




LA GARANTIE
DES SALAIRES



2012 Business Report



Creating new prospects
for saving business and maintaining jobs



Délégation
Unédic Ags

The Wage Guarantee Scheme: a central component in the receivership processes

The missions of the AGS guarantee scheme

Created in 1973 at the initiative of employers, for purposes of inter-professional solidarity, AGS assists employees and employers involved in a receivership process. It intervenes in case the company is in receivership or liquidation or sometimes, under certain conditions, in protection proceedings and ensures, as early as possible, the amounts due to employees.

Pursuant to the provisions of a management agreement between AGS and Unédic, the assignments entrusted by the legislator to AGS have been implemented by the Délégation Unédic AGS.

At the heart of receivership proceedings, AGS fulfils three basic missions as part of the employee claim guarantee scheme:

- Advancing, via judicial representatives, the funds required to settle employee's claims;
- Recovering the sums advanced on the basis of monitoring protection proceedings, receivership proceedings and the liquidation of company assets;
- Defending the legal interests of the guarantee scheme.

Financing

The French insolvency fund is financed from contributions paid by employers. The AGS Board of Directors sets the amount of contribution employers must pay and is responsible for ensuring the fund balances. It does this by ensuring advances, recoveries and contributions remain on an even keel.





Summary

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Working towards our for maintaining



After two years of relative recovery company failures took off again in 2012 and reached their highest levels in over four years. The impact on the number of new AGS cases and guarantee beneficiaries was significant, pushing it close to 2009 levels and highlighting the importance of AGS.

Evidence of the scale of the problems facing the economy and its impact on business, the more than €2 billion advanced in 2012 equalled the 2009 peak which put the Wage Guarantee funding capacity at risk. Thanks to its management by Délégation Unédic AGS, there can be no doubt that AGS is effectively assisting companies that find themselves in difficulty and helping employees through their crises but obtaining the resources to do this must have its limits. During this difficult period it is more essential than ever to create ways that will anticipate problems and avoid the need for financially and socially expensive ex-post action, and that during insolvency procedures will protect the future of both businesses and jobs.

The new law on job protection, which transposes the National Inter-professional Agreement of 11 January 2013 is moving in the direction indicated by AGS for several years now. By giving companies new space to manoeuvre so that they can «promote early negotiation of economic changes in order to develop skills, retain jobs and organise redundancies», the new law takes on board the need for competitiveness, which is essential to business continuity, and creates the conditions needed to prevent jobs being the only variable that can be used to cope with economic downturns.

Although the new law introduces new measures for receivership and liquidation, it is now time to devise a better system for dealing specifically with insolvency procedures. The main aim must be to prevent the procedural and financial build-up that is the result of company restructuring and that, since it comes with no counterbalancing job protection measures, is overly expensive and damaging to the Wage Guarantee balance. Such a system will ensure the long-term survival of our guarantee model and make insolvency procedures better at putting companies back on their feet and retaining jobs.

**Jean-Charles Savignac,
Chairman of AGS**

corporate aim, new prospects business and jobs

AGS activity indicators, which have remained high but stable since the end of 2008, rose again in 2012. The advanced levels we believed had achieved extraordinary levels in 2009 now appear to have plateaued at an all-time high, unless the uncertain economic environment pushes them yet higher. The Wage Guarantee offers the best wage guarantee scheme in the European Union but it has, and must have, its financial and legal limits.

Faced with these worrying developments, the Scheme remained on an even keel in 2012 thanks to major support from its contributing companies and to assistance from administrative receivers and Délégation Unédic AGS staff in the recovery of advances, which achieved the highest levels since it was formed. But how long can this continue as the Scheme is undermined by a slowing economy, courts that continue to widen the scope of its action and the risk to it of potential forum shopping by companies within the EU?

While the purpose of the Scheme is to assist companies during insolvency proceedings - which proliferate during economic downturns - this must not be used as a pretext for arbitrarily increasing its duties. But 2012 has again seen the interpretation by the courts of company case law leading to an inflation of its duties. The result has been an increase in collective litigation with the primary aim of challenging all redundancies and redundancy plans (PSEs) in order to obtain significant compensation that will eventually have to be paid by AGS. In this area however 2013 has provided a ray of hope. The writing into law of the National Inter-professional Agreement of 11 January ought to make redundancy plans more flexible and give them a stronger legal basis, thus reducing the number of claims made, while including measures to protect jobs before insolvency procedures are commenced.

These changes are in line with the aims of the Ambition 2013 project that is applied in the name of AGS by all Délégation staff. Complying strictly with the law on the application of the guarantee, the Ambition project aims to continue expanding our range of services so that we can rise to the challenge of protecting business and jobs posed by insolvency procedures.



Thierry Méteyé,
National Director of Délégation Unédic AGS

Company failures rise as the economy worsens

The 2012 economic downturn that led to zero growth and a drop in company investment pushed bankruptcies up again from the high plateau they had maintained since numbers peaked in 2009. The number of new AGS cases was therefore close to the end 2008 high.

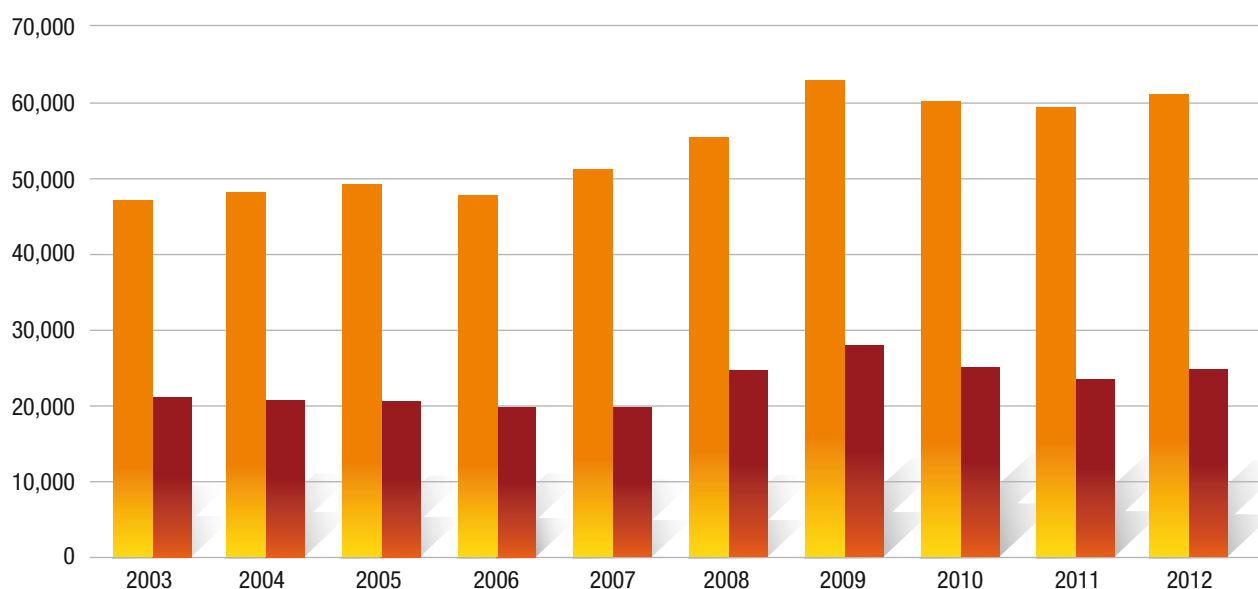
Company failures: +2.9%

After a two-year improvement, the number of company failures rose again in 2012 by 2.9% according to the Bank of France* but is still below the 2009 record.

The 2012 economic downturn is the reason for the increase in company failures. Following 1.7% growth in 2011, GDP stagnated in 2012 according to INSEE - the worst result since 2009, the year that produced the biggest post-War fall (-3.1%).

Company failures and number
of AGS cases 2003-2012

■ Company failures at the date of the opening judgement
■ AGS cases at the date of the opening judgement



Sources: Bank of France (company failures); Délégation Unédic AGS (AGS cases - figures at 31 March of the following year)

* Unlike previous years, company failure data in this Report has been provided by the Bank of France and not INSEE, which has stopped publishing this data to ensure that just one calculation method applies. Bank of France data covers receiverships and liquidations and is provided at the date of the opening judgement, not at the date of publication in BODACC. It is wider in scope since it also includes agricultural data. The series shown above are therefore wider than those of INSEE but 10-year changes are similar.

Over 24,000 new AGS cases

After two years of recovery (-5.6% in 2011 and -9.8% in 2010), the number of AGS cases rose 5.1% in 2012. At 31 March 2013, 24,249 AGS guarantee cases had been opened for 2012 (23,074 at 31 March 2012 for 2011). This is close to the 24,046 cases at 31 March 2009 for 2008, the year that saw economic collapse. Most procedures were commenced in the first half of 2012: 54% of all new cases for the year.

The statistics for new AGS guarantee cases in any given year refer to company failures subject to an insolvency procedure opening judgement made in that year and for which an advance was requested by 31 March of the following year.

