of its members and its membership of the French Genealogy Federation and International Association of Jewish Genealogical Societies are all assets that will be taken advantage of for the benefit of the CIVS-led reparations mission.

2/ Collecting and passing on memories

Making use of new resources

The war damages collection at the National Archives

Through the research conducted by staff at the CIVS' National Archives branch, their attention has been drawn to an archives collection bearing on personal property war damages: that of the National Center for the Settlement of War Damages, reporting to the former Ministry of Urban Planning and Reconstruction, and transferred to the National Archives at Pierrefitte-sur-Seine. These archives cover the period running from 1939 to 1975, transferred without classification from 1977 to the collections of the National Archives at Fontainebleau.

Previously stored on the Fontainebleau site – and not at the Paris Archives for want of space – are complementary to the war damages collections situated at the Paris Archives (for the Seine) or the *Département-level* archives (for the provinces). First of all it was difficult for the CIVS branch to obtain precise information promptly about these collections, but it soon became clear that the case files for a figure of less than €150,000 had been sampled during the sweeping elimination of these archives since the late 1960s. Result: in 2016, this collection covered 15 meters of shelving space, as opposed to some

100 kilometers back in the early 1960s for all war damages archives France-wide. This amounts to 152 boxes for thousands of case files, versus 6 million post-war case files (including 1.78 million bearing on family property²⁷).

These case files are made up of benefit applications, initial records (for reimbursement or reconstitution), letters and certificates, personal documents, forms, questionnaires, insurance policies, detailed inventories, issuance or payment requisitions. Beyond the supply of accounting data, case files also provide information about the furniture and contents of apartments. The contents of these case files is unequal however, much like the contents of AJ38 files²⁸. Over and above the complementary nature of these case files with those found in the Paris Archives, this collection presents genuine historical relevance and may provide additional information about the compensations and restitutions made.

In order to gauge the usefulness of this collection for implementing the compensation mechanism, the CIVS tested a sample of ten case files during the summer of 2016. This **test** showed that these case files only concern the Paris region, French nationals – in the lower or upper middle classes, or renowned figures – which initiated a BRÜG procedure, separate from war damages. Since the findings of this research complement those that the CIVS branch supplies to the Paris Archives and the BRÜG case files, using these case files is particularly worthwhile for case files that bear on cultural personal property.

A new clause added to the agreement of December 15, 2015 binding the Commission to the National Archives was thus signed on July 18, 2016 in order to enable staff working at the CIVS branch to broaden their research to encompass these collections. In December 2016 a member of the branch shared his new expertise on these collections during a seminar on the National Archives site of Pierrefitte-sur-Seine.

The B323 collection of the Koblenz Federal Archives

In the B323 collection, stored at the Koblenz Federal Archives (*Bundesarchiv*), are gathered the essential documents for any search for Nazi-spoliated artifacts in Europe: data files, stock inventories, case files, catalogues, photographs.

27 - For the sake of comparison, the AJ38 collection represents 6,500 boxes.

28 - The AJ38 sub-series includes approximately 62,000 aryanization files concerning the *départements* of the Seine and the provinces. In these files, items essential to the judge-rapporteurs of the Commission in charge of case file reviews can be found: reports from provisional administrators, balance sheets, stock inventories, notarized deeds, extracts from the business and trade registers. For more details about the AJ38 collections, readers are invited to refer to Part two of the *2015 Report to the public on the work of the CIVS*.

This collection is primarily made up of three parts:

- the archives put together by the National-Socialist regime from 1933 to 1945: ERR lists, documents bearing on collections of high-ranking officials or art dealers, and collections seized all over Europe;
- archives gathered by the United States authorities after the war;
- documents of the *Treuhandverwaltung für Kulturgut* in Munich on post-war restitutions (from 1950 to 1972).

The Commission's Management decided to conduct a test on ten case files to see whether there were genuine merits in consulting these archives. Indeed, most of the time they do not provide anything that could not have been found out under normal procedures searching through other collections. The principle for travelling to Koblenz therefore had to be based, on the one hand, on the proven usefulness of these archives and, on the other, on the expenditure incurred for looking through them: the mission expenses and the travel costs for the staff at the CIVS branch in Berlin.

The branch's three staff members travelled to the Federal Archives in February 2016. In light of the results obtained during this mission, it was agreed to only consult these collections at occasional intervals

Spoliated cultural property: the year for renewed momentum

2016 was marked by fresh momentum in the search for spoliated cultural property: thanks to new investment in means, resources, tools and partnerships, considerable progress was made in the conditions for gathering and passing on information and archives.

A cooperation agreement with the Diplomatic Archives

On April 27, 2016, the CIVS and the Directorate of Archives of the Ministry for Foreign Affairs and International Development signed an agreement with a view to organizing and stepping up the existing **partnership** between these two institutions.

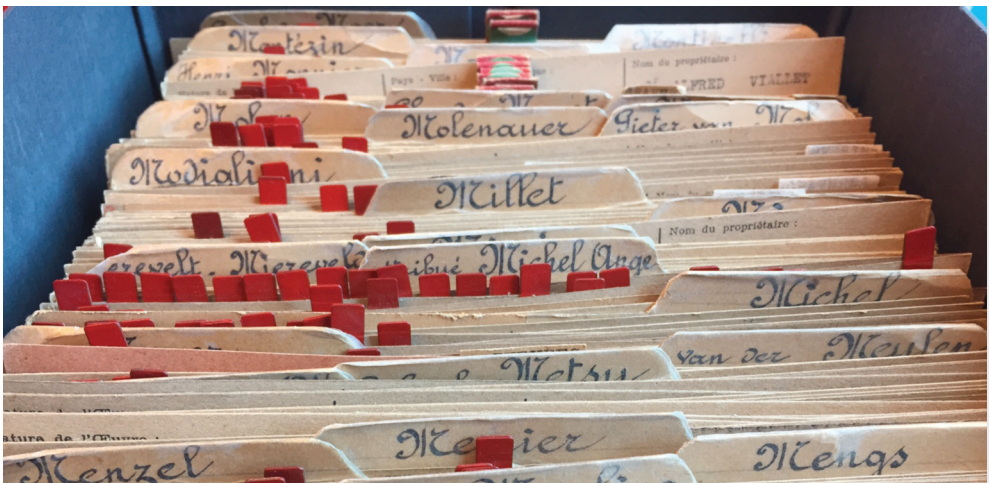
The Diplomatic Archives are tasked with overseeing the up-to-date and intermediate archives of the central administration, diplomatic and consular ranks and institutions placed under the authority of the Ministry for Foreign Affairs. They are responsible for sorting, classifying, stock-taking, preserving and

communicating, in the Courneuve and Nantes centers, intermediate and definitive archives from these departments and organizations, and private archives which are transferred to them or acquired by the latter Ministry²⁹.

The CIVS has been cooperating with the diplomatic archives ever since it was first set up: to review the claims it receives, the CIVS calls on the Directorate of Archives to consult the collections in its safekeeping, not least the archives of the Office of Private Property and Interests (OBIP) and the French departments for the recovery of artworks (*Récupération artistique*) The latter collections are particularly relevant for the research the CIVS undertakes. In addition to clarifying the context of the spoliation, these collections can contain stock inventories or photographs of works or interiors that the Commission's judges-rapporteurs can use to review case files. Restitution orders are particularly invaluable for drawing up inventories. By knowing what was spoliated and what has already been returned makes fairer compensation possible.

The agreement signed in 2016 contains mutual commitments in terms of meeting the priorities in terms of quality and deadlines regarding the CIVS-led reparations mission, not least: the recruitment of a Commission staff member to assist with searches in these collections, the training of this staff member by the Diplomatic Archives and the provision of the necessary access authorizations and physical means.

The collections of the *Récupération artistique*



© the Diplomatic Archives

29 - Decree No. 2012-1511 of December 28, 2012, amended, organizing the central administration of the Ministry for Foreign Affairs.

The *Sémaphore* ambition

The CIVS had already identified the need to equip its Cultural Personal Property (BCM) department with a **collaborative platform**, connecting it to the network involved in conducting its research, back in the summer of 2015 – since the many confidential exchanges of significant volumes of documents required by such research were poorly suited to transmission by email or mail delivery.

Developing a solution of collaborative spaces on the Ministry of Culture and Communication's intranet – *Sémaphore* – provided a technological solution to this problem. In the fall of 2016, the CIVS and Museums of France department designed a collaborative space on this basis dedicated to exchanges and transmissions between the BCM department and its network. A trial period began with the Museums of France department, museums and Directorate of Archives of the Ministry for Foreign Affairs and International Development. This is due to end in January 2017 before *Sémaphore* is rolled out for the attention of new participants: the CIVS branches at the National Archives, Paris and Berlin Archives.

Sémaphore provides secure access to the Web, and a range of features aimed at fostering and expediting the sharing of information and documents online.



Active involvement on the part of museums

The CIVS and Museums of France department organized a meeting on May 20, 2016 between curators, museum department and collection managers to raise their awareness afresh about requests concerning spoliated cultural property.

To improve the quality of museums' responses, the CIVS clearly spelled out its expectations – estimation of works, information about the artists or owners of property ... and a dialogue began on the difficulties museums encounter, how to address uncertainty in assessments or the time it takes to carry out such research.

Finally, this meeting was an opportunity to stress the consequences – both human and in terms of **effectiveness of public action** – of a lack of response on the part of museums, or of timeframes that drag on.

Update on the activity of the working group on MNR works

The working group dedicated to **proactive research** on the provenance of works coming from the Recovery of Artworks (so-called "MNR" works³⁰) which had been set up on March 15, 2013 by the Minister of Culture and Communication, Ms Aurélie Filipetti, and whose work was allowed to continue by Ms Fleur Pellerin in the summer of 2015, pressed on with its efforts in 2016.

In accordance with the Minister's wishes, the group – chaired by a judge-rapporteur at the CIVS and originally consisting of a dozen or so members (museum curators, CIVS members, researchers working in various archive collections and representatives of the Foundation for the Memory of the Shoah) – was extended to cover all concerned works at the Louvre, Museum of Modern Art and Sèvres National Museum. This significant increase in human resources must now make it possible to work, no longer just on MNR works whose spoliation is certain, to determine their provenance, but also on all remaining MNR works in museums (so a little under 2,000 works) so as to also list those properties making up MNR works that were not spoliated, with a view to possibly integrating them into national collections.

This expanded group is continuing to work under the supervision of a steering committee on which the CIVS Chairman, Director of the Museums of France, Director of Archives of the Ministry of Foreign Affairs and International Development and Director-General of the Foundation for the Memory of the Shoah sit.

The working group met four times in 2016 (on February 18, May 12, September 15 and December 15). It developed a new method underpinned by four research strands:

- ▶ systematic exploration in the sales catalogs of the Jacques Doucet collection, kept by the National History of Art Institute (INHA). The copy of 22,760 digitized and OCR scanned catalogs has been placed at the group's disposal;
- ▶ systematic exploration in the archives relating to illegal profits and restitution orders;

30 - « MNR » stands for "Musées Nationaux Récupération". For the record, in November 1944, the Commission for the Recovery of Artworks had enabled the recovery of artworks, documents and other valuables spoliated in France during the Occupation. More than 60,000 objects were tracked down in this way – most on the territory of the "Greater Germanic Reich"; three quarters of them were returned between 1944 and 1949 to their owners or heirs. Of the remaining 15,000 works, 2,143 were selected to be placed in the custody of museums pending their restitution: these are known as "MNR" works. The remaining objects were transferred by the State Property Authority.

- ▶ systematic examination of miscellaneous marks and inscriptions that MNR works can bear;
- ▶ examination of artifacts added after some delay to the inventory of "OAR" works³¹ of the Mattéoli mission and on which in-depth research was not carried out at the time.

