

PRIME MINISTER'S OFFICE

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

Commission for the Compensation of Victims of Spoliation Resulting from
the Anti-Semitic Legislation in Force During the Occupation

CIVS

THE CHAIRMAN

ACTIVITY REPORT FOR THE COMMISSION

PRESENTED TO THE PRIME MINISTER

FOR 2004

– Fourth Report –

(Pursuant to Article 9-1 of Decree no. 99-778 of September 10, 1999, as amended)

February 15, 2005

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After five years of activity, CIVS has **registered 20,966 claims**. There has, however, been a drop in new claims; since August 2004 these have averaged some **100 per month**.

As of December 31, 2004, the Commission, ruling in its three forms (plenary, sub-commissions or the Chair ruling alone) has made **14,000 recommendations** concerning all forms of losses. The total amount of compensation recommended came to **176,896,183 euros**.

Of this amount, **158,358,060 euros are payable by the government as compensation for material losses¹** and **18,538,123 euros are payable by financial institutions as compensation for bank assets** not returned.

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WORK OF THE COMMISSION IN 2004

The most important development in 2004 was a simplification of procedures tied to the reorganization of some services, in particular the welcoming and assistance unit, the banking unit, the unit attached to the National Archives and the hearings secretariat.

The accelerated hearings procedure, called "**the Chair ruling alone,**" established by the Decree of June 20, 2001, was expanded. It is being used for **claims for material damages** (66% of claims registered) since July 2004. The efficiency obtained through this method has permitted the issuance of 186 recommendations, or about 31 per month.

It should also be recalled that CIVS has been making a particular effort to **accelerate the treatment of bank-related claims already in stock**, beginning in March 2003 for Fund B and March 2004 for Fund A.

The process of issuing bank-related recommendations directed towards **Fund B alone** has been considered closed since December 2003, excepting 45 more sensitive files that will be presented either to a plenary session or a sub-commission. The pace of examining these files has largely profited from the new arrangements set up in application of the Washington Agreement. This new approach was welcomed at the **seventh meeting of the Fund B Supervisory Board**, held in Paris on June 10, 2004.

As concerns claims to be paid from **Fund A and Fund A with a supplement from Fund B**, the banking unit has been treating **current inflow** since August 2004, since there is no deadline for filing such claims. Some files, because of their complexity², will not be handled by the Chair ruling alone and will be submitted to the plenary or a sub-commission.

In parallel, **the Research Network is continuing to employ the practices** set up in 2003: planning, reference to files already received, use of lump sum payments. As of December 31, 2004, there is a backlog of 744 completed files ready to be given to the principal rapporteur for distribution to the rapporteurs, who will then complete preparation of the files for a hearing.

¹ Looting of apartments and workshops, "aryanization" of businesses, confiscation of assets in the camps, theft of cultural property, insurance, etc. It should be noted that the confiscation of business bank accounts managed by "temporary administrators" is the responsibility of the government.

² Accounts managed by a "provisional administrator," proof of deposit, post-war reactivation of accounts, existence of testamentary documents, etc.

This backlog of files, which continues to grow, is due to the fact that the rapporteurs, understaffed and confronted with a difficult task, cannot move files out for hearings as fast as the archive units complete their research.

Taking all varieties of claims into account, during 2004 each rapporteur prepared an average of eight files per month, at an average of eight days per month presence at CIVS.

The Commission also continues its efforts at keeping claimants informed, so that victims or their heirs receive a welcome and an attentive hearing regardless of where they live.

CIVS's website³, which received a total of **82,639 visits** in 2004, plays a special role in the Commission's communications, as it provides partners and other interlocutors with a highly transparent view of France's acts of compensation. A **revamp**, planned for the first half of 2005, will enable the site to reflect CIVS's missions in all their diversity. Revised pictorial standards will provide the site with a new visual identity. Publication and distribution of **updated brochures and leaflets** will also enhance the site's impact.

For budgetary reasons, a **telephone information center**, operating in both French and English, replaced the former international toll-free number on January 5, 2004. It has been well received by claimants and associations of the Jewish community.

The Prime Minister has welcomed "the local impact and diplomatic benefit"⁴ of the handling of individual cases carried out in Israel in 2003. At his request, the mission to Israel was repeated in June 2004 and will also take place in 2005. A delegation of the Commission should also travel to the United States in 2005.

DIFFICULTIES AND OUTLOOK

If there is universal recognition of the task accomplished, some claimants have however complained of their inability to understand the process of compensation. They find it hard to accept the slow procedures, the complexity of archival research, the time needed to prepare a file for a hearing, the accumulation of files in the hearings secretariat, the backlog of files awaiting further treatment and the extra burdens caused by requests to reexamine files and the claims on reserved portions of compensation awarded.

There are so many priority files that the "privileged treatment" accorded to them has become only a relative term. More specifically, setting January 18, 2003 as the closing date for bank-related claims **not supported by proof of an account** has also given rise to irritation and criticism. Likewise, giving initial claimants the responsibility for dividing compensation awarded leads to quarrels in scattered families as concern for sharing equitably gives way to the desire for a rapid transfer of funds.

These criticisms do not conceal the real anguish and fears of claimants. Some come to feel that their files have been lost or "forgotten" and that they will not receive the promised compensation during their lifetime.

Special attention needs to be given to these concerns, and to provide satisfactory answers to them **within the means available to CIVS's services**.

In this regard, several associations suggest that periodic letters be sent claimants to inform them how their claim is progressing.

³ www.civs.gouv.fr

⁴ Letter of the Prime Minister dated January 12, 2004.

For 51% of files received, the **average processing time**, from the date of reception to the date of a hearing by a plenary, sub-commission or the Chair ruling alone, is two years and sometimes more. **The actual pace of preparing files for a hearing does not enable CIVS to reduce its backlog, however much this is desired. The Commission would be able to produce more recommendations if the number of rapporteurs stipulated was respected, or indeed increased, and their attendance at CIVS expanded.**

Moreover, the number of hearings held by panels – five sub-commissions per week and one plenary session per month – would seem insufficient to meet the goal of increasing the number of recommendations and to respond to the political will to meet the legitimate expectations of a wounded population. This is why it would be wise **to increase the number of sub-commission meetings to seven or eight per week.**

At present staffing levels, it would seem that the sub-commissions and the government commissioners cannot themselves provide this needed increase in pace. The Commission proposes to **reform the decree of September 10, 1999** by augmenting the commission's hearings capacity **by adding two Commission members and one Deputy Government Commissioner.** A second Vice-Chair might also be named to assist in the Chair in his job of making recommendations.

Chairman Pierre Drai has called the Prime Minister's attention to the worrisome stagnation in handling files.⁵ If a solution has yet to be found on this issue, certain legal complaints on the Commission's doctrine and on how bank-related funds are used are now far along in discussions between the parties to the Washington Agreement.

In this sense, 2004 has been a year marked by **a large exchange of correspondence between the French and American Governments and CIVS.** This correspondence concerns the recurrent demands of lawyers for claimants and of the U.S. Department of State.

Most of the **demands** concern CIVS's practices in bank-related compensation. The American side often considers these inequitable and believes that they should be modified to permit a significant increase in the use of Fund A.

The interested parties continue to seek that CIVS reviews its jurisprudence on the following subjects:

➔ **Known accounts demonstrably overdrawn.** Claimants' lawyers maintain that these negative balances should not be deducted from total compensation for positive account balances;

➔ **Accounts managed by "provisional administrators"** in the context of the "aryanization" of businesses. Lawyers demand that compensation for these accounts, until now the responsibility of the government, be transferred to the banks, which they consider "responsible for these spoliations." The Commission, however, believes that this is a matter of abuses by the government authorities of the time, since the provisional administrators were considered as officials of the Vichy government.

➔ **Accounts held by persons residing abroad during the period 1940-1944.** The American side insists that the Commission reconsiders rejected claims. These recommendations for rejection were made in the absence of information that was sufficiently precise and concrete to give credibility to claimants' assertions that they had or had opened bank accounts in France.

⁵ Letter of Chairman Pierre Drai dated July 5, 2004.

The proposed exchange of diplomatic letters on these three points, now under negotiation, should make it possible to settle this litigation and reach an agreement between the two sides.

Always concerned about the low level of use of Fund A, the American side continues to offer solutions that it claims would serve to change this situation and markedly increase such use.

The **eighth meeting of the Supervisory Board of Fund B** will be held in February 2005 and provide an occasion to examine the conditions of use of the remainder of this fund.

THE COMMISSION'S DOCTRINE

The Commission continues to work using the methods developed during its first years and progressively adapted with the flow of files received. The criteria applied in the examination of claims have been defined on the basis of the great diversity of situations which it has had to consider, and have been presented in previous activity reports.

If the process of building its "doctrine" can be considered completed, so that future reports might be limited to presenting statistical data, the Commission has nonetheless had to take a position on two new questions.

It has been asked about **how to treat veterans' pensions** and on **compensation to holders of bank accounts with negative balances**.

The Commission has also sought to resolve **certain difficulties linked to often-difficult task of determining the status of heirs** who most often turn up when the recommended compensation is about to be paid.

➔ **Veterans' pensions:**

After having received a claim for compensation for a veteran's pension not received during the Occupation because of Anti-Semitic legislation then in force, the Commission initiated a request for additional information, particularly from the Ministry of Defense.

This request revealed that no text of the period showed that veterans' pensions were suspended or abolished for Jewish veterans and that measures were taken after the Liberation to sort out the situation of persons who did not receive the back payments to which they were entitled, at a rate of 1,200 francs per year. It was nonetheless specified that the letter of the general accounting division (Direction de la comptabilité générale) of July 28, 1945 referred to persons deported or required to work in Germany, without discussing the situation of Jewish veterans. Similar information was obtained concerning disability pensions.

The Commission has decided to treat each file including a problem of this type individually, depending on whether, given the circumstances, the person was effectively able to receive his veteran's pension either during the Occupation or after the Liberation.

➔ **Bank accounts with negative balances:**

It has been observed that certain bank accounts had negative balances on the date that accounts belonging to Jews were blocked. Since this rather rare situation cannot be charged against holders of the accounts who had been deprived of the capacity to manage their assets, it was decided that, barring contractual provisions to the contrary, these cases would be

treated in the same way as bank accounts that demonstrably existed but on which the balance is unknown.

Hence, under these assumptions, the claimant will receive the equivalent of USD 1,500, payable from Fund A, in accordance with the Washington Agreement.

➔ Treatment of errors or omissions in determining heirs and dividing compensation among them:

Determining heirs and recognizing their respective rights sixty years after the spoliation took place is a particularly sensitive question, given the time that has elapsed and the scattering of the families of the victims. In some instances, claimants are not able to inform the rapporteur and the Commission of elements that might reveal the existence of other heirs. Sometimes archival records suggesting that a different division of the compensation be awarded do not surface until after a payment has been made.

Claimants do not always understand the notice included at the end of each recommendation, to the effect that “claimants shall take personal responsibility for possible sharing of the compensation with other heirs who make themselves known.” On several occasions the Commission has therefore received a new claim, from an heir it was not aware of, for the same damage for which it has already recommended compensation; claimants have also contested the share of compensation awarded them.

The possibility of paying a new compensation to a person whose rights were unknown or incorrectly estimated has not been accepted, since this would mean compensating a loss for more than the value of the despoiled asset and hence requiring the government to pay an amount in excess of what it owes.

In similar circumstances, the Commission has decided to rectify its initial recommendation when it has not yet been implemented, otherwise, to issue a new recommendation revising the share going to each claimant and requesting those who have been awarded more than the revised amounts to repay the excess to other beneficiaries who had not obtained the share due them. If the interested parties do not then reach agreement, they should be asked to turn to the qualified court of law to resolve their differences.

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The Commission is aware that, contrary to practice in other countries (such as Belgium), no cut-off date has been set for filing claims for compensation. The same is true of requests for reexamining claims.

The result has been the continuation of a relatively sustained flow of claims in the two categories – which adds to the difficulties in examining particularly complex files and preparing them for hearings.

The Commission seeks to reduce the time needed to treat claims, generally two years. However, in some cases up to four years are needed because of the intensive investigations that the research network must undertake both abroad, particularly in Germany, and in France, in Paris and in the archives of many French *départements* (counties).

Hence, to be able to carry out its mission under acceptable conditions, the Commission has no choice but to seek an increase in the means available to it, particularly in staff.

This is also the sense of the letter the Chairman of the Commission sent to the Prime Minister on November 10, 2004. The letter begins by recalling the significant number of files fully prepared for a hearing and awaiting to be considered by a plenary session or sub-commission, a backlog that includes many survivors of the Occupation who are in poor health or living in precarious circumstances. It then stresses the serious material difficulties the Commission has encountered in carrying out its tasks, and proposes several measures that would enable it to function better and avoid a deterioration of the situation.

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CONCLUSION

The year 2005 is the time to envisage a **new course for CIVS**. We can now consider that the great majority of potential claimants have made themselves known.

It remains to consider how to preserve the oral history of victims of the Holocaust. Future generations would severely condemn such an incalculable loss of first-person recollections. This is why setting up a **History Committee** is now a pressing issue. Could not this work fit into the framework of the scientific committee for gathering audiovisual evidence that the Foundation for the Memory of the Holocaust (*Fondation pour la Mémoire de la Shoah*) is now in the process of setting up?

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APPENDICES

➔ **Overall communication with the public:**

APPENDIX 1: Visits to the website per month in 2004.

APPENDIX 2: Visits to the website in 2002, 2003 and 2004.

➔ **Welcome and assistance for claimants:**

APPENDIX 3: Reason for self-initiated visits.

APPENDIX 4: Reason for appointments.

➔ **Reception of calls from claimants:**

APPENDIX 5: Geographic origin of calls received in 2004.

APPENDIX 6: Requests for information in 2004.

APPENDIX 7: Treatment of calls.

➔ **Reception and registering of claims:**

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APPENDIX 9: Claims for all types of damages registered in 2001, 2002, 2003 and 2004.

APPENDIX 10: Claims for all types of damages registered by month.

APPENDIX 11: Status of claimants.

APPENDIX 12: Birthdate of direct victims of spoliation.

APPENDIX 13: Country of origin of direct victims of spoliation.

APPENDIX 14: Occupation of direct victims of spoliation.

APPENDIX 15: Distribution of spoliations by region.

➔ **Investigations relating to claims:**

APPENDIX 16: Files sent to the archive centers.

APPENDIX 17: Treatment of claims registered in 1999, 2000 and 2001.

➔ **Treatment of bank-related claims:**

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APPENDIX 19: Claims with identified bank accounts ready for hearing in 2004 – The Deposit ("Fund A").

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APPENDIX 22: Monthly breakdown of claims treated by the banking unit from 2001 to December 31, 2004.

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➔ **Formulation of recommendations:**

APPENDIX 24: Processing time for claims for material damages between reception of questionnaire and examination by the Commission.

APPENDICES 25 + 26: Annual rate of recommendations issued.

APPENDICES 27 + 28: Recommendations issued from 2001 to December 31, 2004.

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APPENDIX 31: Sums committed from the beginning of the Commission's work through December 31, 2004.