58.9% of cases involve liquidations

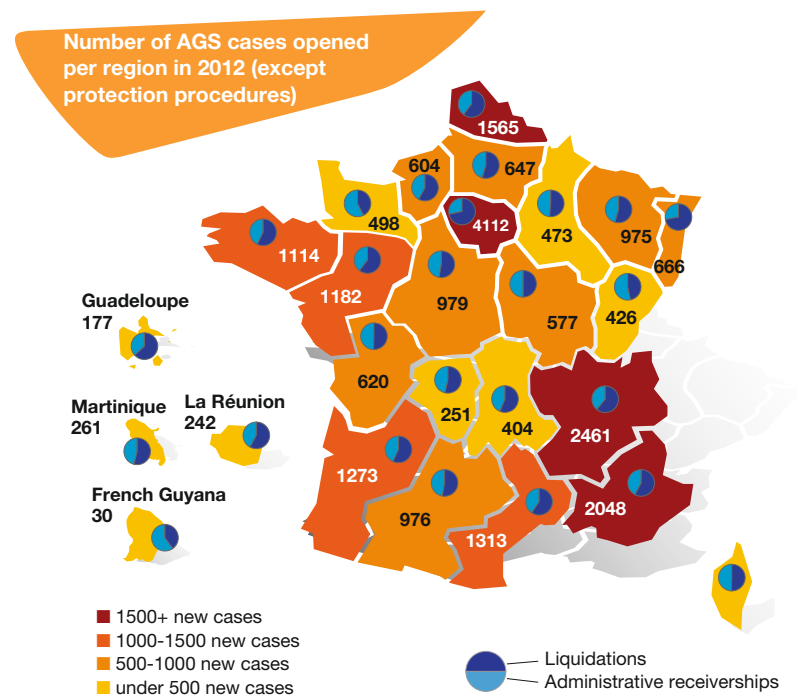
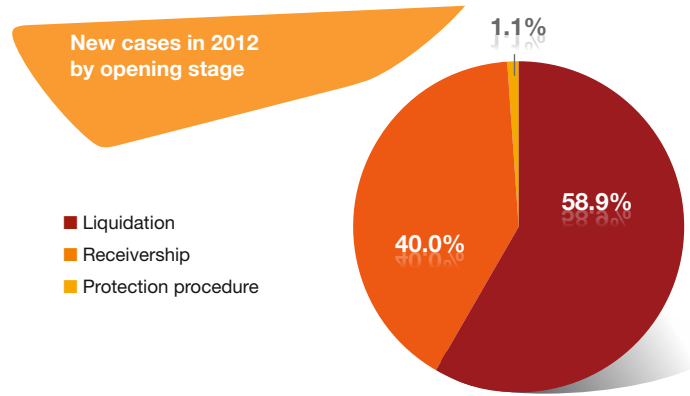
58.9% of AGS cases with an opening judgement in 2012 were liquidations, a percentage that has remained relatively stable for several years. Cases involving other types of procedure were almost identical to 2011: 40% receiverships and 1.1% protection orders.

Ile-de-France and Alsace continued to show the highest liquidation levels (71.4% and 71.8%), followed by Rhône-Alpes (59.9%).

More than 1/3 of all cases in 3 regions

With the exception of the overseas départements the number of AGS cases rose in almost all regions in 2012, being proportionally highest in Corsica (+28.6%), Auvergne (+19.9%) and Burgundy (+18.0%).

The 3 regions with the highest concentration of French business continued to account for over one-third of all cases (36%): 17.1% Ile-de-France, 10.3% Rhône-Alpes and 8.6% Provence-Alpes-Côte d'Azur. The regions of mainland France accounting for fewer than 2% of all new cases were again Champagne-Ardenne, Franche-Comté, Auvergne, Limousin and Corsica (no change since 2011).



Europe

Transborder cases

In 2012 AGS intervention was requested in 16 transborder cases (6 more than in 2011). It had taken action in 14 of these cases at 31 March 2013, advancing a total of € 369,683 (€632,885 in 2011).

Under Directive 2002/74/EC of 23 September 2002, AGS can be required to act in insolvency procedures opened in any other Member State of the European Union.

AGS actions	2012	2011	2010	2009
Belgium	7	3	5	3
Germany	3	-	1	8
Luxembourg	1	2	2	-
United Kingdom	1	1	-	3
Netherlands	1	-	3	5
Spain	1	-	1	-
Austria	-	1	-	-
Sweden	-	1	-	-
TOTAL	14	8	12	19

Insolvency procedures started in 2010 and 2012

Receiverships commenced in 2010 and 2012 are described at 31 March 2013.

4/5 of receiverships opened in 2010 have failed

72.9% of all receiverships commenced in 2010 have become liquidations. Of the 26.6% that produced a recovery plan, 27% have failed. 56.4% of all receiverships commenced in 2012 have already been converted into liquidations.

Towards quicker closures

64.9% of the liquidations opened in 2010 had been closed by 31 March 2013.

The figure is 9.8% for liquidations opened in 2012. Comparison with the figures at 31 March 2011 for 2008 and 2010 (62% and 9%) indicates a trend towards faster closure.

Protection

Record number of protection procedures

The number of protection procedures hit a record high in 2012. After almost equalling 2009 numbers in 2011 as a result of the recession, in 2012 the figure began to rise again, and at an even faster rate than company failures (+8.2%). The number of AGS protection cases is growing year on year in line with the total number of these procedures. The provisional figures for 2012 will not be firmed for several months.

As in 2011, Provence-Alpes-Côte d'Azur had the biggest number of protection procedures (197), followed by Rhône-Alpes (190), Ile-de-France (129) and Aquitaine (122).

The hardest hit business sector in 2012 was commerce, transport, accommodation and catering (31.8%), followed by construction (12.5%) and industry (11.9%).

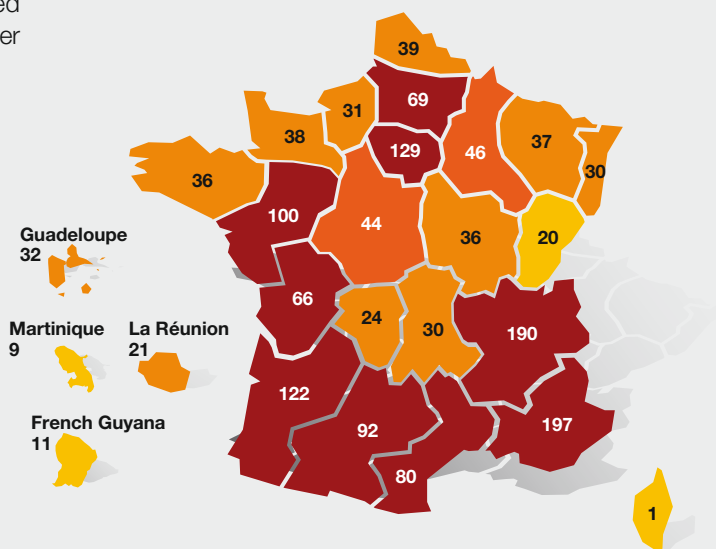
Following the trend of previous years, AGS stepped in mainly after liquidation had been ordered, almost never after production of a recovery plan.

7 first years of action
(at 31 March 2013)

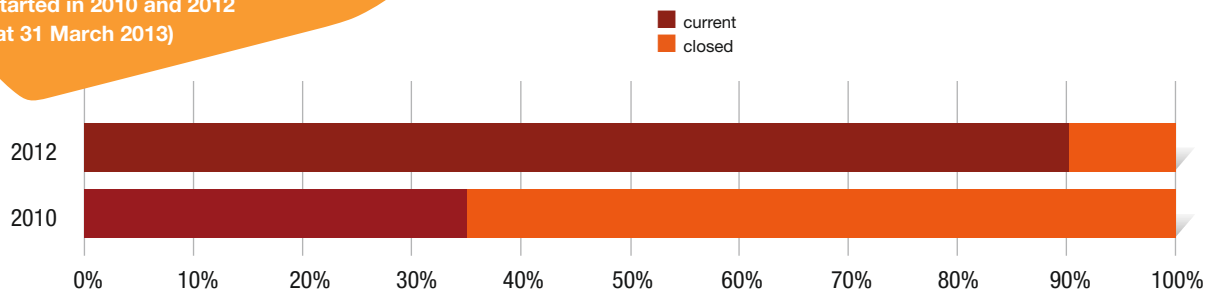
Protection	Number of new procedures	Number of AGS cases
2006	508	229
2007	↗ 518	↗ 238
2008	↗ 708	↗ 310
2009	↗ 1420	↗ 526
2010	↘ 1316	↘ 416
2011	↗ 1416	↗ 440
2012	↗ 1532	274 (provisional)
TOTAL (7 YEARS)	7418	2433

