



Liberté • Égalité • Fraternité
RÉPUBLIQUE FRANÇAISE

PREMIER MINISTRE

Report to the public on the work of the **CIVS** 2018

Commission
pour l'indemnisation
des victimes
de spoliations
intervenues du fait
des législations
antisémites en vigueur
pendant l'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 Commission is responsible for seeking and proposing appropriate means of reparation, restitution or compensation."

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Michel Jeannotot,
Chairman of the CIVS

Foreword

2018 was an altogether unique year for the CIVS, throwing into decisive focus its work regarding cultural property spoliation.

The extension of its remit in this area is above all in line with the wishes of the Prime Minister who, during the speech he gave on July 22, 2018 at the commemoration of the Vel' d'Hiv' roundup, tasked the CIVS and the Minister of Culture with building fresh momentum in the identification and return of cultural property spoliated during the Occupation. The discussions conducted over recent years on the future of the Commission culminated in the Decree of October 1, 2018, which has given concrete expression to the momentum renewed by the Prime Minister by broadening the CIVS' scope for referral, allowing for the eagerly awaited self-referral option and extending the membership of its Deliberative Panel with four new qualified experts.

But such change also takes place against an international backdrop, marked in 2018 by the 20th anniversary of the Washington Conference Principles on Nazi-Confiscated Art, and the promulgation of the JUST Act in the United States. On December 3, 1998, 44 countries, France among them, had adopted the Washington Principles to expedite the return of spoliated cultural property. Twenty years later, the assessment of progress to date inevitably exposes how far we still have to go, not least in examining the provenance of certain artworks from public collections, or in developing international cooperative

frameworks. In the United States, the Act S. 447 of May 9, 2018, also referred to as the JUST Act (which stands for: Justice for Uncompensated Survivors Today), tasks the US Secretary of State with submitting a report on the measures taken by European countries to foster the return of Holocaust victims' property, and their compensation. This all paves the way for a large-scale assessment of the programs adopted by the nations that signed the Terezin Declaration in 2009.

International outreach has been a long-standing concern for the CIVS. But in 2018, the Commission decided to branch out and step up its dialogue with European partners by liaising on an ongoing basis with the services of the French Embassy in Berlin, gaining respect as an authority that the government departments and partner bodies of the Federal Republic of Germany can call on and, above all, initiating a network with the counterpart panels in Great Britain, Austria, Germany and the Netherlands.

Amid the new organization in favor of spoliated cultural property, it should not be forgotten that this head of claim only accounts for a tenth of the spoliations for which the CIVS recommends compensation. Pillage of apartments, business and bank-related spoliations or the confiscation of money during internment in a camp still account for the bulk of its reparation efforts and are the main focus of its resources. In this regard, on July 22, 2018 the Prime Minister highlighted the achievements of the Commission, which has *"by and large fulfilled its duty, and the question of its future will arise one day. But that day has not yet come"*. Accordingly, at a time when the downward trend in these claims is continuing (with an average of 11 new case files a month in 2018), the new momentum given for spoliated artworks ushers the CIVS into a new phase in its mission.

In 2019 a new Mission is due to be set up at the Ministry of Culture, as a future partner in the delivery of this policy. As early as the fall of 2018, the CIVS was already busy getting the new organization (the setup of which is explained in part two of this report) swiftly up and running. For this is another instance where time is of the essence: after more than 75 years, recognizing the victims and heirs of victims of spoliations, and endeavoring to make amends for the injustice and losses suffered.

The Commission (which, in 2019, will be renewed for five years as it celebrates its 20th anniversary) is gearing up for this new challenge: in addition to the nomination of four new Deliberative Panel members and designation of representatives of the Ministries of Culture and Foreign Affairs who will attend sessions, the CIVS is beginning a review of the way it is run and organized with a stronger workforce, acquiring new IT tools, launching a series of annual workshops in Bonn together with the *Institut français* (French Institute) and getting ready to engage in closer cooperation with the *Deutsches Zentrum Kulturguverluste* (German Lost Art Foundation).

The CIVS is reforming in light of the new challenges associated with the reparation of spoliations. Spurred on by the confidence its partners and victims' families place in it, the CIVS is changing for the better thanks to the dedication and expertise of its members, judge-rapporteurs and all of its staff.



Part one:

Reparations and memory

Reparations and memory

Nearly 20 years ago, by the Decree of September 10, 1999, the French authorities set up, under the Prime Minister, the Commission for the Compensation of Victims of Spoliation Resulting from the Anti-Semitic Legislation in Force during the Occupation (CIVS). This first part assesses its reparations mission after 19 years in existence (1).

Professor Anne Grynberg reminds us that the establishment of the CIVS goes beyond solely the material dimension: *"the specific fate of the Jews during the dark years is officially acknowledged by this political commitment to compensating the confiscations and looting committed against them. The CIVS' creation thus chimes with France's steps forward in terms of remembrance [...] on two key points: the specific nature of Jews' persecution and the responsibility of the Vichy regime."*¹ At the end of 2017, the Commission decided to step up its role in Franco-German remembrance efforts. The roll-out in 2018 of this measure, primarily overseen by the CIVS' Berlin-based team, is also presented in this part (2), which addresses the Commission's specific action regarding cultural personal property (3) and its technical and organizational developments (4) as well.

1 - Anne Grynberg, *La politique française de 'réparation' des 'biens juifs' spoliés : mémoire et responsabilité*, Yod, 21 | 2018

1/ Assessment of its reparation efforts

Since its creation back in 2000 up until December 31, 2018, the Commission has recorded 29,586 case files. 19,639 concern material spoliations, in the meaning of Decree No. 99-778 of September 10, 1999, and 9,947 bank-related spoliations. 896 have been closed because no duly completed questionnaire was received; 974 because they did not come within the Commission's competence, or owing to the default of claimants or abandonment of claim during review.

In 2018, the CIVS filed 129 new claims: 95 material claims and 34 bank-related claims, which corresponds to an average of 11 new claims a month.

Recommendations are made by the CIVS' Deliberative Panel, meeting in plenary session or subcommittee, or under the Chairman ruling alone procedure (see *inset*). In 2018, 15 hearings were held in a plenary session. They allowed for the examination of 37 case files. 15 hearings were held in subcommittee, during which 96 case files were examined. Lastly, 81 case files were examined under the procedure known as "Chairman ruling alone".

215 recommendations were made in 2018 (297 in 2017), 152 of which concerned material spoliations and 63 bank-related spoliations. The total amount of compensation recommended for this year amounted to **€16,473,776** at the State's expense (of which **€179,716** 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 portions reserved for heirs who are identified but not associated with the initial claim, and, on the other, following the examination 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.).

81 case files were examined according to this procedure in 2018.

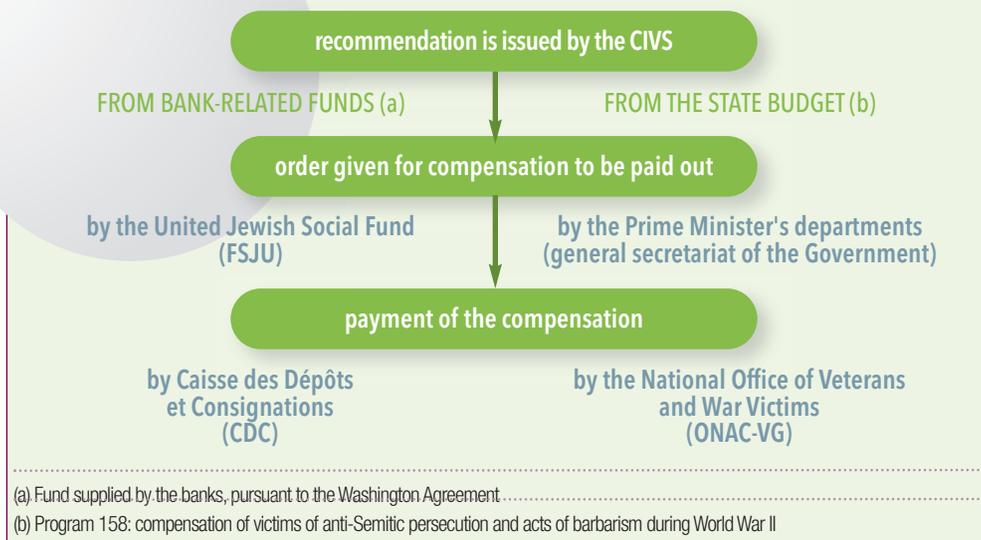
Among the 215 recommendations, 28 were rejected (particularly for unproven spoliation): 11 in the context of a material case file; 17 in the context of a bank-related case file. Finally, 77 recommendations for the collection of reserved portions were made (62 material and 15 bank-related)².

The reparations made by the CIVS for losses in 2018

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 pursuant to anti-Semitic legislation enacted during the Occupation³.

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.

DEPARTMENTS INVOLVED IN THE COMPENSATION PROCESS



2 - Readers are invited to consult Part Two of the 2017 Report to the public on the work of the CIVS for more details on the notion of "reserved portions", their implications and the specific measures taken by the CIVS in recent years to bring their significance down.

3 - Article 1 of Decree No. 99-778 of September 10, 1999 amended by Decrees nos 2000-932 of September 25, 2000 and 2018-829 of October 1, 2018.

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

The looting of apartments and refugee shelters⁴

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 Paris⁵. This "civil theft"⁶ 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 2018: €586,090⁷**

► **Total recommended in this respect by the CIVS since 1999: €160,925,900⁸**

Business and real property spoliation⁹

Economic aryanization is the 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 (Act of July 22, 1941), aimed at confiscating property belonging to Jews and banning them from practicing the majority of professions or trades. Under the authority of the General Commissariat for Jewish Questions (CGQJ), 50,000 businesses and buildings were¹⁰ "aryanized"¹¹ between March 1941 and June

4 - Fleeing their home, often in the occupied zone, to seek refuge in the so-called free zone or, for Alsace and Moselle residents expelled by the Nazis, or driven underground, Jews sought refuge in housing where some of them were arrested while others soon left to flee once again. Shelters are compensated for when they have been abandoned in this way.

5 - 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.

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

7 - Excluding shelters; jewelry included.

8 - Excluding shelters; jewelry included.

9 - The Commission does not recommend compensation for loss of earnings resulting from the spoliation of business. *The Conseil d'Etat* (Council of State) underscored this position (CE March 27, 2015: "where, as regards a business, the compensation must make amends for its definitive loss, with account taken of all tangible and intangible elements, the loss of earnings from the impossibility of operating should not be regarded as a spoliation of property for which compensation may be awarded").

10 - 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.

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

1944. These sales and liquidation operations were conducted by provisional administrators. Economic aryanization gave rise to spoliations valued at more than EUR 450 million¹². Moreover, numerous business assets were spoliated outside the framework of this procedure¹³.

► **Total recommended in this respect by the CIVS in 2018: €1,353,856¹⁴**

► **Total recommended in this respect by the CIVS since 1999: €171,947,049¹⁵**

Theft or forced sale of cultural personal property (including artworks 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)*¹⁶. The *ERR* seized works over a period of four years, targeting 200 prominent collectors. Numerous cultural and religious objects were also stolen from homes, and safe deposit boxes opened or broken into by the *Devisenschutzkommando*¹⁷ could also contain artworks. Overall, 100,000 artifacts and several million books were spoliated.

► **Total recommended in this respect by the CIVS since 1999: €50,466,976**

In 2018, the CIVS also recommended the restitution of *Carrefour à Sannois* (Crossroads in Sannois), a painting by Utrillo spoliated in 1940, in the collections of the Utrillo-Valadon Museum in Sannois at the time.

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

13 - Owing to prohibitions on practicing, tradespeople, craftspeople and professional service providers, with no choice but to flee and go underground, had to abandon their trades which were then subject to spoliation.

14 - Excluding shelters.

15 - Excluding shelters.

16 - Mission d'étude sur la spoliation des Juifs de France, *Le pillage de l'art en France pendant l'Occupation et la situation des 2 000 œuvres confiées aux musées nationaux*, Paris, La documentation Française, 2000, p. 17.

17 - The *Devisenschutzkommando (DSK, or Currency Protection Commando)* blocked, "regardless of nationality or faith, the foreign currencies and safe deposit boxes rented in banks. Its officers took over the premises of the Lazard bank in rue Pillet-Will. The blocked safe deposit boxes in the occupied zone were registered between the summer of 1940 and the spring of 1941 in the presence of the Occupying forces. Where the tenant had not returned the key, in the spring of 1941 they were prised open by force." (Mission d'étude sur la spoliation des Juifs de France, *Rapport général*, Paris, La documentation Française, 2000, p.78).