➔ **Key information.**

➔ **Acronyms.**

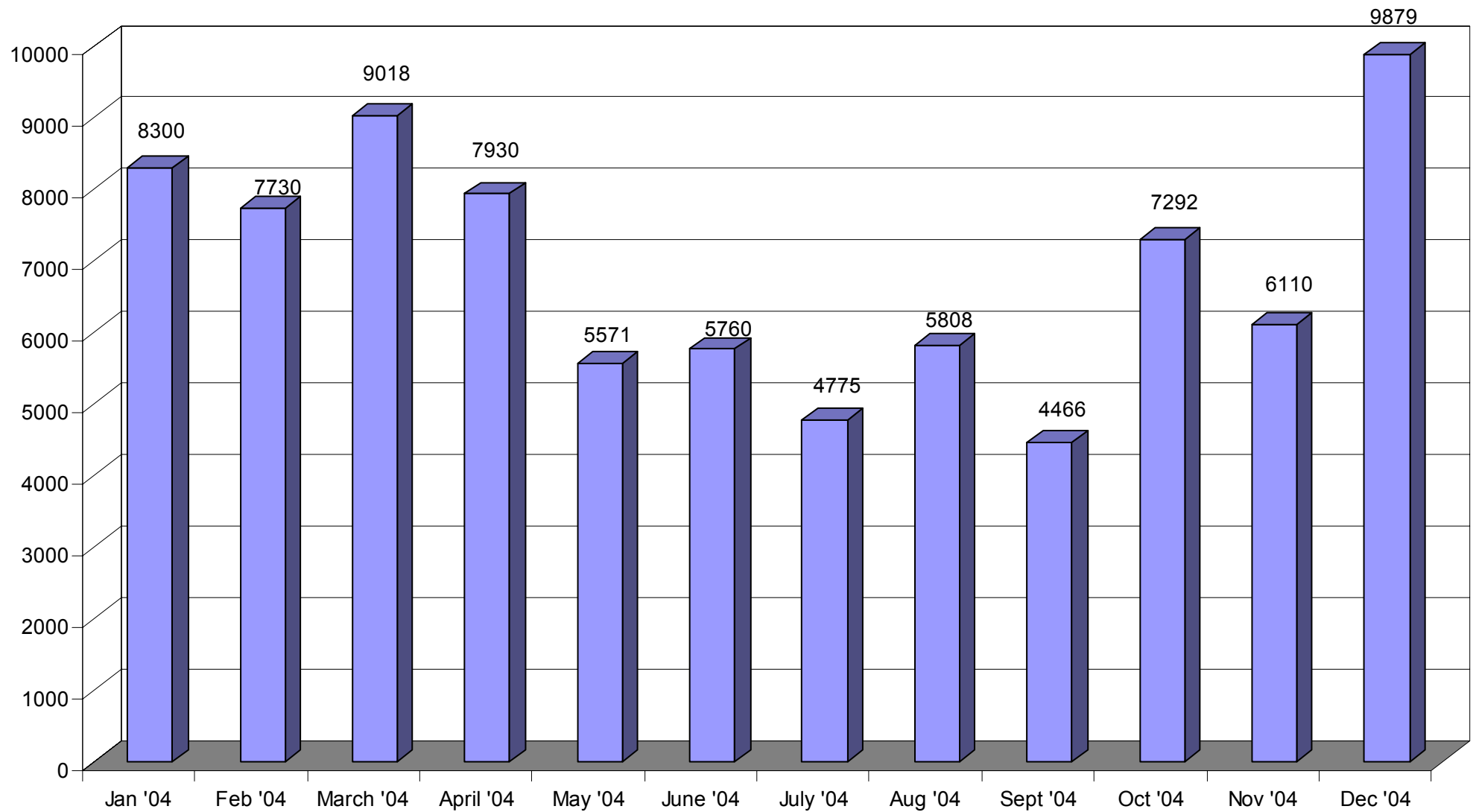
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➔ Overall communication with the public:

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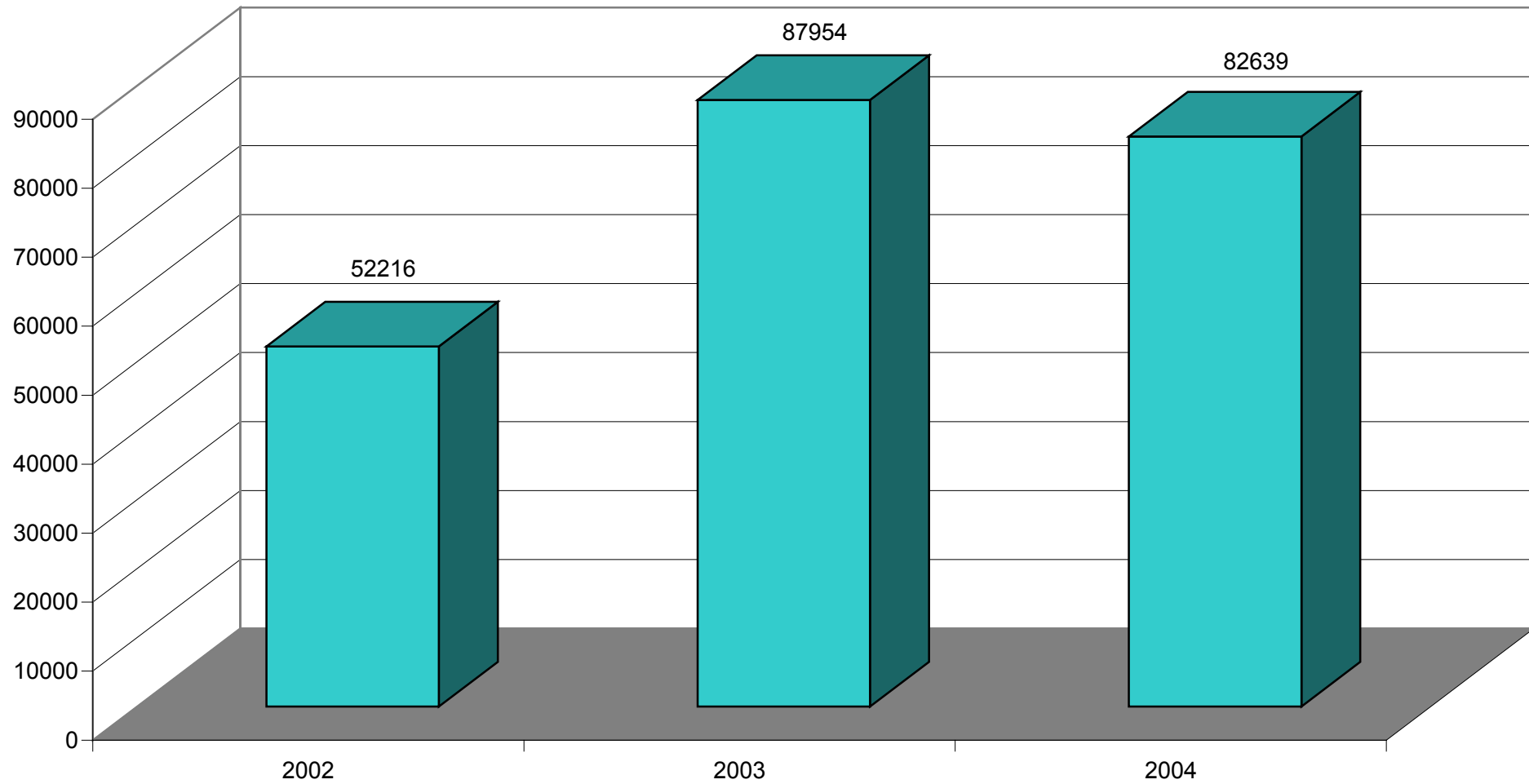
APPENDIX 2: Visits to the website in 2002, 2003 and 2004.

VISITS TO THE WEBSITE PER MONTH IN 2004*



* A visit corresponds to the time spent at the site between the first and last click of the mouse.

VISITS TO THE WEBSITE IN 2002, 2003 AND 2004*



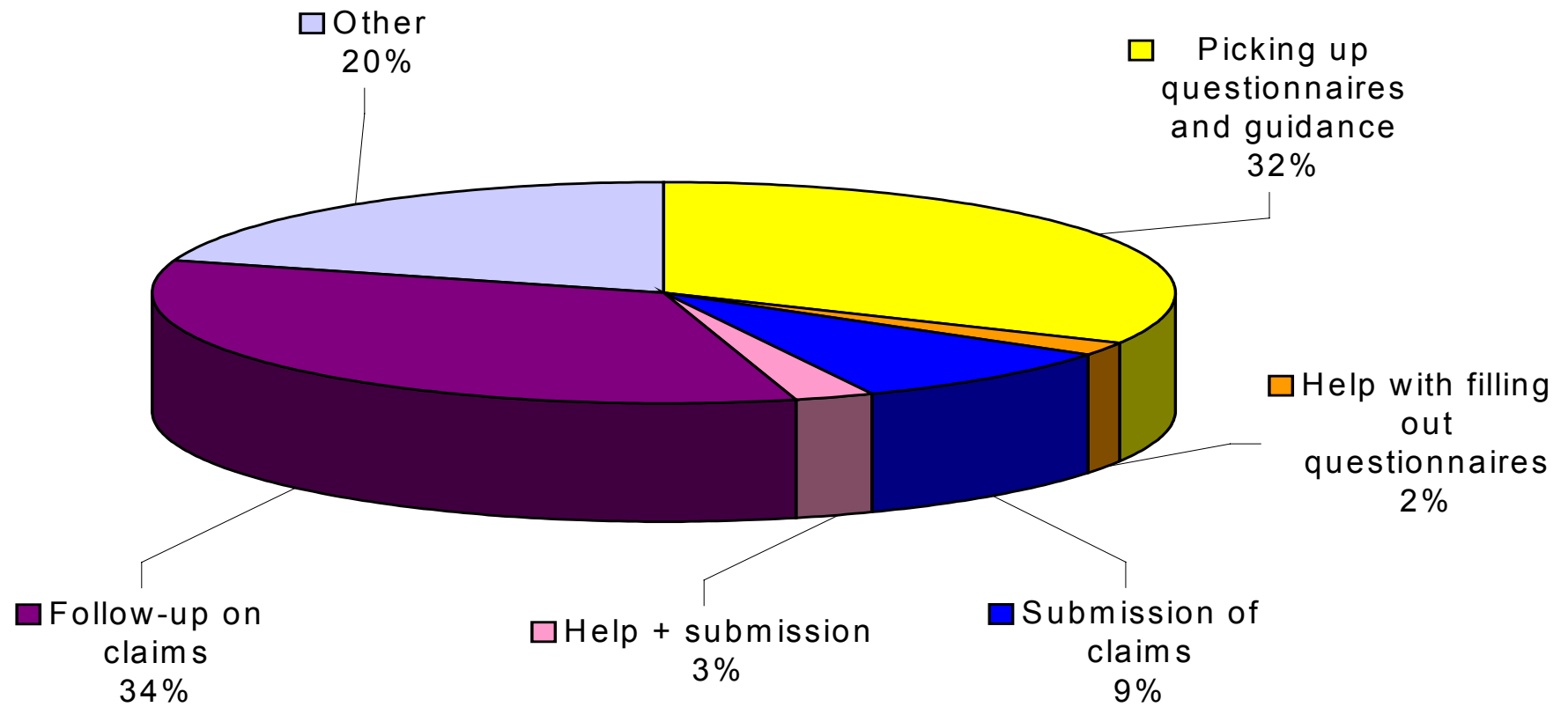
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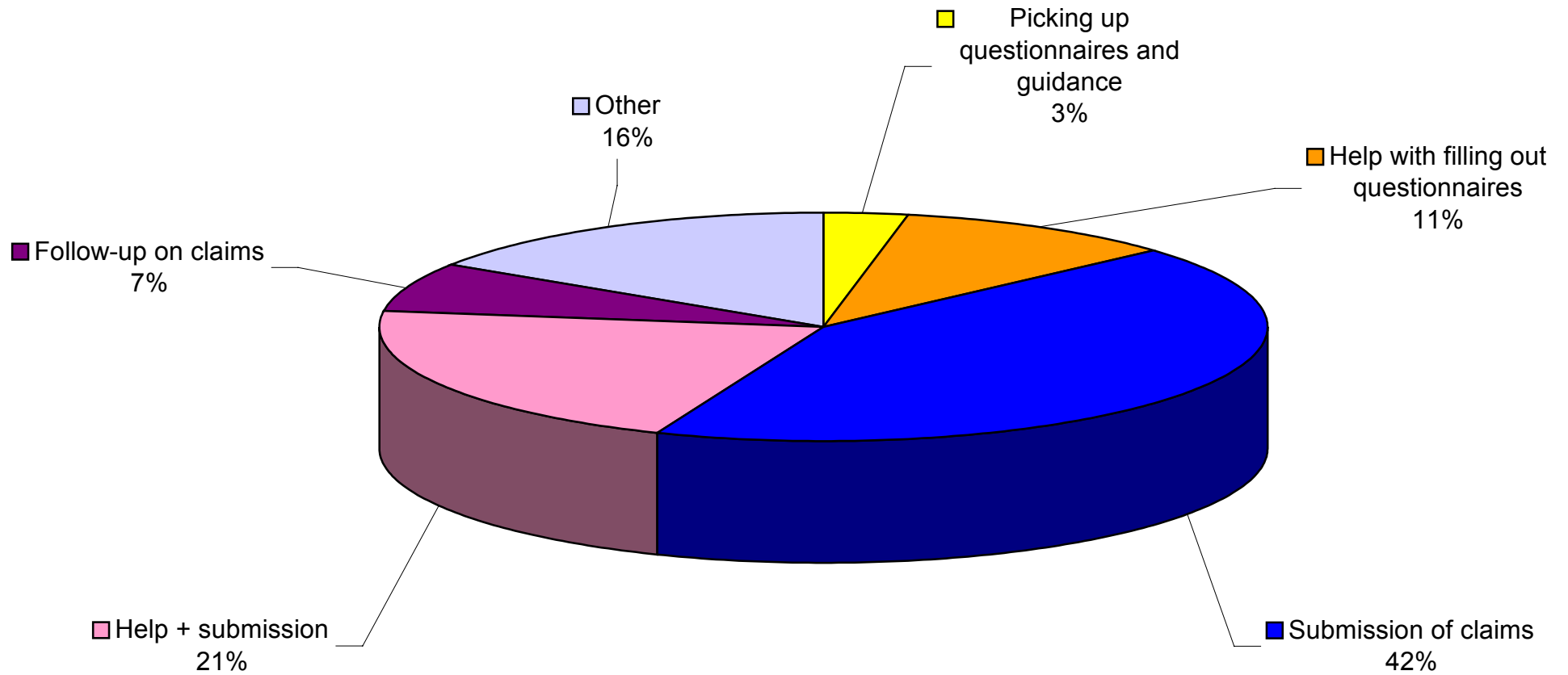
APPENDIX 3: Reason for self-initiated visits.

APPENDIX 4: Reason for appointments.