Source : data collected and recorded by Délégation Unédic AGS

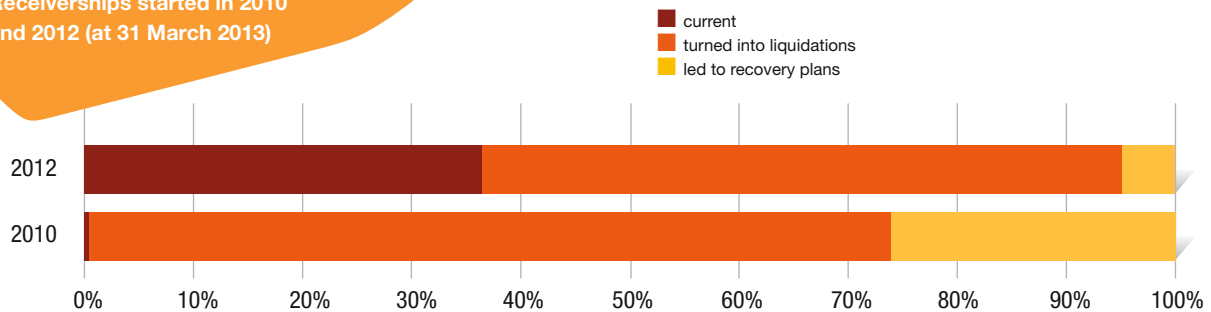
Number of protection procedures opened by region in 2012
(at 31 March 2012)



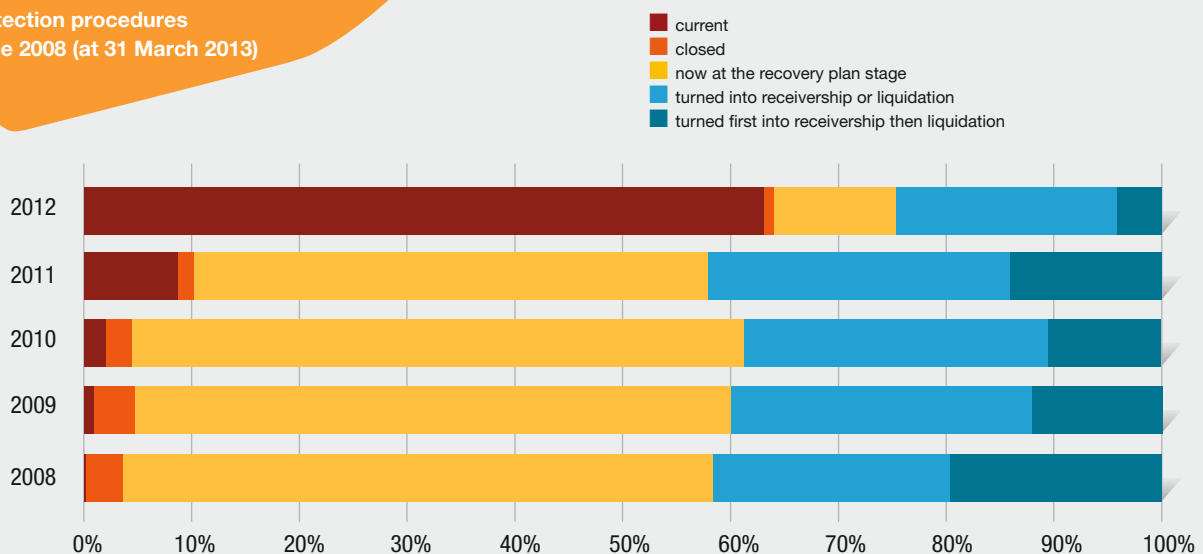
Compulsory liquidations started in 2010 and 2012 (at 31 March 2013)



Receiverships started in 2010 and 2012 (at 31 March 2013)



Protection procedures since 2008 (at 31 March 2013)



Procedures started in 2008, 2009 and 2010.

At 31 March 2013 over half the protection procedures opened in one of the above years had led to a protection plan. The proportion even rose slightly over the years (54.8% in 2008, 55.3% in 2009 and 56.9% in 2010), around 40% being converted into receiverships or liquidations.

Procedures started in 2011. 47.7% had already led to protection plans at 31 March 2013, 42.1% have been converted into receiverships or liquidations and 8.7% are still under observation owing to the time needed to produce a plan or make a conversion.

For protection procedures opened 2006-2011, the average time needed to produce a protection plan is 19 months after the start of the protection procedure. The time is shorter for conversions: 9 months on average for receivership and 11 months for liquidation.

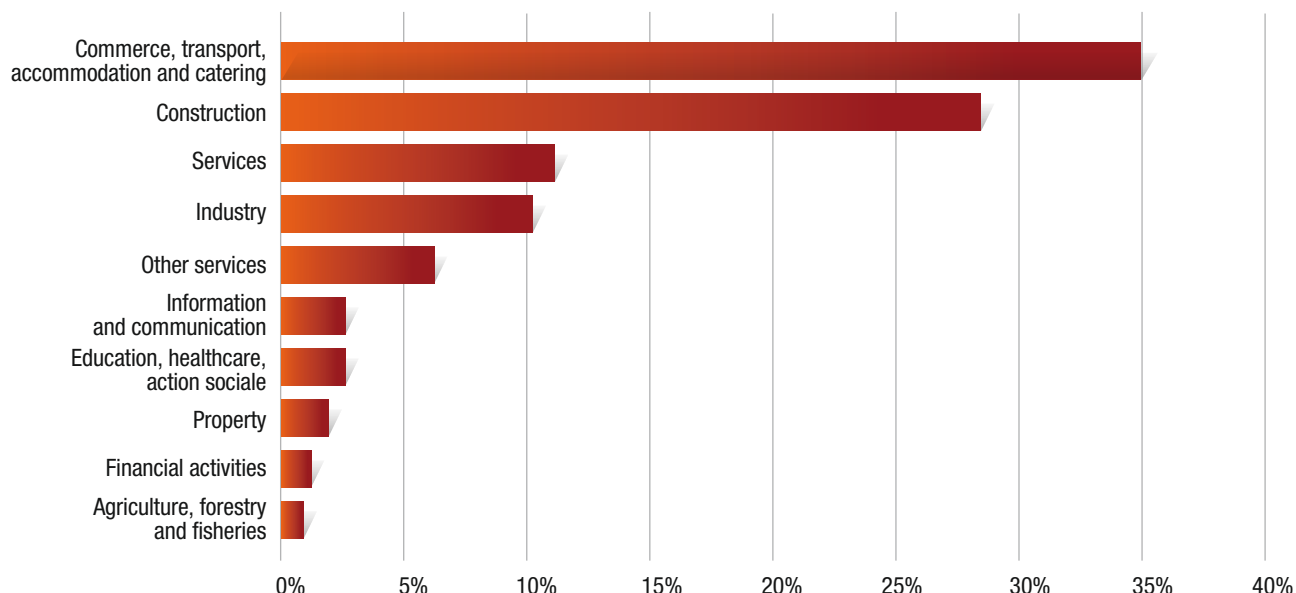
Procedures started in 2012. 63.1% were still under observation at 31 March 2013 but 11.3% have already obtained a protection plan and 24.7% have been converted into receivership or liquidation. Compared with the position at 31 March 2012 for procedures started in 2011 (9.9% and 24.7% respectively), this would seem to indicate a shortening of observation periods.

Rise in AGS actions in almost all business sectors

At 31 March 2013 the biggest sector in terms of new AGS cases in 2012 was again commerce, transport, accommodation and catering at 34.9% (34.1% at 31 March 2012 for 2011), followed by construction at 28.4% (29.4% in 2011). The two sectors together still account for almost 2/3 of all AGS cases.

New industry cases again fell slightly to 10.2% and as in 2010 were fewer than service industry cases (over 11%). Compared with 2011, the number of new AGS cases in 2012 went up across almost all sectors, except financial, which was one of the few sectors to see a rise in 2011 (+15.2%). The biggest increase was in the property sector where the number of new cases went up 28.3%.

New AGS cases in 2012
by business sector (NAF rév. 2,
2008 nomenclature)

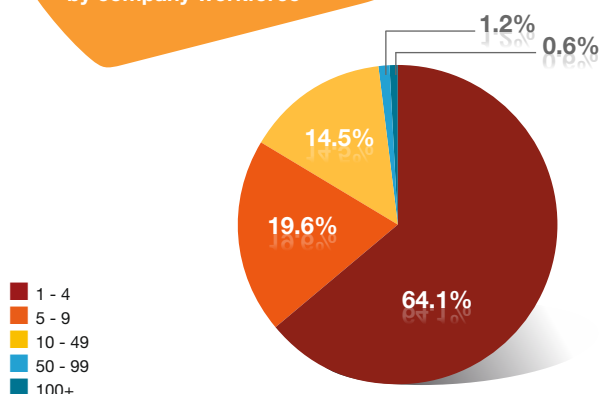


AGS action by company size, age and status

Companies with fewer than 10 employees: over 80% of all cases

The breakdown of AGS actions by company size is relatively stable year on year. Companies with fewer than 10 employees accounted for the vast majority (83.7%) of new AGS cases in 2012 (unchanged since 2011). Reversing the trend established in recent years, the proportion of companies with 1-4 employees dropped very slightly to 64.1% from 64.5% in 2011. Yet again, the number of cases involving companies with 100+ employees accounted for only 0.6% of all AGS cases.