Carrefour à Sannois (Utrillo)



© Musée Utrillo-Valadon

Painted in 1936-1937, this artwork had been seized by the Nazis in Paris, and was bound for Göring's personal collection. The painting then changed hands several times. It re-emerged on the market during an auction at Christie's in 1975, before finding its way into a private collection in the Middle East. Sotheby's sold it at auction in London in 2004. The town of Sannois then acquired it for its Utrillo-Valadon Museum, unaware of its checkered history.

Invited to the plenary session of the CIVS Deliberative Panel on February 18, 2018, Sannois Town Council stressed its actions in good faith and undertook to follow the CIVS' recommendation.

The restitution of *Dedham from Langham*

The restitution on March 12, 2018 of *Dedham from Langham*, an oil painting on canvas by John Constable, brought to an end a long cycle of discussions in which the CIVS played its mediation role to the full.

Since 1894, this painting, dated 1820, had belonged to John and Anna Jaffé. Collectors and patrons, John Jaffé (1843–1934) and his wife Anna Gluge (1845–1942) had decorated their villa on Promenade des Anglais, in Nice, with a remarkable collection of artworks. A few months after Anna Jaffé's death, a provisional administrator was appointed regarding the property making up the inheritance. During the public auction at The Savoy Hotel, the quality and worth of the paintings in the "John Jaffé Collection" (which included *Dedham from Langham*), despite their undeniable prestige, were deliberately undervalued by the auctioneer in charge of the sale and by the people involved at the time.

Many years later, Alain Monteagle, representative of the Jaffé community of co-heirs, set about looking for the artworks that had belonged to the family. After submitting a claim to the CIVS, Mr Monteagle informed the Commission that the Constable had been found in Switzerland. The 1943 sales catalogue (featuring the photograph of *Dedham from Langham*) was located thanks to the inquiry that the CIVS conducted, and there was no longer any doubt that the Constable painting hanging in La Chaux-de-Fonds' Museum of Fine Arts was indeed the same artwork that had been sold in Nice in 1943. The Jaffé estate did not wish for compensation, but for the painting to be returned. Given the trust that the family placed in the Commission and the latter's complete knowledge of the case, the CIVS was able to follow it closely and support and advise the heirs throughout the process.

On April 28, 1986, La Chaux-de-Fonds General Council, in the Swiss Canton of Neuchâtel, accepted by statutory order the legacy of Madeleine Junod which included, among other items, *Dedham from Langham*. The Junods had purchased this painting in 1946 from the Moos Gallery in Geneva. The execution of this legacy led to the painting being transferred to La Chaux-de-Fonds' Museum of Fine Arts. The collection was then given its own gallery and the Museum was under strict instructions for it to remain there at all times.

Two decades later, in 2006, Mr Monteagle called for the painting to be returned on the grounds that the Jaffés' heirs were its rightful owners.

Under the Swiss Civil Code, the owner of a lawfully acquired work is not required to surrender it, whether it was spoliated or not. La Chaux-de-Fonds Municipal Council referred the case to the Federal Culture Office and two experts on the subject. Its decision was issued on September 9, 2009: the town was under no obligation to return the painting, citing legal, ethical and moral considerations by way of justification. Having acquired the painting in good faith, the town of La Chaux-de-Fonds was unquestionably its owner in the meaning of applicable

(i.e. Swiss) law. The latter held that compensation for the wrong endured lay squarely with France, which had recognized the spoliation to the detriment of the Jaffé Estate. The French State had to assume responsibility in this case, for which the town of La Chaux-de-Fonds could not be held accountable. Moreover, the Junod family had clearly stated that the works were to be exhibited in the same room and not to be separated. However, in light of the special conditions in which the work was acquired, the Municipal Council decided to put a plaque on display near the Constable mentioning that the work had belonged to the Jaffé collection.

Fast forward ten years, to January 15, 2016, and the Jaffé community decided to lodge an application for conciliation with the Montagnes and Val-de-Ruz Regional Court in the Canton of Neuchâtel. It reiterated its call for the painting to be returned.

In its report dated September 6, 2017, the Municipal Council recommended that the General Council agree to return the painting. Since Ms Junod's heirs had lifted the obligation prohibiting the town from parting with it and the referendum time-limit had passed, there was no longer anything standing in the way of the painting being returned to Ms Anna Jaffé's heirs. On September 28, 2017, the General Council voted unanimously in favor of its restitution. On March 12, 2018, the painting was at long last returned to the heirs of John and Anna Jaffé.

The restitution of *Dedham from Langham*, March 12, 2018 in La Chaux-de-Fonds



The CIVS' role. Once Maître Marc-André Renold, legal counsel to the Jaffé heirs, had lodged the application for conciliation, the parties tried to reach an acceptable agreement between January 2016 and September 2017. The town of La Chaux-de-Fonds and its Museum of Fine Arts, the Junod heirs and the CIVS all took part in the discussions alongside the Jaffé community. For Decree No. 99-778, which established the CIVS, authorizes it to exercise a mediation role (Article 2: "*The Commission shall endeavor to reach a conciliation between the parties involved.*"). Given France's responsibility in the conditions in which the artwork was sold in 1943, the CIVS' role and the stance it adopted were influential on the outcome of the case.

Meeting in a plenary session on January 13, 2017, the CIVS recommended paying the Jaffé community of co-heirs compensation in exchange for the actual return of the painting and the commitment by the parties involved to refrain from any action against France. What justified this compensation, when the painting could be returned? The CIVS' Deliberative Panel considered that, to carry out the negotiations with the town of La Chaux-de-Fonds and its Museum of Fine Arts, the Jaffé community must have incurred significant expenses, which it was improper to expect the heirs of victims of anti-Semitic spoliations to bear in their efforts to have the spoliated artwork returned. The Jaffé community was willing to pay this sum (which represented around a tenth of the painting's estimated worth) back to the Museum of Fine Arts in return for the painting's restitution, and as compensation for the costs borne in terms of its conservation and restoration. The Museum itself agreed to pay half of this sum back to the Junod heirs in exchange for lifting the inheritance obligation associated with the painting.

During the official restitution ceremony, which was held on March 12, 2018 at the Museum of Fine Arts of La Chaux-de-Fonds (a town recognized for its watchmaking past), the Municipal Council explained the reasons behind its change of heart: respecting the memory of victims of Nazi persecution, finding a solution that was both legally possible and honorable, protecting the reputation and honor of all stakeholders, not least of Mr and Mrs Junod, the Museum of Fine Arts and the Town, and avoiding a costly lawsuit.

After agreeing to return the Constable painting, the Museum of Fine Arts reached out to the Swiss Government to finance the search for other exhibited works.

The CIVS Chairman in La Chaux-de-Fonds, March 12, 2018



© CIVS

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, Compiègne, Les Milles and Rivesaltes). 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 2018: €304,849**

► **Total recommended in this respect by the CIVS since 1999: €21,798,958**

The confiscation of banking assets and consignment 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 Act 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 policies, banking assets and securities holdings) amounted to EUR 520 million¹⁸.

► **Amount recommended by the CIVS for insurance policies since 1999: €255,938**

► **Amount recommended by the CIVS for banking assets in 2018: €179,716 at the State's expense and €301,487 compensated at the expense of the banks¹⁹**

► **Amount recommended by the CIVS for banking assets since 1999: €10,611,136 at the State's expense and €45,139,942 at the banks' expense²⁰**

Supplements to previous compensation

Supplements to compensation awarded after World War II by the French (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. These compensation supplements concern the looting of housing, aryazation of businesses and looting of cultural personal property, since German compensation was usually capped at 50% of the value of the spoliated property.

► **Total recommended in this respect by the CIVS in 2018: €13,503,096**

► **Total recommended in this respect by the CIVS since 1999: €88,932,779**

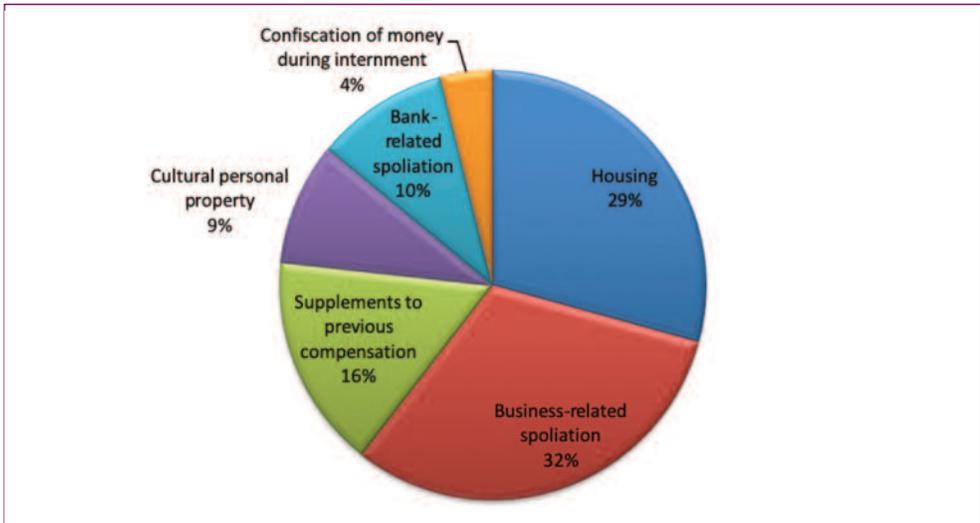
18 - Mission d'étude sur la spoliation des Juifs de France, *La spoliation financière. Volumes 1 et 2*, Paris, La documentation Française, 2000.

19 - Amount communicated by Caisse des dépôts et consignations.

20 - Amount communicated by Caisse des dépôts et consignations and the United Jewish Social Fund (FSJU).

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.

Breakdown of compensation recommended by the CIVS since 1999



Reparation of bank-related spoliations

The conditions for compensating bank-related spoliations are laid down by the Washington Agreement signed in 2001 between France and the United States²². "[...] a claim made by a claimant or a simple letter from the latter asking about the existence of a banking asset is sufficient to initiate a review procedure [...]"²³. Since the Commission began working, 9,197 claims have been sent in by claimants.

But another 750 case files created on the Commission's initiative also need to be added to this figure. For when, during the review of claims concerning material spoliations, documents reveal the existence of banking assets in the name of the spoliation victims or their firms, the Commission is obliged to operate beyond the scope of the Washington Agreement and to undertake bank-related research. An inspection of archive elements contained in the material case files has been performed systematically by the Commission since 2007.

Over 2018, **27 new bank-related files** referred by claimants were recorded by the Commission, versus 40 in 2017. At the same time, 7 additional files (10 in 2017) were created in the context of the archive document inspection procedure.

22 - For more information about the Washington Agreement, readers can refer to Part Two of the *2016 Report to the public on the work of the CIVS*.

23 - 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, Appendix B.I. – B.

Bank-related research

38 case files were studied or subject to supplementary research by the Bank-Related Claims Search Team in 2018, compared to 68 in 2017.

The research undertaken for 11 of them did not turn up anything. Seven of them were therefore rejected on the grounds of foreclosure attached to Fund B, since the referral post-dated February 2, 2005. The other four are likely to benefit from lump-sum compensation since the referral was submitted before February 2, 2005.

The other 27 case files proved the existence of 62 bank accounts, securities accounts or safe-deposit boxes (106 in 2017).

Breakdown by lending institution of the confirmed accounts ²⁴ in 2018	
La Poste Group	24.2 %
Société Générale S.A. Group	14.6 %
HSBC Group	11.3%
National Westminster Bank	11.3%
BNP Paribas Group	9.7%
Crédit Agricole S.A. Group	8.1%
Banque de France	6.4%
Crédit du Nord Group	4.8%
CIC Group	3.2%
Bank (unidentified corporate name)	1.6%
Foreign exchange broker	1.6%
BPCE Group	1.6%
UBS France	1.6%

For some of these case files, the Historic Archives of the banking institutions were consulted on some 15 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, this is likely to be withdrawn from the Fund A escrow account (which is supplied by banking institutions) 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 Agreement.

24 - Confirmed account: account identified at the end of the research.

Review of the case files

For **60 case files**, the bank-related investigations were closed in 2018, versus 68 in 2017:

- ▶ 17 of them (so 28% of these case files) had the simplified procedure applied to them in which the Chairman of the Commission rules alone;
- ▶ the 43 remaining case files were submitted to the Commission's Principal Rapporteur for their review by a judge-rapporteur.

Communication

On **July 25, 2018**, the Commission received representatives of plaintiffs – Professor Richard Weisberg and Mr Eric Freedman – as well as the French Ambassador for Human Rights, responsible for the international dimension of the Holocaust, spoliations and the duty to remember. This informal meeting was held in keeping with the Washington Agreement, which advises regular information and follow-up between the Parties.

The Commission also drew up 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. These documents were disseminated on June 15 and December 15, 2018.