The research performed in 2016 has borne fruit, since the owner at the time of spoliation has been identified for 26 artifacts. Some of these are currently being returned, while the services of genealogists have been required for others. What is more, 47 MNR works appear not to have been spoliated beyond doubt, and should be subject to a decision as to their fate. Lastly, because of uncertainty over the owner on the day of spoliation, the background behind some forty works has become clearer and authorized the subsequent exploration of new avenues.

A report setting out the activities of the working group that has been maintained and demonstrating that it is still possible to make progress on the provenance of a significant number of MNR works, is due to be submitted to the Minister of Culture and Communication, Ms Audrey Azoulay, in 2017.

On a final note, **in 2016 the CIVS recommended two new restitutions** of MNR works:

- ▶ tapestry corresponding to a submission, wall hanging of Alexander by Franz van den Hecke (entered under the title "Tenture de l'histoire des Consuls"), from the mid 17th century (OAR 45);
- ▶ tapestry corresponding to a wall hanging of Diogenes in his tub, from Franz van den Hecke's studio (entered under the title "Diogène assis dans son tonneau reçoit la visite d'Alexandre"), circa 1640 (OAR 474).

Keeping memories alive

The CIVS organizes visits to World War II memorial sites for its staff and members to address the need to enrich knowledge, within the Commission, of the historical context into which its mission fits.

31 - The acronym "MNR" refers to all works recovered in Germany and returned to France at the end of World War II "but also to the prefix in the inventory numbers of only ancient paintings entrusted to the Louvre's Department of Paintings (around half of all the works). Each type of collection has a specific prefix." Accordingly, OAR for ancient artifacts, entrusted to the Louvre's Department of Decorative Arts. Source: <http://www.culture.gouv.fr/documentation/mnr/MnR-pres.htm> (Rose-Valland site)

Visit to the Memorial of Camp de Rivesaltes (April 7, 2016)

On April 7, 2016, a delegation comprising the Chairman, Director, Principal Rapporteur, members of the Deliberative Panel, staff and judge-rapporteurs of the CIVS, visited the Memorial of Camp de Rivesaltes (Pyrénées-Orientales) – the main internment camp in Southern France between 1941 and 1942.

Although the delegation paid particular attention to the period during which Jewish populations were interned and deported (nine convoys left Rivesaltes between August and November 1942, transporting 2,300 Jews to extermination camps) this camp, originally intended to be a military camp, also received members of the Spanish Republican faction, gypsies, collaborators and prisoners of war between 1944 and 1948, harkis and their families between 1962 and 1964, and soldiers from Guinea, Madagascar and North Vietnam until 1966. Inaugurated by the Prime Minister on October 16, 2015, this Memorial therefore bears witness to almost thirty years of our history and the history of forced displacements of populations. Its commitment to **keeping memories alive, passing on and education** has particularly earned it the support of the cross-government delegation for combating racism, anti-Semitism and anti-LGBT hatred.

At the end of their visit, the CIVS representatives were able to talk with Agnès Sajaloli, the Memorial's Director.

Camp de Rivesaltes



© CIVS

Visit to Ravensbrück concentration camp (October 18, 2016)

Staff from the CIVS Berlin branch were welcomed on October 18, 2016 by Matthias Heyl, Director of the Educational Department of Ravensbrück concentration camp, which was distinctive in that it was primarily reserved for women (see inset).

Ravensbrück concentration camp

Between May 1939 and the end of April 1945, the Ravensbrück complex was used by the National Socialist Party as both a concentration camp and forced labor center. Along with the one at Auschwitz-Birkenau, Ravensbrück camp was the largest camp for women prisoners: up to 123,000 women, including 8,000 French nationals, were imprisoned there, physically exhausted, tortured and reduced to slavery.

In April 1941, a camp reserved for men was also built on the site, and held 20,000 prisoners. Between 1939 and 1942, slavery in concentration camps was mainly practiced in the textile industry and in agriculture, but also in the twenty-odd hangars built by the German firm Siemens on the camp's outskirts.

In April 1943 the first massive deportations from French soil began. Between 1943 and 1944 Ravensbrück became a concentration camp hub - at a time when large-scale deportations were escalating. The internment capacities were stretched far beyond capacity at this point, and this saw a swift decline in conditions for prisoners. The camp thus became the site of shockingly high death rates, when the first "selection" processes were activated: women declared unfit for work were subject to targeted assassination. During the last few months of the war, a gas chamber was built and systematic extermination spread across the Ravensbrück site. Of the 26,000 victims who lost their lives at the camp, almost half were assassinated during the frenzy of the final weeks of war.

Designed as a place of remembrance by former prisoners in the immediate postwar period, the Memorial of the Ravensbrück camp was inaugurated in the German Democratic Republic on September 12, 1959 along the lines of the Buchenwald Memorial dedicated to the resistance of Communist prisoners, while the rest of the complex was used first by the Soviet army and then by the forces of the Commonwealth of Independent States. Alongside the renovations of the permanent exhibition spaces, exhibition rooms were created in memory of Jewish victims (1992), and victims belonging to the Sinti and Roma communities (1995). In 2013 a new interactive permanent exhibition space was opened called *Das Frauen-Konzentrationslager Ravensbrück. Geschichte und Erinnerung*³².

32 - Ravensbrück concentration camp for women. History and memory.

Modernizing the Commission's tools

Digitizing the CIVS' recommendations

In the fall of 2016 the digitization of recommendations issued by the CIVS since it began its activities was finally completed.

After three months of work by the service provider *Arkhênum* on the Commission's premises, all of its staff finally have access, on the CIVS IT server, to nearly 35,000 recommendations in their final, signed version.

This operation now makes it possible:

- ▶ to undertake research on digital media, thereby reducing the handling and deterioration of paper documents;
- ▶ to directly access the recommendation from workstations;
- ▶ to authorize simultaneous consultation by several staff members and judge-rapporteurs.

Digitization of the "France" files of the Berlin Land Archives

In May 2016 digitization of the 17,000 records in the "France file" kept at the Berlin Land Archives was completed³³.

With the completion of this project, launched at the end of 2015, the investigations of staff at the CIVS' Berlin branch are greatly facilitated by the digital format and remote access; thanks to the CIVS, this is also **a resource at the disposal of all researchers.**

33 - See the 2015 Report to the public on the work of the CIVS (page 52): "*During their research in the Berlin Land Archives, the team systematically consults two files, in order to identify the claimants or the victims who filed a claim for compensation with the CIVS: the "general file" containing compensation requests filed for spoliation in France, Belgium, Germany, Austria and the Netherlands, as well as the "France file" which contains compensation requests filed for spoliation in France. The "France file" contains case files which are not found in the "general file" and the opposite is also true, which is why these two collections need to be consulted.*"

Französische Entziehungsaktionen		A.Z. : P WGA/FS/M/ 08797
Vermerke :		G/ 4138/FS
(Name, Vornamen, (bei Frauen auch Mädchennamen), Geburtsdatum, Geburtsort, Todesort, Jenseits, Anschrift, angeben)		
Geschädigter :	Ansprechender :	
<u>Entziehungsort</u> : 36, Av. des Sports	<u>BRON</u> (Rhône)	
LEVY Albert geb. am 5. Mai 1895 in KONSTANTINOPEL (TR) wohn.: 36, Av. des Sports BRON (Rhône)	LEVY Albert geb. am 5. Mai 1895 in KONSTANTINOPEL (TR) wohn.: 36, Av. des Sports, BRON (Rhône)	
LEVY Dona, geb. CASTORIANO am 5. Mai 1893 in KONSTANTINOPEL (TR) wohn.: 36, Av. des Sports, BRON (Rhône)	LEVY Dona, geb. CASTORIANO am 5. Mai 1893 in KONSTANTINOPEL (TR) wohn.: 36, Av. des Sports, BRON (Rhône)	
W. H. - B. G. - Cass 18710		

Implementation of electronic referral submission

On November 7, 2015 Decree no. 2015-1404, relating to the right of users to submit referrals electronically, came into force. This decree organizes the implementation of teleservices to allow users to make contact with the administration, the sending of an acknowledgment of registration within 24 hours and an electronic acknowledgment of receipt within seven days containing the compulsory notices.

Pursuant to this Decree, the CIVS has dedicated a working inbox renseignement@civs.gouv.fr to information or questionnaire requests, and the reception of completed questionnaires and their attached documents. In accordance with the guidelines underpinning electronic referral submission, the Commission sends out acknowledgements of registration within 24 hours and, within seven days, an acknowledgment of receipt for a questionnaire, in addition to replies sent by mail.

The figures concerning this referral method after a year in application are significant: 20 requests to open case files have reached the Commission this way, along with 19 requests to collect reserved portions or concerning re-examination: 15 questionnaires have also been received electronically.

Alongside use of modern information and communication technology, the CIVS continues to pay close attention to extending its claimants a **high-quality welcome**: in 2016, 221 claimants were welcomed at the Commission: 151 to take part in a hearing of the Deliberative Panel, 41 to hold talks with a member of staff or judge-rapporteur and 29 to consult a case file.

CENTRAL SECTION: THE CIVS' MEANS IN 2016

25 permanent staff members

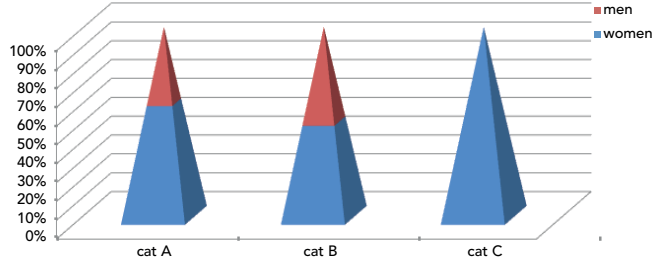
80% on Civil Service contracts

average age: **44**

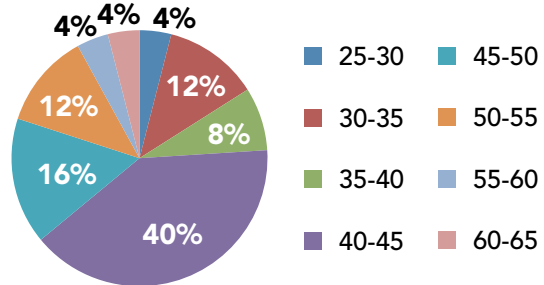
72% women

31 training sessions delivered

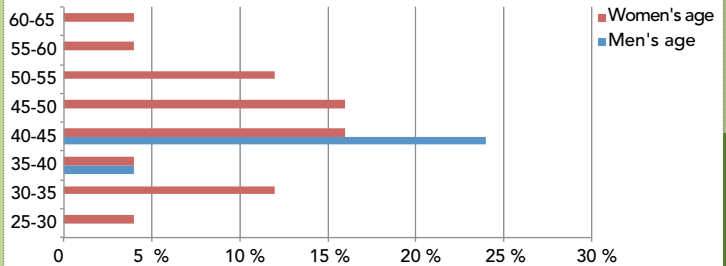
Breakdown by gender



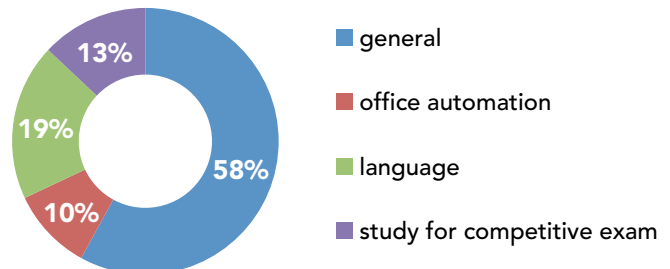
Breakdown by age bracket



Breakdown by age bracket women/men



Formations



Judge-rapporteurs

In 2016, twelve judge-rapporteurs placed under the authority of the Principal Rapporteur:

- **7** women
- **5** men

- **9** from the regular court system,
- **3** from the administrative court system.