REASON FOR SELF-INITIATED VISITS



REASONS FOR APPOINTMENTS



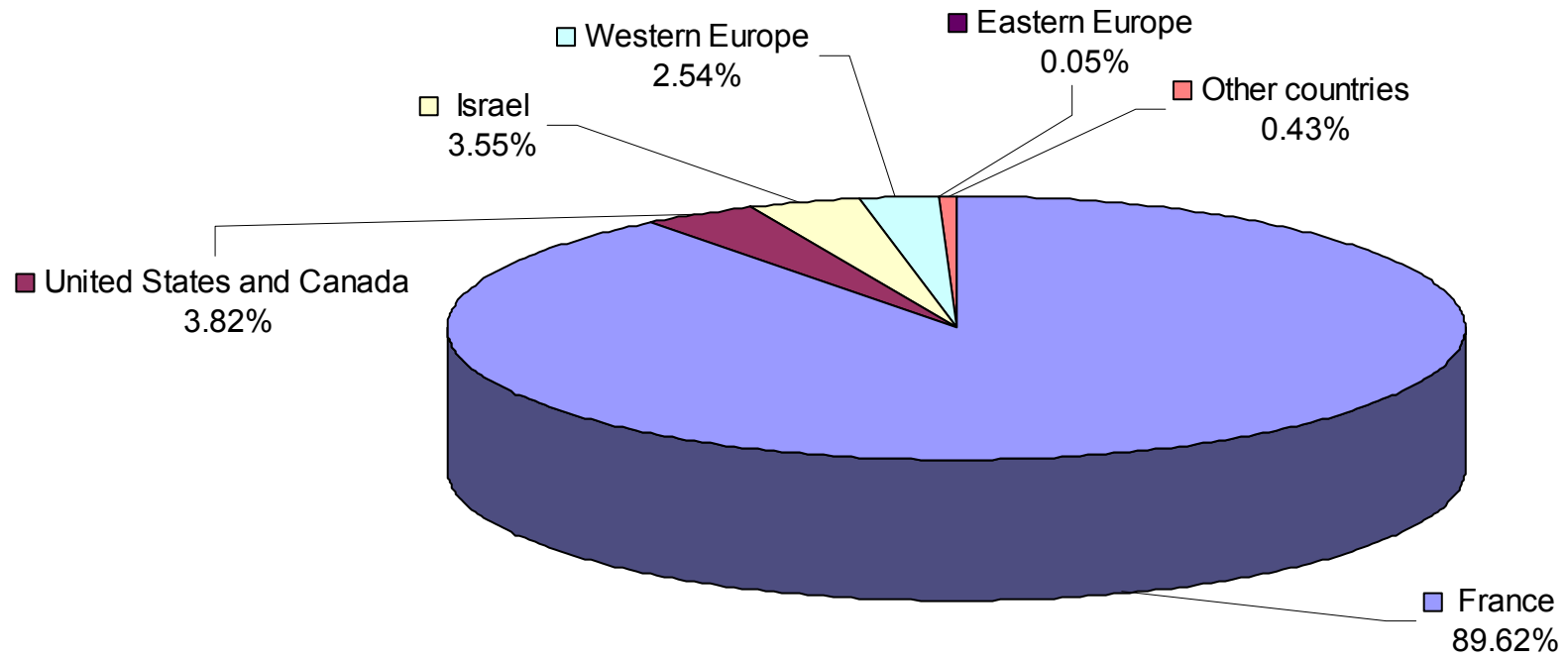
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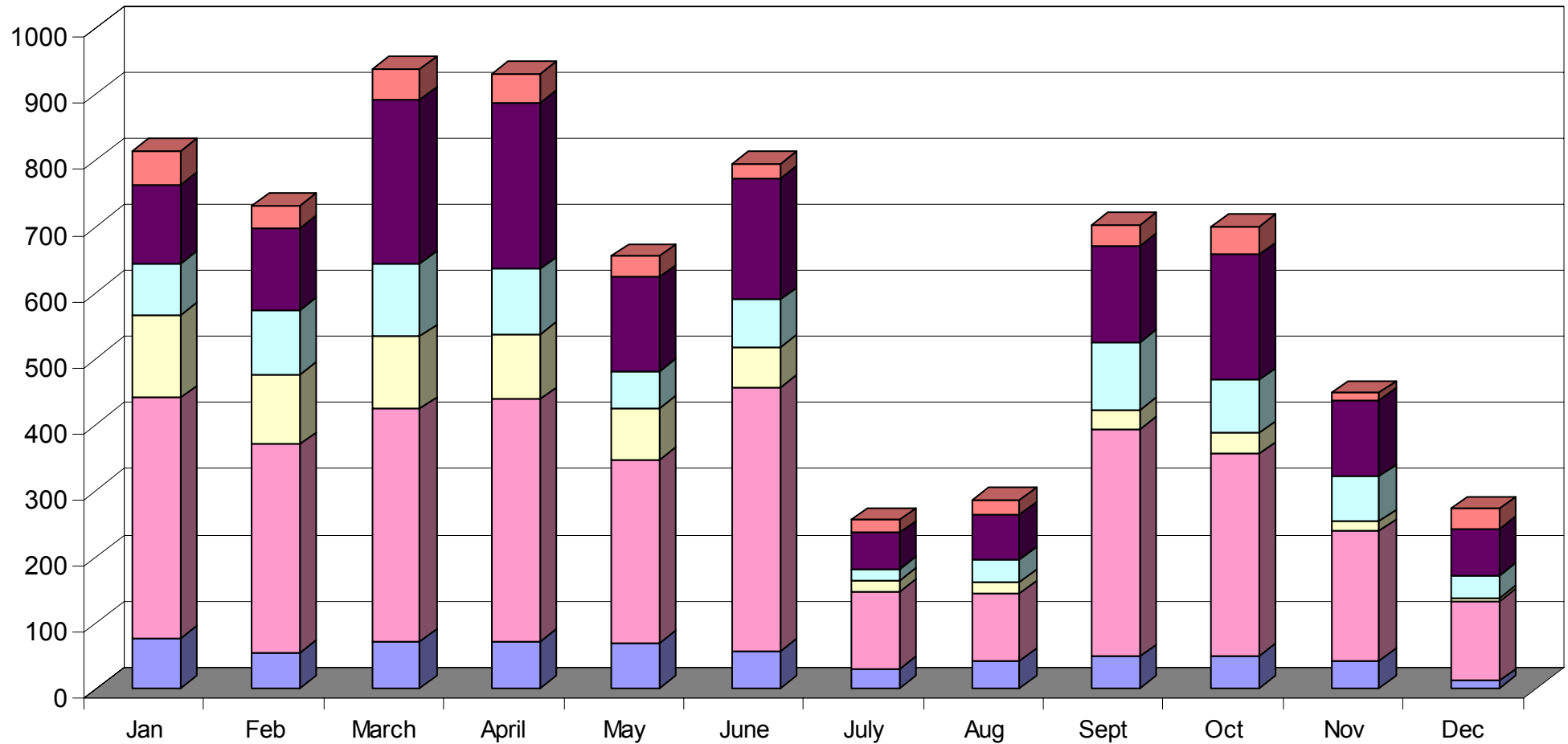
APPENDIX 7: Treatment of calls.

GEOGRAPHIC ORIGIN OF CALLS RECEIVED IN 2004



REQUESTS FOR INFORMATION IN 2004

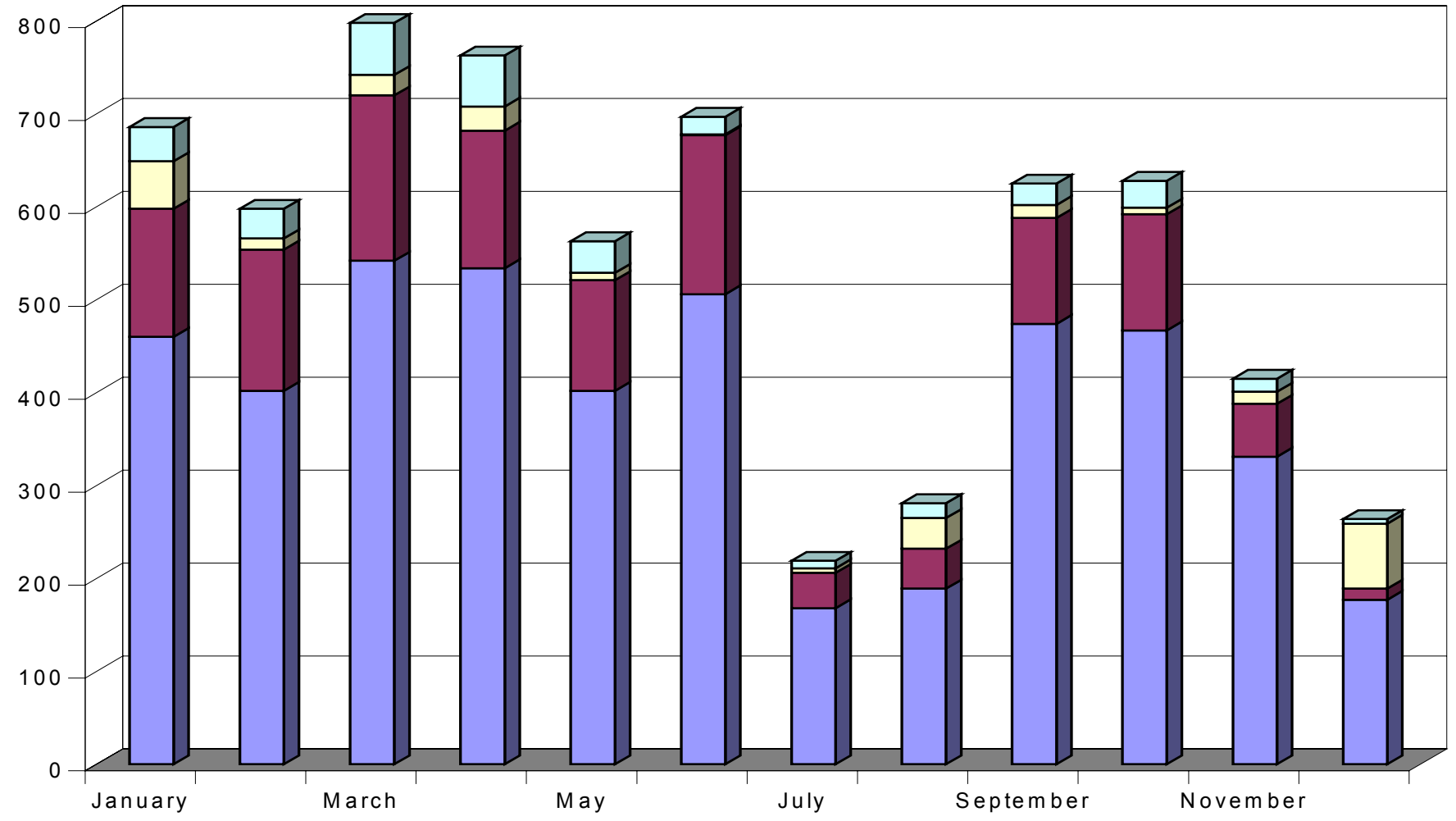
Number of calls



- Procedures and payment times
- Hearings by Commission, payment procedures, reserved portions of awards, reexaminations
- Hearings: evaluation of losses, beneficiaries
- Investigation on bank-related spoliations
- Investigation on material spoliations
- Commission's responsibilities and preparation of files

TREATMENT OF CALLS IN 2004

Number of calls



- Single calls
- Calls requiring follow-up by CIVS
- Follow-up calls made
- Calls transferred to other CIVS departments

➔ Reception and registering of claims:

APPENDIX 8: Claims registered from 2001 to December 31, 2004.

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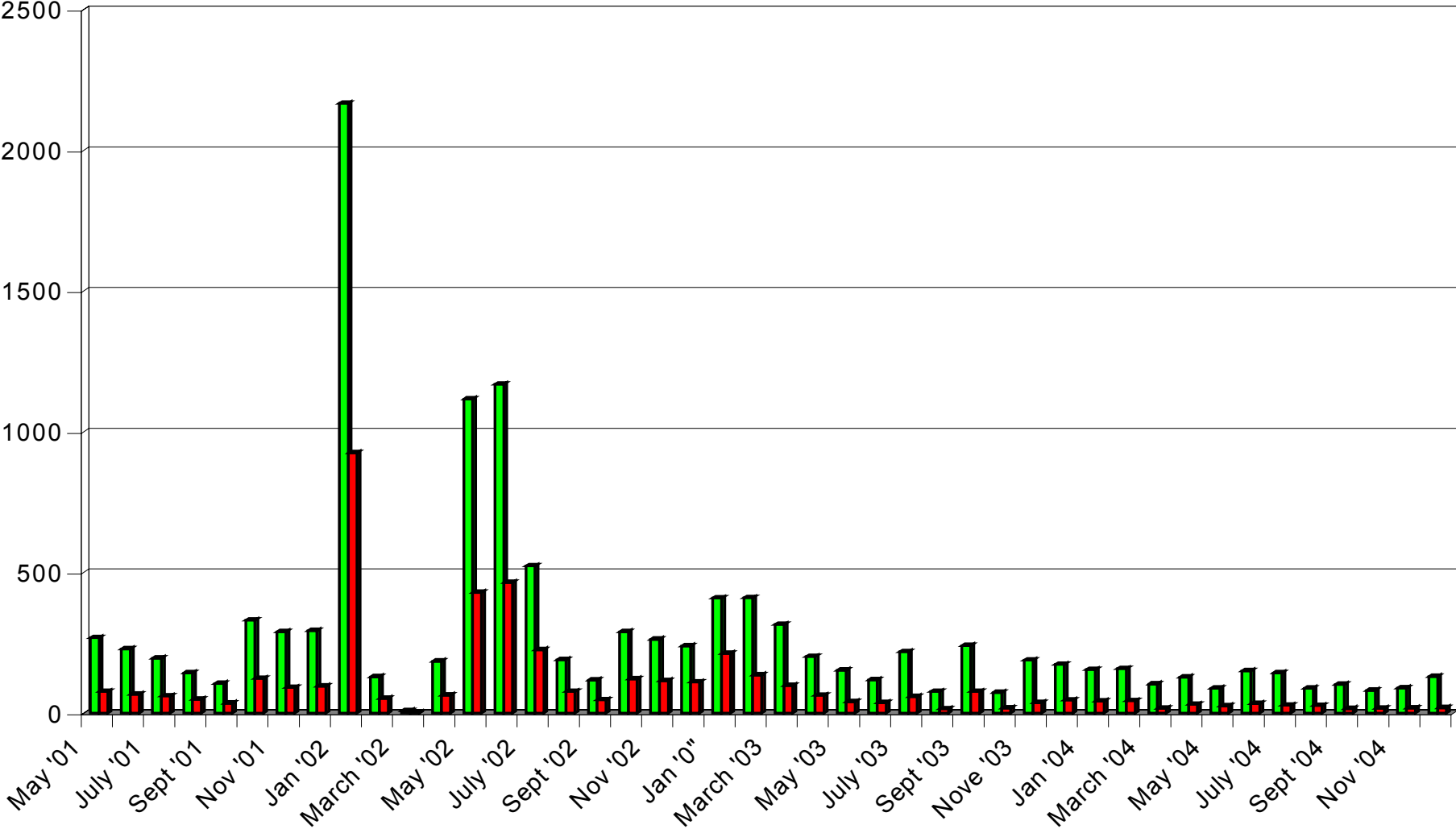
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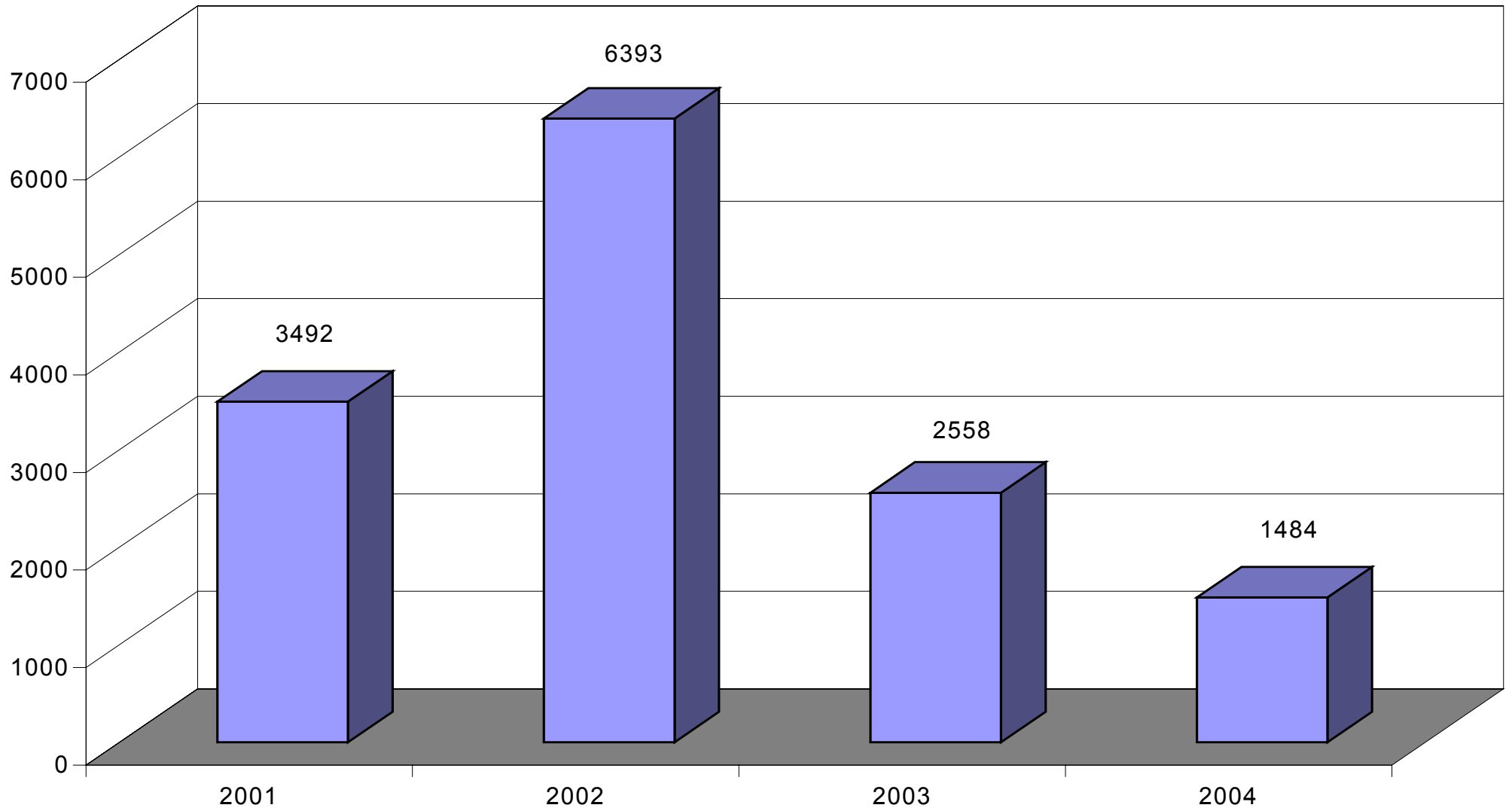
APPENDIX 15: Distribution of spoliations by region.