The Washington Agreement

The Washington Agreement (Decree of March 21, 2001) governs the compensation scheme concerning bank-related spoliations implemented by the CIVS.

Two separate funds were created by the financial institutions for honoring the compensation likely to be recommended. The first fund, known as "the Deposit" (Fund A), with USD 50,000,000, is intended to compensate victims whose assets have been identified. The second fund, known as "the Fund" (Fund B), with USD 22,500,000, provides for a lump-sum compensation from the signature of an affidavit for referrals made prior to February 2, 2005 by victims or their heirs. The State budget is called on when the bank-related spoliatio occurred in the context of aryanization or sequestration of property.

The Agreement has been interpreted and amended over time by four exchanges of diplomatic letters, which have had the effect of increasing the lump-sum compensation amounts. For the Commission, each amendment has been followed by a revision of all of the bank-related case files to ensure compliance with the principle of fairness between claimants.

Since 2006, the date on which the last exchange of diplomatic letters took place, the compensation likely to be allocated is as follows:

- ▶ For a claim made before February 2, 2005, concerning a supposed spoliatio, the total compensation allocated is USD 3,000;
- ▶ Regarding confirmed assets, it should be noted that compensation is allocated for each identified account:

1/ Concerning a spoliatio suffered for a personal or professional account with an identified, adjusted, balance of less than USD 3,000, the total compensation allocated is USD 4,000;

2/ Regarding a personal or professional account with an identified, adjusted, balance of between USD 3,000 and USD 10,000, the total compensation amounts to USD 10,000;

3/ For a personal or professional account with an identified, adjusted, balance of more than USD 10,000, the compensation allocated corresponds to the adjusted amount in EUR.

A one-time lump-sum supplement of USD 15,000 has been set up for individuals recognized as being direct victims according to the Agreement's stipulations.

Figures related to programs for searching for heirs

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.

Since 2016, the CIVS has run programs for searching for the heirs of reserved portions. In 2018, these enabled 77 new recommendations for the collection of portions to be issued, 62 of which related to "material" claims. On December 31, 2018, the total amount of reserved portions pending payment amounted to €28,730,284 borne by the French State. It should be noted that a portion, amounting to €3,069,000, was reserved during a session held the month before, in November. This portion is set to be collected in the first half of 2019. The backlog of reserved portions, adjusted for this portion, amounted to €25,661,284 on December 31, 2018, **which is €638,954** less than on December 31, 2017.

A reduction can also be observed for bank-related claims. The amount reported by the United Jewish Social Fund (FSJU) is USD 1,897,629, versus USD 1,908,494 on December 31, 2017.

2/ The CIVS' role in Franco-German remembrance efforts

At the end of 2017, the CIVS decided to raise its profile in terms of Franco-German remembrance efforts. Implementation of this strategic guideline was included in the strategic plan of the CIVS Berlin branch and the 2017-2020 road map of this three-person team. Ms Adèle Fohr and Ms Rose Marengo were recruited as interns within the branch, and made an invaluable contribution to this work in 2018

The Berlin branch, the French Embassy's remembrance contact in Germany

On January 20, 2018, the CIVS Chairman, Director and Principal Rapporteur met with the French Ambassador to Germany to jointly look into what contribution the Commission's Berlin branch could make to the remembrance efforts undertaken by the Government departments in Germany.

Ever since it was founded, the CIVS has played a part in keeping the memory of the Holocaust, persecutions perpetrated by the Nazi regime and World War II alive. Through support of claimants and their families, archive research and the drafting of research reports, its teams work on piecing back together family memories that were, in some cases, completely or partially destroyed during the Occupation because of the anti-Semitic legislation and deportation. In this way, the CIVS' mission often involves providing victims' families with biographic details or clues as to the circumstances or scale of the crimes and spoliations. **From personal, family memories to social and collective remembrance**, the CIVS' endeavors must therefore be considered to make a key contribution to the reparation policies led by France.

In light of this finding, the CIVS Chairman in consultation with the French Ambassador to Germany decided that the CIVS Berlin branch would become the latter's contact in the remembrance sphere. With this responsibility comes a wide range of duties concerning remembrance of the Holocaust, Nazi persecutions and World War II: presenting France's efforts in terms of making amends for spoliations, expanding the network of remembrance stakeholders and experts, ongoing discussions with the German ministries, processing of invitations and requests sent to the Embassy, keeping up with the Franco-German remembrance agenda, organizing events dedicated to remembering the Holocaust and World War II, representing the CIVS and the Embassy during commemorative events, panel discussions or receptions in Germany, producing specialist content for the Chancery (select team of diplomats inside the Embassy's Political Section), assisting French ex-prisoners of war associations in Germany. This role works in both an inter-department and cross-government manner. Within the French Embassy in Berlin, the CIVS branch particularly shares this remit with the Chancery and the cultural department.

Three priorities underpinned this varied and constructive activity in 2018: (a) development of new ways of imparting and handing on memories when the number of years separating us from such events is growing and the voices of the last remaining witnesses are leaving us (b) development of links between remembrance sites in France and Germany – promotion of the Camp des Milles Foundation in Germany, for example (c) identification of and support for direct witnesses and their descendants.

The CIVS Berlin branch has stepped up its representation activity, some notable examples being: the commemorations of the liberation of the Ravensbrück and Sachsenhausen camps, inauguration of an exhibition at the Berlin-Schöneweide

memorial, laying of wreaths at various commemorative events in Berlin and Brandenburg, participation in a panel discussion organized by the International Holocaust Remembrance Alliance and participation in a conference held by the Anne Frank Foundation.

The branch was particularly called on in November 2018 for the 80th anniversary of the anti-Semitic pogroms of 1938. It also helped to put together the program of events dedicated to the Centenary of the 1918 Armistice – a key date in the Franco-German remembrance agenda: in Germany, the end of World War I is associated with the rise of National Socialism (Nazism), and it was therefore important for the branch to help demonstrate the links between the remembrance themes, which have tended to be regarded separately in the past.

Event organization

"Je suis encore là", conference-testimony event (April 20, 2018)

On April 20, 2018 at the French Embassy in Germany, the CIVS organized a conference-testimony event given by Ms Lili Leignel, a Holocaust survivor. Entitled "*Je suis encore là*" (I'm still here), the conference was named after the book she had published the previous year²⁵.

On October 27, 1943, Lili Leignel, just 11 years old at the time, was arrested with her family in Roubaix by the German military police on account of being Jewish. Lili was then deported to Ravensbrück concentration camp where she remained imprisoned from December 1943 until February 1945 together with her mother and two younger brothers. They were all then transferred to Bergen-Belsen concentration camp where "death would sometimes have been preferable to day-to-day life".

Before a 200-plus audience, mainly made up of French and German secondary school students together with their teachers, as well as representatives of remembrance sites and German politicians, Ms Leignel described the life of a Jewish family threatened and persecuted during the Occupation, as well as deportation, her day-to-day life in the concentration camps and her life's path after the war, as an activist dedicated to "imparting memories" and against revisionism.

This conference was associated with an educational project designed together with the Lycée français in Berlin. At the turn of 2018, the CIVS branch in Berlin

25 - Lili Leignel, *Je suis encore là*, COPYMEDIA, 2017.

began meeting with students in class 9b (equivalent to Year 10) and their form teacher Ms Fanny Lebonhomme so as to start preparing for the event: reading the book by Ms Leignel, designing set displays for the evening and preparing questions. On April 20, supervised by the CIVS Director and members of the Berlin branch, five students opened the conference and moderated the debates, nurturing **intergenerational ties** that are crucial for passing on the memory of the Holocaust.

Since the auditorium could not accommodate everyone who signed up to attend, the CIVS organized for rolling coverage of the conference to be aired on screens set up in the Embassy's interior courtyard. It was an opportunity for many participants to learn about the CIVS and what it does.

"Entre Collaboration et Résistance", panel discussion on World War II remembrance in France (May 24, 2018)

This panel discussion was organized by the CIVS in conjunction with the Chancery (select team of diplomats inside the Political Section of the French Embassy in Germany) and the "standing conference" (*ständige Konferenz*) of the Berlin and Brandenburg memorials bringing together the following institutions: Memorial to the Murdered Jews; Topography of Terror; Brandenburg Memorials; German Resistance Memorial Center; House of the Wannsee Conference.

In addition to cementing a Franco-German network of experts dedicated to remembrance, the panel discussion was expected to probe the French and German policies addressing Holocaust remembrance, including the mission entrusted to the CIVS.

Opened by a keynote speech given by the French Ambassador to Germany, the discussion then continued with a presentation of the CIVS' work by its Chairman, not least the contribution it makes to remembrance efforts as regards the Holocaust and World War II, through research by historians, financial compensation and the restitution of property, but also through international relations, chiefly between France and Germany, serving as the basis for **differentiated yet shared remembrance**. The CIVS Chairman then went on to talk about several key thrusts that shape the CIVS' work: the close dialogue with the descendants of deported Jews to help piece back together family memories, with access to archives and recording of a history that Nazism was bent on erasing completely, the development of European partnerships, since provenance research must be improved by sharing methods and information, and last but not least, building bridges between remembrance efforts and State policies. The Chairman invited the experts in attendance to share their questions and

comments on the report of the CIVS' work.

Before some 200 people, primarily stakeholders working with remembrance sites in Germany, but also academics and representatives of Holocaust victims, the discussion then progressed with guidance from the three guest speakers of the CIVS and the Embassy. Mr Günter Morsch, Director of the Brandenburg Memorials, moderated and informed the discussion, while Ms Frédérique Neau-Dufour, Director of the European Centre on Resistance and Deportation (Natzweiler-Struthof) and Ms Mechthild Gilzmer, Professor at Saarland University and specialist in remembrance questions, answered questions from an informed and enthusiastic audience. The themes of competitive remembrance, the specific nature of the Holocaust, the myth of "*France résistante*" (the dominant narrative constructed to project an image of the nationwide French Resistance movement), of cross-border cooperation between remembrance sites, of the central role of French societies of friends or the new methodological challenges posed by the advancing years separating us from these historical events were touched on in particular.

Screening and discussion around the film "*Die Unsichtbaren*" (The Invisibles) (October 30, 2018)

A few days ahead of the commemorations on the anti-Semitic pogroms of November 9, 1938 (The Night of Broken Glass), which marked the beginning of the mass deportations and assassinations foreshadowing the Holocaust, the CIVS organized a thematic evening event at the French Embassy in Germany on Nazi persecution of the Jews in Berlin.

During the first part of the evening, the film "*Die Unsichtbaren*" (The Invisibles) was screened, in the presence of Ms Hanni Lévy, an eyewitness from the period whose story is told through one of the film's leading roles; Claus Räfle, the film's director; and Mr Max Mauff, one of the film's cast members.

This docufiction, which had not yet been released in France at the time, met with critical acclaim in Germany. It tells the true story of the destinies of four young Jews from Berlin. To survive persecution and deportation, Cioma Schönhaus, Ruth Arndt-Gumpel, Hanni Lévy and Eugen Friede managed to hide in plain sight without leaving Germany. "The Invisibles" refers to these German Jews who, with the help of fellow citizens opposed to the regime, managed to conceal their identity and play an active part in the German Resistance against Nazism.

With the CIVS Director, Hanni Lévy (who became a French citizen after the war) and her family in attendance, France's Ambassador to Germany opened the evening by underscoring the commitment of the French Government's

departments, the CIVS among them, to stepping up efforts regarding Holocaust remembrance and **honoring eyewitnesses**, before paying tribute to Ms Lévy, whom the CIVS had invited to Berlin, with these words: *"Ms Lévy, your courage in the face of Nazi terror, your Resistance efforts, your dedication in the years immediately following the war to advancing Franco-German reconciliation and the poignancy of your testimony among young people are the sea walls providing shelter for our consciences and protecting civilization. By your presence and your testimony, you contradict these ideas and these words that we should no longer be hearing, eighty years after the pogroms of 1938."*

Moderated by the journalist Pascal Thibaut (RFI), a panel discussion, in which Hanni Lévy and Claus Räfle took part, was then held during the second part of the evening. It provided constructive food for thought, mainly informed by the many questions asked by the young participants. Nearly 200 people – schoolchildren, students, experts on the Nazism period, representatives of Jewish communities in Germany – all listened attentively to Hanni Lévy's testimony, which was grounded in a precise, factual and historical description of her experience and inspired by a desire for reconciliation between France and Germany. A Jew originally from Berlin, who emigrated to Paris and has been a French citizen for several decades now, Ms Lévy spoke about the persecution of Europe's Jews under Nazism, as well as the challenges they faced settling back into society after the war – not least for a young German woman arriving in the French capital in 1946.