The CIVS' budget

Staff expenses	2016 budget:	€1,75 M
	Consumption:	€1,64 M
	<i>of which Paris:</i>	€1,52 M
	<i>Berlin:</i>	€0,12 M
	Employment ceiling	24 FTE
Operating expenses	2016 budget:	€0,29 M
Intervention expenses (compensation appropriation)	2016 budget:	€6,50 M



Part
two

Bank-related
spoliations:
assessment
of the past
fifteen years
of the Washington
Agreement

Bank-related spoliations: assessment of the past fifteen years of the Washington Agreement

The Decree establishing the CIVS tasks it with assessing, in complete independence, *"the appropriate means of reparation, restitution or compensation"*³⁴. That said, owing to the complex historical circumstances involving banks and other public and private institutions under the Occupation, on its own the Commission has not been able to propose means of reparation for bank-related spoliations or any unjust enrichment stemming from financial assets left with these institutions and never returned to their former owners.

With no precedent and in order to reach an overall, definitive solution for all legal proceedings instituted in the United States against banks and financial institutions that operated in France during World War II, the diplomatic channel was chosen.

Accordingly, the international dimension of the reparation efforts undertaken by the Commission has been strengthened **since January 18, 2001** by the agreement bearing on the arrangements for compensating bank-related spoliations, signed in Washington between the United States and French Governments³⁵.

34 - Article 1 of Decree No.99-778 establishing a Commission for the Compensation of Victims of Spoliation Resulting from the Anti-Semitic Legislation in Force during the Occupation.

35 - Decree no. 2001-243 of March 21, 2001 publishing the agreement between the French and the United States governments concerning compensation for certain spoliations during World War II (comprising three annexes and an Exchange of Letters), signed in Washington on January 18, 2001, is appended to this report.

1/ The Washington Agreement: establishment and development of a reparation mechanism

The Agreement's contents

In consultation with attorneys representing victims and their heirs and the "Banks"³⁶, the Washington Agreement established the contribution from the Banks of €100 million to the Foundation for the Memory of the Shoah (FMS) for unclaimed funds; it also validated the creation, by the latter financial institutions, of two separate funds for paying out the compensation recommended by the CIVS for individual reparation of bank-related spoliations.

The first fund, known as "the Deposit" (Fund A), with USD 50,000,000, is intended to compensate victims whose assets have been identified. This is an escrow account which must be replenished as necessary by banks such that its balance will never drop below USD 25,000,000. Once the recommendations issued with respect to Fund A have been paid in full, the account's balance, with interest, will revert to the banks.

The second fund, known as "the Fund" (Fund B), with USD 22,500,000, provides for a lump-sum compensation of USD 1,500 awarded on the basis of credible pieces of evidence or the signature of an affidavit bearing on the existence of an account, submitted prior to July 18, 2002 by the victims or their heirs.

Fund B is distinct from Fund A in that it is not associated with the characteristic "revolving" procedure of the latter fund, described above. It benefits, in addition, from "surveillance" carried out by an Expert Board of five members: two appointed by the United States, two by France and one by attorneys representing plaintiffs. A common feature of both funds is that they shall be formed from the accounts of the Caisse des dépôts et consignations (CDC).

Developments regarding the Agreement

2016 marked the fifteenth anniversary of the **Washington Agreement, which has progressed** since 2001. Four exchanges of diplomatic letters have amended and improved it.

36 - The "Banks" are defined to include enterprises, whether situated within or outside of France, which are members of the French Association of Lending Institutions and Investment Firms (AFECEI), and other financial institutions that receive deposits, other than *Barclays Bank and JP Morgan* which have signed specific agreements with the United States Government and are therefore specifically exempted from the scope of this Agreement.

First exchange of diplomatic letters (August 7-10, 2001)

It did not take long for an initial difficulty to emerge in the Agreement's application: reparation could prove to be unfair between a case file coming under Fund A – the balance of the identified account for which was less than USD 1,500 and which was compensated up to the adjusted, confirmed balance – and a case file for which there was no confirmed account and which automatically qualified for a USD 1,500 lump-sum compensation from Fund B. As a result, an initial exchange of diplomatic letters took place on August 7 and 10, 2001 between the French and United States Governments. This introduced:

- ▶ a supplement of up to USD 1,500 from Fund B for all compensation coming under Fund A less than USD 1,500,
- ▶ and the implementation of a second compensation round worth USD 1,500 for all Fund A claims, the compensated amount for which is less than USD 1,500, and Fund B claims submitted before the foreclosure of July 18, 2002.

This brought total compensation to USD 3,000.

Second exchange of diplomatic letters (May 30-31, 2002)

The second exchange of diplomatic letters postponed the foreclosure date attached to Fund B from July 18, 2002 to January 18, 2003, allowing for the lump-sum compensation of USD 3,000 for any claim for compensation of a bank-related spoliation submitted to the CIVS between these two dates – if no account had been identified and an affidavit had been signed.

According to the rule set out in the Prime Minister's report on the Decree establishing it, and pursuant to the Franco-American Agreement, the Commission had to take a stand on situations that had not yet given rise to any examination so as to factor in the complexity of individual situations. It therefore had to interpret the Agreement so as to clarify several elements of its doctrine in terms of bank-related reparations. For example, regarding debit accounts, it deducted their amount from the overall compensation granted with respect to credit accounts.

But again, when case files concerning claims for compensation owing to aryazation measures were examined, the Commission considered that compensation of business bank accounts managed by provisional administrators came under the State budget. This is because, with provisional administrators considered to be civil servants acting on behalf of the Vichy government, responsibility was to be transferred to the public authorities of the time; banks

could not therefore be held liable as regards this management. The Commission's position was the same when it transferred responsibility to the State for reparation of the opening and looting of safe deposit boxes located in banks, carried out by the German service *Devisenschutzkommando*.

What is more, the Commission was able to reject claims for reparation submitted for accounts likely to be held by individuals residing abroad during the 1940-1944 period and not confirmed by archive sources.

Lastly, it asked the banks to present their comments during hearings with the claimants in attendance.

These practices were held to be unfair by the US attorneys who also pointed out that some of these practices did not enable consumption of the bank funds earmarked for compensation to be increased. Correspondence was exchanged on a number of occasions between the French and United States Governments and the CIVS. When this came within its remit, **the Commission was able to amend its doctrine** and meet several of the United States' requirements. However, to honor certain others, it was necessary to sign a third exchange of diplomatic letters.

Third exchange of diplomatic letters (February 2, 2005)

The new measures were applied by the Commission according to the following arrangements:

- ▶ compensation of debit accounts up to USD 1,500 from Fund A, with a USD 1,500 supplement from Fund B in the context of the second round and the cessation of any deduction;
- ▶ payment of a supplement of up to USD 3,000 (second round included) from Fund B for any confirmed account under provisional administration, less than USD 3,000, and compensation of the account remaining at the State budget's expense;
- ▶ recognition of the full effect of the affidavit for accounts presumed held by individuals residing abroad and, consequently, compensation of up to USD 3,000 (second round included) from Fund B

Still concerned by the low consumption of the bank funds, the United States party continued, backed up by a total of six memoranda, to come up with solutions for enabling a significant scaling up in the use of funds – not least Fund A. These proposals included:

- ▶ setting up a third compensation round from Fund B;
- ▶ the lifting of the foreclosure date attached to Fund B for case files submitted between January 18, 2003 and February 2, 2005, the date of the most recent exchange of diplomatic letters;
- ▶ a USD 10,000 lump-sum supplement from Fund A for any confirmed account over USD 3,000 but less than USD 10,000: the claimant would receive up to USD 10,000, i.e. the difference between the account compensation and USD 10,000;
- ▶ the award of an additional USD 15,000 from Fund A for all direct Holocaust victims born before 1945, having resided in France between 1940 and 1945 and holding a bank account or having signed an affidavit for their own assets;
- ▶ use of all or part of the funds available from Fund A to finance educational and cultural programs promoting religious tolerance.

These requests on the part of the United States led to **new negotiations** between the stakeholders to the Agreement and to the signature of a fourth exchange of diplomatic letters.

Fourth exchange of diplomatic letters (February 21, 2006)

This provides for:

- ▶ an exceptional compensation of USD 15,000, from Fund A, allocated to Holocaust survivors meeting four set criteria: born before 1945, having resided in France between 1940 and 1945, still alive on January 11, 2006 and having benefited or who is due to benefit from compensation for his/her own assets;
- ▶ the award of a compensation supplement of up to USD 10,000 from Fund A for any personal and professional account whose confirmed and compensated balance is between USD 3,000 and USD 10,000; the total compensation amount cannot exceed USD 10,000;
- ▶ the implementation of a third compensation round: the lump-sum compensation of USD 1,000 charged to Fund B for confirmed personal or professional accounts whose confirmed and compensated balance is less than USD 3,000;
- ▶ the lifting of the foreclosure date attached to Fund B from January 18, 2003 to February 2, 2005;
- ▶ the substitution of Fund A for Fund B should the latter be depleted;
- ▶ the reduction of the balance of escrow account (Fund A) to USD 10,000,000, replenished as necessary to ensure the payment of recommendations.

On April 12, 2006, a joint letter signed between the French and United States Governments provided the final interpretation of the agreement signed in the form of an exchange of diplomatic letters on February 21, 2006. It particularly set out the procedure for using Fund A and the reduction of its balance to USD 5,000,000.

With the signature of this exchange of diplomatic letters, the United States authorities committed to not making any new claims.

It will have taken the organization of eleven meetings between the parties and the signature of four exchanges of diplomatic letters signed by both Governments to provide the framework for the Commission's doctrine and clarifications on the use of the bank-related funds and enable the compensation amounts for victims or their heirs to be increased.

The initial capital of Fund B of USD 22,500,000 as well as overall available funds (interest, exchange rate effects) had been used up by early October 2008. According to CDC, this represents USD 31,232,327 paid out in the form of lump-sum compensation or on the grounds of compensation supplements from Fund B. As a result, in order to honor the compensation payouts recommended by the CIVS from Fund B alone or on the grounds of supplements, **the escrow account Fund A automatically replaced Fund B** as stipulated in the Agreement. Note that this transfer did not bring about any amendment to the way the compensation recommendations were formulated or to the payment authorization timescales.

The escrow account (Fund A) is intended to provide for the compensations recommended from Fund A and Fund B until such time as the Commission's work ends.

2/ Implementation of the Agreement: an organization that takes the stakes fully on board

Pursuant to the Agreement's stipulations, **a national and international communications campaign** was organized in the fall of 2001.

Publication of an information notice

An information notice on the compensation of bank accounts was published, in France *in 9 national and 25 regional daily newspapers*, as well as abroad in 272 publications across some fifty countries. At the same time, a radio campaign was

run over French community stations. Thousands of brochures and leaflets explaining what the CIVS does were distributed in town halls, embassies and consulates across France as well as the main institutions dealing with issues of the Holocaust.

A freephone number

To answer the very many calls that came in following the communications campaign, an international freephone number was set up in French, English and Hebrew, accessible 24 hours a day, 7 days a week. Up to July 2003, this call centre handled some 13,400 calls.

Its objective was to enable claimants, whatever their country of origin, to obtain general information about what France is doing to compensate victims of the Holocaust. For the banks and the Prime Minister's departments, its cost amounted to €600,000. This was then "internalized" within the CIVS with the setup of the Claimant Telephone Enquiries and Support Unit, which is committed to making the complex process of bank-related reparation more understandable.