CLAIMS REGISTERED FROM 2001 TO DECEMBER 31, 2004

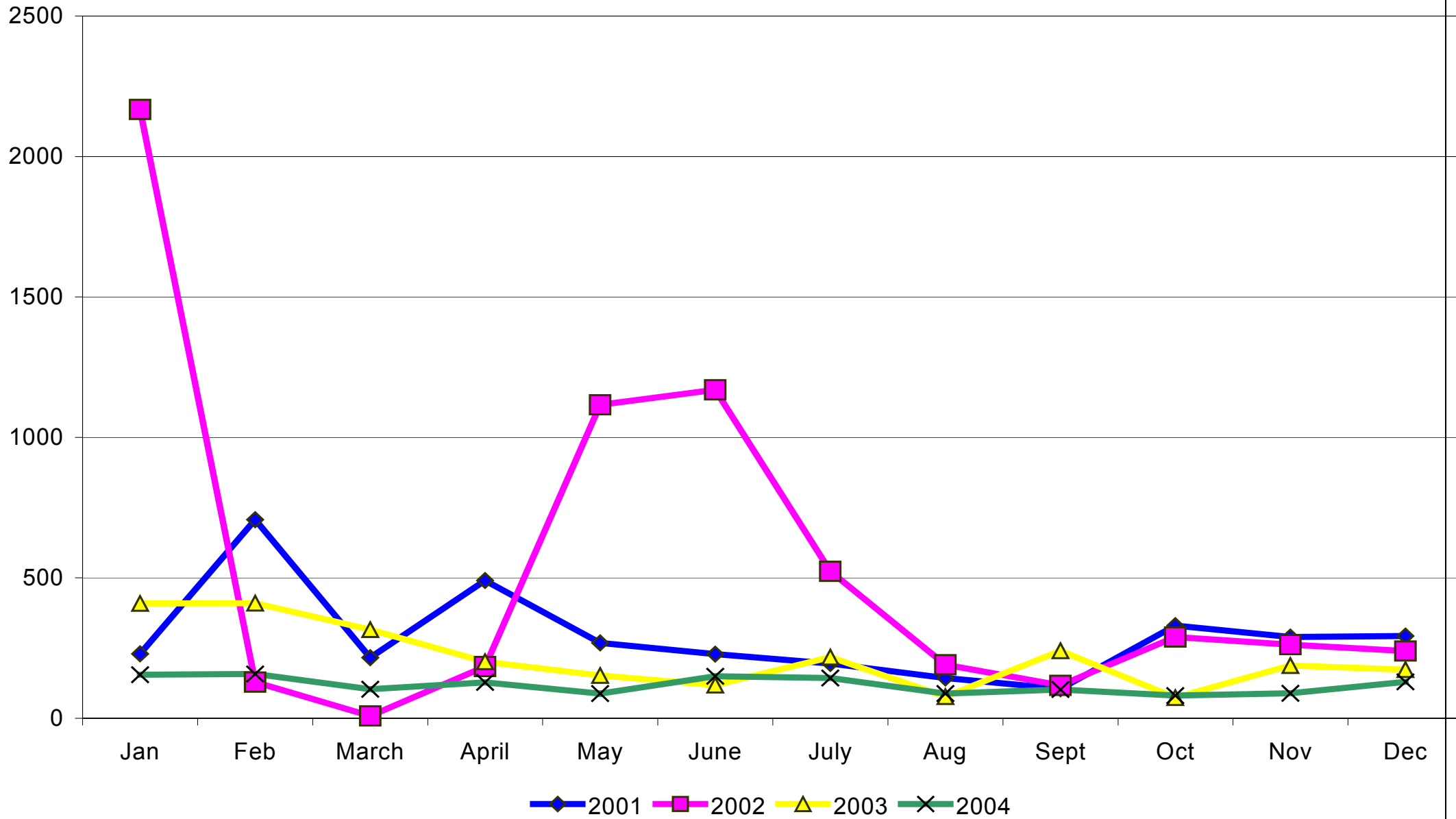


■ Claims for all types of damages
 ■ Bank-related claims

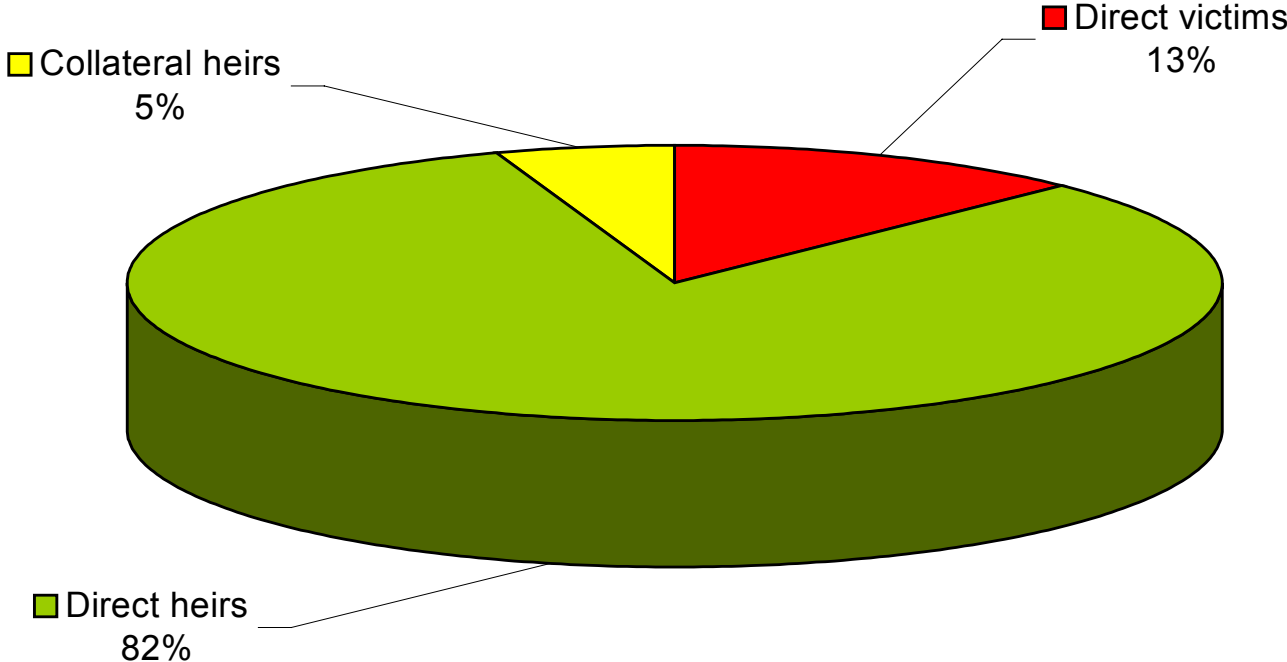
CLAIMS FOR ALL TYPES OF DAMAGES REGISTERED IN 2001, 2002, 2003 AND 2004



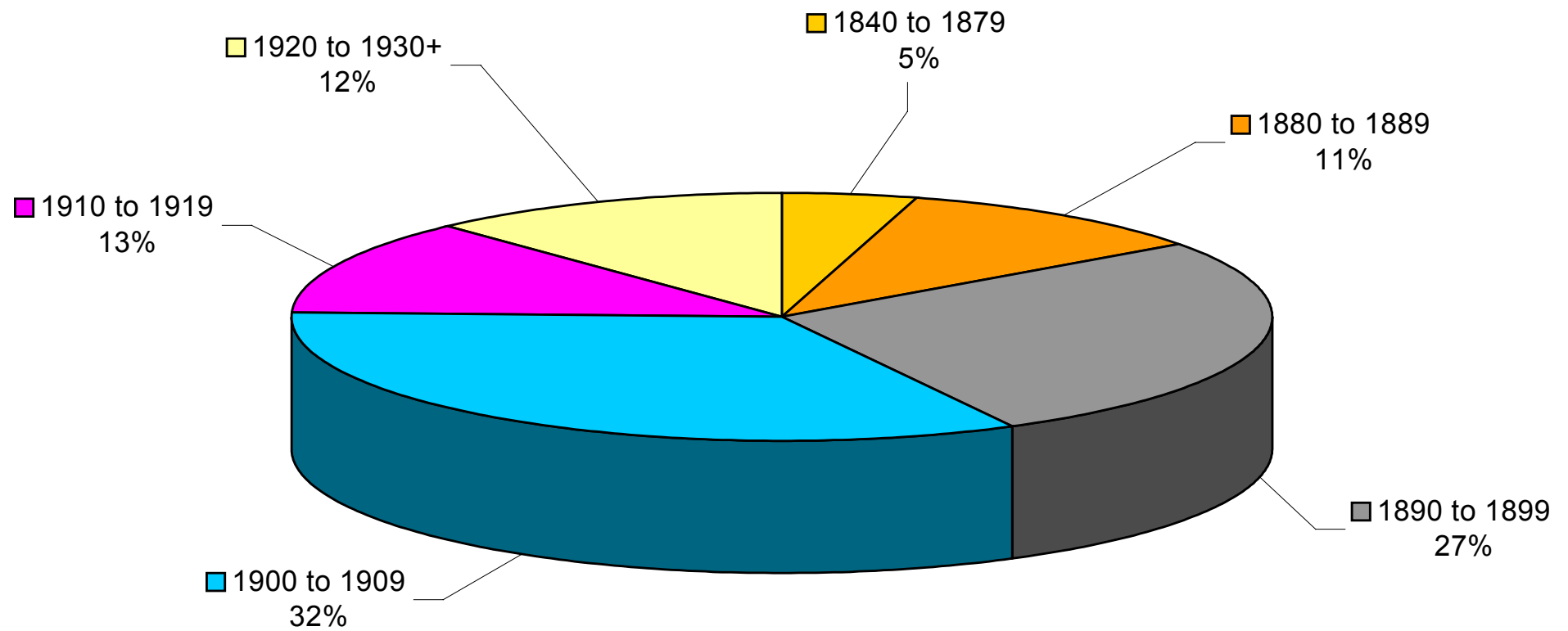
CLAIMS FOR ALL TYPES OF DAMAGES REGISTERED BY MONTH



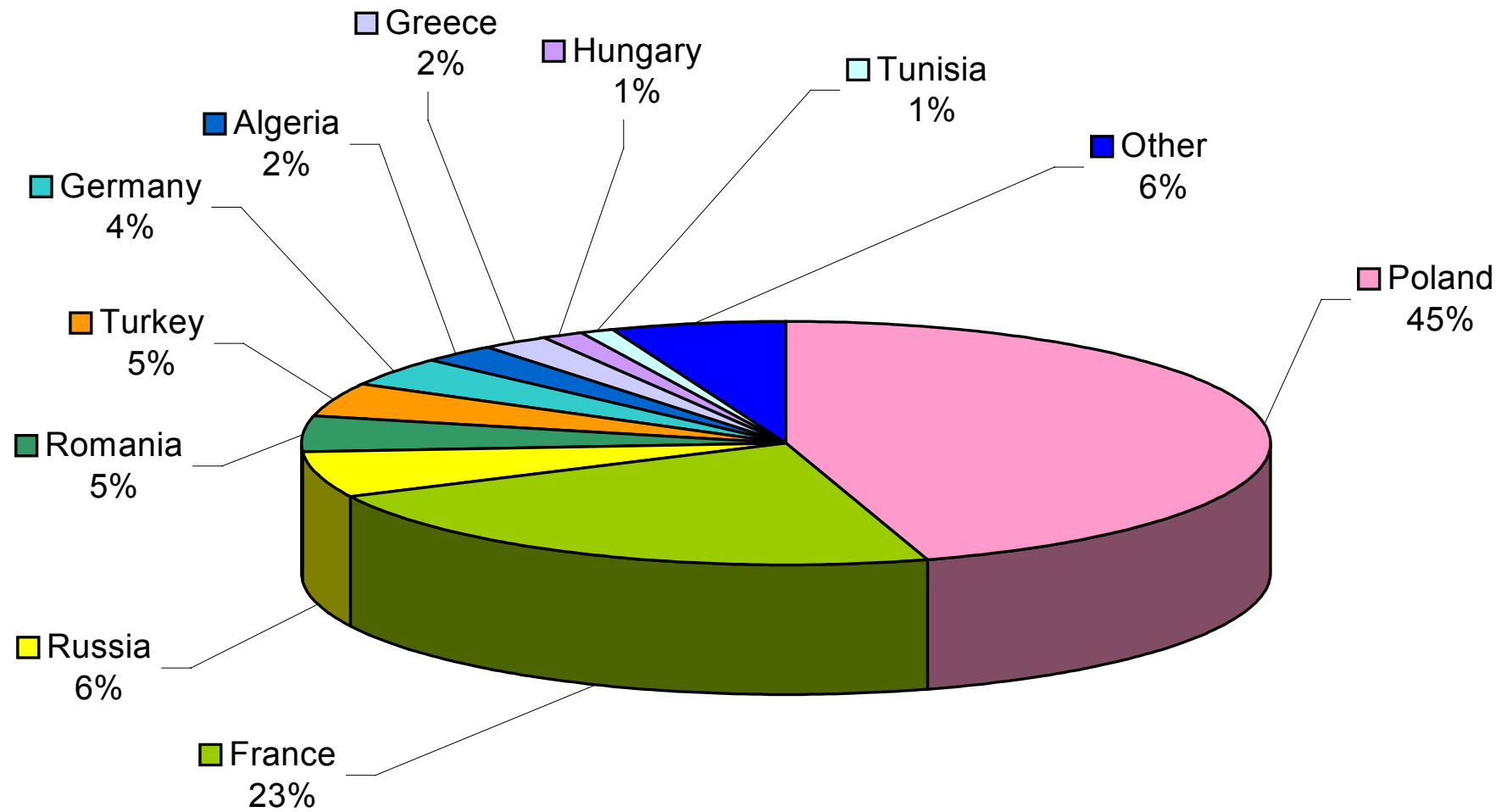
STATUS OF CLAIMANTS



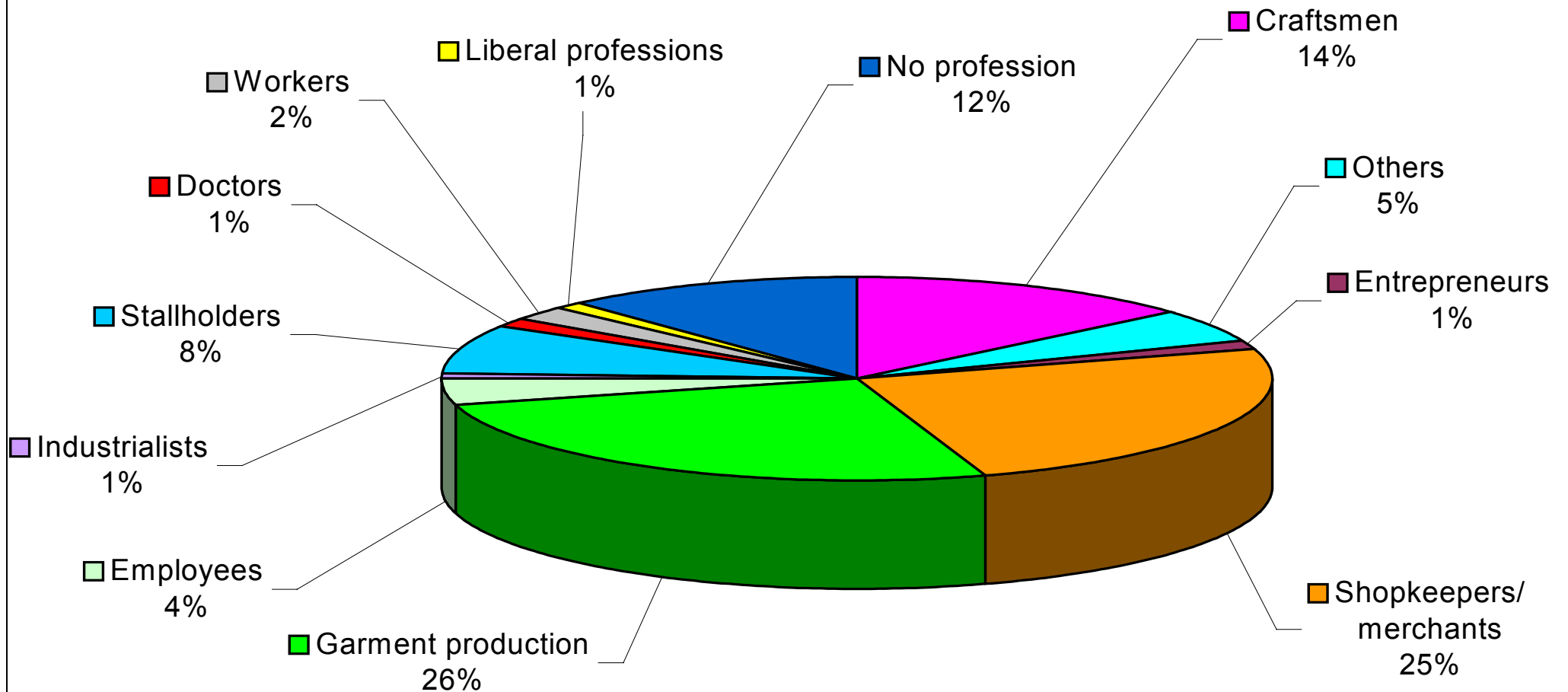
BIRTHDATE OF DIRECT VICTIMS OF SPOLIATION



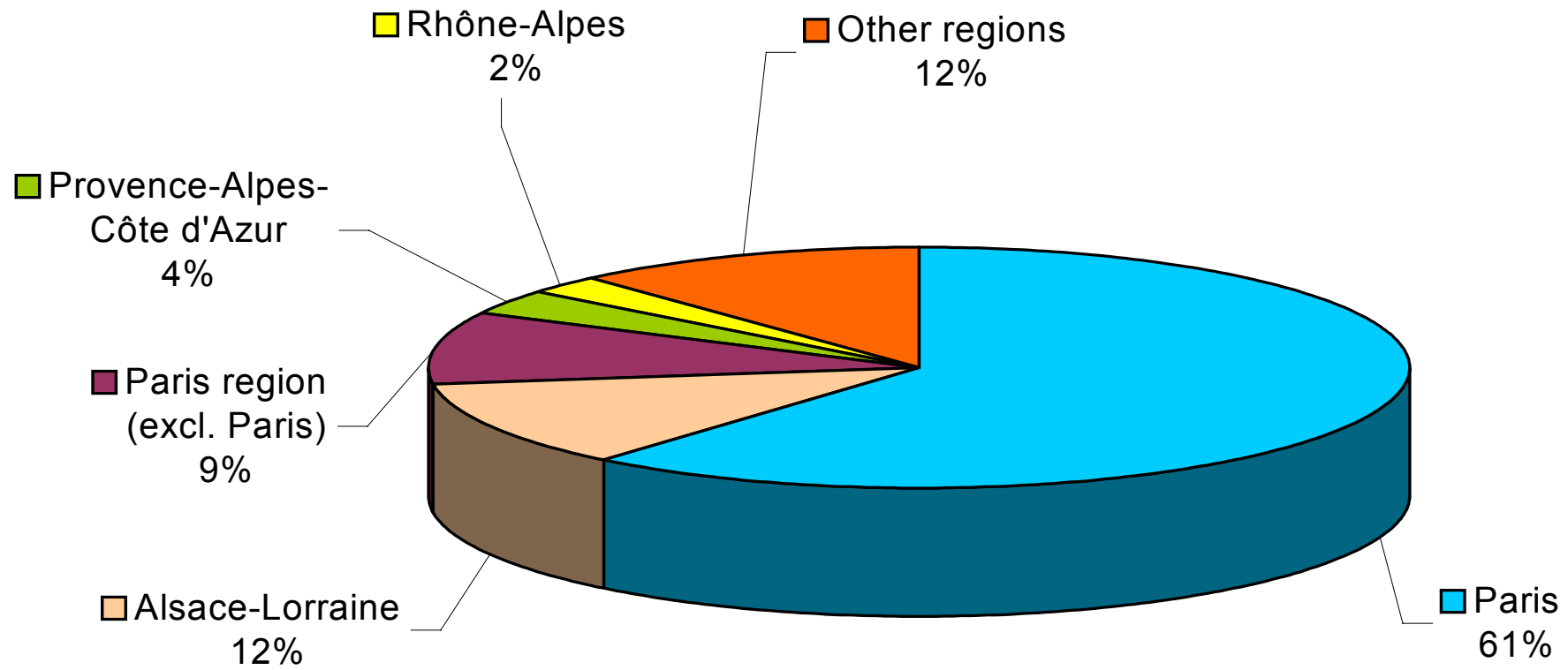