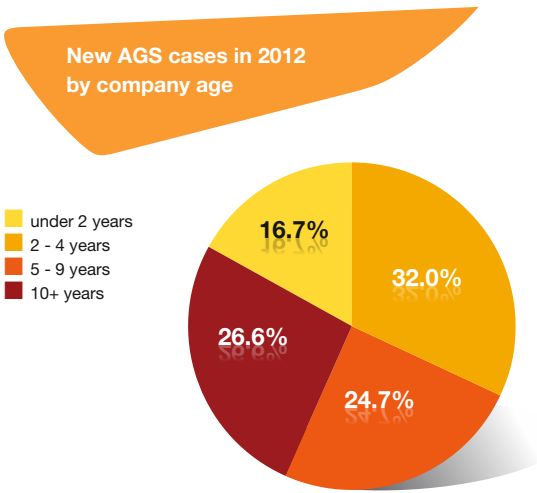
New AGS cases in 2012
by company workforce



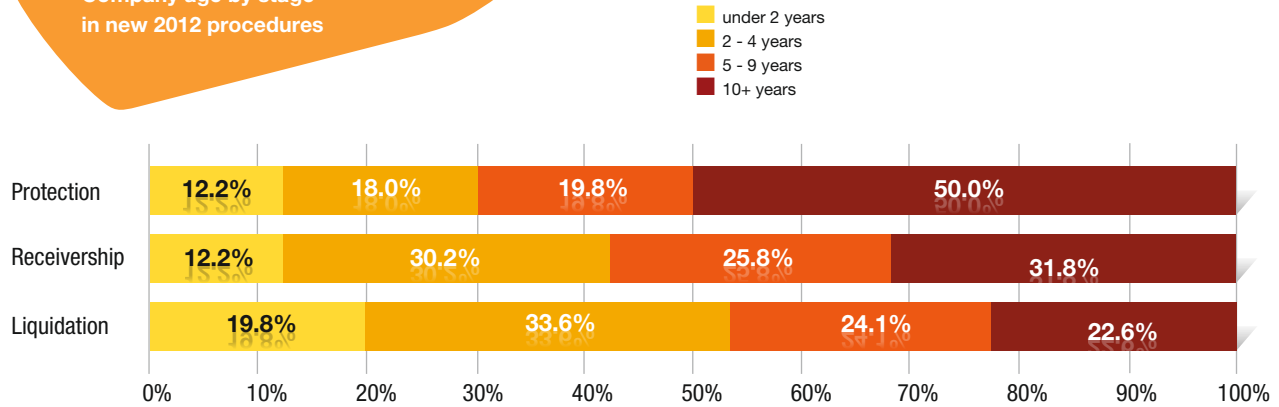
**Companies under 5 years old:
48.7% of all actions**

Continuing the downward trend started in 2006, companies under 5 years old for the first time accounted for under half of all new AGS cases in 2012 (48.7%) when compared with 2011 (50.8%) and 2010 (52.4%). The proportion of companies over 10 years old rose slightly to 26.6% (25.7% in 2011).

Companies under 5 years old still dominated new liquidations in 2012 but their proportion dropped a little to 53.3% from 54.4% in 2011. Receiverships and protection procedures mainly concerned companies aged 5 years or more. Of all new protection procedures in 2012 in which AGS was involved, almost 70% concerned companies at least 5 years old, and 50% companies 10 or more years old.



**Company age by stage
in new 2012 procedures**

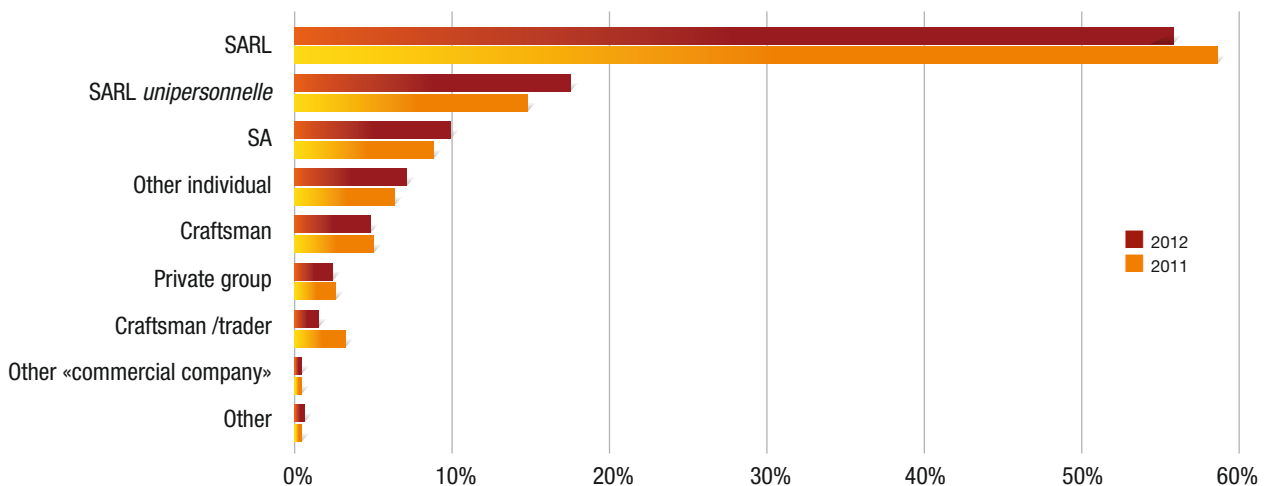


SARL companies: over 70% of all cases

Breakdown of new AGS cases in 2012 by company legal status (INSEE nomenclature) shows that 83.5% of these actions concerned commercial companies (82.6% in 2011).

73.3% of cases concerned SARLs [private limited companies] (including SARL unipersonnelles - limited sole traders). This figure is greater than the proportion they represent of all companies taken together and is the same as the figure at 31 March 2012 for cases opened in 2011. New cases involving craftsmen and craftsmen/traders again fell in 2012 to 6.3% (8.2% in 2011 and 10.6% in 2010).

**New AGS cases in 2011 and 2012
by company legal status**

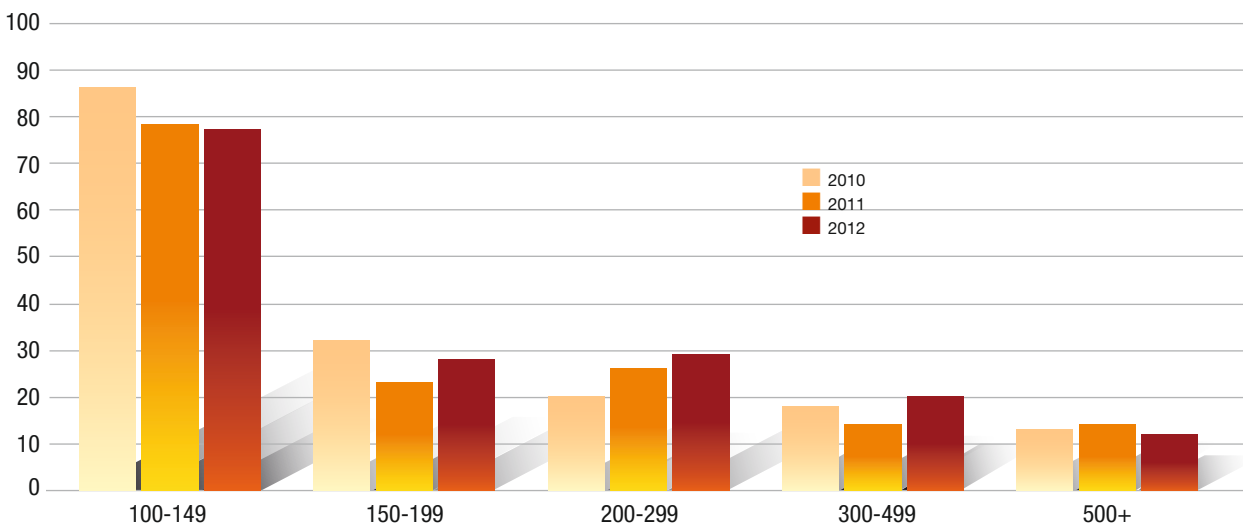


Cases involving over 100 employees: +7.1%

These represent under 1% of new AGS cases but pose a major financial challenge to AGS. Figures at 31 March of the following year show that the number of cases involving 100+ employees rose 7.1% in 2012 (166 new cases, compared with 155 in 2011). Most were opened in the first half of 2012.

As in previous years and almost unchanged since 2011, the biggest number of cases (78) involved companies with 100-149 employees but as a proportion of cases involving 100+ employees, they fell in 2012 to 46.4% (50.3% in 2011 and 50.9% in 2010). The number of cases involving 150-499 employees went up 22.2% from 63 in 2011 to 77 in 2012 although the number for companies with 500+ employees was relatively stable (12 in 2012, 14 in 2011 and 13 in 2010).