With the same intention of guiding claimants and making the compensation mechanism accessible, an explanatory notice for compensation recipients has been sent along with the bank-related recommendations since the spring of 2015.

Consultation of the list of blocked accounts

Following the Agreement's guidelines, the Commission has opened an office on its premises dedicated to organizations representing victims, particularly the *Simon Wiesenthal center*, for consulting the list of holders of blocked bank accounts (the "Banks" CD-Rom provided by the Mattéoli Mission).

Institutional communications

The Agreement provides that the Commission produce reports on the processing of bank-related case files and the allocated compensation amounts, on a six-monthly basis. These information reports are sent to the French Government, the United States Government, the United States attorneys, the bank representatives, the CDC and the FSJU. They provide a guarantee to the stakeholders that the application of the Agreement, its progress and the use being made of Funds A and B are being monitored. Over time, information about the compensation granted with respect to the State budget has also been added. From 2008, and as agreed by the stakeholders on the Agreement, the dispatch of these six-monthly reports has been scheduled on June 15 and December 15 of each year.

A specific chain of parties involved

The Commission is an administrative organization that issues recommendations in complete independence. In the context of the mechanism set up to pay the material compensation amounts recommended from the State budget, the Prime Minister's departments are in charge of validating such recommendations, signing the decision and authorizing the payout of the compensation. The actual payment of the compensation is the responsibility of the National Office of Veterans and War Victims (ONAC-VG).

Regarding recommendations for compensation on the grounds of bank-related reparation, issued by the Commission, it is the **United Jewish Social Fund (FSJU)** which authorizes these payments when the recommendations it receives from the CIVS state that reparation of the bank-related loss comes under the financial resources set up by the Agreement.

At this point the FSJU makes contact with the recipients to obtain any document required for the payment, before forwarding the payment orders to the CDC where the Fund A and Fund B escrow accounts have been established. The CDC transfers the amounts to the recipients' accounts within an average estimated timeframe of 48 hours. By December 31, 2016, 34,145 transfers had been made³⁷, concerning 18,365 recipients³⁸.

The whole mechanism is governed by agreements signed between the parties: the French Association of Lending Institutions and Investment Firms (AFECEI, representing the banks), the CDC and the FSJU.

The banks' role in the compensation mechanism

Beyond their role as financial contributors, the AFECEI and CDC, in keeping with the Agreement, have informed the dialogue between the signatory banks and the institutions.

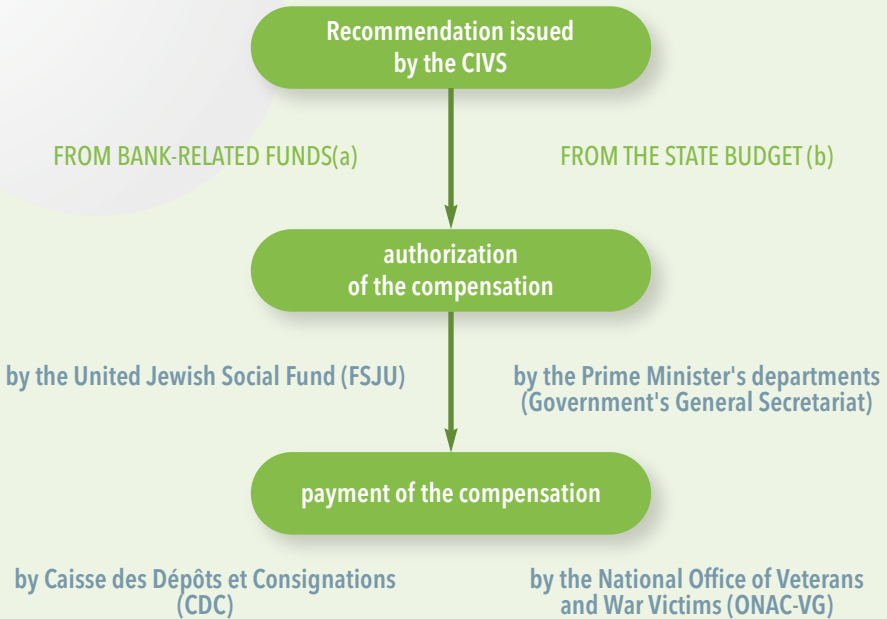
Throughout these past fifteen years they have enabled swift compensation solutions to be found concerning the reparation of certain bank-related losses occurring, for example, on confirmed accounts during the Occupation in foreign banks, now gone, or on assets held by solicitors and foreign exchange brokers. These many exchanges have made it possible to avoid long, painstaking research, with no guarantee of success, with institutions or firms as a result of multiple transfers.

37 - Statistics communicated by the CDC.

38 - Statistics communicated by the FSJU.

Moreover, the AFECEI helped to set up an exchange network between the CIVS' Bank-Related Claims Search Team and **the Historic Archives of the banking institutions**, covering the 160 banks that the Mattéoli mission has listed as having operated during the Occupation. The research departments – chief among which are: the services of the La Poste, Crédit Agricole, Société Générale, BNP-Paribas, CIC, HSBC and Banque de France groups – gather documentation that sheds light on the spoliation process and provides the Commission with additional insight to be able to rule on reparations.

DEPARTMENTS INVOLVED IN THE COMPENSATION PROCESS



(a) Funds established by the banks, under the Washington Agreement

(b) Program 158: compensation of victims of anti-Semitic persecution and acts of barbarism during World War II

At the CIVS: the setup of an organization dedicated to bank-related claims

The Agreement's entry into force brought about major changes in the way the Commission is run. Before the Agreement was signed, claims focused on compensation for the spoliation of movable property or reparation of economic aryanization. The CIVS had already taken the initiative back then to systematically create a so-called "bank-related" case file the moment claimants reported bank accounts, either in the official questionnaire, or during interviews with Commission staff.

After the Agreement was signed, claimants were able to refer bank-related claims expressly to the Commission, by more systematically sending an affidavit which they had received at the same time as the questionnaire. They declared the existence of an account without providing any other details, and seldom mentioned other losses bearing on the spoliation of movable property or resulting from aryanization measures. To ensure the prompt and priority processing of bank-related claims and their easy identification, the Commission created a specific coding and marking system for bank-related claims.

The creation of an *ad hoc* service

Since the reparation arrangements set by the Agreement differed from those that are applicable to the compensation of material spoliations, it was crucial that the Commission equip itself with the means to enable prompt processing of bank-related case files.

To that end, a branch specializing in bank-related investigations was set up in addition to the research branches that were already operating in Berlin, at the National Archives and the Paris Archives respectively. The opening of this branch in the spring of 2001 enabled bank-related claims to be examined separately from material claims.

Similarly, after each signature of an exchange of diplomatic letters, the Commission adopted new provisions for promptly complying with the Agreement's requirements. Staff were reassigned and the Bank-Related Claims Search Team was bolstered with staff reinforcements whenever necessary to re-examine case files concerned by each new compensatory measure and then to implement them. For the record, the FSJU fully oversaw the implementation of the 2nd compensation round of USD 1,500, the 3rd compensation round of USD 1,000 and the award of the supplement up to USD 10,000 for personal accounts of over USD 3,000.

The Bank-Related Claims Search Team: what it does

The bank-related branch is tasked with consulting the “Banks” CD-Rom provided by the Mattéoli Mission, containing the computer files of accounts blocked during the Occupation by order of the General Commissariat for Jewish Questions (CGQJ). Shared by the Mattéoli Mission **by Ruling of October 19, 2000**, this tool contains 26 files, so one file for each of the 25 banks having undertaken their research themselves, and one other file created by the Mattéoli Mission covering 160 banks – some already mentioned in the first 25 files – corresponding to group subsidiaries or more modest-sized banks.

This Search Team set about making technical improvements to certain files so as to speed up their investigations. It drafted an index for the files which contain between 1 and 1,999 names. It did not alter the files of the large banks which contain between 2,000 and 20,000 names – i.e. those of the Banque de France and BNP Paribas, BPCE, HSBC, CIC, La Poste, Crédit Agricole S.A. and Société Générale S.A. Groups. These efforts reduced the consultation necessary to 17 files, thereby enabling a systematic search, for each case file opened, of the accounts across some one hundred institutions which existed in 1941 – even if the claimant only mentions one bank.

Around 60,000 names and 86,000 accounts have been listed in this way. Investigations are carried out on the basis of the name of the spoliation victim and the addresses mentioned in the questionnaire or in the archive documents. As with material case files, the use of several spelling variants is sometimes necessary, insofar as certain names vary from one archive document to another.

Thanks to this system and the systematic verification of the archive documents collected during the investigations conducted for material spoliations, the existence of banking assets (bank account, securities account or safe-deposit box) can be ascertained.

This then leads to one of two hypotheses:

- ▶ the search is successful and comes up positive. This is the case when the victim's civil status corresponds to a civil status found in the files and the consultation has determined the type of asset owned (bank account, securities account or safe-deposit box) and the amount of the account(s) blocked in 1941 in one or more banks;
- ▶ the Bank-Related Claims Search Team has not identified any bank or account in the computer files of the blocked accounts or in the documents obtained

through the research undertaken on material spoliations: the search is deemed to be negative.

It is at this stage in the process that it can be distinguished whether a case file comes under the "Deposit" (Fund A) or the State budget (if it is an account managed under provisional administration or a safe-deposit box looted by the *Devisenschutzkommando*), or under the "Fund" (Fund B).

If the search does not turn up anything, the Bank-Related Claims Search Team drafts a summary certificate confirming this negative investigation. If the bank-related claim was submitted before February 2, 2005, processing of the case file continues with a written request being sent to the claimants for an affidavit certifying the existence of assets held during the Occupation. It may then be possible to call on Fund B for a lump-sum compensation. If the claim was submitted after February 2, 2005, a decision to reject the claim on the grounds of foreclosure is drawn up and presented for signature by the CIVS Chairman.

In the event of a positive search or at claimants' request, the CIVS Bank-Related Claims Search Team contacts the Historic Archives of the banking institutions concerned for information about what became of the assets identified after 1944. The banking institutions then have two months in which to communicate the result of their searches and state their position on the reparation to be provided **in keeping with the principle that both parties should be heard**. The Bank-Related Claims Search Team then draws up a summary certificate stipulating the spoliations studied and listing the institutions concerned, the type of assets and their adjusted amounts. For example, to adjust the values in cash relative to the year 1941, the Commission uses the coefficient that the French National Institute of Statistics and Economic Studies (Insee) re-assesses on an annual basis. In 2016 this coefficient was 0.340, which means that a bank balance worth 1,000 former French francs will be adjusted to 340 euros in 2016.

The procedure described is a preliminary to the review or examination of any case file. Depending on the case:

- ▶ When the case file is deemed simple, a compensation recommendation or inadmissibility decision on the grounds of foreclosure attached to Fund B are drafted and submitted to the Chairman in the context of the so-called "Chairman ruling alone procedure". The compensation is withdrawn from the escrow account Fund A for a spoliated personal account, or from the State

budget for a personal or professional account that was managed by a provisional administrator. As a reminder, compensation supplements, where applicable, are organized via the Washington Agreement.

- ▶ When the case file proves to be more complex, it is submitted for review by a judge-rapporteur who is tasked with presenting it to the CIVS Deliberative Panel, in subcommittee or plenary session.

The role of the Bank-Related Claims Search Team has gradually broadened since, in addition to processing case files, it now produces statistical analyses on the processing of bank-related claims and the changing use being made of "Bank-Related Funds A and B" and the State budget.

Lastly, it should be pointed out that all of the compensation measures of the Washington Agreement have been implemented retroactively for the sake of fairness for each case file, all funds taken together.