COUNTRY OF ORIGIN OF DIRECT VICTIMS OF SPOILIATION



OCCUPATION OF DIRECT VICTIMS OF SPOILIATION



DISTRIBUTION OF SPOLIATIONS BY REGION

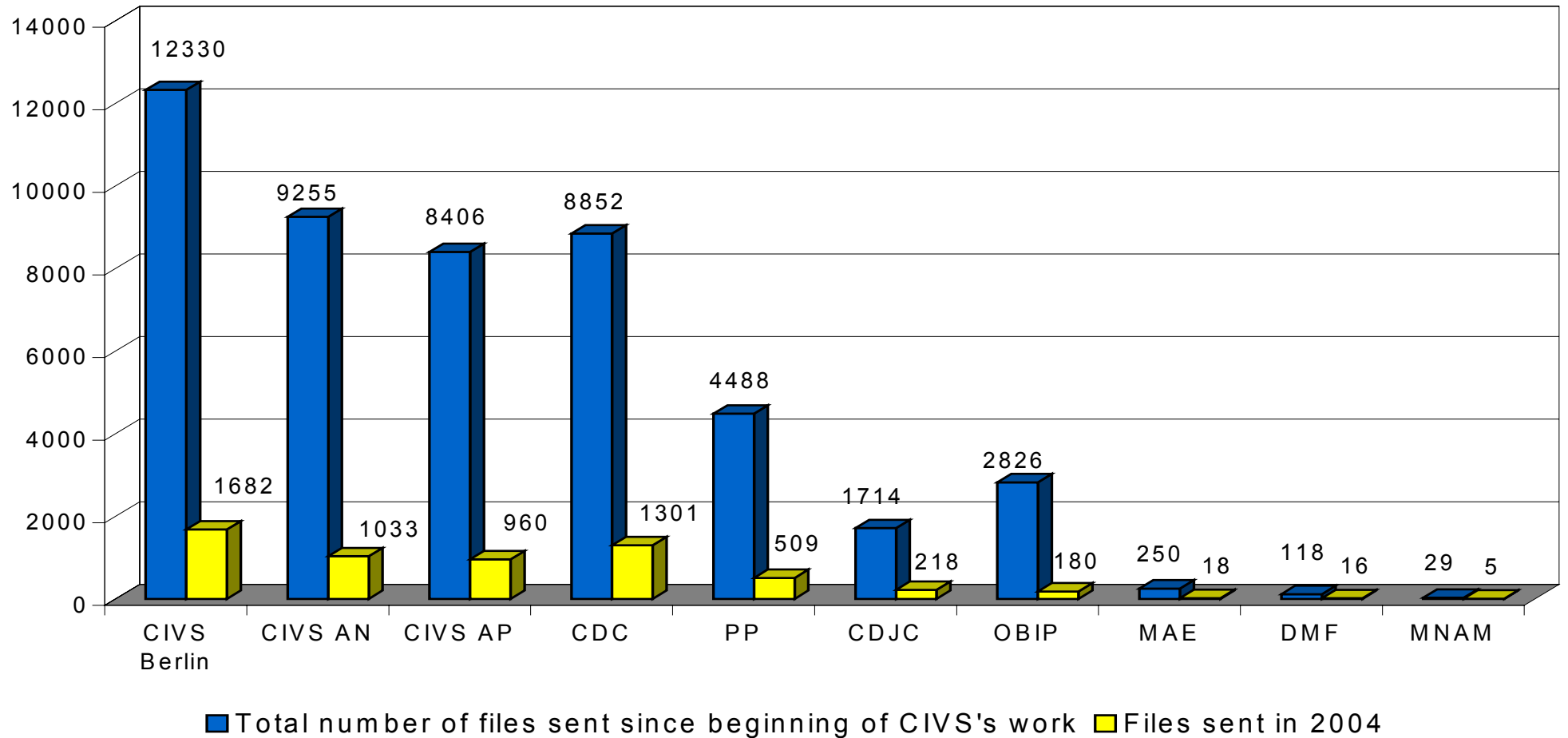


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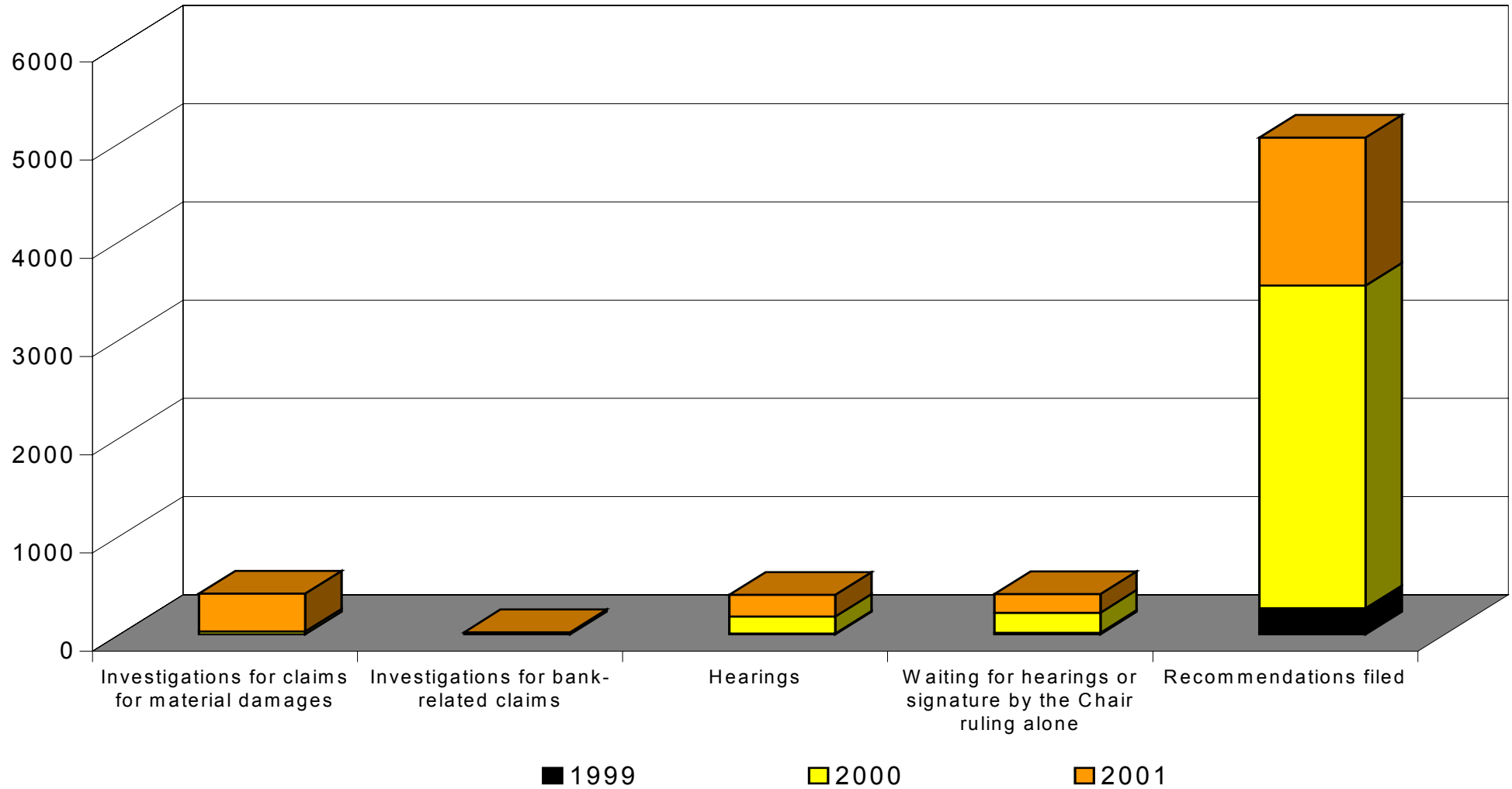
APPENDIX 16: Files sent to the archive centers.

APPENDIX 17: Treatment of claims registered in 1999, 2000 and 2001.

FILES SENT TO THE ARCHIVE CENTERS



TREATMENT OF CLAIMS REGISTERED IN 1999, 2000 AND 2001



➔ Treatment of bank-related claims:

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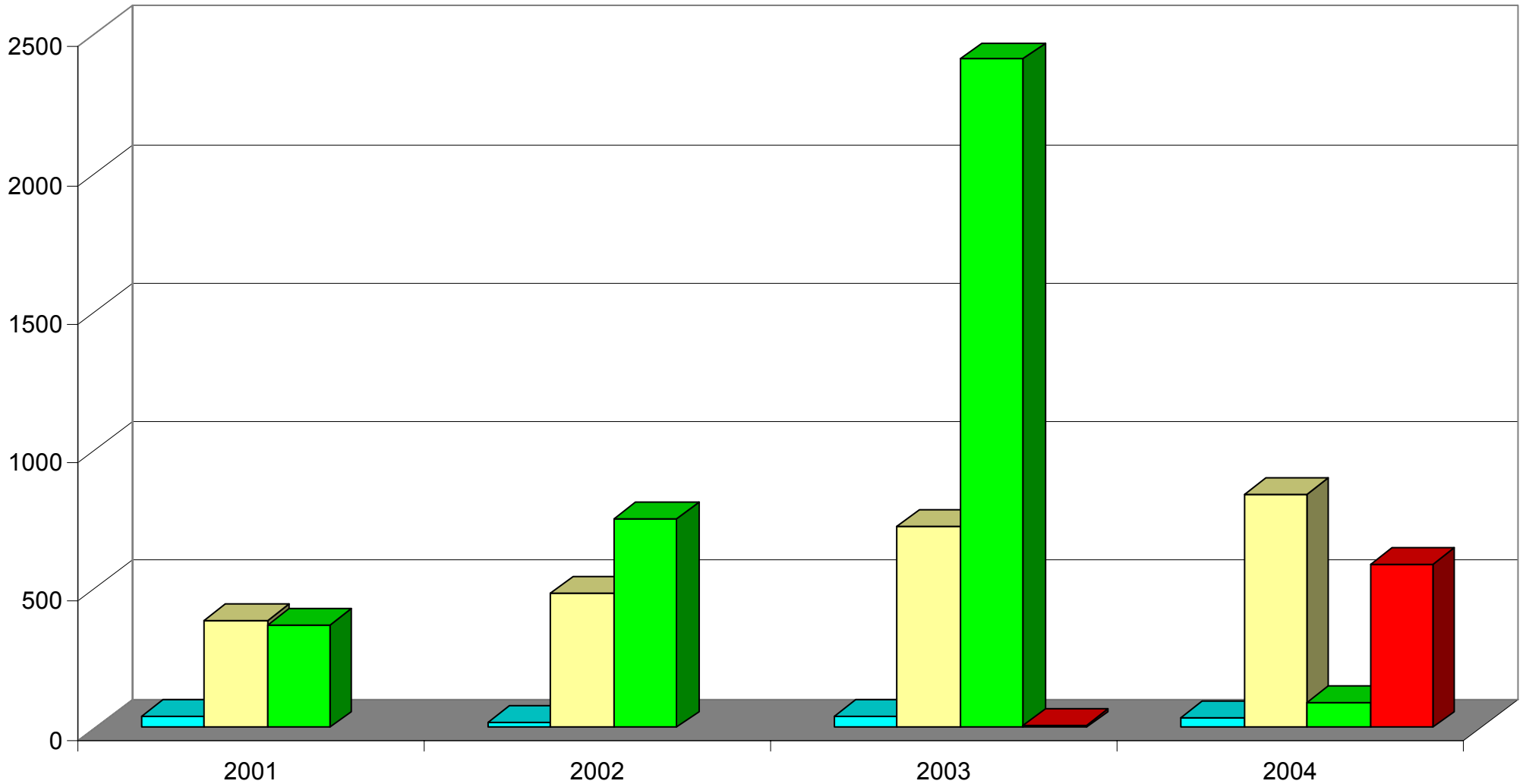
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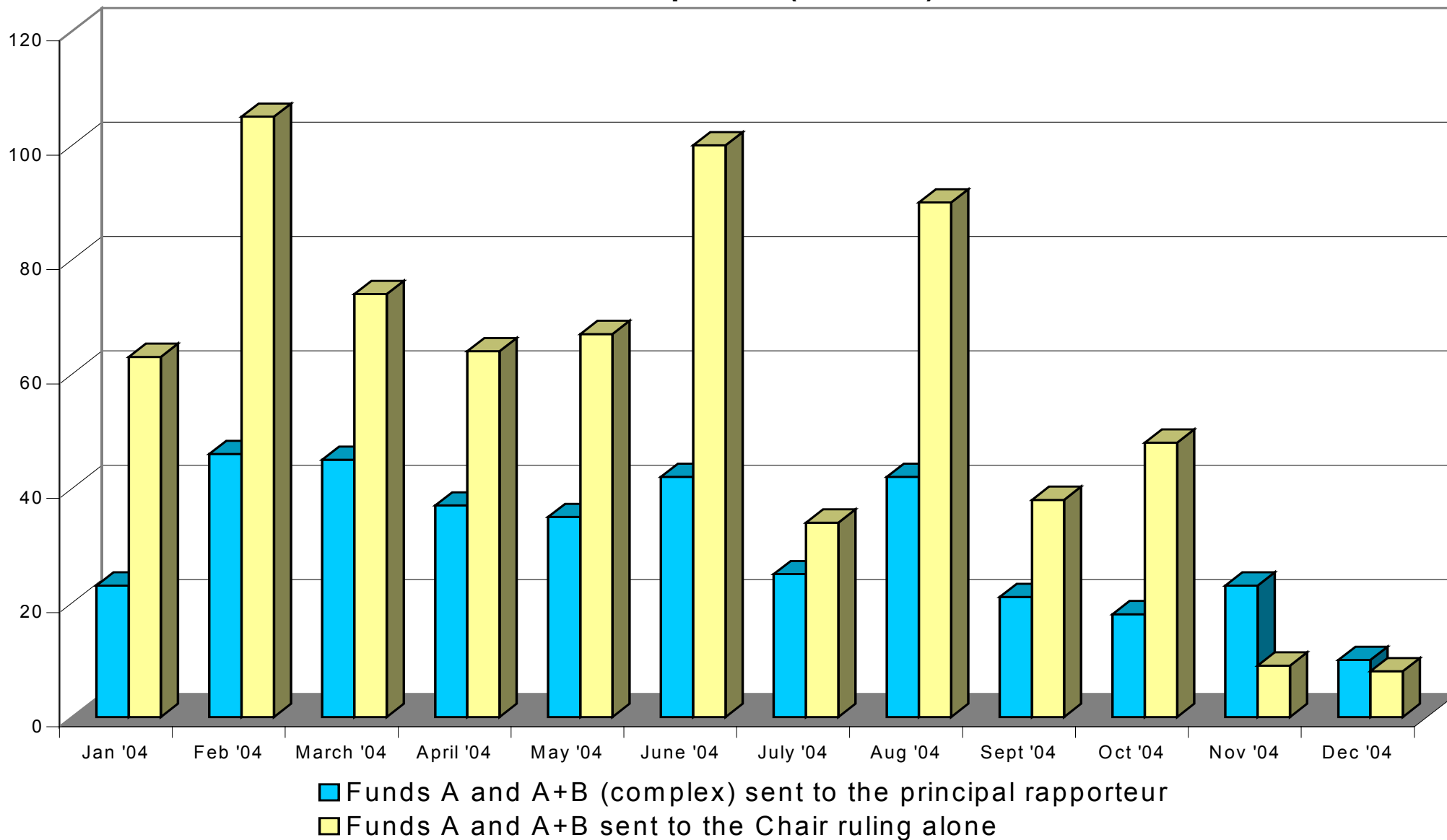
CLAIMS TREATED BY THE BANKING UNIT FROM 2001 TO DECEMBER, 2004

Annual breakdown by Fund

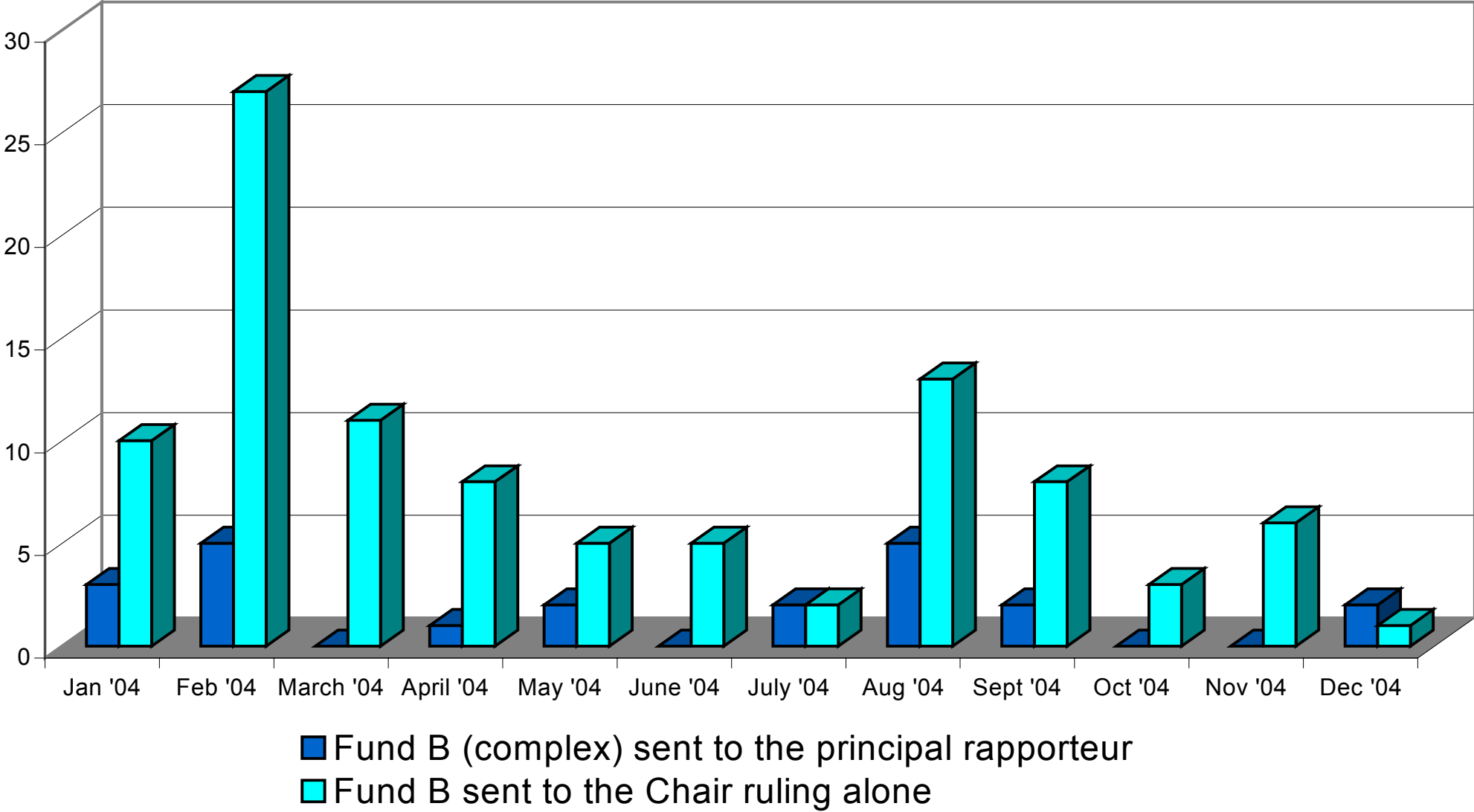


- Fund A alone
- Funds A+B
- Fund B
- Claims without identified accounts that reached the Commission after the cut-off date

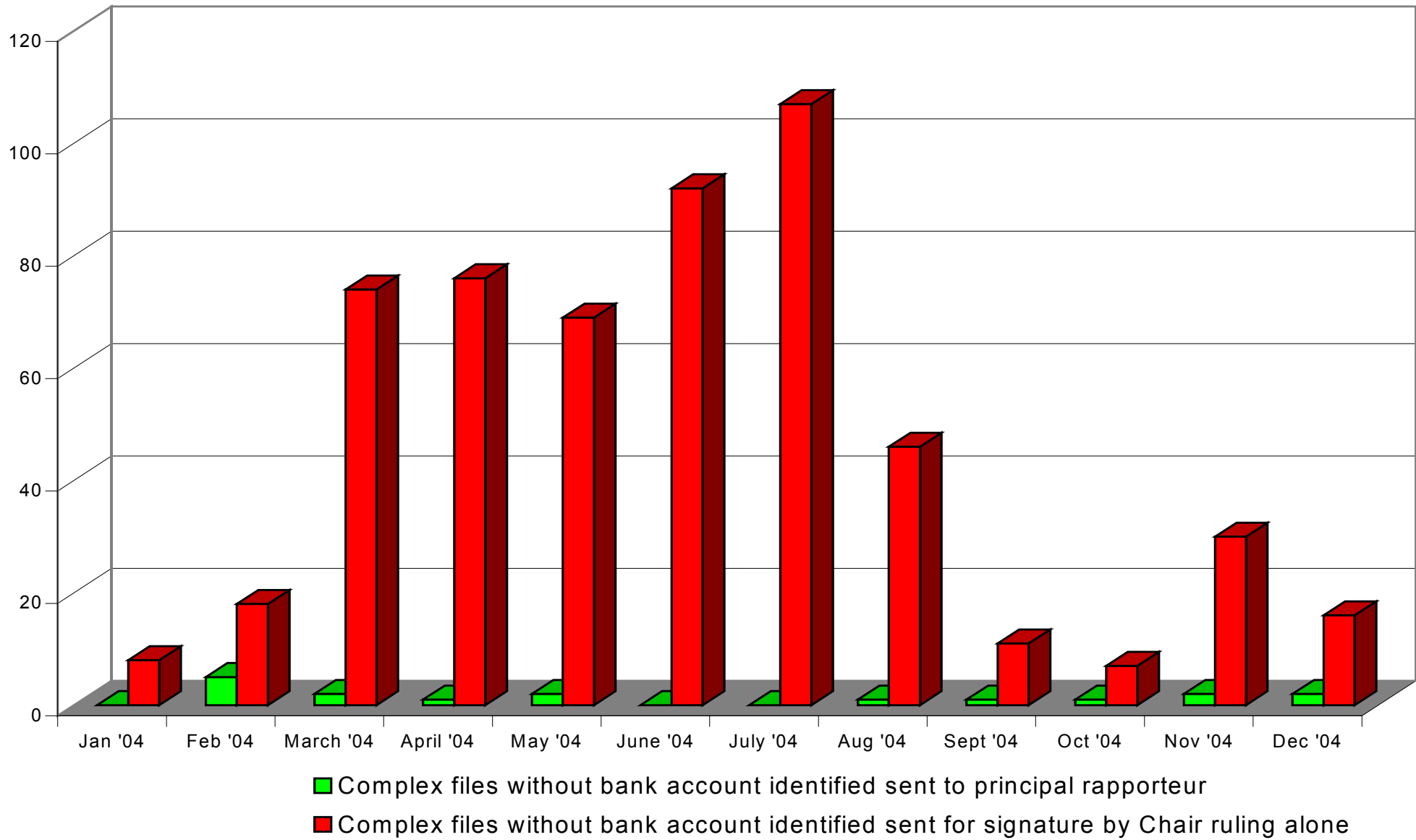
CLAIMS WITH IDENTIFIED BANK ACCOUNTS READY FOR HEARINGS IN 2004 "The deposit" (Fund A)



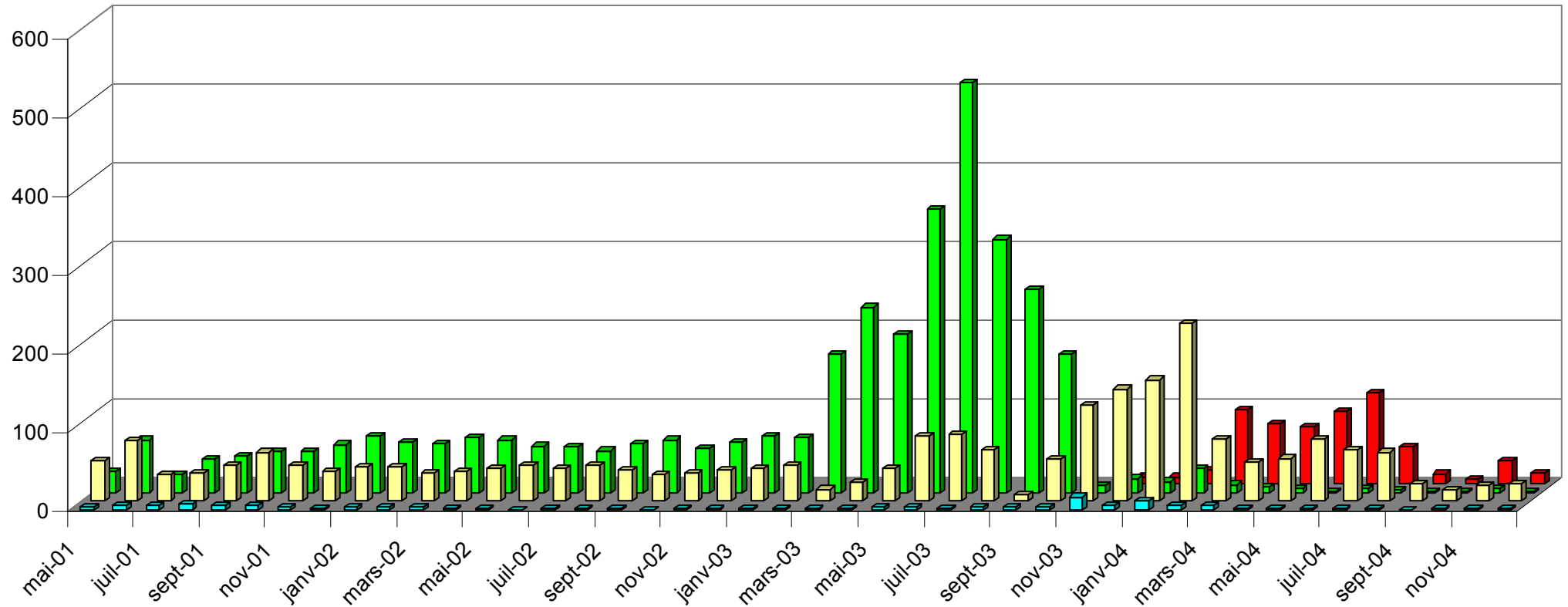
**CLAIMS WITHOUT IDENTIFIED BANK ACCOUNTS
READY FOR HEARING IN 2004
"The Fund" (Fund B)**