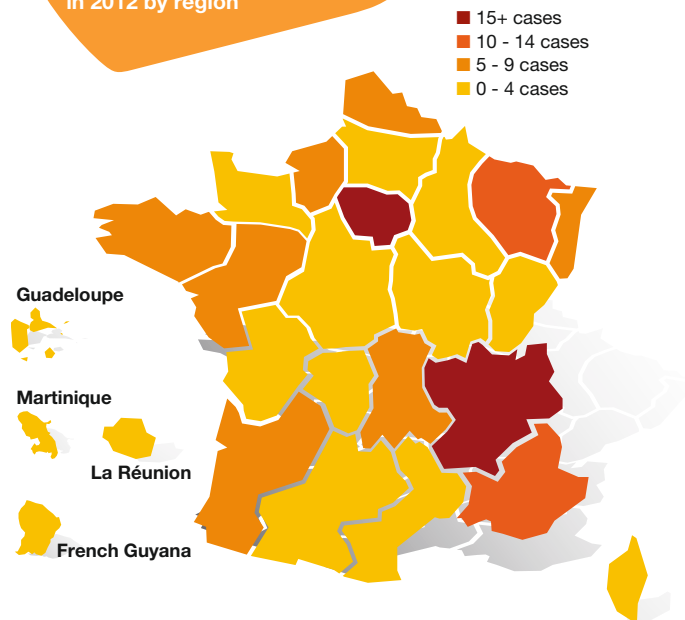
Cases involving 100+ employees by size of company workforce



Almost 1/3 of all cases involving 100+ employee is in Ile-de-France

The domination of Ile-de-France in all AGS cases involving 100+ employees continues to grow. 52 new cases were opened in 2012 (53 in 2011) and it now accounts for 31.3% of these cases. The reason for the region's predominance is the concentration of business within it and the fact that many of the companies involved in liquidation procedures are registered there even their other establishments may be located in other regions. Ile-de-France is followed by Rhône-Alpes (17 new cases against 15 in 2011) Lorraine and Provence-Alpes-Côte d'Azur with 11 new cases each (10 in 2011).

Cases involving 100+ employees in 2012 by region

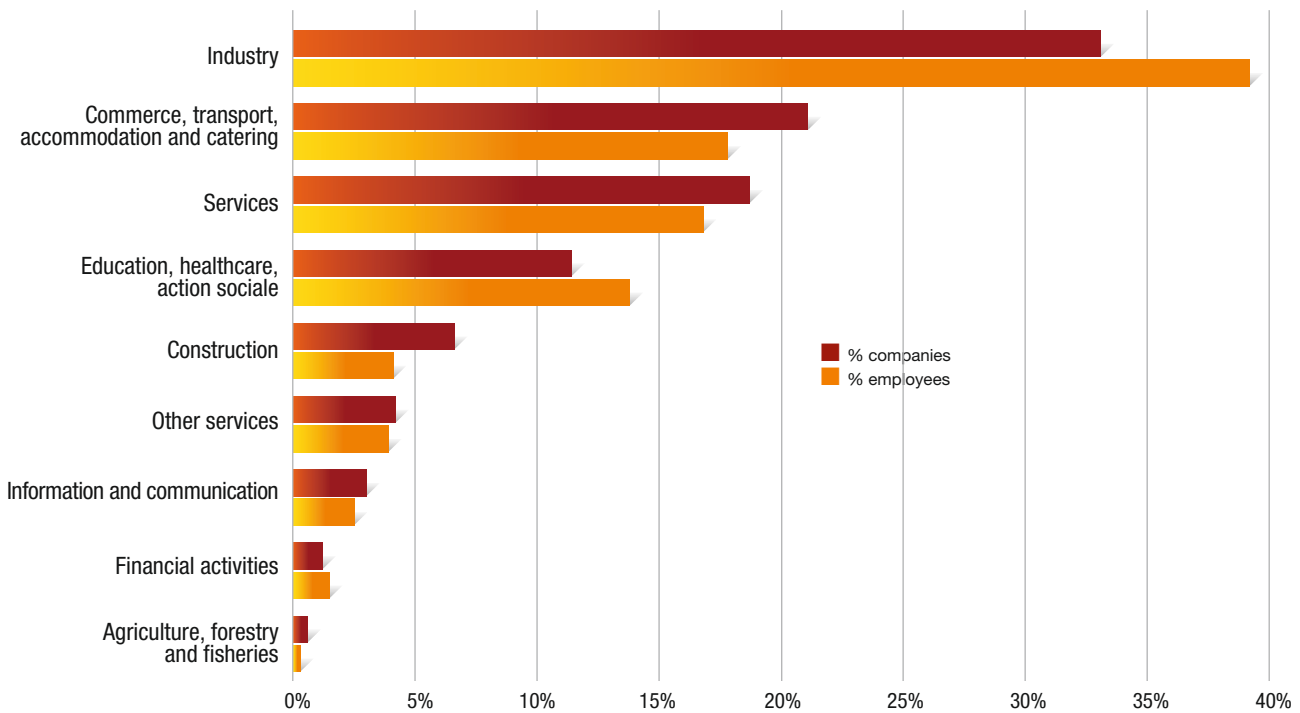


Industry accounts for 1/3 of all cases involving 100+ employees

The biggest sector where cases with 100+ employees are concerned remains industry, with 33.1% of cases in 2012 (31% in 2011), up 14.6% following its 12.7% fall in 2011.

This is followed in reverse order to 2011 by: commerce, transport, accommodation and catering at 21.1% (16.8% in 2011), up 34.6% and services at 18.7% (23.2% in 2011), down 13.9%. 39.2% of the employees involved were in the industry sector (26.3% in 2011).

Cases involving 100+ employees by business sector in 2012 (% of companies and employees)



Few liquidations

These cases display a number of distinctive features that came further to the forefront in 2012. While over half of all new AGS cases in 2012 were liquidations, 82.5% of those involving 100+ employees started as receiverships (71% in 2011) and only 6.6% as liquidations (12.3% in 2011).

The large proportion of receiverships is primarily attributable to the age of the companies concerned, 61.4% of which had been in business for over 10 years. A large proportion (36.1%) of new 2012 cases involving over 100 employees began with receivership or protection procedures before being converted into liquidations during the course of the year.

Consultancy

AGS is appointed inspector in 86.7% of cases involving 100+ employees

AGS was appointed inspector in 344 of all the new cases opened in 2012, 200 of which affected 50-99 employees and 144 at least 100 employees, a rise of 30.3% on 2011.

For several years AGS has been automatically asking the commercial courts to appoint it as inspector

in insolvency procedures involving over 100 employees where the economic and social impacts of the case itself will be significant, and also in receiverships and protection procedures involving over 50 employees. In so doing it aims to protect jobs and satisfy creditors as far as possible, while ensuring the success of the solution applied.

Anticipation



Thierry Montéran is a member of the Paris Bar and co-founder of Cabinet UGGC Avocats. He is chairman of the Business Difficulty Prevention Centre and an IFPPC director. He spoke to us about how he sees the role of prevention in terms of the law and AGS action.

What advantages do you see in the development of prevention measures?

Protection law provides a number of tools for a variety of situations that can be used even if the debtor is not insolvent. For example, if a major payment is about to fall due that a company that does not require restructuring cannot meet, the protection procedure can be applied before the due date. Early receivership can help a company restore its liquidity and go into observation with better chances of success. Early action must always be encouraged. Debt can be renegotiated during conciliation, if necessary after a receiver has been appointed. Preventative measures bring the flexibility, confidentiality and security of a receiver appointed by the courts who is independent of the parties involved and has no coercive authority.

Of course the system could be improved. Everyone agrees that confidentiality needs to be bolstered by the introduction of secrecy and court authority in conciliations to allow creditors up to 3 or 4 years or longer if approved by the public prosecutor. This would avoid some protection procedures and receiverships. The initial request to appoint a receiver should also be automatically accepted by the court (right to a receiver). Some courts demand evidence that the company is not insolvent before making the order, which is an unreasonable hindrance to the use of what is universally recognised as an effective system.

Given your knowledge of the company restructuring problems during conciliations, do you think a reform involving AGS would be useful given that at present AGS has no intention of becoming involved in these sorts of procedures?

The involvement of AGS in conciliation procedures could be useful if company restructuring is unavoidable. If restructuring

is decided early, the amounts advanced by AGS would probably be lower than during protection procedures or receiverships and recovery rates would probably be higher. The advantage would be some confidentiality and the avoidance of the shock to other creditors caused by the start of insolvency procedures. AGS would be brought in at the start when the application for conciliation is made and its involvement could be subject to improvement in shareholders' equity. But the measure itself would have to remain extraordinary.

How do you see the protection procedure overall?

The protection procedure is an undisputable success. The economic partners see it as a way of restructuring without having to declare bankruptcy. Ensuring that the head of the company remains, at least nominally, in charge reassures him and the protection given to him for any security he has granted is a big plus. By introducing creditor committees into French law, the Protection Act is encouraging debtors and creditors to negotiate a solution that will underpin the success of the recovery plan.