Invitation to the screening and discussion evening



The CIVS Director and Berlin branch assisted Hanni Lévy and the members of her family who accompanied her during their stay in Berlin from October 29 to 31, particularly during a video documentary uploaded to the Embassy's website, interviews with the German, French and Spanish media and talks with the Ambassador.

Preview screening of "La promesse de l'Aube" (Promise at Dawn, November 29, 2018)

At the preview screening of the feature film "*La promesse de l'Aube*" (Promise at Dawn, inspired by the eponymous autobiographical novel written by Romain Gary), during the Berlin French Film Week at the Cinéma Paris/Institut français de Berlin, on November 29, the CIVS branch had an opportunity to talk about what the Commission does. A subtle exploration of the stigma and persecution French Jews face – especially low-income families who had emigrated from Eastern Europe, as was the case for Romain Gary and his mother, the film provided a thematic setting for presenting the CIVS' work.

In addition to organizing a time of discussion with the audience (around 120 people), ahead of the screening the branch contributed to a training seminar for forty or so young German teachers of French and history, by presenting the backdrop against which the CIVS was founded, its missions and its achievements, and delving into the more specific issue of cultural property spoliated during the Occupation. The Franco-German remembrance agenda was also presented in view of future cooperative events with schoolchildren.

Thanks to the CIVS' contribution to the "remembrance" thematic evening during the Berlin French Film Week, plans for two new initiatives were outlined: first, the *partnership with the Institut français* in Germany paves the way for a presentation of the French reparations policy during cultural events; second, this cooperative opportunity lay the groundwork for the joint organization of a workshop on Nazi-looted art, scheduled for February 2019

Seminars in Wannsee

In March and April 2018, the CIVS was invited through its Berlin branch to present France's reparations policy at the House of the Wannsee Conference. This was organized with two different audiences in mind: workshops for schoolchildren on

the one hand, and seminars for high-ranking German officials on the other.



House of the Wannsee Conference

© A. Savin, Haus der Wannsee Konferenz, 2014

CIVS workshops for French- and English-speaking schoolchildren

Prepared together with the educational staff at this memorial, this workshop was designed to form part of French- and English-speaking pupils' visit to the permanent exhibition of the House of the Wannsee Conference. Tailored towards this young age group, the workshop mainly explained the role that France played in the deportation and spoliation of Jews. At the end of the workshop, the CIVS Berlin branch answered the children's questions, which particularly bore on the historical context in which Aryanization took place in France or on how the CIVS goes about its work.

CIVS seminar for high-ranking German officials

The series of seminars aimed at German ministerial staff was called *Verwaltungshandeln und Verantwortung im Spannungsfeld von Rechtsstaat, Allgemeinwohl und dienstlicher Pflicht* (Between the Rule of Law, the Common Good and Officials' Duty). It was particularly aimed at **raising high-ranking German officials' awareness** – Heads of Section and Department for the most part – of the

history of the Holocaust, Nazi persecutions and World War II. The purpose was also to encourage the officials to think about their professional practices, examine the notions of accountability and duty, analyze certain administrative tendencies and shine the spotlight on unsung aspects of contemporary history such as the reparation procedures implemented in Germany and France after the war. The CIVS led a seminar entitled **Wirtschaftspolitische Dimensionen von NS-Verbrechen, Staatsverantwortung und Entschädigungsfragen in der Nachkriegszeit** (The politico-economic dimension of Nazi crimes; State liability and the question of compensation after the war), which lasted for about two hours. The following points were addressed: 1- Historical contextualization: Aryanization in France during the Occupation; 2- The main reparations legislation and policies in France and Germany: critical analysis since 1945; 3- State liability and creation of the CIVS; 4- Organization, structure and mandate of the CIVS; 5- The issue of personal cultural property: provenance research and restitutions; 6- Case studies.

In addition to presenting France's policies in terms of making amends for the crimes of the Vichy Government and Nazism, the seminar explained the Commission's governing structure, which participants were by and large unfamiliar with: independence of its Deliberative Panel, proceedings are cost-free, combination of expertise, activity data, mediation role. After this initial series of seminars, it was decided that this cooperation with the Wannsee Memorial would take place again in 2019.

The Wannsee Conference

- ▶ The Wannsee Conference was convened on January 20, 1942 by Reinhard Heydrich, Head of the *Reichssicherheitshauptamt* (RSHA - Reich Security Central Office). 15 participants were invited to a villa located *am Großen Wannsee 56-58*, on the outskirts of Berlin, including SS high-ranking officials, senior officers of the NSDAP (Nazi Party) and several representatives of the Occupying authorities (this villa houses the Memorial today). The meeting lasted about 90 minutes. The agenda was codenamed *Endlösung der Judenfrage* (Final Solution to the Jewish Question): its aim was to organize the complete extermination of Europe's Jews via systematic mass assassinations. Although the assassination of Europe's Jews was not explicitly decided at Wannsee, since the participants did not have the requisite authority, the conference proved to be a historically defining moment as the delivery, coordination and organization of the genocide plan were all discussed at it.
- ▶ By the time this conference took place, more than 500,000 Jews had already been murdered by the Nazis and collaborating authorities. During the previous fall (1941), Polish Jews in Chelmno/Kulmhof had already been systematically executed by a *Sonderkommando* using vehicles filled by diesel exhaust fumes, a prototype of the gas chambers, while an initial "extermination station" had been built in Belzec. Deportation of Jews under the Reich was already well underway too.
- ▶ At Wannsee, Heydrich sought to inform all of the competent administrative and police authorities of the scale of the deportation plan and the methods deployed. On this occasion, Heydrich particularly announced that certain categories of the Jewish community, including the *Halbjuden* (Half-Jews), "privileged" members of Theresienstadt (also known as the Terezin ghetto), would henceforth be systematically deported towards the camps in Eastern Europe. None of the participants contested the program - whether in terms of its purpose or the methods. Heydrich thus positioned himself as the chief decision-maker behind the Final Solution with respect to the key figures of the Party and ministries whom he sought to bring on board.
- ▶ The Wannsee Conference marks the decisive moment when all of the German leaders overseeing the State apparatus learned of the details of the Final Solution. The Conference agreement was cited as evidence during the Nuremberg trials and Eichmann trial.

Observational activity

The Berlin branch also plays an observational role in Germany on subjects that are of interest to the Commission; the intelligence it gathers in this respect is informed by targeted **monitoring of topical issues** and the events in which the branch takes part. Observation of the administrative landscape, institutional context and debates in Germany goes hand-in-hand with analytical work.

Such intelligence has the following themes as its focus: 1- Remembrance in terms of the Holocaust and World War II; 2- Provenance research and restitution of spoliated cultural property; 3- Political context in Germany (especially anti-Semitism and remembrance policy).

Although mainly intended for the CIVS, this information is also made available to other Government departments depending on specific requests and themes.

3/ Spoliated cultural property: sharing expertise

Although spoliations of cultural property only make up about a tenth of the CIVS' case files, the Commission is devoting increasing time and effort to their cause. This is not solely the case in France, incidentally: across several European countries, the question of spoliated artwork is coming under particular scrutiny on the part of the public authorities, researchers and public opinion. Over and above the restitutions of artworks in which the CIVS played a role, those for which it recommended compensation and the efforts invested in setting up the new organization for the restitution of cultural property (the subject of Part two of this report), in 2018 the Commission conducted a special study on spoliated musical instruments and took part in international events aimed at sharing information and best practices.

Research on spoliated musical instruments

In April 2018, the CIVS decided to conduct a study as part of a partnership with the association *Musique et spoliations*. This association is committed to filling **the current gaps in knowledge and research where spoliated musical instruments are concerned**, which exist because these are more difficult to trace and identify than artworks²⁶.

The association had reached out to the CIVS for information about musical instruments for which the Commission had paid out compensation, and this task was entrusted to Ms Daphné Schoch, an intern recruited especially for the mission. It involved examining a sample of 150 CIVS case files mentioning one or more musical instruments. A database was created to compile the information contained in these files: the type of instrument, its make, serial number, description ... as well as the date and place of the spoliation and any claims for restitution after the war.

26 - See the association's website <http://musique-et-spoliations.com/> for more details.

In September, this deliverable was submitted to the *Musique et spoliations* association. With the claimants' agreement, the association engaged in in-depth research on this basis

The CIVS during the *Mittagsgespräche* of the Austrian commission for provenance research (October 5, 2018)

The *Kommission für Provenienzforschung* (Austrian commission for provenance research) invited the CIVS to come and present its work during the *Mittagsgespräche*, a series of conferences on provenance research and the restitution of spoliated cultural property.

On October 5, the head of the CIVS Berlin branch gave a presentation in one of the ballrooms of the former imperial palace in Vienna, with some forty people in attendance: museum curators, provenance researchers and ministerial employees from Austria for the most part. The presentation sought, on the one hand, to give an insight into the CIVS, its mission, how it is organized and what it has achieved and, on the other, to outline the future French system for the restitution of spoliated cultural property.

The audience paid particular attention to the details of the CIVS' procedures and actions, the specificity of MNR works²⁷, the parallels between the Austrian commission and the CIVS and the future Mission for Research and Restitution at the French Ministry of Culture. The scale of the French reparation system was highlighted and questions were asked about the characteristics of the future organization: would the Government be able to conduct research on private collections? Would collective claims be admissible? Would claims only be allowed from French nationals? Would there be a time-limit set for submitting claims?

27 - 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 found 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.

The presentation during the *Mittagsgespräche* by the head of the CIVS Berlin branch



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"Nazi-confiscated property— overcoming distrust" (October 10, 2018)

Organized in Berlin by the *Deutsches Zentrum Kulturgutverluste* (German Lost Art Foundation/DZK)²⁸, the round table "Nazi-confiscated property: overcoming distrust" brought together some 25 participants alongside this foundation: other German cultural foundations, law firms, museum curators, librarians, representatives of victims' and heirs' associations and German ministerial staff.

The organizers' aim was to **promote trust-based cooperation between the main stakeholders involved in provenance research and restitution** of Nazi-spoliated cultural property: discuss the Washington Principles by analyzing the concept of a "fair and just solution" from an ethical and legal point of view, encourage dialogue between stakeholders unaccustomed to liaising and develop international cooperation.

28 - *The Deutsches Zentrum Kulturgutverluste* and its cooperation with the CIVS are described in detail in Part one of the 2017 *Report to the public on the work of the CIVS*.

The CIVS representative took part in the debates and presented the future process that France has defined for fostering the restitution of spoliated cultural property, particularly providing food for common thought on how access to compensation and restitution for heirs can be facilitated and dialogue can be nurtured with families, on raising public and collectors' awareness of the question of provenance, on developing interaction with academia which, in Germany, is turning provenance research into a new academic specialism, and on improving statistics and sharing information.

For the CIVS more specifically, the round table was an opportunity to talk with lawyers in view of the submission of new claims²⁹, with academics and experts on provenance research, as well as to enhance ties with the associations representing victims and heirs, including the Commission of Looted Art and Jewish Claims Conference.

Presentation at the University of Geneva (May 18, 2018)

The head of the CIVS Cultural Personal Property Unit gave a presentation at the University of Geneva on May 18, 2018 during the seminar "*D'où viennent les œuvres d'art?*" (Where do the artworks come from?) facilitated by Ms Ines Rotermund-Reynard, an art historian. The CIVS' work was presented, illustrated by examples of restitution cases. With foreign students in attendance, the subject of the duty of remembrance in other countries came up – particularly Italy and the United States.

A bolstered mediation role

Through its Berlin branch, the CIVS is called on to **facilitate dialogue** between the French and German ministries on the subject of identifying or returning works: translation of official documents, collection of documents missing from a case file, monitoring of requests on the part of the CIVS or French Embassy in Berlin.

In 2018, for example, the CIVS liaised with the *Zentral- und Landesbibliothek Berlin* to bring about the restitution to various French government departments of a series of artworks spoliated in France during the Occupation. The branch has also got involved in monitoring restitutions to French nationals. In these situations, it has the responsibility of ensuring that the restitution procedure goes smoothly, in close conjunction with the German authorities, and of checking the status of the heirs upon delivery of the artwork. Accordingly, in 2018 the CIVS

29 - For the record, legal counsel is not a requirement for referring a case to the CIVS. All claimants have the option of submitting their claim alone.

cooperated with the German Federal Commissioner for Culture and the Media's office on the restitution (which took place on January 8, 2019) of Thomas Couture's painting *Portrait of a seated woman* to Georges Mandel's heirs.

On a final note, the CIVS Berlin branch transfers to France requests from German researchers bearing on claims submitted to the CIVS, figures of the art market during the Occupation, MNR works or spoliation victims on French soil.

4/ A Commission reforming for the future

To enable the Commission to address the new issues arising out of its activities, and to enhance its work and its operating conditions, efforts have been invested in recent years to renew its resources.