3/ Assessment of fifteen years of bank-related reparations

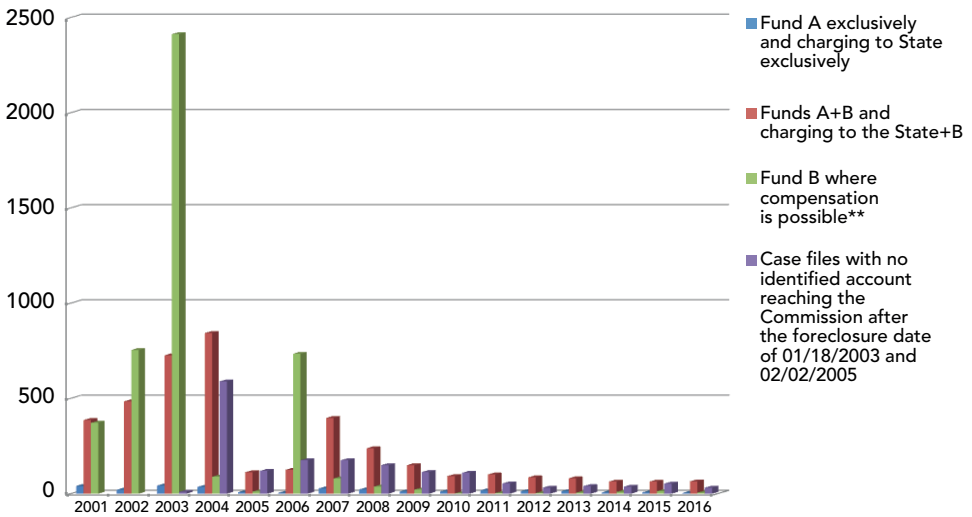
Almost ten thousand case files processed

Since the Commission's work first began, **9,863 bank-related case files** have been recorded – i.e. around a third of the 29,326 reparation claims referred to the CIVS.

Of these 9,863 case files, 733 (so 7% of the total) were expressly created by the Commission. This approach illustrates the fairness principle that the CIVS applies to examining the claims it receives. Indeed, the documents collected during the investigations conducted for a case file opened concerning reparation of a material spoliation can attest to the existence of banking assets in the name of the spoliation victim or his/her firm. As a result, the Commission has been obliged to operate beyond the scope of the Washington Agreement and to automatically undertake specifically bank-related research. An inspection of archive documents for material case files has been performed systematically since 2007. In 2013, this mechanism was extended, retroactively, to 3,151 material case files that had already been examined by a collegiate formation of the Commission. This procedure is scheduled to end in the first quarter of 2017.

Out of the 9,863 bank-related case files recorded, 258 have been "closed definitively" by the Commission Principal Rapporteur due to the default of claimants or abandonment of claim. By December 31, 2016, 9,605 case files had therefore been forwarded to the Bank-Related Claims Search Team so that research on bank-related spoliations could be carried out.

CASE FILES PROCESSED* BY THE BANK-RELATED CLAIMS SEARCH TEAM FROM 2001 TO DECEMBER 31, 2016 Annual breakdown by fund

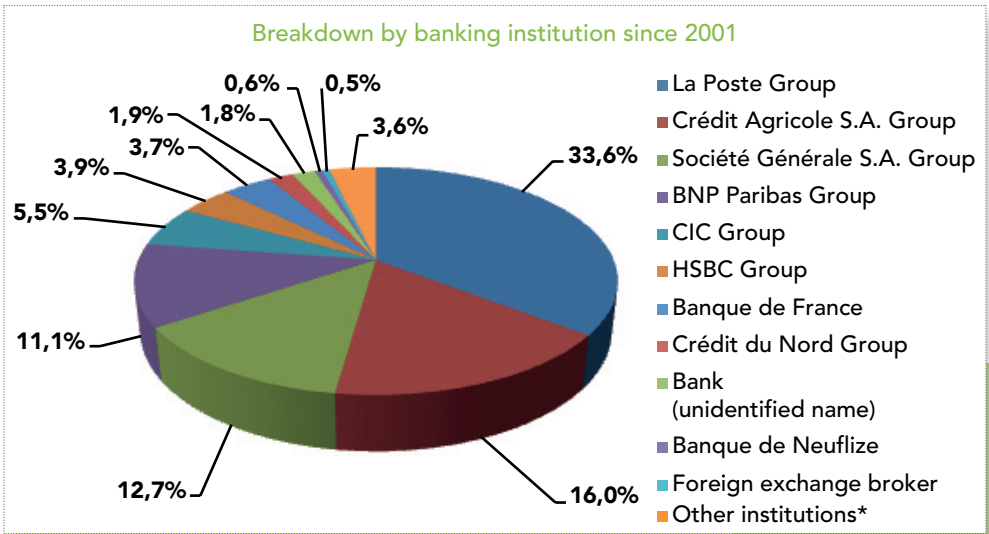


*Estimations before recommendation.

**The high number of Fund B for 2003 and 2006 is a result of the resumption of case files received between January 18, 2003 and February 2, 2005, in accordance with the exchanges of diplomatic letters signed on May 30 and 31, 2002 and February 21, 2006. Over 700 case files that were initially rejected on the grounds of foreclosure attached to Fund B were re-examined in this respect in 2006. They account for 71% of the case files processed that year.

Since the Commission began its work, it has tracked down **the existence of 11,903 bank accounts** (cash, securities and safe-deposit boxes) thanks to investigations conducted on the "Banks" CD-Rom forwarded by the Mattéoli Mission, or the consultation of documents at its disposal. It has also examined 5,127 affidavits submitted by claimants.

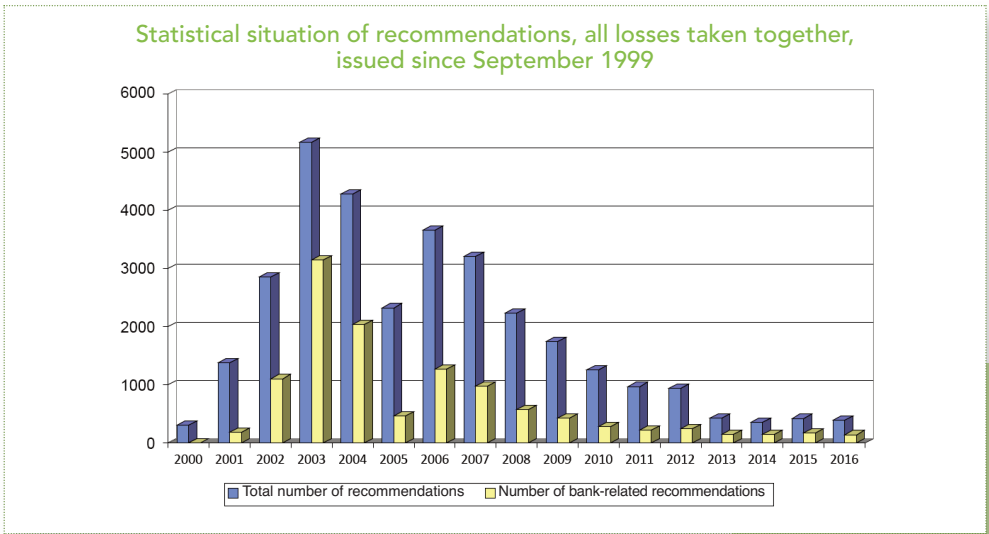
For most of the case files with confirmed accounts, contact is made with the Historic Archives of the banking institutions representing the rights of the institutions in which the accounts have been identified.



More than a third of recommendations issued

By December 31, 2016, more than 9,500 case files had been examined or re-examined by the Commission. For the record, all of the compensatory measures provided for by the Agreement have had a retroactive effect.

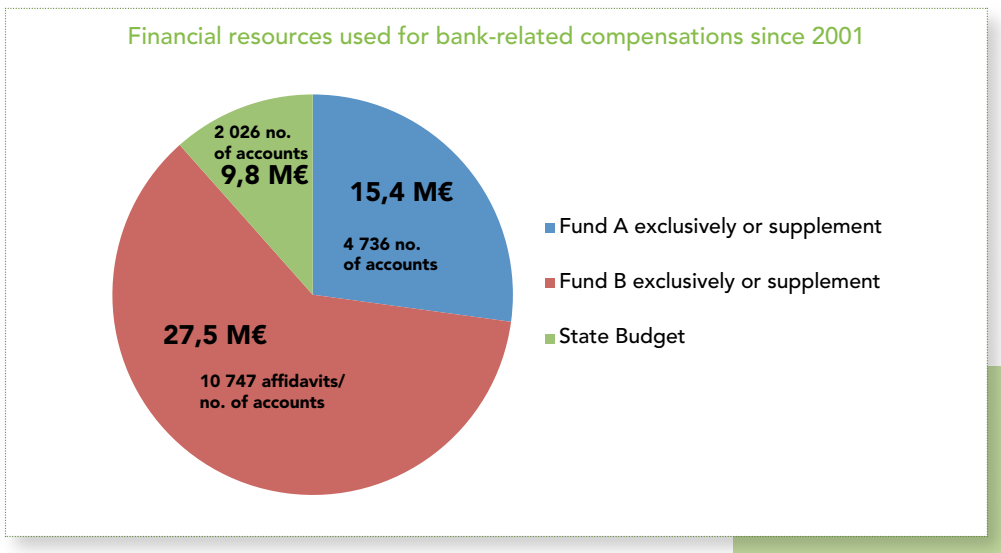
These case files have been subject to **12,536 bank-related recommendations**, all funds taken together, which represents 36.5% of the 34,326 recommendations issued by the CIVS, all losses taken together.



Of the case files recommended, 1,640 have been rejected, 771 on the grounds of foreclosure attached to Fund B on February 2, 2005, and 869 because of evidence that accounts have been reactivated or of lack of capacity to act.

The remaining case files were subject to compensations bearing, on the one hand, on 6,610 confirmed bank accounts and, on the other, 4,839 affidavits signed concerning unidentified accounts. Appendix 1 indicates the total recommended compensation amount.

For the recipients of compensatory measures, 396 have been recognized as "Direct victims" according to the criteria set forth in the Washington Agreement. On these grounds, they have each been awarded additional compensation of USD 15,000. In all, **18,365 individuals** have received compensation with respect to bank-related funds.



On December 31, 2016, some one hundred bank-related case files were being processed across the Commission's various departments pending examination. These concern 365 accounts that are likely to be compensated from Fund A (including with respect to Fund B) and the State budget.

To meet the requirement for prompt processing laid down in the Agreement, the Commission is continuing to make use of the fast-track recommendation procedure whereby the Chairman rules alone whenever possible. That said, the

examination of certain complex bank-related case files remains inseparable from the "material spoliation" component of case files. In this case they are examined by a collegiate formation of the Commission meeting in subcommittee or plenary session.

Re-examination requests

The Washington Agreement provides that any claimant whose claim has been subject to a recommendation by the Commission is entitled to ask for his/her claim to be re-examined. This stipulation applies to all case files examined by the Commission, all losses taken together. Decree no. 2001-530 of June 20, 2001 provides clarifications regarding this mechanism. Since the re-examination mechanism was set up, 123 requests have been formulated, either to appeal against a rejection decision made by the Commission for bank-related claims, or to present facts in light of which the compensation amount could be reconsidered.



Appendices

APPENDIX 1:

Report on the amounts recommended from the creation of the civs up until december 31, 2016

1 - COMPENSATION CONCERNING MATERIAL SPOILIATIONS:

€496 497 457

2 - COMPENSATION CONCERNING BANK-RELATED SPOILIATIONS:

€52 898 206

This amount breaks down as follows:

- ▶ The escrow account - Fund A: €15,426,074 + €3,541,366 (concerning Fund B since October 2008)
- ▶ Fund B: €24,080,820 (October 2008 official figure)
i.e. €43,048,260 at the banks' expense³⁹

In addition to which are the amounts allocated by the State concerning bank-related spoliations: **€9 849 946⁴⁰**

3 - TOTAL COMPENSATION PAID BY THE:

- ▶ State: **€506 347 403⁴¹**
- ▶ Banks: **€43 048 260**

39 - Data communicated by Caisse des dépôts et consignations.