But there is still room for improvement in this area. We need to lower the formation threshold for creditor committees and to allow courts to order the application of solutions that are rejected by one committee but agreed by another. We have to increase the number of creditor committees, create specialist committees for secured creditors, tax creditors and social creditors etc. And in the case of AGS, we need to give official sanction to its ability to set payment times that the courts can then take into account.

“ Anticipation lies at the heart of all insolvency procedures ”

Total advances now close to their 2009 peak

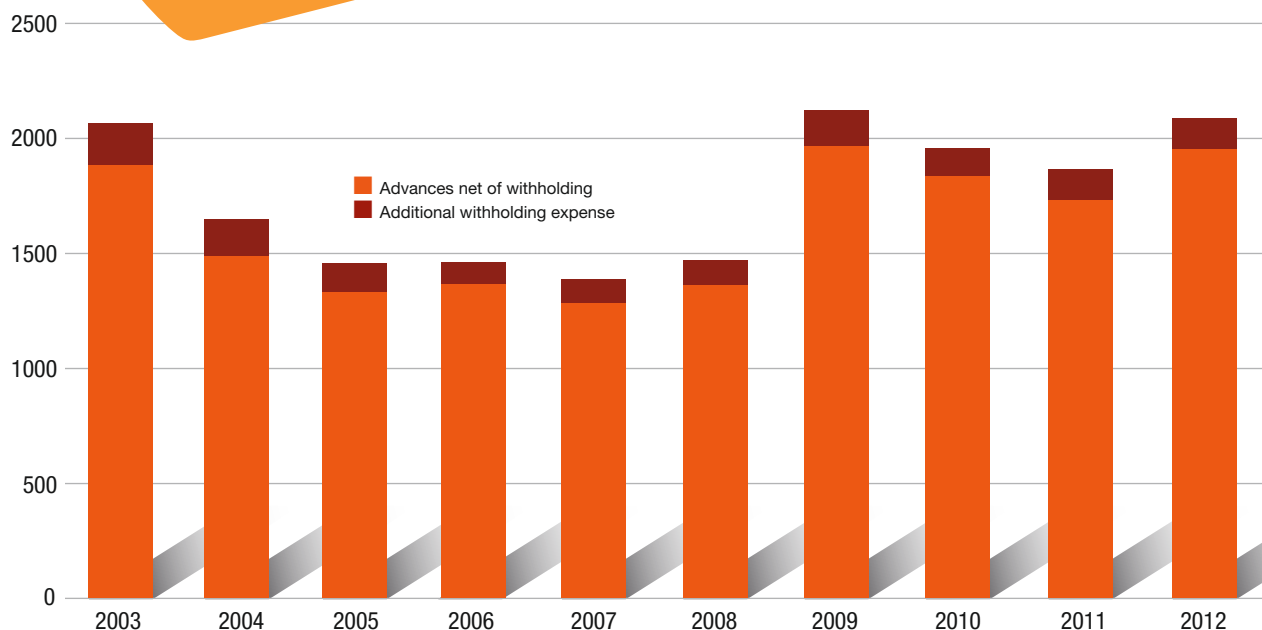
In a declining economy with insolvencies requiring AGS action and cases involving 100+ employees on the rise, the number of AGS beneficiaries has climbed significantly. Total advances have also increased to close to their record high.

€2.08 billion advanced

After two years of gentle recovery (-4.2% in 2011, -8.0% in 2010), total advances climbed 11.3% in 2012 to just below their 2009 record high of €2.11 billion. Linked to the larger number of AGS cases and guarantee beneficiaries, the rise continued across all 4 quarters of the year. It was materially higher in the

2nd quarter (+15% above the same quarter in 2011) and the 4th quarter (+14.4% above the same quarter in 2011) than in the 1st quarter (+11.8% above Q1 2011), although the 3rd quarter saw a significantly smaller increase (+4.6% on Q3 2011).

Advances (millions of euro)
2003-2012



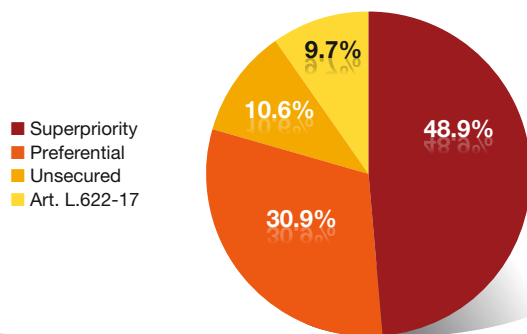
Total advances comprise net advances for employment contract liabilities and advances for pay withholding. Under article 36 of the Law of 27 December 1996, statutory and contractual pay-related contributions are guaranteed by AGS. These totalled 9% (2012 estimate) of all advances over the year and break down as follows: 68% Social Security, 21% pension schemes and 11% unemployment insurance.

Major rise in the number of advances over € 300,000

The deep 21.7% drop in 2010 in the number of advances of over € 300,000 was essentially mirrored in 2011 but they took off again in 2012 (+28.8%) to regain 2009 levels. The number of advances of over € 500,000 was higher in 2012 than in 2009 and followed the same trend.

Year	Number of advances	
	> € 300,000	of which >€ 500,000
2008	328	146
2009	↗ 563	↗ 248
2010	↘ 441	↘ 206
2011	↘ 437	↘ 199
2012	↗ 563	↗ 255

2012 advances by seniority of claim



The 4 types of claim

Superpriority

These claims legally subrogate to employees' rights and must be repaid first.

Claims under article L.622-17 Commercial Code

These are claims that must be repaid before other claims but after superpriority claims.

Preferential claims

These are secured by a general charge over moveable and immovable assets and are repaid, either per plan or, in the event of liquidation, based on type of charge over the sold asset.

Unsecured claims

These claims enjoy no security and are repaid either per plan or, in the event of liquidation, after preferential claims.

Fewer than half of all advances are superpriority claims

2012 advances in terms of seniority of claim showed little change over previous years. The proportion of superpriority claims fell however from 50.9% in 2011 to 48.9% in 2012 while the proportion of preferential and unsecured claims rose (to 30.9% in 2012 from 30% in 2011 and to 10.6% in 2012 from 9.6% in 2011 respectively). The proportion of claims secured under article L622-17 Commercial Code was almost the same as in 2011 (9.7% in 2012 compared with 9.5% in 2011).

277,303 guarantee beneficiaries in 2012

The number of guarantee beneficiaries went up 7.1% in 2012 after falling for two years running (-4.3% in 2011 and -6.7% in 2010). The 23% increase in 2009 drove numbers up to 289,780 from 235,062 in 2008 (+12.9%).

Thanks to the beneficiary concept, employees who may receive several payments in the same tax year because receivers usually submit requests for advances on the basis of the type of claim involved (one statement for wages and another for severance pay, for example) are recorded just once in the accounts.

126,512 redundancies in 2012 (at 31 March 2013)

The interim figures at 31 March 2013 indicate that redundancies in 2012 were 3.6% up on 2011 (interim figures at 31 March 2012).

The number of redundancies is the number of employees who lost their job during the observation period. These figures may change owing to the time taken by receivers to produce and then send lists of claims to Délégation AGS, since the lists may be received after the reference period.

The difference between the number of beneficiaries and the number of redundancies, even taking account of the time lag, indicates that some jobs are saved during receiverships.

Types of claim and impact of compensation

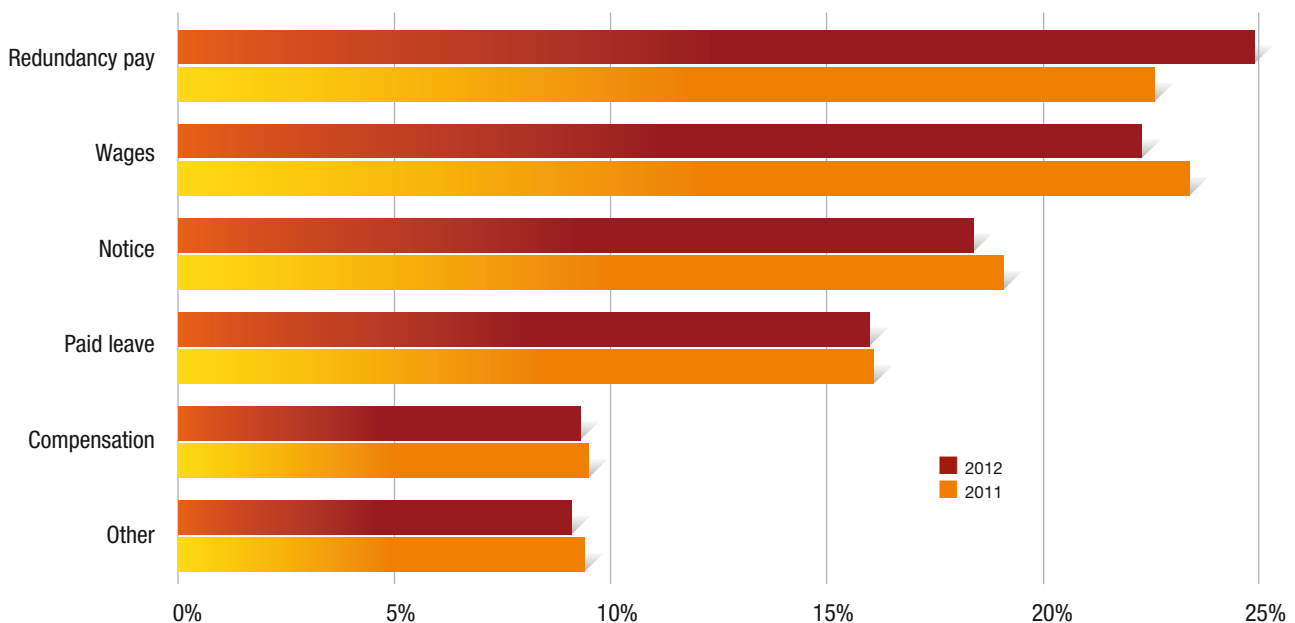
Liabilities to employees fell slightly (22.3% against 23.4% in 2011) as a proportion of the claims for which AGS gave advances in 2012, losing their top listing to redundancy pay (24.9% vs 22.6% 2011) and notice pay (18.4% vs 19.1% in 2011), the latter including CRP/CTP contributions. The proportion of compensation claims was almost unchanged since the previous year (9.3% vs 9.5% in 2011) as was the proportion of compensation for paid leave (16% vs 16.1% in 2011) of other claims that fall within the cooling-off period