In 2018, these particularly focused on organizing the service and developing new tools.

New organization, new processes

Merger of the Bank-Related Claims Search Team and Hearings Secretariat (September 2018)

Following the signature of the Washington Agreement on January 18, 2001, the CIVS set up a department dedicated to monitoring the reparation of bank-related spoliations: the Bank-Related Claims Search Team, which conducts research in this sphere, vouches for all of the assets rediscovered and, depending on the case, either puts forward a recommendation for the Commission Chairman ruling alone or submits the case file to a judge-rapporteur for review.

On September 1, 2018, this team was merged with the Hearings Secretariat, which is responsible for organizing and running the sessions during which claims are examined and recommendations adopted. The Hearings Secretariat has the task of registering case files once their review is complete; it drafts the agenda for each session, monitors the deliberations and writes up the corresponding recommendations. This unit also tracks down the heirs of reserved portions³⁰.

More refined statistical monitoring, shorter production timeframes, guaranteed legal monitoring and progress in the search for heirs are the targets assigned to the new department following this merger.

30 - For more information about the search for heirs, readers can refer to Part two of the *2017 Report to the public on the work of the CIVS*

Adaptation of the Research Coordination Department to the Decree of October 1, 2018

The CIVS Research Coordination Department has a role to play right at the start of the compensation procedure, by processing the questionnaires and overseeing the research necessary for the judge-rapporteurs to review these claims prior to examination in the Commission. It consults the archive centers to find out what has been spoliated on account of anti-Semitic legislation and what compensation has already been granted. Since 2016, it has also initiated searches for heirs as soon as a case file has been opened.

There has been a department reshuffle in light of the Decree of October 1, 2018 and of the closure of the unit that had hitherto been in charge of cultural property spoliations³¹.

The two staff members who report to the department director have been assigned more specific remits:

- ▶ the first is now the Commission's main contact person for spoliated cultural property, and the correspondent of the Mission for Research and Restitution set up at the French Ministry of Culture in 2019;
- ▶ the second, also in charge of the Commission archives, is now the main contact person for family history and genealogy research.

Following an assessment on the department's internal practices, new procedures incorporating these new roles have been drawn up.

Charters to update relations with the archive branches

During the review of case files, **consultation of archive collections is of paramount importance**. Right from the outset, the CIVS thus set up three archives teams:

- ▶ the National Archives Team, located at Pierrefitte-sur-Seine today (2 staff members);
- ▶ the Paris Archives Team, in Paris' 19th arrondissement (1 staff member);
- ▶ the Berlin branch within the French Embassy there (3 staff members).

These three CIVS units work directly with the Commission's other departments, particularly the Research Coordination Department, which coordinates and plans the research to be done on case files under review. Relations between these teams and the other departments have altered in recent years, however, in terms of the coordination procedure (establishment of regular progress reports and research monitoring and programming tables for example) or the communication methods

31 - See Part two of this report.

(introduction of "zero paper" target in document transfers, use of a collaborative platform). They have also been altered by changes in the departments' respective resources and remits, including bolstering of the Research Coordination Department to carry out searches for heirs prior to case file reviews, scaling up of the Cultural Personal Property Unit and cutback in the teams' working hours.

During the 2017/2018 winter, the Research Coordination Department oversaw the drafting of charters to clarify or redefine relations with each of these branches. Reference documents and inventories of practices, they are aimed at clearing up any questions that emerge within the teams, and at helping to settle special cases and unprecedented situations.

They are expected to be revised in 2019 to factor in the changes introduced by the Decree of October 1, 2018 and, more broadly, by the new organization mapped out concerning the restitution of spoliated cultural property.

New IT resources

TED-CIVS: a database for spoliated paintings and drawings (2018-2019)

In 2017, the CIVS decided to create a central database for information regarding the paintings and drawings mentioned in its case files **so that this would be easier to access.**

The Commission often receives requests from institutions, researchers, lawyers or dealers, in France and abroad, you see, to find out whether a spoliation claim has been made about an artwork.

Since January 2018, Ms Axelle Malavieille, an archivist with a degree in "Documentary resources and databases" specially recruited for this project, has been analyzing the Commission's case files and compiling a single database which will feature nearly 7,000 artworks. The project is due to continue through until June 2019, and this so-called TED database should be available online later that fall.

Plan to overhaul the CIVS Database (2018-2019)

The need to upgrade the CIVS Database was identified back in 2015. **The central tool** in the Commission's operations (bringing together as it does information pertaining to all of the case files handled, from submission of the claim to adoption of the recommendation), this Database nevertheless functioned using outdated software and obsolete technology, proving particularly problematic where the tool's maintenance and upgrades were concerned. In 2018, the strategic IT committee of the Prime Minister's office approved the Commission's request for a Database upgrade.

Homepage of the CIVS' future Database



From the definition of functional specifications through to deployment, the project is set to take nearly a year – with delivery scheduled for the fall of 2019. At the Commission, Mr Richard Decocq, in his role as chief project contractor, is overseeing this project and, as the CIVS correspondent in this respect, he is the contact person for the service provider³² and the information systems division of the Prime Minister's office; he organizes and oversees the work of the internal project team set up. He is also responsible for ensuring that the new solution complies with the General Data Protection Regulation (GDPR)³³.

The new software, which is more scalable than the previous, will be adaptable to the changes in practices pursuant to the Decree of October 1, 2018.

32 - CGI, the ministerial contractor for software maintenance.

33 - Regulation (EU) 2016/679 on data protection – which amends the French Data Protection Act dating from 1978 – came into force on May 25, 2018.

The CIVS' means in 2018

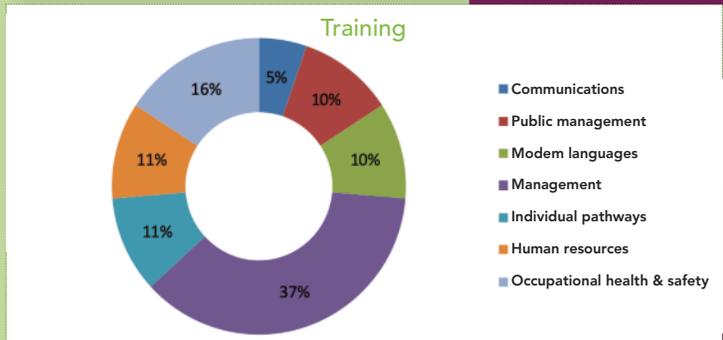
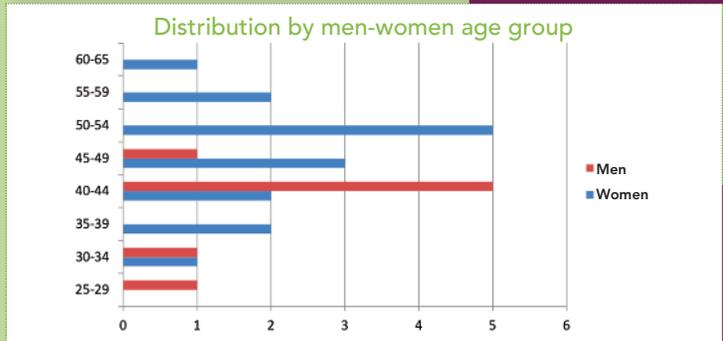
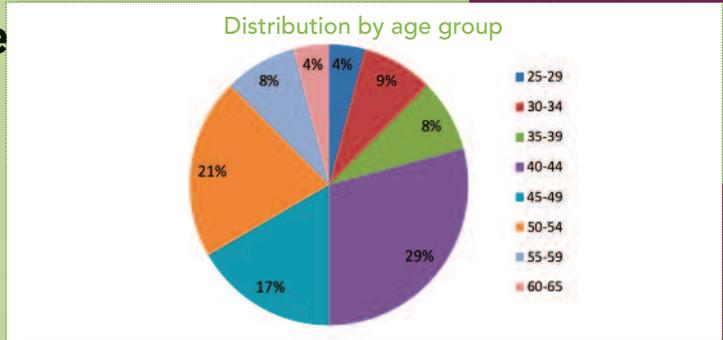
23 permanent staff members

71% on Civil Service contracts

Average age: **45**

66% women

19 training sessions delivered



Judge-rapporteurs

In 2018, **12** 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	2018 budget:	€1.75m
	Consumption:	€1.64m
	<i>of which Paris:</i>	<i>€1.52m</i>
	<i>Berlin:</i>	<i>€0.12m</i>
	Employment ceiling	23 FTE
Operating expenses	2018 budget:	€0.28m
Intervention expenses (compensation appropriation)	2018 budget:	€7.00m

Speech by the French Prime Minister Edouard Philippe, on July 22, 2018, at the commemoration of the Vel' d'Hiv' roundup (July 16, 1942).

Excerpts

"From words, the Republic moved on to deeds: the setup in 1997 by Alain Juppé's Government of the Jean Mattéoli fact-finding mission on the spoliation of France's Jews; and the creation, two years later, by Lionel Jospin's Government of the Commission for the Compensation of Victims of Spoliation. [...]

Today, this Commission has by and large fulfilled its duty, and the question of its future will arise one day. But that day has not yet come. This is an area in which we have a duty to do better: that of the restitution of spoliated cultural property. You are all aware that, in collections nationwide, there are myriad artworks of which Jews were despoiled during the Occupation. Property that the State has not yet fully identified, much less returned. I do not underestimate the practical difficulties encountered in such operations. But we cannot be satisfied with this situation. This is about honor. About dignity. Respect for the victims of these spoliations, their memory and their descendants. This is why I have decided to confer a new competence on the CIVS [...]

I have also tasked the Ministry of Culture with reviewing these case files directly, and with playing a much more active part in these restitution efforts, rather than leaving this duty to the public cultural institutions."

Decree No. 99-778 of September 10, 1999 establishing the CIVS, amended by Decree No. 2018-829 of October 1, 2018.

Article 1-1

"The Commission shall also be competent to propose to the Prime Minister, on its own initiative or at the request of any relevant person, any necessary restitution or, failing that, compensation measure, in the event of cultural property spoliations that occurred due to anti-Semitic laws in force during the Occupation, particularly when such property has become part of public collections or was recovered by France after World War II and placed since then in the safekeeping of national museums."

Article 1-2

"At the request of any relevant person, the Commission or on his own initiative, the Minister of Culture shall review the cases of cultural property spoliations mentioned in Article 1-1, particularly by searching for their owners and their heirs."



Part two:

New prospects
for spoliated
cultural
property

New prospects for spoliated cultural property

In 2018, fresh momentum was given to the identification and restitution of spoliated cultural property.

Following the speech given by the Prime Minister on July 22, 2018 at the commemoration of the Vel' d'Hiv' roundup, a new organization was set up to boost efforts regarding the restitution of such property (I). In this organization, two departments are now responsible for delivering this policy: a Mission set up at the Ministry of Culture conducts research aimed at identifying and returning cultural property; on the basis of this research, the CIVS, bolstered in its role since Decree No. 2018-829 of October 1, 2018, puts forward proposals for compensation measures to the Prime Minister: restitution or compensation.

At the same time, the CIVS has mapped out and proposed to its European counterparts an organization for working together and encouraging the sharing of information and best practices (II). Indeed, searching for looted artworks is an immensely difficult task, and cross-border cooperation should help efforts in this regard. This principle was established at an international conference held in London in September 2017. One year later, five advisory panels have decided to put this idea into practice.

This progress comes against the particular backdrop of the 20th anniversary of the Washington Conference Principles on Nazi-Confiscated Art, celebrated at an international conference in Berlin from November 26 to 28, 2018.

The anniversary of the Washington Principles highlighted both achievements and shortcomings

The Washington Principles stem from a Declaration signed on December 3, 1998 by 44 nations, including France, Germany and the United States, bearing on the restitution of Nazi-Confiscated Art, with precedence being given to "fair and just" solutions. The Governments endorsing these Principles also committed to systematically examining the provenance of their public collections, raising the awareness of civil society and private collectors and developing international cooperation. The Washington Principles have no legal binding force, however: they are moral principles, providing guidance in terms of restitution best practices.

