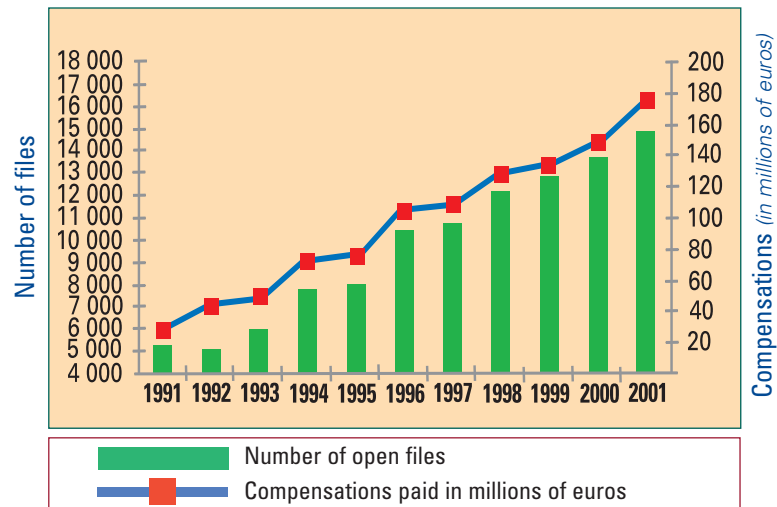


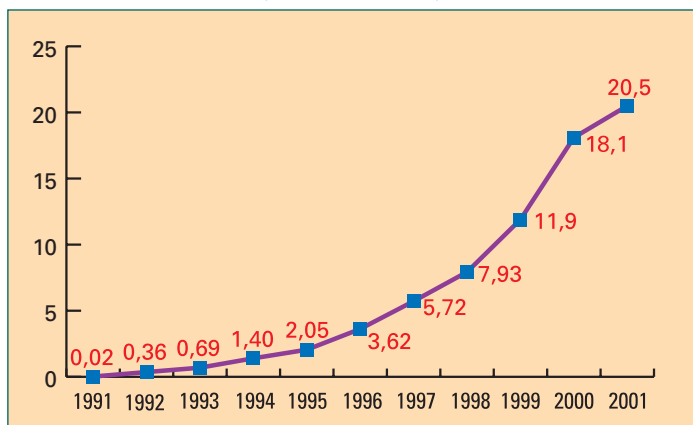
## ■ Compensation and recourse activities of the FGTI

NUMBER OF OPEN CRIMINAL CASE FILES AND COMPENSATIONS PAID



RECEIPTS FROM PERPETRATORS OF CRIMINAL ACTS

(in millions of euros)



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MINISTÈRE DE LA JUSTICE

## COMPENSATION OF VICTIMS OF CRIMINAL ACTS IN FRANCE

### ■ The process established by law for the compensation of victims of criminal acts

The victims of criminal acts can obtain reparations for damages (*material or moral*) caused by a crime by instituting legal proceedings for damages as part of a criminal proceeding and demanding that the tribunal entertaining jurisdiction order the perpetrator of the criminal act to pay damages and interests.

This compensation occurs at the end of the criminal trial. Such proceedings are only effective, however, if the perpetrator of the criminal act has been identified and is able to make restitution.

Because of this, the Law of July 6, 1990, has created an independent compensation process for victims of crime which may be begun independently of any criminal proceedings and regardless of whether the perpetrator of the criminal act has been found.

This process allows the victims of voluntary or involuntary acts that have the material character of a crime to obtain compensation by bringing the matter before the **Commission for the Compensation of Victims of Crime (CIVI)**, a special tribunal that exists at every *Tribunal de Grande Instance*.

Victims of serious crimes of trespass to the person (*rape, sexual assault, murder or involuntary homicide, voluntary or involuntary violence that causes a total absence from work of more than a month, etc.*), receive full compensation for damages.

Victims of crimes of trespass to the person that do not cause a total absence from work of more than a month and victims of trespass to property (*theft, fraud, breach of confidence, extortion of funds, destruction, or defacement*) have the right to a limited maximum compensation based on the conditions of their financial resources.