40 - The amount presented on December 31, 2015 has been revised to €9,727,095

41 - €496,497,457 + €9,849,946.

APPENDIX 2 : Organization of the civs on december 31, 2016

EXECUTIVE BOARD OF THE COMMISSION:

- ▶ Chairman: Mr Michel JEANNOUTOT, Honorary Advisor to the Court of Cassation, former Chief Justice of the Court of Appeal
- ▶ Vice-Chairman: Mr François BERNARD, Honorary State Counsellor
- ▶ Director: Mr Jérôme BENEZECH, Senior State Administrative Officer
- ▶ Principal Rapporteur: Mr Pierre-Alain WEILL, Honorary President of Chamber at the Paris Court of Appeal

MEMBERS OF THE DELIBERATIVE PANEL

- ▶ Mr Jean-Pierre BADY, Honorary Master Counsellor of the Court of Accounts
- ▶ Mr François BERNARD, Honorary State Counsellor, Vice Chairman of the Commission
- ▶ Mr Bernard BOUBLI, Honorary Senior Counsellor at the Court of Cassation
- ▶ Ms Anne GRYNBERG, Professor at the National Institute of Oriental Languages and Civilizations (INALCO) and researcher at the Institute of Contemporary History (IHTP)
- ▶ Mr Gérard ISRAËL, philosopher, writer and member of the steering committee of the Representative Council of Jewish Institutions in France (CRIF)
- ▶ Mr Michel JEANNOUTOT, Honorary Advisor to the Court of Cassation, Chairman of the Commission
- ▶ M. Pierre PARTHONNAUD, Honorary Master Counsellor of the Court of Accounts
- ▶ Mr David RUZIÉ, Honorary Dean and Professor Emeritus
- ▶ Ms Dominique SCHNAPPER, Director of Studies, School of Advanced Studies in Social Sciences (EHESS)
- ▶ Mr Henri TOUTÉE, President of the Finance Section of the Council of State

GOVERNMENT COMMISSIONER

- ▶ Mr Bertrand DACOSTA, State Counsellor

JUDGE-RAPPORTEURS

- ▶ 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 Rosine CUSSET, Magistrate of the regular court system
- ▶ Ms Chantal DESCOURS-GATIN, Magistrate of the regular court system
- ▶ Mr François GAYET, Magistrate of the administrative court system
- ▶ Ms France LEGUELTEL, 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 Éliane MARY, 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

PERMANENT STAFF

General services

Claimant Support

- ▶ Ms Sandrine CADET

Case Officer for Administrative & Financial Affairs

- ▶ Ms Karine VIDAL

Ushers

- ▶ Mr Christophe CHENET
- ▶ Mr Christian GOSSARD

Claims Examination and Review

Research Coordination Department (SCR)

- ▶ Ms Eloïse GARNIER (manager)
- Archivist-Editor for the Research Coordination Department
- ▶ Ms Isabelle RIXTE

Bank-Related Claims Search Team

- ▶ Ms Sylviane ROCHOTTE (manager)
- ▶ Ms Brigitte GUILLEMOT

Cultural personal property

- ▶ Ms Muriel de BASTIER (manager)
- ▶ Ms Elsa VERNIER-LOPIN

Hearings Secretariat

- ▶ Mr Emmanuel DUMAS
- ▶ Ms Sarah INTSABY
- ▶ Mr Gabriel MASUREL

Database supervision unit

- ▶ Ms Sandrine CADET
- ▶ Mr Richard DECOCQ
- ▶ Mr Stéphane PORTET

Secretariats

Chairman

- ▶ Ms Catherine CERCUS

Director

- ▶ Ms Rosalie LAGRAND

Principal Rapporteur

- ▶ Ms Myriam DUPONT

Research Coordination Department and Rapporteurs

- ▶ Ms Monique STANISLAS-GARNIER
- ▶ Ms Nathalie ZIHOUNE

Government Commissioner

- ▶ Ms Catherine CERCUS

Archive Search Units

National Archives

- ▶ Ms Emilie BOULANGER
- ▶ Mr Matthieu CHARMOILLAUX

Paris Archives

- ▶ Ms Brigitte GUILLEMOT

Berlin Archives

- ▶ Ms Laura MEIER-EWERT (manager)
- ▶ Mr Sébastien CADET
- ▶ Ms Coralie VOM HOFE

APPENDIX 3 : Decree of 21 March 2001

JORF n°70 du 23 mars 2001

Texte n°30

Décret no 2001-243 du 21 mars 2001 portant publication de l'accord entre le Gouvernement de la République française et le Gouvernement des États-Unis d'Amérique relatif à l'indemnisation de certaines spoliations intervenues pendant la Seconde Guerre mondiale (ensemble trois annexes et un échange de notes), signé à Washington le 18 janvier 2001 (1)

NOR: MAEJ0130022D

Le Président de la République,

Sur le rapport du Premier ministre et du ministre des affaires étrangères,

Vu les articles 52 à 55 de la Constitution ;

Vu le décret no 53-192 du 14 mars 1953 modifié relatif à la ratification et à la publication des engagements internationaux souscrits par la France,

Décrète :

Art. 1er. - L'accord entre le Gouvernement de la République française et le Gouvernement des États-Unis d'Amérique relatif à l'indemnisation de certaines spoliations intervenues pendant la Seconde Guerre mondiale (ensemble trois annexes et un échange de notes), signé à Washington le 18 janvier 2001, sera publié au Journal officiel de la République française.

Art. 2. - Le Premier ministre et le ministre des affaires étrangères sont chargés, chacun en ce qui le concerne, de l'exécution du présent décret, qui sera publié au Journal officiel de la République française.

A C C O R D

ENTRE LE GOUVERNEMENT DE LA REPUBLIQUE FRANÇAISE
ET LE GOUVERNEMENT DES ETATS-UNIS D'AMERIQUE RELATIF
A L'INDEMNISATION DE CERTAINES SPOLIATIONS INTERVENUES
PENDANT LA SECONDE GUERRE MONDIALE (ENSEMBLE TROIS
ANNEXES ET UN ECHANGE DE NOTES)

Le Gouvernement de la République française et le Gouvernement des États-Unis d'Amérique (les « Parties »),

Désireuses de développer les relations futures entre leurs deux États dans un esprit d'amitié et de coopération et de résoudre certaines difficultés issues du passé,

Reconnaissant le fait que la France, à l'issue de la Seconde Guerre mondiale, a adopté des mesures législatives qui ont permis la restitution des biens et l'indemnisation des victimes de persécutions antisémites menées par les autorités d'Occupation allemandes ou par le gouvernement de Vichy pendant la Seconde Guerre mondiale,

Notant que le 16 juillet 1995 le Président de la République, M. Jacques Chirac, a solennellement reconnu la dette imprescriptible de l'Etat français à l'égard des soixante seize mille Juifs de France qui ont été déportés pendant l'Holocauste,

Notant que, par arrêté du 25 mars 1997, le Gouvernement français a institué la Mission d'étude sur la spoliation des Juifs de France, présidée par M. Jean Mattéoli (la « Mission d'Etude ») afin d'étudier, de manière complète et détaillée, les différentes formes de spoliation intervenues à l'encontre des Juifs de France pendant la Seconde Guerre mondiale ainsi que l'étendue et les effets des mesures de restitution adoptées après la guerre,

Prenant acte du travail considérable accompli par la Mission d'Etude pour identifier les archives publiques et privées concernant le blocage et la spoliation des avoirs détenus par les banques et institutions financières ayant exercé une activité en France pendant la Seconde Guerre mondiale (les « Banques ») ainsi que des travaux remarquables de la Mission d'Etude pour quantifier et détailler la façon dont le blocage et la spoliation ont été menés et l'importance des persécutions dont ont été victimes les Juifs de France pendant la Seconde Guerre mondiale,

Prenant acte des conclusions de la Mission d'Etude tant en ce qui concerne les lois et mesures de restitution adoptées par l'Etat français et les Banques après la guerre qu'en ce qui concerne l'importance des restitutions sous quelque forme que ce soit, qui ont permis aux propriétaires spoliés de reprendre possession de leurs biens,

Reconnaissant le fait qu'en février 1999 la Mission d'Etude a recommandé la mise en place d'une commission d'indemnisation des victimes de spoliations, Prenant acte du fait que, par décret du 10 septembre 1999, le Gouvernement français a institué une Commission pour l'indemnisation des victimes de spoliations intervenues du fait des législations antisémites en vigueur pendant l'Occupation (la « Commission »),

Prenant acte du fait que, par décret du 13 juillet 2000, le Gouvernement français a mis en place un programme spécial d'indemnisation des orphelins dont les parents ont été victimes de persécutions antisémites,

Prenant acte du fait que, par décret du 26 décembre 2000, le Gouvernement français a approuvé les statuts de la Fondation pour la Mémoire de la Shoah (la « Fondation »), qui sera chargée, entre autres missions, d'assister les organisations chargées d'apporter un secours aux victimes de l'Holocauste et à leurs héritiers dans le besoin,

Se réjouissant de l'établissement d'un fonds de 22,5 millions de dollars par les Banques, qui permettra d'effectuer des paiements à tout demandeur dont le dossier lui sera transmis par la Commission (« le Fonds »),

Saluant la contribution positive des banques, des avocats et des autres représentants des victimes à la conclusion du présent Accord,

Reconnaissant le fait que la dotation de la Fondation permet la restitution intégrale par le Gouvernement français, les Banques et par d'autres institutions publiques ou privées, de toute forme d'enrichissement injuste provenant de biens abandonnés à ces institutions et jamais restitués à leurs anciens propriétaires, et contribue de manière significative à honorer la mémoire des victimes de l'Holocauste en France,

Reconnaissant qu'il ne peut être exigé des Banques, qui se sont engagées à satisfaire toutes les demandes approuvées par la Commission et à contribuer à hauteur de 100 millions d'euros à la Fondation, garantissant ainsi l'indemnisation complète de toutes les victimes de spoliations liées à l'Holocauste et de leurs héritiers, qu'elles satisfassent en plus des demandes liées à la Seconde Guerre mondiale formulées devant les tribunaux ou par devant d'autres instances,

Reconnaissant qu'il est dans l'intérêt à la fois du Gouvernement français et du Gouvernement des États-Unis qu'il soit trouvé à ces questions une solution amiable, extrajudiciaire et non contentieuse,

Conscientes que les deux Parties souhaitent qu'une paix juridique, globale et définitive soit trouvée concernant toutes les actions liées à la Seconde Guerre mondiale intentées à l'encontre des Banques,

Ayant travaillé conjointement, en concertation avec les représentants des Banques et les avocats des victimes et de leurs héritiers, afin d'assurer le soutien et la reconnaissance la plus large aux travaux de la Commission, du Fonds et de la Fondation et afin d'établir une paix juridique globale et définitive concernant toutes les actions liées à la Seconde Guerre mondiale intentées à l'encontre des Banques,

Ayant conduit des discussions dans un esprit d'amitié, dans le respect du droit international et en particulier en se fondant sur le Traité d'établissement entre la France et les États-Unis signé le 25 novembre 1959,

Notant que les missions de la Commission, du Fonds et de la Fondation, telles qu'elles résultent de leurs statuts respectifs ou des règles qui les régissent, concernent un grand nombre de victimes et permettent la participation d'un grand nombre de banques, ce qui n'aurait pas été possible dans le cadre de procédures judiciaires,