Keynote address by Laurence Sigal, member of the CIVS Deliberative Panel, on November 27, 2018, at the Conference on the 20th anniversary of the Washington Principles



© CIVS

Between November 26 and 28, 2018, a conference convened in Berlin by the *Deutsches Zentrum Kulturgutverluste* (German Lost Art Foundation/DZK) endeavored to assess progress to date in terms of these practices. Before an audience of some 750 attendees – institutional stakeholders, academics, experts in history of art, the history of Nazism and provenance research, representatives of Jewish communities from Germany, Israel and the United States, Holocaust survivors and their families, associations of heirs from Germany and the United States (Jewish Claims Conference, World Jewish Congress, etc.), lawyers specializing in heritage law and representatives of the diplomatic corps – several speakers delivered a stern assessment of the restitution policies implemented in Europe. Opening the conference, Ambassador Ronald S. Lauder, President of the World Jewish Congress, gave a rundown of what most of the countries that endorsed the Washington Declaration have been doing, and adopted a particularly

critical tone regarding France and Germany. As the main author and negotiator behind the Washington Principles, Ambassador Stuart Eizenstat outlined a certain number of proposals: step up international cooperation, develop the digitization of catalogs, increase the resources dedicated to provenance research, consider private collections, facilitate the processes heirs have to go through, cut case file processing times and make the basis of governmental decisions apparent. In France's case, he presented a more balanced picture, commending the work of the CIVS as well as the plans to set up a Mission for Research and Restitution at the French Ministry of Culture, but with three major expectations attached: a) amendment of the heritage code so as to remove artworks that have been identified as spoliated from public collections b) swifter examination of MNR works c) more systematic application of provenance research to artworks from public collections.

The French Ambassador to Germany acknowledged the inadequacy of France's efforts to date which, whilst meaningfully directed towards identification and restitution, were belated. This forms the basis underpinning the Prime Minister's decision to reorganize the French policy bearing on the restitution of spoliated cultural property, by broadening the CIVS' remit and creating the Mission for Research and Restitution. The Ambassador also announced the future signature of a cooperation agreement between both these two structures and the DZK. During a working meeting on the conference sidelines, with Ambassador Eizenstat and the representatives of the Jewish Claims Conference, the French delegation (CIVS Director and Principal Rapporteur as well as the Mission for Research and Restitution Start-Up Manager) clarified the forthcoming reforms: additional members will be joining the CIVS Deliberative Panel, research and identification resources will be grouped together within the future Mission, the scope for referrals and self-referrals will be extended, cooperative partnerships are on the cards with the DZK and, last but not least, the CIVS' initiative to bring together Europe's advisory panels within a network.

Two types of contributions are worth highlighting in particular from the conference's full program: those from the families of victims and heirs, underscoring the importance of restitution for piecing back together family history and keeping memories alive, and those from museum and university stakeholders describing their working methods. What their contributions all agreed on was that, to be effective, provenance research and restitution must be **supported by international cooperation**.

1/ France's new organization for the restitution of spoliated cultural property

The idea behind the new organization that France has adopted to improve the restitution of spoliated cultural property first came about in 2015. But it was **the report by Mr David Zivie³⁴**, presented to the Minister of Culture in February 2018, that most decisively informed the guidelines adopted by the public authorities. Assessing progress to date on the management of spoliated cultural property present in public cultural institutions, this report put forward suggestions for improving the policy regarding restitution of such property, not least: amending the terms governing referrals to the CIVS and its self-referral option, involving experts in examining restitution cases, redefining the roles in the compensation process and grouping together the research resources within a single entity.

Empowering the CIVS to make self-referrals

As early as 2015, the Minister of Culture, reporting the findings of a working group tasked, via an experimental approach, with tracking down the provenance of 145 MNR works whose spoliation is considered certain or almost certain³⁵, called for a long-term solution and recommended "*amending the statutory decree of the CIVS such that the latter, which strikes as the most legitimate institution for conducting these investigations and assuming the cost thereof, is authorized to perform this duty on the State's behalf. The CIVS' current remit only allows it to process claims that are referred to it, without giving it any self-referral option, which would significantly improve the number of restitutions of spoliated property in the future.*"³⁶ A year later, the new Minister of Culture reiterated the same ambition: "*undertake this regulatory amendment which will enable the State to pursue this justice and remembrance duty with determination.*"³⁷

The principle for this new competence bestowed upon the CIVS during a cross-government meeting on October 21, 2016, and proposed again by Mr David Zivie in his report (Recommendation No. 2), was also **advocated by Senator Marc Laménie** in his Information Report³⁸ in June 2018.

34 - David Zivie, "*Des traces subsistent dans des registres...*" *Biens culturels spoliés pendant la Seconde Guerre mondiale : une ambition pour rechercher, retrouver, restituer et expliquer.*

35 - The work and report of the working group on MNR works are presented in the 2014 and 2015 Reports to the public on the work of the CIVS.

36 - Ms Fleur Pellerin, Minister of Culture and Communications, July 9, 2015.

37 - Ms Audrey Azoulay, Minister of Culture and Communications, August 18, 2016

38 - The report by Marc Laménie, "*La commission d'indemnisation des victimes de spoliations antisémites : vingt ans après, redonner un élan à la politique de réparation*", Information Report drawn up on behalf of the Finance Committee, 2018, can be viewed on the website of the French Senate: <https://www.senat.fr/rap/r17-550/r17-5501.pdf>

For an "enhanced CIVS", 30 recommendations outlined by the Special Rapporteur of the Finance Committee..

"Ahead of the forthcoming anniversary of the Declaration setting forth the "Washington Conference Principles on Nazi-Confiscated Art", it should strongly be recommended that France [...] revive within the international community a restitution duty that is still to be fulfilled. [...]"

The assessment of the CIVS and the stumbling blocks facing its invaluable and essential mission point to a reform which must provide an "enhanced CIVS" with an environment conducive to accomplishing its mission. [...]"

In spite of its highly commendable accomplishments, the CIVS is currently hampered in light of the compensation challenges [...] by the terms governing its referral process. [...] The CIVS should therefore be empowered with a self-referral option, and the possibility of referring cases to it extended to associations, which are already capable of assisting claimants in their procedures with the Commission. "

(Excerpt from the Information Report by Senator Marc Laménie, drawn up on behalf of the Finance Committee)

Decree No. 2018-829 of October 1, 2018 addressed these concerns by broadening the scope for CIVS case referrals and by allowing self-referrals³⁹:

Article 1-1 :

The Commission shall also be competent to propose to the Prime Minister, on its own initiative or at the request of any relevant person, any necessary restitution or, failing that, compensation measure, in the event of cultural property spoliations that occurred due to anti-Semitic laws in force during the Occupation, particularly when such property has become part of public collections or was recovered by France after World War II and placed since then in the safekeeping of national museums.

By designating property "recovered by France after World War II and placed since then in the safekeeping of national museums", Article 1-1 clearly refers to MNR works, i.e. a remainder of a little over 2,100 artworks which returned to France following World War II on the basis of indications suggesting that they came from there. "What this means is that such property does not belong to the State, it does not form part of public collections and is not marked as coming under the public

³⁹ - Decree No. 2018-829 of October 1, 2018 amending 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 is reproduced in full in the appendix to this Report.

domain. Moreover, the Council of State had established a bona fide administrative public entity tasked with managing these works and returning them to their rightful owners (CE, ass., July 30, 2014) [...] And yet, after an "energetic and proactive restitution policy, a long period of neglect set in" (C. Bouchoux, "Si les tableaux pouvaient parler..."). [...] The question has benefited from renewed interest since the Mattéoli mission, particularly with the setup of the CIVS [...] But this more proactive policy is still considered ineffective."⁴⁹ In his report, Mr David Zivie underlines the importance of the work accomplished since 2013 by the working group on the provenance of artworks recovered during World War II, which has assessed 251 MNR works and **identified the provenance of some one hundred of these** with certainty. He calls for a systematic and swifter analysis of these works so that they can be divided among categories determined by the working group (definitely spoliated; definitely not spoliated; background added to; absence of any record). Following this examination, the list of MNR works present in museums would be communicated, with details about the status of the work and information available about where it came from (Recommendation No. 8). This assessment could go hand-in-hand with a legal analysis on the possibility of incorporating non-spoliated MNR works into national collections (Recommendation no. 22). Indeed, "Since 2000 and the Mattéoli mission, there have been calls for MNR works recognized as definitely not spoliated to be incorporated into national collections, so as not to distort the picture we have of MNR works and to obtain lists solely of spoliated works."

The question of property incorporated into public collections raises another difficulty. It turns out that a certain number of artworks now part of public collections were stolen or spoliated between 1933 and 1945. The museums were able to acquire or be bequeathed or donated such works whose provenance is not clearly ascertained. **But because these works have been incorporated into public collections, they have become inalienable.** Under the Heritage Code as it currently stands, it is not possible to remove the works from the public inventories, or to cancel the admission into the collections. Only an amendment to the Heritage Code (Recommendation no. 23) will enable Article 1-1 of Decree no. 99-778 amended to be applied to maximum effect⁴¹.

40 - Pierre Noual, *Spoliation du patrimoine artistique pendant l'Occupation : un décret pour une meilleure restitution ?* La Semaine juridique, no. 43-44, October 29, 2018.

41 - Analysis shared by Senator Marc Laménie:

-Recommendation no.18: carry out the checks called for by the probability that decorative arts and cultural items despoiled in their past feature in the public collections.

-Recommendation no.19: relax the rules prohibiting the removal from the public heritage domain of spoliated artefacts, irrespective of their destination.

Involving experts in examining restitution cases

The CIVS Deliberative Panel has, from the outset, been in possession of a wide-ranging wealth of expertise which, over the years and after more than 34,000 recommendations, has gained recognition from the public authorities, claimants and the partners of the Commission alike⁴². Over a space of nearly two decades, its competence in cases of spoliated cultural property has been demonstrated: by December 31, 2018, the Panel had examined 4,343 case files of cultural personal property, 305 of which mentioned one or more artworks

By recommending that new experts be involved in the deliberations, Mr David Zivie was not identifying a lack of competence, but seeking to "*build the broadest consensus on these issues*": "*To ease the tensions weighing down on the question of spoliation today [the aim would be to] bring together experts from a range of backgrounds, all concerned and authorities on the subject, holding diverse opinions, where there is therefore no consensus in principle, and which may even be critical towards public policy. By organizing the far-reaching debate on the key questions that hang over the future of spoliated cultural property (to whom should it be returned? How can searches be carried out? What should be done about non-spoliated MNR works? etc.), the State will be able to fulfill its identification and restitution mission, relieved of the burden of suspicion. In this way, government members, representatives of institutions and museums, heritage curators, historians, art historians, journalists, representatives of spoliated families, representatives of the art market and of associations would jointly put forward solutions to the Prime Minister and relevant ministers which, though perhaps not unanimous, would at least have been debated openly.*" The establishment of a "high-level advisory group" at Senator Marc Laménie's suggestion, bringing together **qualified experts for their roles and their moral authority under the CIVS Chairman**, has the same goal in mind.

Without going so far as to establish a separate group, the Prime Minister did heed this advice and bolstered the CIVS Deliberate Panel with four more qualified experts (Article 3-1 of Decree No. 99-778, introduced by Decree No. 2018-829):

42 - Remember that the members of the Commission have, from the outset, included two highest-ranking judges sitting on the Court of Cassation, two State Counsellors, two Senior Members of the Court of Auditors, two university professors and two qualified experts (Article 3 of Decree No. 99-778).

Article 3-1:

When it rules pursuant to Articles 1-1 to 1-3, the Commission shall comprise four more expert members, qualified respectively in art history, the art market, the history of World War II and heritage law, appointed by decree of the Prime Minister for a three-year period.

A new administrative organization

The Decree of October 1, 2018 lays the foundation of the new public organization for the restitution of spoliated cultural property.

This change in system first and foremost addresses a concern **for public policy coherence and clarity**: *"There used to be several different procedures. Following a decision by the Prime Minister, the CIVS compensated significant amounts and oversaw a few restitutions while the Ministries of Culture and Foreign Affairs handled MNR works. The whole process lacked internal coordination and clarity for the public. The current reform sets out to raise the profile of the State's reparations policy, simplify the procedures and ensure a central level of coherence where they are concerned. In the future, the CIVS should see virtually all of the restitution case files and the Prime Minister will make all the decisions."*⁴³

For, by empowering the CIVS to put forward proposals for any necessary restitution measure to the Prime Minister, the Decree of October 1, 2018 establishes the Head of Government as the sole authority for making restitution decisions regarding spoliated cultural property in public institutions' collections – a prerogative previously shared with the Ministry of Culture, and the Ministry of Foreign Affairs for MNR works. For all that, both of these government departments will still participate in the examination of restitution claims when the Commission rules pursuant to Articles 1-1 to 1-3 of Decree No. 99-778, amended by Decree No. 2018-829:

Article 3-1 (Paragraph 2):

A representative of the Minister of Foreign Affairs and a representative of the Minister of Culture shall attend in an advisory capacity the Commission's sessions when ruling in these conditions. They shall be heard any time they so request.

43 - Institut Art & Droit, *Les victimes de spoliations, entre indemnisation et restitution*, Journal Spécial des Sociétés, n°3, 12 janvier 2019.