FILES RECEIVED AFTER DEADLINE SENT FORWARD FOR NEGATIVE DECISION IN 2004

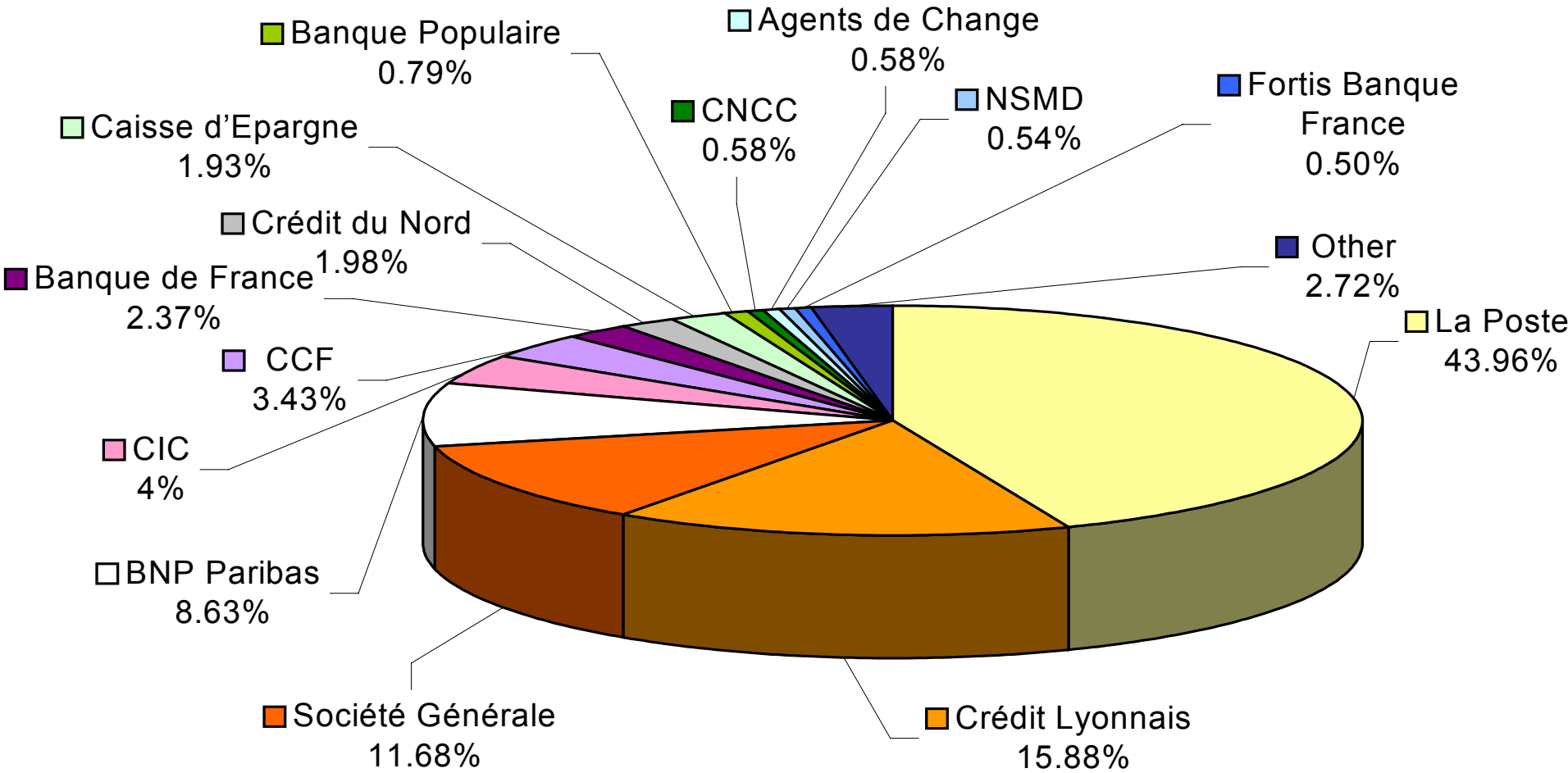


MONTHLY BREAKDOWN OF CLAIMS TREATED BY THE BANKING UNIT FROM 2001 TO DECEMBER 31, 2004



- Fund A alone
- Fund A+B
- Fund B
- Claims without identified accounts that reached the Commission after the cut-off date

DISTRIBUTION OF IDENTIFIED ACCOUNTS BY CREDIT INSTITUTIONS FROM 2001 TO DECEMBER 31, 2004



➔ Formulation of recommendations:

APPENDIX 24: Processing time for claims for material damages between reception of questionnaire and examination by the Commission.

APPENDICES 25 + 26: Annual rate of recommendations issued.

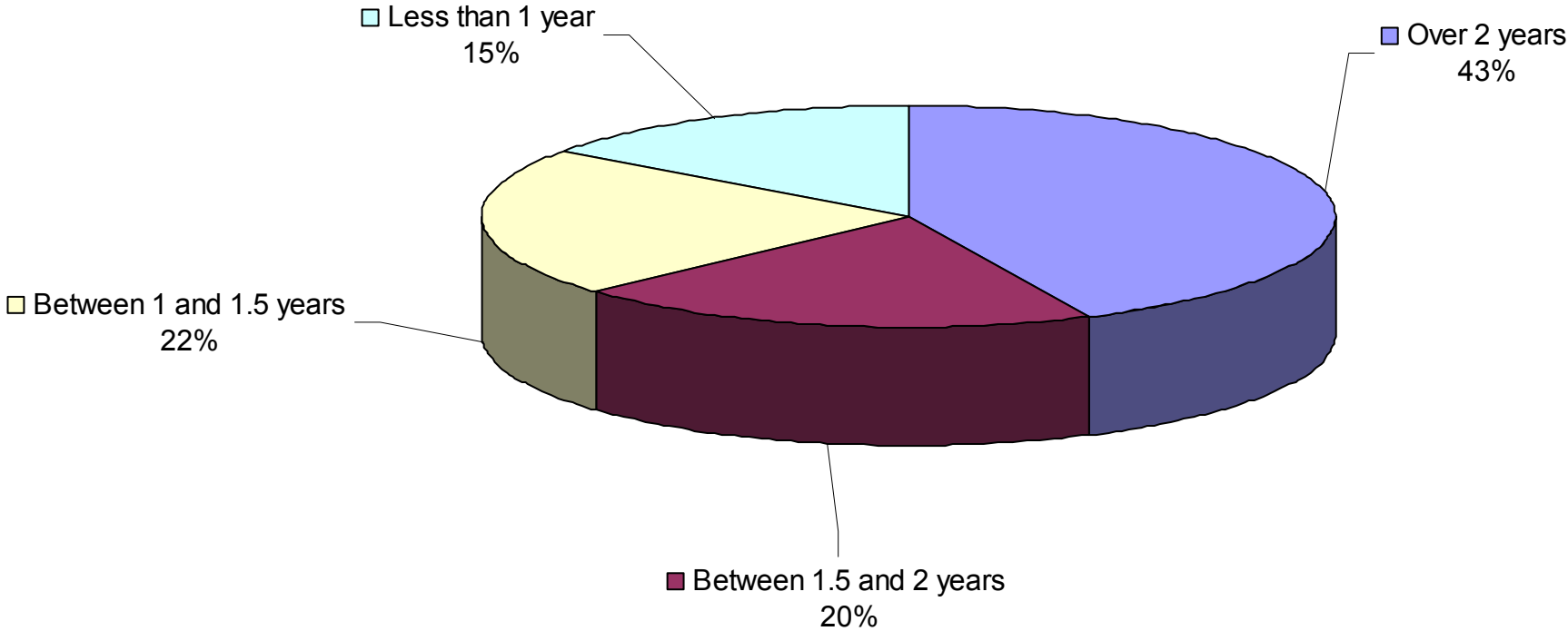
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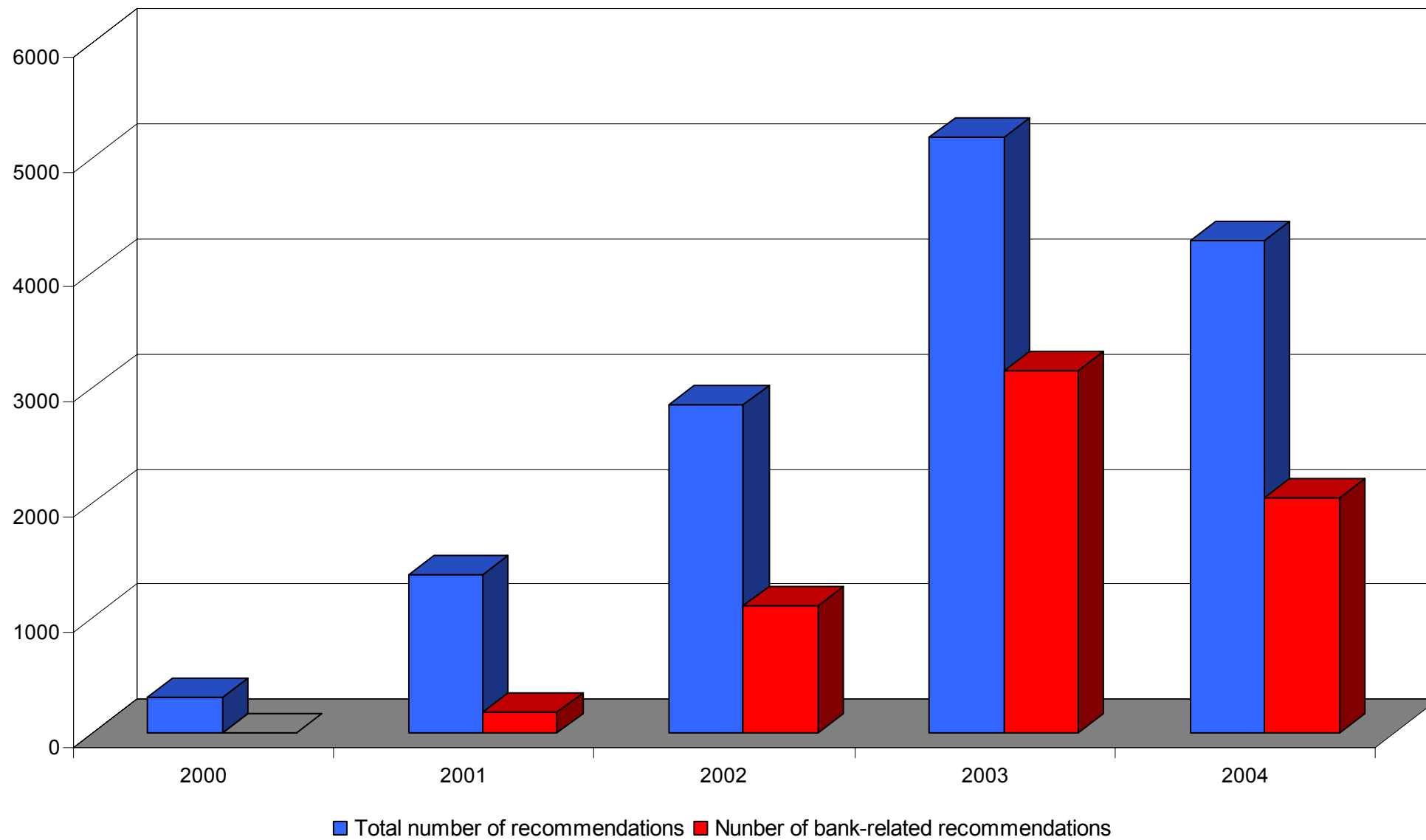
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APPENDIX 31: Sums committed from the beginning of the Commission's work through December 31, 2004.

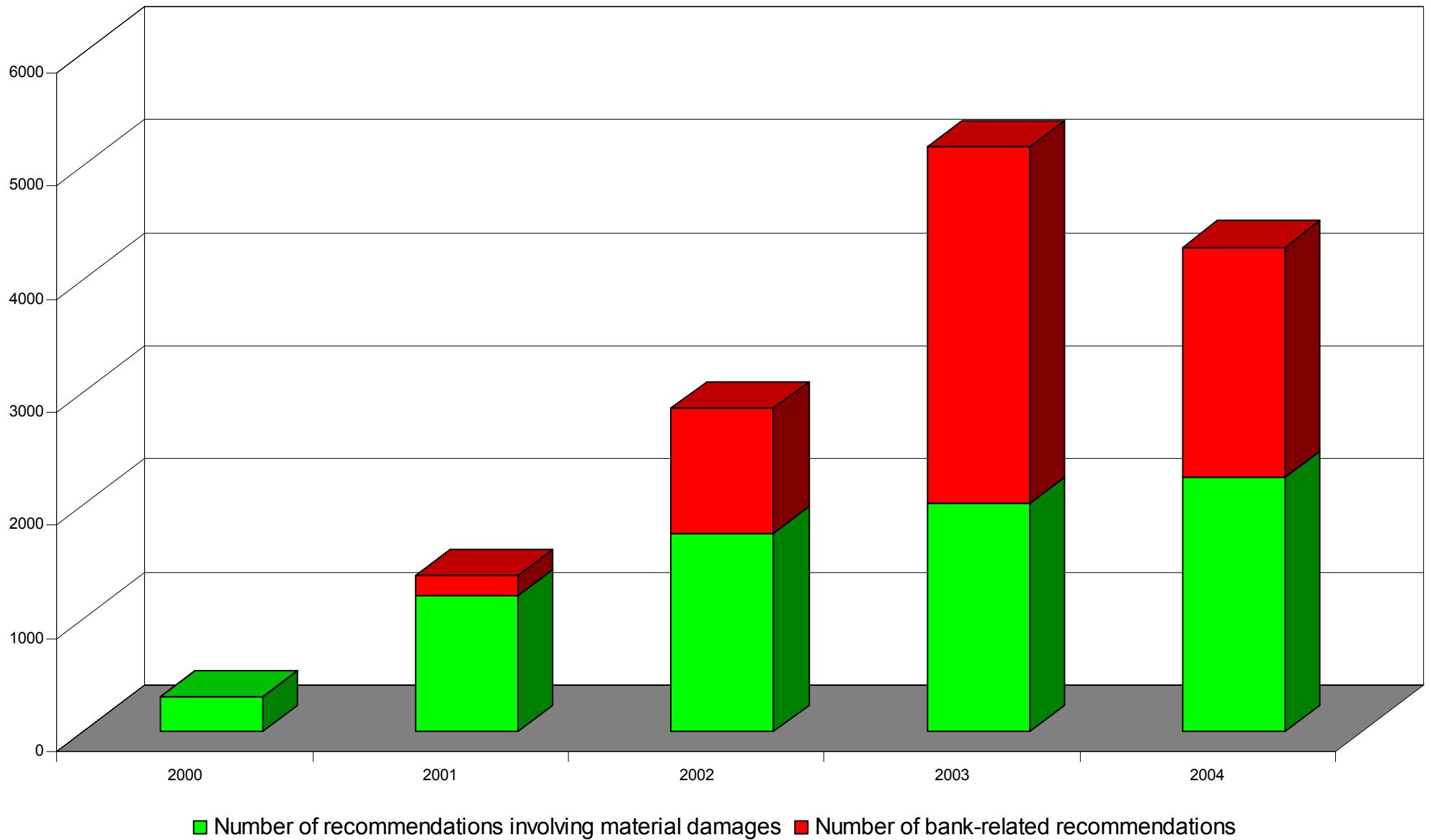
**PROCESSING TIME FOR CLAIMS FOR MATERIAL DAMAGES
BETWEEN RECEPTION OF QUESTIONNAIRE
AND EXAMINATION BY THE COMMISSION**



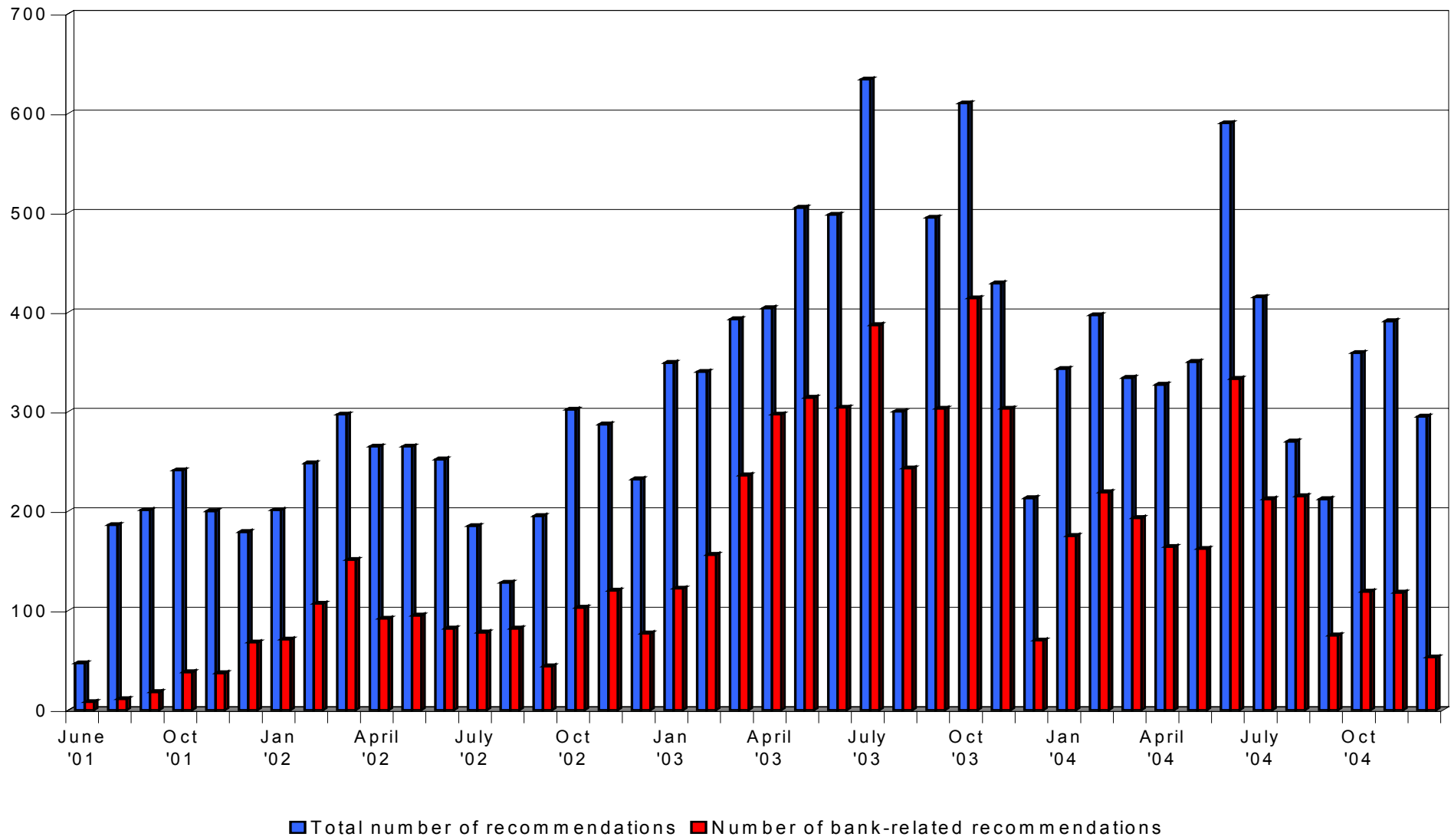
ANNUAL RATE OF RECOMMENDATIONS ISSUED (I)