Persuadées que la Commission, le Fonds et la Fondation permettront de mettre en place un mécanisme de paiement aussi rapide et équitable que possible aux victimes maintenant âgées ou, en ce qui concerne la Fondation, aux organisations représentant les victimes ou leurs héritiers,

Conscientes que la Commission, le Fonds et la Fondation peuvent répondre à toutes les demandes liées à la Seconde Guerre mondiale qui sont ou seront formulées à l'encontre des Banques et qu'il est dans l'intérêt des deux Parties que la Commission, le Fonds et la Fondation soient le moyen et le cadre exclusifs pour le traitement de ces demandes,

Notant que les requérants dans les actions pendantes liées à la Seconde Guerre mondiale, intentées à l'encontre des Banques devant les tribunaux américains, ainsi que les Banques défenderesses, ont donné leur accord au désistement sans réserve de ces actions,

sont convenus de ce qui suit :

Article 1^{er}

1. Les Parties reconnaissent que la Commission, le Fonds et la Fondation peuvent satisfaire toutes les demandes liées à la Seconde Guerre mondiale qui sont ou seront formulées à l'encontre des Banques définies à l'Annexe A et qu'il est dans l'intérêt de tous que ces entités soient le moyen et le cadre exclusifs pour le traitement de ces demandes.
2. La France s'engage à ce que la Commission fasse de manière appropriée une large publicité quant à ce mécanisme, ses objectifs et l'existence de fonds destinés à satisfaire toutes les demandes légitimes.
3. La France s'engage à ce que la Commission et la Fondation agissent conformément aux principes énoncés à l'Annexe B. La France garantit aux États-Unis que la Fondation a été créée. La France s'engage à ce que les Banques définies à l'Annexe A contribuent à la Fondation à hauteur de 100 millions d'euros. La France garantit que la Fondation et le Fonds seront soumis au contrôle légal des autorités gouvernementales françaises compétentes dans toute la mesure permise par le droit français. Le Gouvernement français s'assurera que la Commission opère dans la plus grande transparence et exercera son contrôle dans toute la mesure permise par le droit français. Toute personne pourra demander, dans la mesure permise par le droit français, que les autorités gouvernementales françaises prennent les mesures nécessaires au respect par la Commission et la Fondation de leurs obligations légales.
4. La France s'engage à ce que les Banques satisfassent sans délai et de façon intégrale toutes les demandes approuvées par la Commission.

Article 2

Dans toute action présente et future pour lesquelles les États-Unis seront informés de l'existence d'une demande telle que prévue à l'article 1er, paragraphe 1, et formulée devant un tribunal américain à l'encontre d'une des Banques, les États-Unis informent leurs tribunaux par la voie d'un statement of interest, conforme à l'Annexe C, ou autre voie qu'ils jugeront appropriée, qu'il est de l'intérêt de la politique étrangère des États-Unis que la Commission, le Fonds et la Fondation soient le moyen et le cadre exclusifs pour le traitement de ces demandes formulées à l'encontre des Banques et que ces actions soient rejetées.

Article 3

Les Annexes A, B et C font partie intégrante du présent Accord.

Article 4

Le présent Accord entrera en vigueur à la date convenue par les parties par échange de notes.

Fait à Washington le 18 janvier 2001, en deux exemplaires, en langue anglaise et en langue française, les deux textes faisant également foi.

A N N E X E A DEFINITION DES « BANQUES »

L'expression « les Banques », pour les besoins du présent Accord et de toutes ses annexes, désigne l'ensemble des éléments ci-après :

- (1) Les défenderesses dans les procédures judiciaires *Benisti, et al. v. Banque Paribas, et al.*, No. 98 Civ. 7851 (E.D.N.Y.) ; *Bodner, et al. v. Banque Paribas, et al.* No. 97 Civ. 7433 (E.D.N.Y.) ; et *Mayer v. Banque Paribas, et al.*, Civ. Action No. 302226 (Cal. Superior Court), à l'exclusion de Barclays Bank et de JP Morgan.
- (2) Les établissements, qu'ils soient localisés en France ou hors de France, qui sont membres de l'Association française des établissements de crédit et des entreprises d'investissement, et autres institutions financières recevant des dépôts, à l'exclusion de Barclays Bank et de JP Morgan.
- (3) Les transactions antérieures conclues avec Barclays Bank et JP Morgan sont expressément exclues du champ du présent Accord. Les Banques déclarent qu'elles ne s'opposeront pas, en se fondant sur l'une des dispositions contenues dans le présent Accord, à ce qu'un tribunal approuve ces deux transactions.

En ce qui concerne les banques de nationalité française, la présente définition s'applique à toute leurs activités pendant la Seconde Guerre mondiale. En ce qui concerne les banques qui n'ont pas la nationalité française, la présente définition s'applique à leurs activités réalisées en France ou en relation avec la France pendant la Seconde Guerre mondiale.

Les Parties sont d'accord sur le fait que les compagnies d'assurance ne sont pas incluses dans la définition des Banques.

ANNEXE B

I. - La Commission pour l'indemnisation des victimes de spoliations intervenues du fait des législations antisémites en vigueur pendant l'Occupation

La Commission pour l'indemnisation des victimes de spoliations intervenues du fait des législations antisémites en vigueur pendant l'Occupation (la « Commission ») continuera à instruire et à se prononcer sur toute demande d'indemnisation de toute personne formée à l'encontre de toute banque ou institution financière ayant exercé une activité en France pendant la Seconde Guerre mondiale (les « Banques »), à déterminer si une telle demande est recevable et, si un compte bancaire peut être retrouvé, à déterminer le montant destiné à indemniser pleinement le demandeur des dommages matériels pour lesquels une complète restitution ou indemnisation n'est pas déjà intervenue.

A. - La Commission mettra en oeuvre un programme conforme aux principes énoncés dans la pièce jointe 1 et destiné à faire connaître dans le monde entier son existence et son rôle de façon à rendre aisément accessibles à d'éventuels demandeurs, sans frais de leur part, ses formulaires et ses procédures de saisine.

B. - La Commission instruira les demandes et les examinera sur la base de critères de preuves allégés. Une requête émanant d'un demandeur ou une simple lettre de celui-ci s'interrogeant sur l'existence d'un avoir bancaire sont suffisantes pour déclencher une instruction. Le demandeur aura la possibilité de se faire accompagner d'un représentant qu'il désigne ou de se faire représenter par celui-ci s'il ne peut être présent lui-même, et ce à toutes les phases de la procédure.

C. - Après une telle instruction et un échange d'informations avec le demandeur ou son représentant, incluant la possibilité pour ceux-ci d'être entendus, et si un compte peut être retrouvé d'une façon ou d'une autre, y compris parce que la demande correspond à un nom ou un compte figurant sur une liste ou tout autre document à la disposition de la Commission, la Commission fait une recommandation motivée sur l'indemnisation du demandeur. La Commission ne réduira le montant de la recommandation que si le compte ou le bien a déjà fait l'objet d'une indemnisation. Dans une telle hypothèse, une telle réduction serait limitée au montant de l'indemnisation déjà perçue. Aucune réduction n'interviendra par rapport à une indemnisation qui aurait été reçue pour réparer un préjudice moral ou un autre préjudice non matériel.

- D. - Les Banques s'engagent à honorer sans délai et de façon intégrale toutes les recommandations de la Commission qui leur seront adressées (les « Recommandations »). L'engagement des Banques d'honorer toutes les Recommandations sera formalisé par un écrit.
- E. - Un compte-séquestre portant intérêt d'un montant de 50 millions de dollars sera ouvert par les Banques auprès de la Caisse des dépôts et consignations à Paris pour assurer le paiement sans délai de toutes les Recommandations. Pour assurer le paiement intégral et sans délai de toutes les Recommandations les concernant, à tout moment, les Banques réapprovisionneront le compte en tant que de besoin de telle sorte que le solde de ce compte ne soit jamais inférieur à 25 millions de dollars, quels que soient les paiements effectués à la suite des Recommandations. Une fois les Recommandations intégralement payées, le solde du compte, y compris les intérêts, sera reversé aux Banques.
- F. - Sans préjudice de toute autre considération qu'elle pourrait estimer pertinente, la Commission pourra reconnaître comme élément de preuve suffisant pour justifier une Recommandation l'une des quatre catégories suivantes : preuve formelle, présomption, indice ou intime conviction.
1. Si la Commission n'est pas en mesure d'établir l'existence d'avoirs bancaires mais se voit présenter un élément de preuve crédible suggérant qu'il pourrait y avoir eu de tels actifs, en l'absence de preuve de restitution, elles transmettra pour paiement la demande à l'organisation chargée de gérer le Fonds défini au paragraphe 2 ci-dessous. Un exemple possible d'élément de preuve crédible est une déclaration sous serment faisant état de faits crédibles et comprenant les éléments énumérés dans la pièce jointe 2, sauf cas où la Commission estime qu'il y a un élément de preuve clair et convaincant de mauvaise foi manifeste, par exemple que le demandeur ne résidait pas en France pendant la période concernée ou que les sommes inscrites sur ce compte bancaire ont déjà fait l'objet de restitution.
 2. Un fonds de 22,5 millions de dollars sera établi par les Banques et géré sur un compte portant intérêt à la Caisse des dépôts et consignations à Paris par le Fonds social juif unifié, sous la surveillance d'un Conseil composé de cinq membres dont deux seront nommés par les États-Unis, deux par la France, et un par les avocats des plaignants (le « Fonds »). Les frais administratifs raisonnables du Fonds seront payés par les intérêts courus du Fonds. Le Fonds versera, dans les trente jours suivant la transmission d'un dossier par la Commission, une somme de 1 500 dollars par personne à toute

personne dont le dossier lui sera transmis par la Commission avant le 18 juillet 2002. Une fois que toutes les demandes relatives à des avoirs bancaires transmises par la Commission à cette date auront été satisfaites, si le Fonds n'est pas épuisé, des paiements additionnels seront accordés aux bénéficiaires du paiement initial au prorata pour un montant additionnel maximal de 1 500 dollars. Le Fonds versera une somme supplémentaire permettant d'atteindre le montant par personne à toutes les personnes pour lesquelles aucun solde de compte bancaire n'a pu être établi et qui auront obtenu une Recommandation de la Commission inférieure à ce montant par personne. Les sommes qui resteront dans le Fonds après le paiement des sommes additionnelles mentionnées ci-dessus, y compris les intérêts, seront versées à la Fondation pour la Mémoire de la Shoah.

- G. - La liste des titulaires de comptes bancaires bloqués sera accessible aux organisations représentant les victimes selon les termes du décret no 2000-1023 du 19 octobre 2000. Un budget de 500 000 dollars, payable sur les intérêts courus du Fonds, sera agréé et mis à disposition de l'organisation désignée par les avocats des plaignants.
- H. - La Commission mettra en place des bureaux ou autres points de communication avec le soutien des ambassades et consulats français. A cette fin, elle coopérera avec les organisations juives internationales appropriées, notamment aux États-Unis, en Israël et dans d'autres pays où vivent un nombre significatif de demandeurs. Des représentants de la Commission visiteront aussi régulièrement que nécessaire ces bureaux et autres points de communication pour rencontrer les demandeurs.
- I. - La Commission accordera un traitement prioritaire, et une attention toute particulière, aux demandes de survivants ou à celles des demandeurs qui se trouveraient en grande difficulté personnelle.
- J. - La Commission diffusera dans deux mois puis tous les six mois un rapport public détaillant son activité (nombre d'affaires traitées, suite donnée aux dossiers, montants alloués, etc.), indiquant les critères ressortant des recommandations de la Commission et rappelant les procédures de traitement des dossiers. La Commission établira également un rapport confidentiel, précisant au cas par cas la suite donnée à chaque dossier, les motifs de la recommandation en cas de rejet et les montants accordés. Ce rapport sera transmis au Gouvernement des États-Unis.
- K. - Tout demandeur dont la demande fait l'objet d'une recommandation de la Commission en formation restreinte sera en droit de solliciter un nouvel

examen de sa demande par la Commission réunie en formation plénière en invoquant des faits nouveaux, de nouvelles preuves ou une erreur matérielle. Tout demandeur dont la demande fait l'objet en première instance d'une recommandation de la Commission en formation plénière sera en droit, par les mêmes motifs, de demander à la Commission de reconsidérer sa position.