But the new organization has also taken on board the limitations of a system which were, since the reports by Ms Corinne Bouchoux⁴⁴ and Ms Isabelle Attard⁴⁵, laid bare on a number of occasions, and drew **extensive criticism from observers**: *"In spite of the substantive, honest efforts on France's part, it is quite legitimate to wonder whether the Museums of France Department under the Ministry of Culture, in charge of reviewing the case files, was ready to give back the MNR works. The criticism in its regard is scathing both for its lack of ambition in terms of museum policy – absence of any real mediation on the question among the public [...] – and its conflictive relationship with claimants [...] It was therefore only to be expected that restitution questions no longer come under the Museums of France Department, as heritage curators cannot be both judge and judged."*⁴⁶

The decision was thus made to entrust research concerning spoliated artworks to a new unit within the Ministry of Culture

A new mission dedicated to the search for spoliated artworks

The Decree of October 1, 2018 extends the CIVS' remit, particularly by empowering it to make self-referrals, but it also entrusts the review of cases concerning cultural property spoliations to a mission within the Ministry of Culture.

Article 1-2:

At the request of any relevant person, the Commission or on his own initiative, the Minister of Culture shall review the cases of cultural property spoliations mentioned in Article 1-1, particularly by searching for their owners and their heirs.

Each case shall be reviewed by the mission of the Ministry of Culture dedicated to that purpose [...]

Article 1-3:

After the review, the Commission shall rule in the conditions stipulated in Article 3-1 [...]

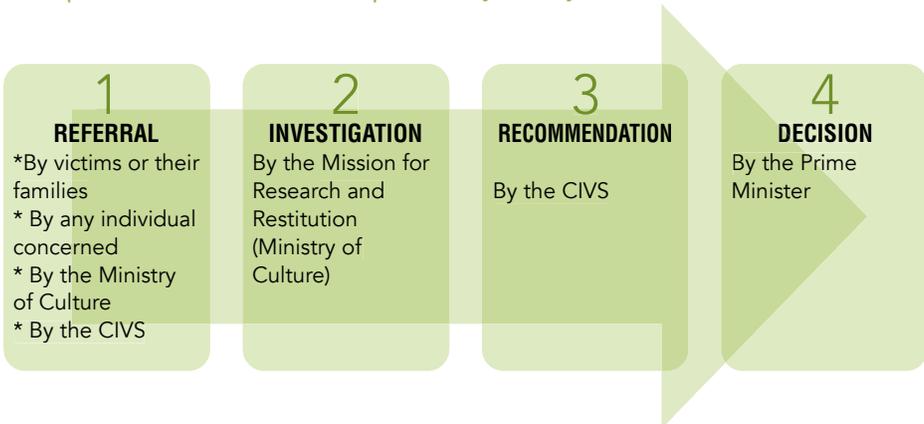
Review and decision are therefore entrusted to two separate departments, as shown by the diagram below:

44 - On January 30, 2013, Ms Corinne Bouchoux, Senator of Maine-et-Loire, presented a report entitled *Œuvres culturelles spoliées ou au passé flou et musées publics : bilan et perspectives*. This report outlines proposals for reviving efforts in the search for owners or heirs of artworks that were spoliated during World War II.

45 - The Information Report on the management of museum loans and reserve collections, presented by Ms Isabelle Attard and filed on December 17, 2014 by the National Assembly's Cultural Affairs and Education Committee, can be viewed on the National Assembly's website: <http://www.assemblee-nationale.fr/14/pdf/rap-info/i2474.pdf>

46 - Pierre Noual, *Spoliation du patrimoine artistique pendant l'Occupation : un décret pour une meilleure restitution ?* La Semaine juridique, n°43-44, October 29, 2018.

Two specialized services with complementary activity



In the fall of 2018, the CIVS began doing the spadework for getting this new system up and running, in conjunction with Mr David Zivie, to whom the Minister of Culture entrusted the preparations for the setup of this new structure⁴⁷. An agreement is to be drawn up in 2019 on the working relationship between these two departments.

In addition to the review of cases of spoliated cultural property mentioned in Article 1-1 of Decree No. 99-778, the *Mission for Research and Restitution of Cultural Property spoliated between 1933 and 1945* is also tasked with a broader remit:

- coordinating research for all cultural property spoliated during this period;
- informing and raising awareness among the public and professionals on the issue of spoliated cultural property, particularly artwork in the custody of public institutions (museums or libraries for example⁴⁸);
- encouraging and assisting scientific research on spoliations and restitutions.

Moreover, it should be noted that the Mission's purview shall cover a broader set of cultural property than that which comes under the CIVS: it shall be competent regarding any Nazi-confiscated cultural property (i.e. between 1933 and 1945), whether spoliated in France, or which happens to be on national soil today⁴⁹. This means, for example, that the Mission may conduct research on an artwork spoliated

47 - Engagement letter from Ms Françoise Nyssen to Mr David Zivie, dated August 2, 2018.

48 - In his report, Mr David Zivie did not forget spoliated books. Three recommendations have been outlined with them in mind:
 -Continue to identify the books in public library collections (Recommendation no. 28);
 -Set up a unit for coordinating research on spoliated books in public library collections (Recommendation no. 29);
 -Consult the *Catalogue collectif de France* to enable identification of spoliated books in public library collections (Recommendation no. 30).

49 - The Order establishing the *Mission for Research and Restitution of Cultural Property Spoliated between 1933 and 1945* within the Ministry of Culture was published on April 17, 2019 in the *Journal officiel* (French Official Gazette).

in 1938 in Austria (which had recently been annexed to Germany in a political union) but which is today in the collections of a French museum.

In 2019 the Mission was awarded a €200,000 operating budget to "enable it to call on the support of external researchers and extend its work in the regions" and "seven jobs, three transferred from the Ministry and two from the Prime Minister's office".⁵⁰

The two mentioned researchers from the Prime Minister's office correspond to the workforce of the CIVS' Cultural Personal Property Unit which, until now, had conducted investigations prior to review by the Commission's judge-rapporteurs. The three jobs from the Ministry of Culture come from the Museums of France Department. The Mission is therefore grounded in the idea of a "combination of strengths", in response to the criticism highlighted above. With a team of experts in provenance research, the Mission shall report to the Secretariat-General of the Ministry of Culture

Promoting and explaining the new system

Because its legal basis and operation are governed by several regulatory texts – two decrees, and an order – and because it **provides for a radically new distribution** of the responsibilities for implementing the reparations policy as regards spoliated artwork, promoting and explaining the new system are of the utmost importance, where the families of victims, government partners and observers are concerned. With that in mind, the CIVS has designed, with the help of the graphics unit of the Prime Minister's administrative and financial services directorate, a leaflet presenting the new organization in concise, plain language.

This leaflet has also been translated into English and German, and was used as the basis, from November 2018, for providing the requisite information abroad on the new system.⁵¹

2/ Building a European network for facilitating research

In his opening address in London, on September 12, 2017, at an international conference aimed at assessing progress to date on the Washington Conference Principles, the British Arts, Heritage and Tourism Minister expressed the hope that this Conference would not be like the others – i.e. with no decisions made or action

50 - *Un budget de choix – Présentation du projet de loi de finances 2019 du ministère de la culture*, September 24, 2018.

51 - The leaflet – in its French, German and English versions – is available for viewing on the CIVS website: www.civs.gouv.fr.

plan subsequently drawn up⁵². The British Spoliation Advisory Panel, which organized the conference, therefore established an action plan on the basis of the work accomplished, setting out 24 recommendations aimed at pushing the boundaries of public policy in terms of reparation for spoliated artwork⁵³. One of the recommendations (no. 14) suggests that the different panels form a working party, perhaps with a permanent secretariat, to explore ways of cooperating moving forward. The CIVS has been convinced for many years now of the **need to develop a network between** the stakeholders involved in making amends for spoliated cultural property, and has taken the initiative of setting up this cooperative body.

Action Plan of the Spoliation Advisory Panel

On September 11 & 12, 2017, the British, German, French, Dutch and Austrian panels met in London to examine, five years after the Conference held in The Hague⁵⁴, the policies implemented within these five countries to apply the Washington Conference Principles.

On September 11, the working group bringing together the five panels noted the points that the five nations have in common (no guidelines regarding the spoliation of artwork for example) and that separate them (for example: while the CIVS searches for art that victims and their heirs claim was spoliated, the Austrian, British, German and Dutch panels conduct provenance research themselves on works in the national collections). Moreover, the working group found that, for both legal and technical reasons, setup of an international database was not viable. It recommended convening annual working meetings and an international conference on the subject every two or three years, and wished to see a permanent secretariat created to work in a concerted manner. Lastly, the working group called for the institutional stakeholders to strike up close working relationships with academia.

On September 12, the British Arts, Heritage and Tourism Minister opened the international conference *70 years and counting: the final opportunity?* by stating that his Government had ratified the The Hague Convention for the Protection

52 - John Glen, British Arts, Heritage and Tourism Minister: "*Since the 1998 Washington Conference, there had been numerous international gatherings on spoliation and the return of cultural property looted by the Nazis. It would be easy for this Conference to become simply another set of lukewarm promises.*" During this conference, the Minister encouraged the participants to make more meaningful progress. An action plan should be drawn up, and the UK would work hard to implement it. "*Although we cannot change inequities of the past, we can work together to rectify them*".

53 - The Spoliation Conference Action Plan can be read in full on the website of the Spoliation Advisory Panel: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/731338/Spoliation_Conference_action_plan.docx

54 - The conference *Fair and just solutions?* held in The Hague in November 2012 focused on the spoliation of artworks in Europe during World War II.

of Cultural Property in the Event of Armed Conflict, and its two protocols which criminalize the handling of certain exported cultural artifacts. Five sessions were held over the course of the conference. They bore on: experience of claimants and institutions; national claims processes; unlocking the archives: accessibility and disclosure; private collections; the way forward. This final session particularly informed the Spoliation Conference Action Plan, which the British panel drew up in the weeks that followed.

This action plan contains **24 recommendations** bearing on different aspects of the compensation process for cultural property:

- ▶ publish opinions (Recommendation no. 2) and "best practices" (Recommendations nos 4 and 5) for claimants and researchers, and to help countries that have no formal established process yet in dealing with claims for Nazi-looted cultural objects;
- ▶ examine why certain other signatories to the Washington Conference Principles have not made better progress (Recommendation no. 7), and inconsistencies in approach (Recommendation no. 3), particularly as regards heirs (Recommendations nos 6 and 8) or notions such as forced sales (Recommendation no. 1);
- ▶ facilitate provenance research by delivering expertise and information (Recommendations nos 17, 18 and 19), determining standards (Recommendation no. 20) or facilitating access to archives (Recommendation no. 16) and to public and private collection inventories (Recommendation no. 9);
- ▶ encourage bilateral cooperation by forming and regularly convening a working party or hosting conferences (Recommendations nos 14 and 15) and sharing information (Recommendation no. 13);
- ▶ consider incentives to encourage current holders of spoliated artworks to engage in their restitution (Recommendation no. 10) and improve education in the art-dealing market (Recommendation no. 23);
- ▶ revisit the Washington Principles where necessary (Recommendations nos 21 and 22) and unlock improved funding for better results (Recommendation no. 24).

Putting the Plan into action: the meeting of the five panels in London, October 12, 2018

On October 12, 2018, the Spoliation Advisory Panel convened representatives of the German, French, Dutch and Austrian panels in London in a bid to put into practice the recommendations outlined the previous year. The CIVS delegation, led by its Director and Principal Rapporteur, also included Ms Elsa Vernier-Lopin, head of research at the CIVS Cultural Personal Property Unit, and Ms Nina Struckmeyer, from the CIVS Berlin branch. The Commission had recruited Ms

Struckmeyer specially in September 2018 to oversee development of its network, on the international stage in particular. Her skill set – in history of art and languages – and experience as a scientific collaborator at Berlin's *Technische Universität*, have proved invaluable in building a network between the five panels. France was also represented by Mr David Zivie (Ministry of Culture), who is responsible for starting up the future *Mission for Research and Restitution of Cultural Property Spoliated between 1933 and 1945*.

After discussions on the research and restitution accomplished over the past year (during which France talked about its new organization for the restitution of spoliated cultural property), Dr Charlotte Woodhead (University of Warwick) presented her report on the implementation of recommendation no. 5. The French delegation then unveiled its headline proposal, grounded in Recommendation no. 14: the setup, from January 2019, of a Network of European Restitution Committees, with each panel taking it in turns to act as its "permanent secretariat" for one year. The CIVS proposed to provide this function in 2019, to coincide with its 20th anniversary. Apart from the setup and leadership of this Network for its first year, **the Commission's road map** would be drawn up in keeping with the Action Plan: publication of a newsletter to facilitate the sharing of information and best practices and a guide to promote the reparation processes established in the five countries among victims' heirs, institutions, researchers, the art market and other countries, the meeting of a working group in the spring and the organization of a further international conference at the end of 2019. The proposal was discussed, more so as regards its arrangements than in terms of its principle, and the CIVS responded to fears and objections, primarily by reassuring that: the intention is not to add "yet another bureaucratic layer" nor to lift the lid on the inconsistent performances between the panels; neither is this a question of pushing for policy convergence between countries that each have their own history, institutions and legislation. Human resources – which are already insufficient across the various countries – will be scaled up in a reasonable manner.