and DIF as part of CRP/CTP (9.1% vs 9.4% in 2011).

As in 2011 and 2010, more than half of all 2012 advances for compensation were for unlawful dismissals.

Advances required under labour court judgments and paid in 2012 represented about 19% of total advances (slightly over €375 million) and broke down into: compensation 37.1%, redundancy pay 15.5% and wage claims 12.6%.

Advances by type of claim
(2011 and 2012)



The limits of the AGS guarantee

Under articles L.3253-17 and D.3253-5 Labour Code, the guarantee limit on all outstanding wage claims of an employee is:

6 times the monthly ceiling on unemployment insurance contributions (72,744 euro in 2012 and 74,064 euro in 2013) if the employment contract was signed at least two years before the date of the opening judgement;

5 times the monthly ceiling on unemployment insurance contributions (60,620 euro in 2012 and 61,720 euro in 2013) if the employment contract was signed under two years and at least six months before the date of the opening judgement;

4 times the monthly ceiling on unemployment insurance contributions (48,496 euro in 2012 and 49,376 euro in 2013) if the employment contract was signed under six months before the date of the opening judgement.

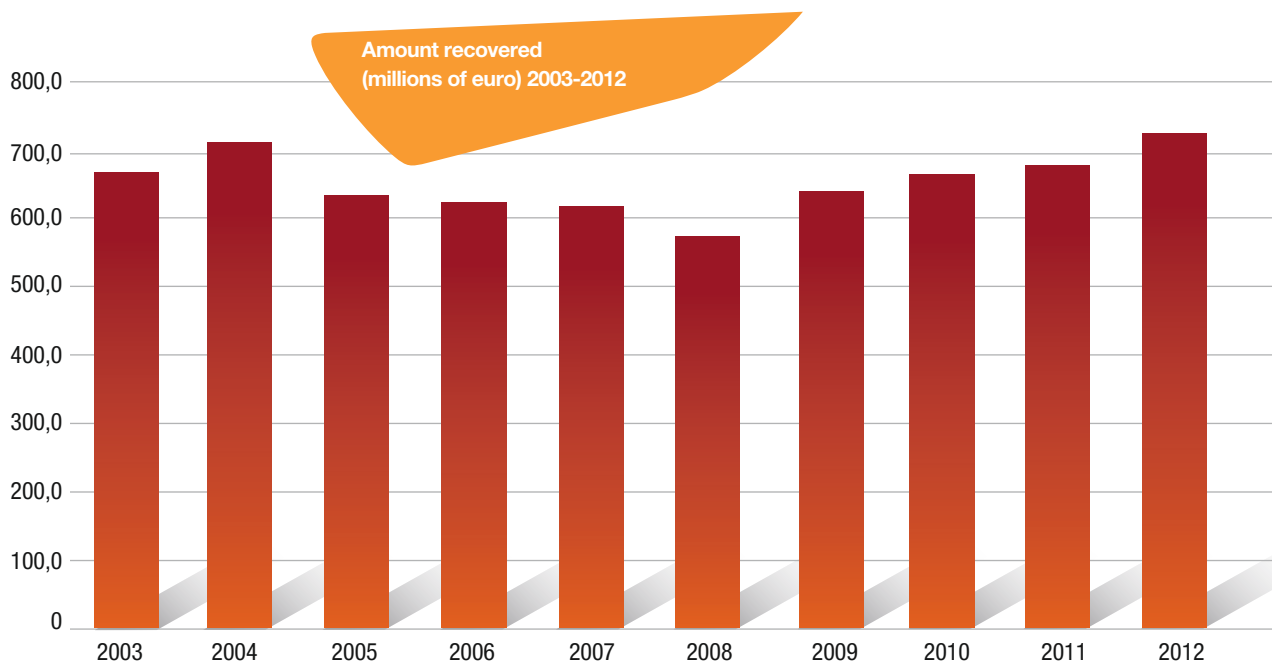
Rising over the last four years, recoveries hit a record high in 2012

The combination of higher advances since 2009 and recovery improvements that adjust to the economic environment means recoveries are now at their highest since Délégation Unédic AGS was set up in 1996.

€724 million recovered

Recoveries, which had already been rising over the three previous years, went up again in 2012 (+5.9%) to top the previous record of €711 million in 2004 thanks to two synergic factors. Firstly, recoveries in any given year depend heavily on the advances made during that year and the two years before it. Advances in 2010, 2011 and especially 2012 were extremely large. Secondly,

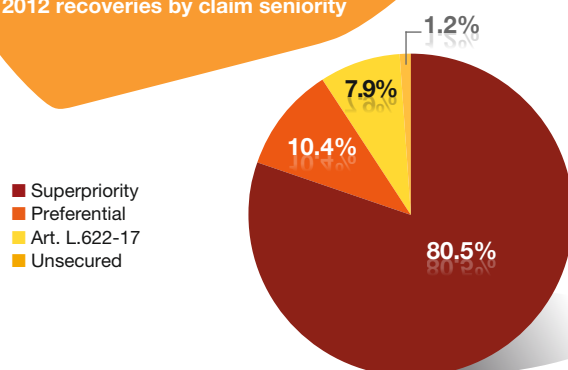
for several years now Délégation Unédic AGS has been taking active steps in two main areas to ensure recovery: by targeting actions and follow-up to current case type and by automatically asking the commercial courts to appoint it as supervisor in all procedures involving over 50 employees, where recoveries of wage claims are above the average.



Superpriority claims are still over-represented

Superpriority claims continue to account for by far the largest share of recovered amounts and again increased slightly (80.5% in 2012 vs 79.6% in 2011). The proportion of preferential claims recovered was the mean of the figures for the two previous years (10.4% as compared with 10.6% in 2011 and 10.1% in 2010), as was the proportion for recovered claims under article L.622-17 Commercial Code (7.9% compared with 8.4% in 2011 and 7.5% in 2010). Recoveries of unsecured claims stayed low (under 1.5%) and similar to levels for 2011 and 2010.

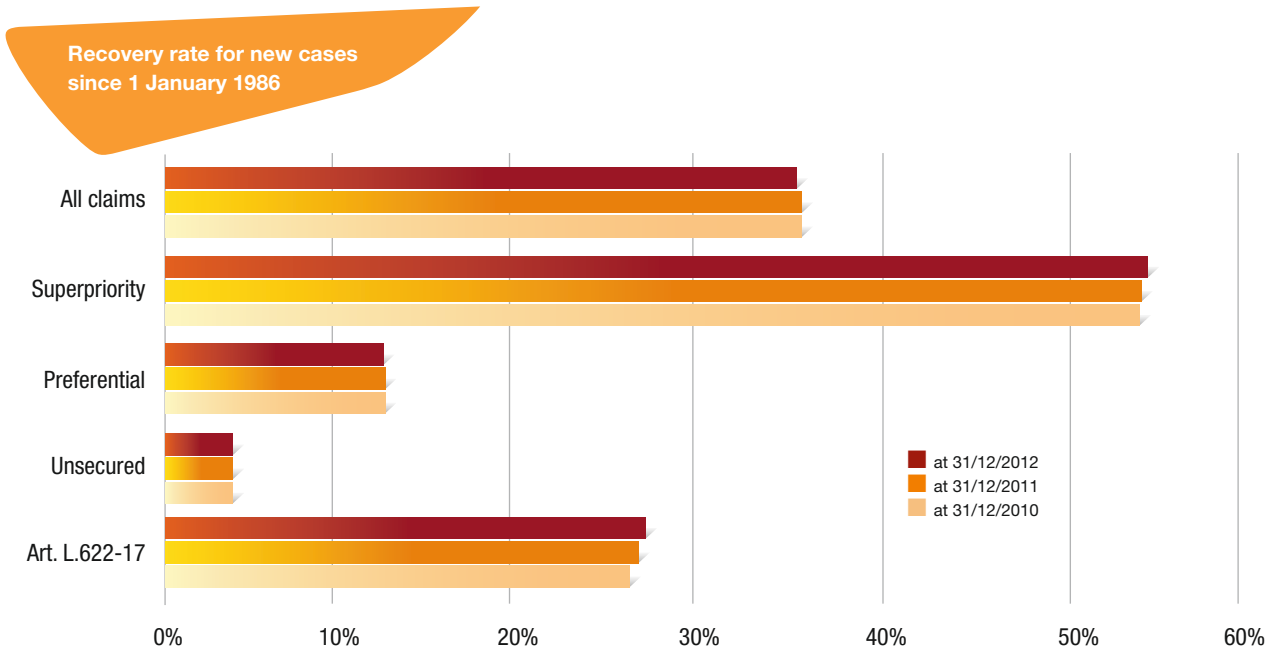
2012 recoveries by claim seniority



Average recovery rate stable at 36.2%

The average recovery level for all new cases between 1 January 1986 and 31 December 2012 was 36.2%, similar to the average at 31 December in previous

years. The average recovery rate varies considerably, depending on claim seniority - from 4.1% for unsecured claims to 54.7% for superpriority claims.