- L. - La Commission recevra régulièrement des représentants des victimes de l'Holocauste ainsi que du Gouvernement des États-Unis aux fins d'échanges d'informations pertinentes.
- M. - Le Gouvernement français s'assurera que la Commission opère dans la plus grande transparence et exercera son contrôle dans toute la mesure permise par le droit français. Conformément aux prescriptions du droit français, les activités de la Commission sont soumises au contrôle de la Cour des comptes.

II. - La Fondation pour la Mémoire de la Shoah

La Fondation pour la Mémoire de la Shoah (la « Fondation ») sert de mécanisme qui assure à la fois la restitution intégrale des biens encore en déshérence et la reconnaissance des victimes de la Shoah qui n'ont pas survécu, ainsi que la réparation morale qui leur est due.

- A. - La dotation annuelle de la Fondation contribuera pour un montant significatif à des organisations à buts humanitaires et sociaux en France et à l'étranger.
- B. - Les statuts de la Fondation prévoient que le Conseil de la Fondation comprendra des représentants de la communauté juive française et d'autres personnalités qualifiées françaises ou non.

PIECE JOINTE 1

PRINCIPES DE DIFFUSION DE L'INFORMATION

1. Envoi par courrier à une liste mondiale d'organisations juives, pour diffusion à leurs membres, d'un document récapitulatif détaillant les prestations offertes aux demandeurs et la procédure à suivre pour en bénéficier.
2. Publication dans le monde entier, notamment par des annonces dans les principales publications juives et les grandes publications nationales selon une liste communiquée à la Commission par les avocats des plaignants.
3. Publication sur internet.
4. Numéro de téléphone gratuit.

5. Traduction de l'annonce (publiée et envoyée par courrier) en français, anglais, allemand, hébreu, yiddish, espagnol, polonais, italien, russe et autres langues selon les besoins.
6. Budget et procédure pour répondre aux demandes d'information des demandeurs. Formulaires et procédures applicables à la demande d'indemnisation seront envoyés par courrier sur demande.
7. Le Centre Wiesenthal doit être indiqué dans les annonces comme source d'information et d'aide aux demandeurs.

PIECE JOINTE 2
DECLARATION SOUS SERMENT

1. Je soussigné, , certifie que
le nom de mon père était/est et
que le nom de ma mère était/est
2. Durant la Seconde Guerre mondiale, ma famille a
habité à
du au
3. A ma connaissance, ma famille détenait durant la Seconde Guerre mondiale
un ou plusieurs comptes bancaires dans une banque située en France.
4. A ma connaissance, aucune restitution du ou des comptes bancaires (ou tous
autres avoirs bancaires, tels que le contenu de coffres) n'est intervenue à
mon profit ou au profit d'un autre membre de ma famille.
5. Je joins des copies de tous les documents existants en rapport avec mon
séjour en France durant la Seconde Guerre mondiale et/ou l'existence
d'avoirs bancaires.
6. Les informations venant étayer la présente déclaration et qui sont à ma
disposition incluent ce qui suit :.....

Je confirme qu'à ma connaissance les informations contenues dans la présente
déclaration sont authentiques.

Certifié en date :.....

ANNEXE C
ELEMENTS A INCLURE DANS UN STATEMENT OF INTEREST
DU GOUVERNEMENT AMERICAIN

En vertu de l'article 2 de l'Accord, les États-Unis déposeront en temps utile un statement of interest accompagné de la Déclaration du Vice-Secrétaire d'Etat au Trésor M. Stuart E. Eizenstat dans toutes les actions judiciaires pendantes ou futures, chaque fois que les États-Unis seront informés de l'existence de demandes formulées à l'encontre des Banques à raison de leurs activités en France durant la Seconde Guerre mondiale, que les demandeurs aient ou non accepté de se désister des actions judiciaires. Cela ne s'applique pas aux actions réelles relatives à des oeuvres d'art et à des objets ayant une valeur culturelle.

Le statement of interest contiendra les points suivants :

1. Il est dans l'intérêt de la politique étrangère des États-Unis que la Commission, le Fonds et la Fondation soient le moyen et le cadre exclusifs pour le traitement de toutes les demandes formulées à l'encontre des Banques à raison de leurs activités en France pendant la Seconde Guerre mondiale, notamment sans limitation les demandes relatives à l'aryanisation, aux dommages aux biens et à la perte de biens, y compris les avoirs bancaires.
2. En conséquence, les États-Unis considèrent que toutes ces demandes doivent être présentées (et dans l'hypothèse où les fonds destinés à la Fondation sont intégralement utilisés et/ou la Commission n'accepte plus de demandes, auraient dû être présentées en temps utile) devant la Commission et/ou la Fondation au lieu d'être présentées devant les tribunaux.
3. Il est dans l'intérêt de la politique étrangère des États-Unis que de telles demandes formulées par voie judiciaire soient rejetées. Les États-Unis demanderont ce rejet, en s'appuyant sur tout fondement juridique recevable. Ils expliqueront que, compte tenu du rôle joué par la Commission, le Fonds et la Fondation, il est de la plus haute importance que les États-Unis soutiennent tous les efforts entrepris pour mettre fin à toutes les actions judiciaires liées à la Seconde Guerre mondiale, intentées à l'encontre des Banques. Les États-Unis expliqueront en détail, de la manière décrite ci-après, quel intérêt il y a pour leur politique étrangère à obtenir le rejet de telles demandes.

4. Relèvent de l'intérêt des États-Unis : la recherche d'une réponse rapide et équitable à toutes les questions soulevées par ces actions judiciaires afin d'apporter une certaine justice aux victimes encore en vie des persécutions nazies pendant la Seconde Guerre mondiale et, en l'espèce, sous l'Occupation en France ; le renforcement de l'étroite coopération avec la France, qui est pour eux un important allié et partenaire économique en Europe ; l'établissement d'une paix juridique pour toutes les demandes formulées à l'encontre des banques françaises à raison de leurs activités en France pendant la Seconde Guerre mondiale.
5. La Commission, le Fonds et la Fondation sont le fruit d'un demi-siècle d'efforts entrepris pour achever de rendre justice aux victimes de l'Holocauste et des persécutions nazies en France. Ce dispositif vient compléter les programmes de restitution et d'indemnisation déjà mis en oeuvre en France en réponse aux actes perpétrés sous l'Occupation en France et notamment aux actes de spoliation.
6. La création du Fonds par les Banques, l'engagement pris par les Banques d'honorer toutes les recommandations qui leur seront adressées par la Commission, et la contribution non seulement des Banques mais aussi du Gouvernement français et d'autres institutions à la Fondation permettent d'apporter une réparation complète à un bien plus grand nombre de victimes que ne le pourraient les procédures judiciaires engagées aux États-Unis.
7. La structure et le fonctionnement de la Commission lui permettront de formuler rapidement des recommandations justes, impartiales et directement applicables que les Banques se sont engagées à honorer intégralement et sans délai. Des mesures de publicité importantes et appropriées seront prises afin de rendre publics l'existence de la Commission, ses objectifs et la disponibilité de ses fonds. La Commission fonctionne de manière transparente.
8. La Commission, le Fonds et la Fondation sont des mécanismes justes et équitables en ce qu'ils prennent en compte (a) l'âge avancé des demandeurs, la nécessité de leur fournir une solution rapide et non bureaucratique et la volonté d'affecter les fonds disponibles à l'indemnisation de ces victimes plutôt qu'à la poursuite des actions en justice ; (b) le niveau de dotation de la Fondation, destiné à permettre la restitution intégrale de tous les biens spoliés que pourraient encore détenir les Banques ; (c) les procédures adoptées par la Commission pour permettre le traitement rapide des requêtes qui lui sont adressées ; (d) la mission confiée à la Commission

d'assurer une restitution complète pour toutes les demandes qui lui sont transmises, quel que soit le montant global de l'indemnisation, et l'engagement des Banques d'honorer toutes les recommandations qui leur seront adressées par la Commission ; enfin (e) les obstacles juridiques auxquels sont confrontés les demandeurs et l'incertitude quant à l'issue de leurs actions en justice.

9. Les demandeurs sont confrontés à de nombreux obstacles juridiques et à la difficulté de rassembler des éléments de preuve. Les États-Unis ne prennent pas position quant au bien-fondé des actions en justice et des arguments des demandeurs et des défenderesses. Les États-Unis n'entendent pas suggérer que leurs intérêts de la politique en ce qui concerne la Fondation constituent en soi un fondement juridique suffisant pour permettre le rejet des demandes formulées devant les tribunaux.

MINISTERE DES AFFAIRES ETRANGERES

Le ministère des affaires étrangères présente ses compliments à l'ambassade des États-Unis d'Amérique et, se référant à l'article 4 de l'Accord entre le Gouvernement de la République française et le Gouvernement des États-Unis d'Amérique relatif à l'indemnisation de certaines spoliations intervenues pendant la Seconde Guerre mondiale, signé à Washington le 18 janvier 2001, a l'honneur, d'ordre du Gouvernement de la République française, de proposer à l'ambassade que ledit Accord entre en vigueur à la date du 5 février 2001.

Le ministère des affaires étrangères serait reconnaissant à l'ambassade de lui confirmer si la date proposée recueille l'agrément du Gouvernement des États-Unis d'Amérique. Dans l'affirmative, la présente note et sa réponse constitueront l'échange de notes prévu à l'article 4 de l'Accord. L'Accord et les Annexes qui en font partie intégrante entreront ainsi en vigueur le 5 février 2001.

Le ministère des affaires étrangères saisit cette occasion pour renouveler à l'ambassade des États-Unis d'Amérique l'assurance de sa haute considération.
Fait à Paris, le 5 février 2001.

AMBASSADE DES ETATS-UNIS D'AMERIQUE

L'ambassade des États-Unis d'Amérique présente ses compliments au ministère des affaires étrangères du Gouvernement de la République française et a l'honneur de se référer à l'article 4 de l'Accord entre le Gouvernement des États-Unis d'Amérique et le Gouvernement de la République française relatif à

l'indemnisation de certaines spoliations intervenues pendant la Seconde Guerre mondiale.

Les États-Unis sont d'accord pour que l'Accord susmentionné entre en vigueur aujourd'hui, 5 février 2001, date à laquelle les États-Unis procèdent à un échange de notes avec le Gouvernement de la République française.

L'ambassade des États-Unis d'Amérique saisit cette occasion pour renouveler au ministère des affaires étrangères du Gouvernement de la République française l'assurance de sa très haute considération.

Paris, le 5 février 2001.

(1) Le présent accord est entré en vigueur le 5 février 2001.

Fait à Paris, le 21 mars 2001.

Jacques Chirac

Par le Président de la République :

Le Premier ministre,
Lionel Jospin

Le ministre des affaires étrangères,
Hubert Védrine

Pour le Gouvernement
de la République française :
Jacques Andreani
Ambassadeur

Pour le Gouvernement
des États-Unis d'Amérique :
Stuart E-Eizenstat
Vice-Secrétaire au Trésor

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