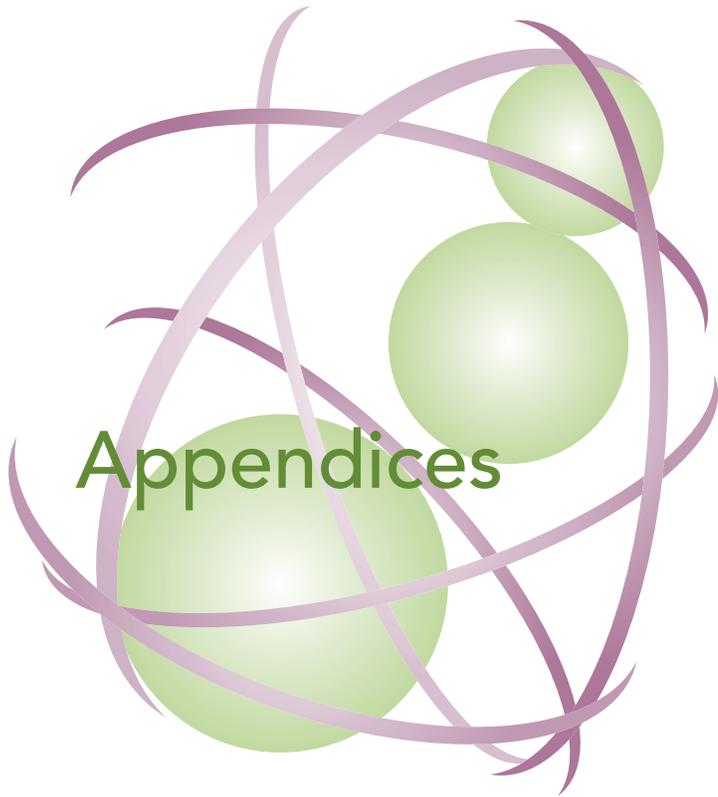
An agreement was reached over the weeks that followed the meeting in London. In this way, twenty years after the Washington Conference Principles, the first network of committees has emerged, comprising the Spoliation Advisory Panel (UK), *Deutsches Zentrum Kulturgutverluste* (Germany), the CIVS (France), *Restitutiecommissie* (the Netherlands) and *Kommission für Provenienzforschung* (Austria).

Editorial by the CIVS Chairman, in the first issue of the Network's newsletter (March 2019)

« Our Network of European Restitution Committees is not a new idea. Already in 2012, the discussions in The Hague at the "Fair and Just Solutions?" Conference underlined the opportunity to link the European commissions that continue to work on the research and restitution of looted works of art. Five years later, following the international conference "70 years and counting: the final opportunity" held in London on 11 and 12 September 2017, the Spoliation Advisory Panel made a recommendation to establish a permanent secretariat to expand bilateral links and to explore ways of cooperation. The Commission pour l'indemnisation des victimes de spoliations (CIVS) supported this idea, submitting it to the other four committees during the meeting in London on 12 October 2018 and proposed to provide the Network's permanent secretariat during the first year of its operation.

What is the Network about? It is a question of creating a strong link, but one that respects the distinctiveness of each committee, whose action is carried out within a national institutional framework with its own history and specific legal rules. Based on the exchange and sharing of information and know-how, our Network offers a new response to the effectiveness of provenance research and the moral requirement of "clean museums". The cooperation which came to a conclusion in July 2015 between the CIVS and the Schwabing Art Trove Task Force on the works discovered at Cornelius Gurlitt was the first initiative for information sharing. By raising itself to a transnational level, our Network is finally setting up a large-scale response in line with the art market.

This Newsletter must turn these ambitions into reality. In this first issue you will discover the presentation of the French committee. The other committees will be presented in the following issues. These texts, which are intended to be of practical use, will be grouped together in a guide intended to inform the general public and stakeholders of the various countries in question, and will serve as a reference point for States wishing to draw inspiration from them. Sharing news about restitutions, research, events or the internal life of committees is another way of understanding what we do. The study of a case (here: the restitution in 2018 of a Constable painting) can also enrich our reflections and question our practices. Finally, the Announcements Section is a space made available to everyone. We are all confronted, in our cases, with obstacles. We hope that sharing information will unblock certain situations and promote the identification and restitution of Nazi-looted art, in the spirit of the Washington Declaration (1998). »



Appendices

APPENDIX 1:

Report on the amounts recommended from the creation of the CIVS up until december 31, 2018

1 - COMPENSATION CONCERNING MATERIAL SPOILIATIONS:

€518,264,617

2 - COMPENSATION CONCERNING BANK-RELATED SPOILIATIONS:

€55,751,078

This amount breaks down as follows:

► The escrow account - Fund A: €15,640,225 + €3,761,579 (concerning Fund B since October 2008)

► Fund B: €24,080,820 (October 2008 official figure)

i.e. **€43,482,624** at the banks' expense, and **€1,657,318** corresponding to reserved portions not yet paid out⁵⁵

Add to this the amounts allocated by the State concerning bank-related spoliations: **€10,611,136**

3 - TOTAL COMPENSATION PAID OR TO BE PAID BY THE:

► State: **€528,875,753** ⁵⁶

► Banks: **€45,139,942**

55 - Data communicated by Caisse des dépôts et consignations and the United Jewish Social Fund (FSJU).

56 - €518,264,617+ €10,611,136.

APPENDIX 2: Organization of the CIVS on december 31, 2018

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 BÉNÉZECH, Senior State 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
- ▶ Ms Frédérique DREIFUSS-NETTER, Counsellor to the Court of Cassation
- ▶ Ms Anne GRYNBERG, University Professor
- ▶ Mr Michel JEANNOUTOT, Honorary Advisor to the Court of Cassation, Chairman of the Commission
- ▶ Ms Catherine PÉRIN, Master Counsellor at the Court of Auditors
- ▶ Mr David RUZIÉ, Honorary Dean and Professor Emeritus
- ▶ Ms Dominique SCHNAPPER, Director of Studies, School of Advanced Studies in Social Sciences (EHESS)
- ▶ Ms Laurence SIGAL, Museum Curator
- ▶ Mr Henri TOUTÉE, Section President at 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 administrative 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

DEPARTMENT STAFF

Case Officer for Administrative & Financial Affairs

- ▶ Ms Karine VIDAL

Claims Examination and Review

Research Coordination Department

- ▶ Ms Éloïse GARNIER (manager)
- ▶ Ms Isabelle RIXTE
- ▶ Ms Émilie BOULANGER

Cultural personal property

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

Hearings Secretariat

- ▶ Ms Sylviane ROCHOTTE (manager)
- ▶ Mr Emmanuel DUMAS
- ▶ Mr Matthieu CHARMOILLAUX
- ▶ Mr Clément CANDON
- ▶ Ms Catherine CERCUS (support staff)

Supervision Unit

- ▶ Mr Richard DECOCQ
- ▶ Mr Stéphane PORTET

Communication with and support of claimants

Support of claimants

- ▶ Ms Brigitte GUILLEMOT

Digital communication

- ▶ Mr Richard DECOCQ

Secretariats

Chair

- ▶ Ms Catherine CERCUS

Director

- ▶ Ms Nathalie LECLERCQ
- ▶ Ms Rosalie LAGRAND

Principal Rapporteur

- ▶ Ms Myriam DUPONT

Rapporteurs

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

Government Commissioner

- ▶ Ms Catherine CERCUS

Archive Search Units

National Archives

- ▶ Ms Émilie BOULANGER
- ▶ Mr Matthieu CHARMOILLAUX

Paris Archives

- ▶ Ms Brigitte GUILLEMOT

Berlin Archives

- ▶ Mr Julien ACQUATELLA (manager)
- ▶ Ms Nina STRUCKMEYER
- ▶ Mr Sébastien CADET
- ▶ Ms Coralie VOM HOFE

The CIVS would also like to express its gratitude to the interns who worked in its departments in 2018: Ms Adèle FOHR, Ms Rose MARENGO and Ms Daphné SCHOCH.

APPENDIX 3: Decree No. 2018-829 of October 1, 2018

JORF n°0227 du 2 octobre 2018

Décret n° 2018-829 du 1^{er} octobre 2018 modifiant le décret n° 99-778 du 10 septembre 1999 instituant une commission pour l'indemnisation des victimes de spoliations intervenues du fait des législations antisémites en vigueur pendant l'Occupation

NOR: PRMX1820496D

Le Premier ministre,

Vu le décret n° 99-778 du 10 septembre 1999 instituant une commission pour l'indemnisation des victimes de spoliations intervenues du fait des législations antisémites en vigueur pendant l'Occupation ;

Vu l'avis du comité technique ministériel des services du Premier ministre en date du 11 septembre 2018,

Décète :

Article 1

Après l'article 1^{er} du décret du 10 septembre 1999 susvisé, il est inséré des articles 1-1 à 1-3 ainsi rédigés :

« Art. 1-1.-La commission est également compétente pour proposer au Premier ministre, de sa propre initiative ou à la demande de toute personne concernée, toute mesure nécessaire de restitution ou, à défaut, d'indemnisation, en cas de spoliations de biens culturels intervenues du fait de législations antisémites en vigueur pendant l'Occupation, notamment lorsque ces biens ont été intégrés dans les collections publiques ou récupérés par la France après la Seconde Guerre mondiale et confiés depuis lors à la garde des musées nationaux.

« Art. 1-2.-Sur demande de toute personne concernée, de la commission ou de sa propre initiative, le ministre chargé de la culture instruit les cas de spoliations de biens culturels mentionnés à l'article 1-1, notamment par la recherche de leurs propriétaires et de leurs héritiers.

« Chaque cas est instruit par la mission du ministre chargé de la culture dédiée à cet effet dans les conditions prévues par les textes d'organisation de ce ministère. Pour chaque cas, un rapporteur est désigné.

« Le rapporteur procède aux vérifications nécessaires et rend compte de ses travaux au rapporteur général près la commission.

« Art. 1-3.-À l'issue de l'instruction, la commission statue dans sa formation mentionnée à l'article 3-1 sur les propositions motivées formulées par le rapporteur, dans les conditions fixées par les articles 5 à 8-2-1. »

Article 2

L'article 3-1 du même décret devient l'article 3-2 et est ainsi modifié :

1° La première phrase du second alinéa est complétée par les mots : « , y compris ceux établis en application de l'article 1-3 » ;

2° À la dernière phrase du même alinéa, après les mots : « formations restreintes de la commission », sont insérés les mots : « , ainsi qu'à celles de la formation mentionnée à l'article 3-1, ».

Article 3

Après l'article 3 du même décret, il est inséré un article 3-1 ainsi rédigé :

« Art. 3-1.-Lorsqu'elle statue en application des articles 1-1 à 1-3, la commission comprend, en outre quatre personnalités qualifiées respectivement en matière d'histoire de l'art, de marché de l'art, d'histoire de la Seconde Guerre mondiale, et de droit du patrimoine, nommées par décret du Premier ministre pour une durée de trois ans.

« Un représentant du ministre des affaires étrangères et un représentant du ministre chargé de la culture assistent avec voix consultative aux travaux de la commission statuant en cette formation. Ils sont entendus à tout moment à leur demande. »

Article 4

Au troisième alinéa de l'article 8 du même décret, après les mots : « sont présents », sont ajoutés les mots : « , lorsqu'elle statue dans sa formation prévue à l'article 3-1, ou au moins quatre de ses membres dans les autres cas »

Article 5

Le ministre d'État, ministre de l'intérieur, la garde des sceaux, ministre de la justice, le ministre de l'Europe et des affaires étrangères, la ministre des armées, la ministre de la culture et le ministre de l'action et des comptes publics sont chargés, chacun en ce qui le concerne, de l'exécution du présent décret, qui sera publié au Journal officiel de la République française.

Fait le 1er octobre 2018.

Edouard Philippe

Par le Premier ministre :

Le ministre d'État, ministre de l'intérieur,
Gérard Collomb

La garde des sceaux, ministre de la justice,
Nicole Belloubet

Le ministre de l'Europe et des affaires étrangères,
Jean-Yves Le Drian

La ministre des armées,
Florence Parly

La ministre de la culture,
Françoise Nyssen

Le ministre de l'action et des comptes publics,
Gérald Darmanin

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