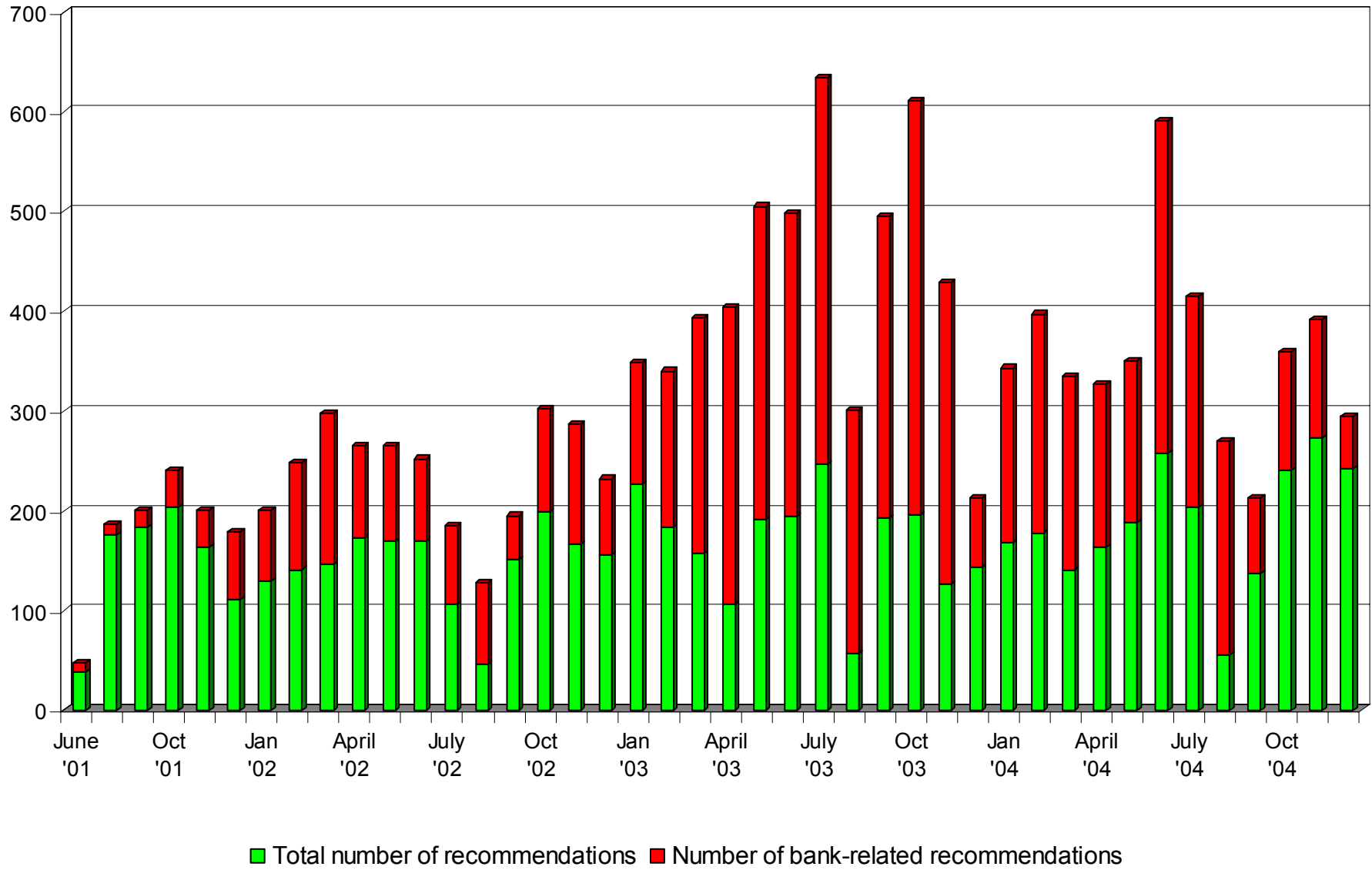
ANNUAL RATE OF RECOMMENDATIONS ISSUED (II)



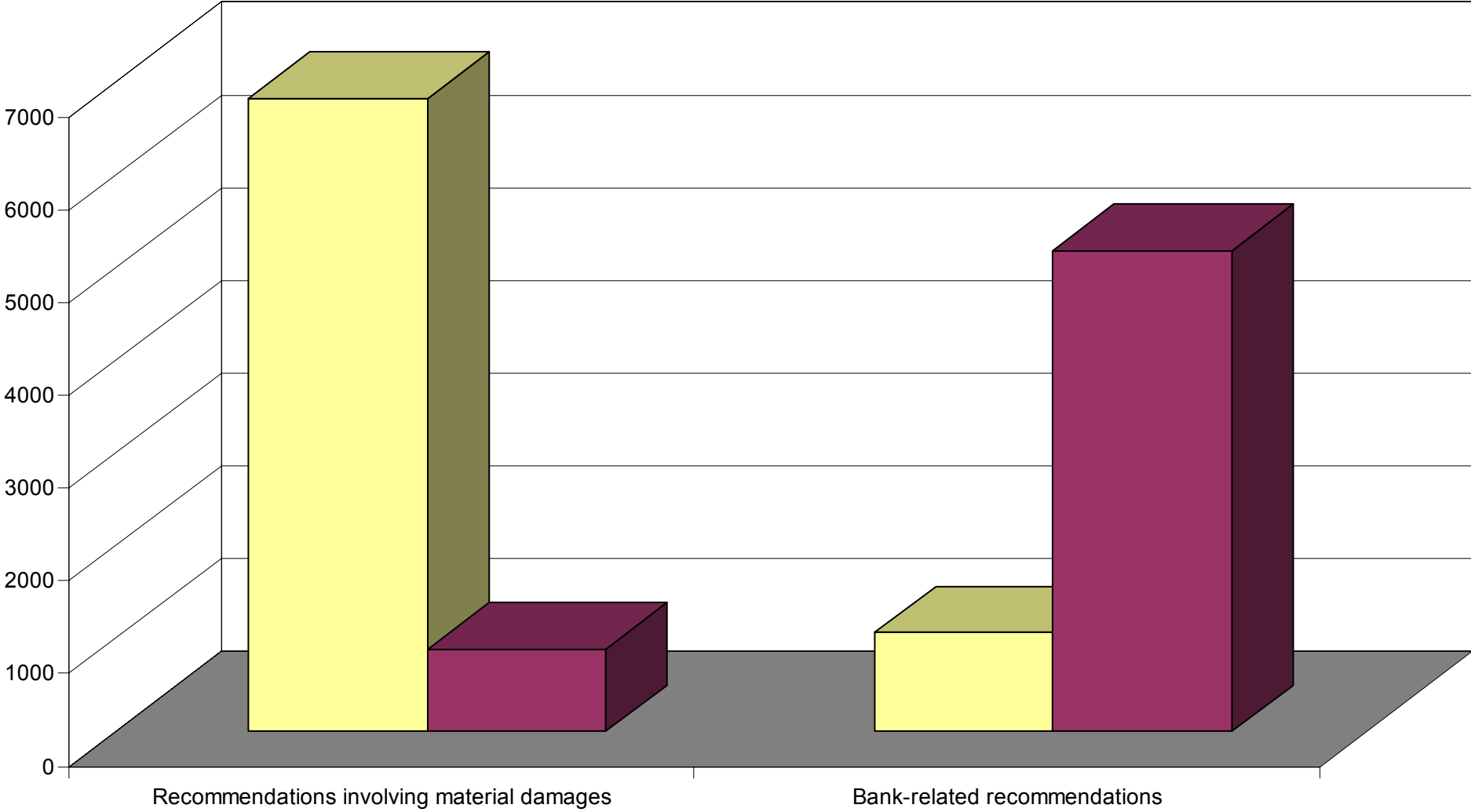
RECOMMENDATIONS ISSUED FROM 2001 TO DECEMBER 31, 2004 (I)



RECOMMENDATIONS ISSUED FROM 2001 TO DECEMBER 31, 2004 (II)

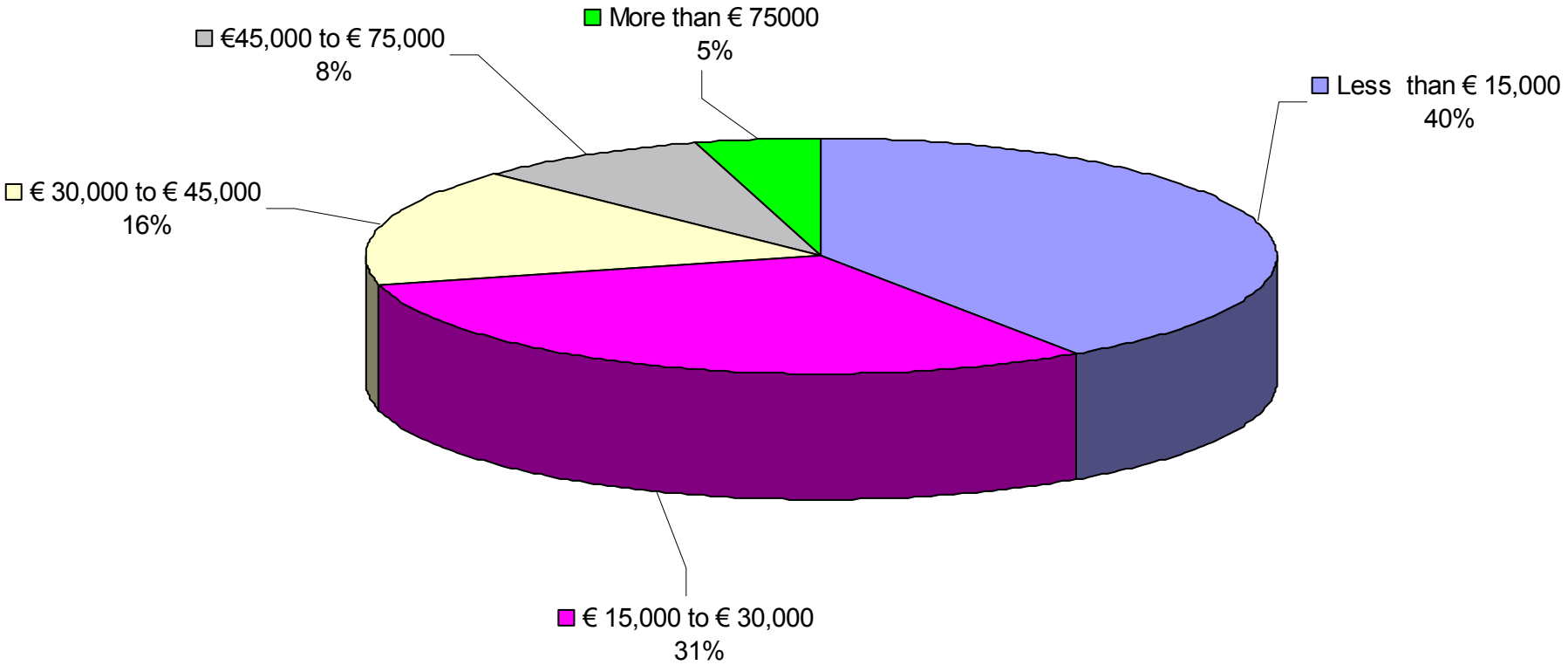


RECOMMENDATIONS ADOPTED BY A PLENARY SESSION, SUB-COMMISSION, OR THE CHAIR RULING ALONE



■ Recommendations adopted by a plenary session or sub-commission ■ Recommendations adopted by the Chair ruling alone

**AVERAGE AMOUNT OF COMPENSATION
RECOMMENDED FOR THE SPOLIATION OF MATERIAL OR PROPERTY ASSETS**



**SUMS COMMITTED
FROM THE BEGINNING OF THE COMMISSION'S WORKS
THROUGH DECEMBER 31, 2004**

TOTAL AMOUNT FOR ALL CLAIMS: €176,896,183

- ➔ State responsibility: **€158,358,060**
- ➔ Banks' responsibility: **€18,538,123**

AMOUNTS FOR DESPOILED BANK ACCOUNTS: €18,538,123

- ➔ Deposit ("Fund A"): **€2,528,179** (\$2,797,350)
- ➔ Funds ("Fund B"): **€16,009,944** (\$18,320,555)

PERCENTAGES USED FROM BANK FUNDS:

- ➔ Deposit ("Fund A"): **5.6%** (initial funding: \$50,000,000)
- ➔ Funds ("Fund B"): **82.9%** (initial funding: \$22,500,000)

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➔ Key Information.

Key Information (at December 31, 2004)

THE COMMISSION'S EXECUTIVES:

- ➔ Chairman: **M. Pierre Drai**, Honorary First President of the Cour de Cassation.
- ➔ Director: **M. Lucien Kalfon**, Prefect.
- ➔ Principal Rapporteur: **M. Jean Géronimi**, Advocate General at the Cour de Cassation.

PREPARATION OF FILES FOR HEARINGS AND HEARINGS:

- ➔ Members of the Commission: **9**
- ➔ Rapporteurs: **27**

FREQUENCY OF HEARINGS:

- ➔ Sub-commissions: **5 per week**
- ➔ Plenary sessions: **1 to 2 per month**

HEARINGS IN 2004: 188

- ➔ Sub-commissions: **177**
- ➔ Plenary sessions: **11**

AVERAGE NUMBER OF FILES EXAMINED AT A HEARING: 13

CLAIMS REGISTERED: 20,966

- ➔ Of which **13,830** claims for material damages
- ➔ Of which **7,136** bank-related claims

RECOMMENDATIONS MADE (FOR ALL TYPES OF DAMAGES): 14,000

- ➔ Of which **7,449** recommendations on material damages
- ➔ Of which **6,551** bank-related recommendations

RECOMMENDATIONS TO REJECT: 1,246 (8.9% of all recommendations)

- ➔ For material spoliations: **364**
- ➔ For bank-related spoliations: **882**

REQUESTS FOR REEXAMINATION REVIEWED BY THE COMMISSION BY DECEMBER 31, 2004: 127

RECOMMENDATIONS CONCERNING RESERVED PORTIONS OF AWARDS: 654

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➔ Acronyms.

ACRONYMS

AN: *Archives nationales* (French National Archives)

AP: *Archives de Paris* (Paris Archives)

CDC: *Caisse des Dépôts et Consignations*

CDJC: *Centre de Documentation Juive Contemporaine* (Contemporary Jewish documentation center)

CNCC: *Caisse nationale de crédit coopératif*

DMF: *Direction des musées de France* (Directorate of French Museums)

MAE: *Ministère des affaires étrangères* (French Foreign Affairs Ministry)

MNAM: *Musée national d'art moderne* (National Modern Art Museum)

NSMD: *Neuflize, Schlumberger, Mallet & Demachy Bank*

OBIP: *Office des biens et intérêts privés* (Office for Personal Property and Interests)

PP: *Préfecture de police* (Prefecture of Police)

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