Matters must be brought before the Commission for the Compensation of Victims of Crime (CIVI) within three years after the date of the criminal act or within the year following the most recent judicial decision. The matter may be presented before the court by a simple letter accompanied by proofs of the damages suffered. The services of a lawyer are not obligatory.

The compensations set by the CIVI are paid by the Guarantee Fund for Victims of Acts of Terrorism and Other Crimes (FGTI), which may pursue recourse actions against the perpetrators of criminal acts. *(It was through the recourse actions pursued by the FGTI that 23 million euros were collected by the fund in 2002.)*

This compensation process is open to victims who are French nationals, whether the acts were committed in France or abroad; it is also open to nationals of EU countries and foreigners legally residing on French soil, if the acts were committed in France.

In 2002, 15,387 claims were lodged with the CIVIs, which awarded 157.7 million euros in compensations.

### ■ The special case of victims of terrorism

The victims of terrorism receive special treatment. On September 9, 1986, following the wave of terrorist attacks that struck the country in the mid-1980s, France adopted a penal law relative to the fight against terrorism, whose provisions, which were augmented by the Law of January 23, 1990, contributed to giving a real status to victims of attacks and made them the beneficiaries of the nation's sympathy.

The victims are directly compensated by **the Guarantee Fund for Victims of Acts of Terrorism** and Other Crimes (F.G.T.I.). The compensation process is especially simple because the Fund, which is informed of the identity of the victims by the State prosecutor (*procureur de la République*) or the diplomatic authorities, contacts them directly and offers them provisional compensation for injuries and material damages. In cases of death, it also offers compensation for moral and economic damages to family members. The victims also enjoy the rights and privileges granted to the civilian victims of war by the code for military disablement pensions: they fall under the care of the Ministry of Defense and enjoy the social welfare benefits attached to this status (*e.g.: free health-care and fittings for prosthetic limbs, restricted employment, etc.*).

Children who are orphaned as the result of a terrorist attack may, under certain conditions, be admitted to the status of Ward of the Nation.

The estates of victims of terrorism are exempt from transfer duties.

Finally, a reparations process is also the subject of a criminal trial, and the victims and their families may be informed of any developments in the proceedings. Thus it is that the provisions of the Law of September 9, 2002 (*Loi Perben II*), which give the victims of terrorism the right to an attorney whose fees are entirely covered by legal aid services without being subject to any conditions of financial resources, are a major step forward.

### ■ Financing the compensations : the Guarantee Fund for Acts of Terrorism and Other Crimes (FGTI)

Created in 1986, the FGTI is an independent body with the status of a legal entity. It is chaired by a member of the Council of State or the Court of Cassation and administered by a board of directors that includes representatives of the ministries concerned as well as persons who have demonstrated an interest in the welfare of victims of terrorism and representatives of insurers.

Its mission is threefold :

- *compensate victims of acts of terrorism* : the compensation procedure is transactional, as the compensations are set by the guarantee fund with the consent of the victim ;
- *compensate victims of other crimes* : the compensation procedure is judicial. The compensation awarded by the Commission for the Compensation of Victims of Crime (CIVI) is paid by the fund ;
- *gain recourse against those responsible* : the guarantee fund pursues its recourse actions against those responsible for the damages incurred or their insurers in order to recover the sum paid to the victim.

The FGTI is financed by a charge (euros 3.30 in 2004) on property insurance policies as well as income from reimbursements obtained by the fund from the perpetrators of criminal acts. The FGTI is subject to the financial control of the Ministry of the Economy, Finances, and Industry.

#### Compensations paid :

	1996	1997	1998	1999	2000	2001	2002	2003
Compensations paid by the F.G.T.I. for crimes and acts of terrorism <i>(in millions of francs)</i>	681,5	709,9	841,9	881,9	971,9	1 155	1 219	1 232
<i>(in millions of euros)</i>	103,9	108,2	128,3	134,4	148,2	176	185,9	187,9