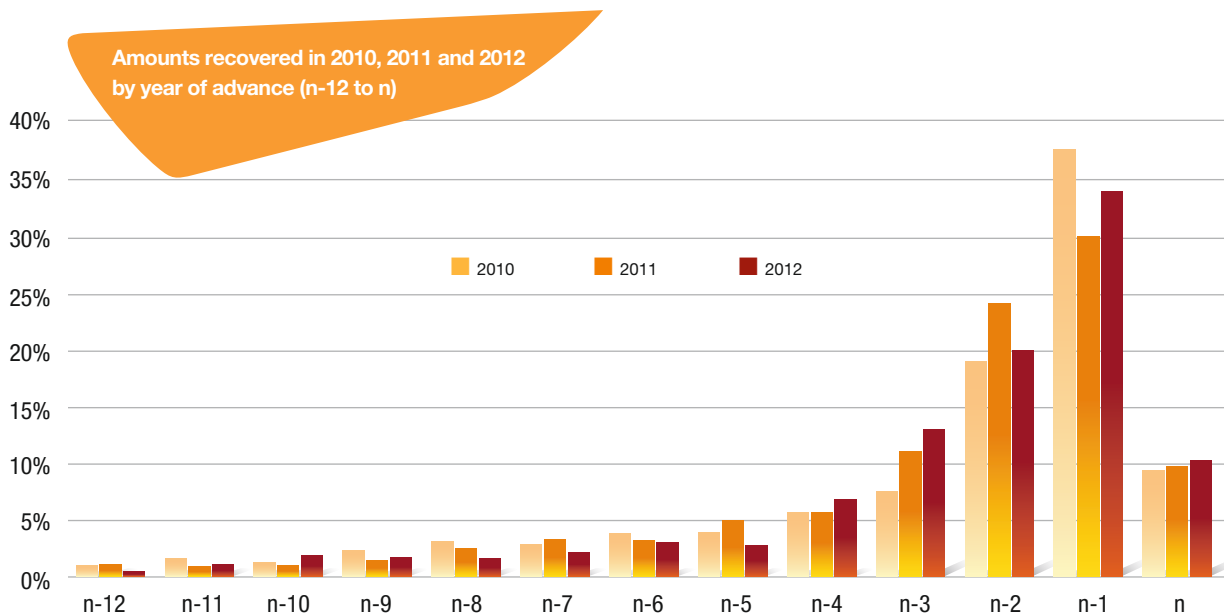
Average rate of recovery stable after 8 years

As in 2011, 63% of all 2012 recoveries in money terms relate to advances made during 2012 and the two previous years.

7% of all amounts advanced on new AGS cases opened in 2012, 18% of advances on new cases in 2011 and 22% of advances on new cases in 2010 had been recovered at 31 December 2012.

Generally speaking, the recovery rate on procedures started in any given year is around 20% by the end of the following year and 25%-30% at 31 December of year n+2.

At end 2012, the average recovery rate after 8 years was about 35%.



The chart shows that in 2012 10% of recoveries were of amounts advanced in 2012 (n) and almost 20% of recoveries referred to 2010 (n-1) advances, where n = reference year (2010, 2011 or 2012 as appropriate). Over 35% of 2010 recoveries therefore relates to advances made in 2009 (n-1), the year in which the amounts advanced reached their highest ever level.

Contribution levels remain high to cope with higher total advance levels

Thanks to high recovery levels and a 0.3% contribution rate throughout 2012, AGS has been able to maintain enough cash to meet its commitments despite the economic downturn.

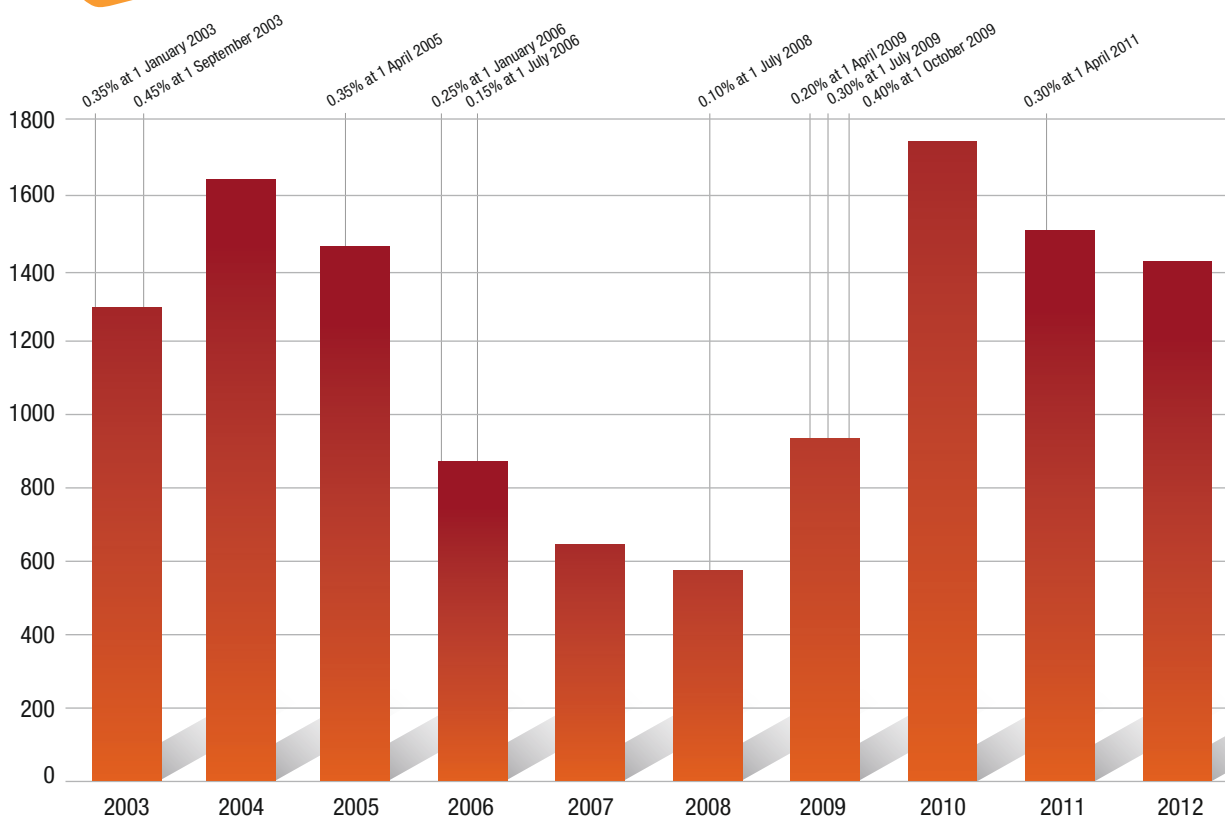
€ 1412 million in contributions

On 1 October 2009 the AGS Board raised the contribution rate to 0.4%, a historic high, to smooth the effects of the financial crisis that began in 2008. The level was brought down to 0.3% on 1 April 2011 as a result of the slight improvement in economic indicators and improved levels of recovery, continuing at the same level through 2012 to cope with the big advances made during the year and to prevent any worsening of the Scheme's cash balance.

While still high, the level of company contributions has fallen for the second year running (-14.5% in 2011 and -6% in 2012) to €1412 million.

Contribution rates since 2003 indicate AGS' determination to fulfil its duties at all times in the name of solidarity between companies, to ensure the long-term future of the Scheme and to help companies stay competitive.

Contribution amount (millions of euro) and rates 2003-2012



The Wage Guarantee Scheme is financed by employer contributions, based on unemployment insurance contributions. It is kept in balance by offsetting advances against recoveries and contributions. Under an agreement between Pôle Emploi, Unédic and ACOSS, collection of AGS contributions was transferred to the URSSAF network on 1 January 2011.

High levels of labour court disputes and collective actions

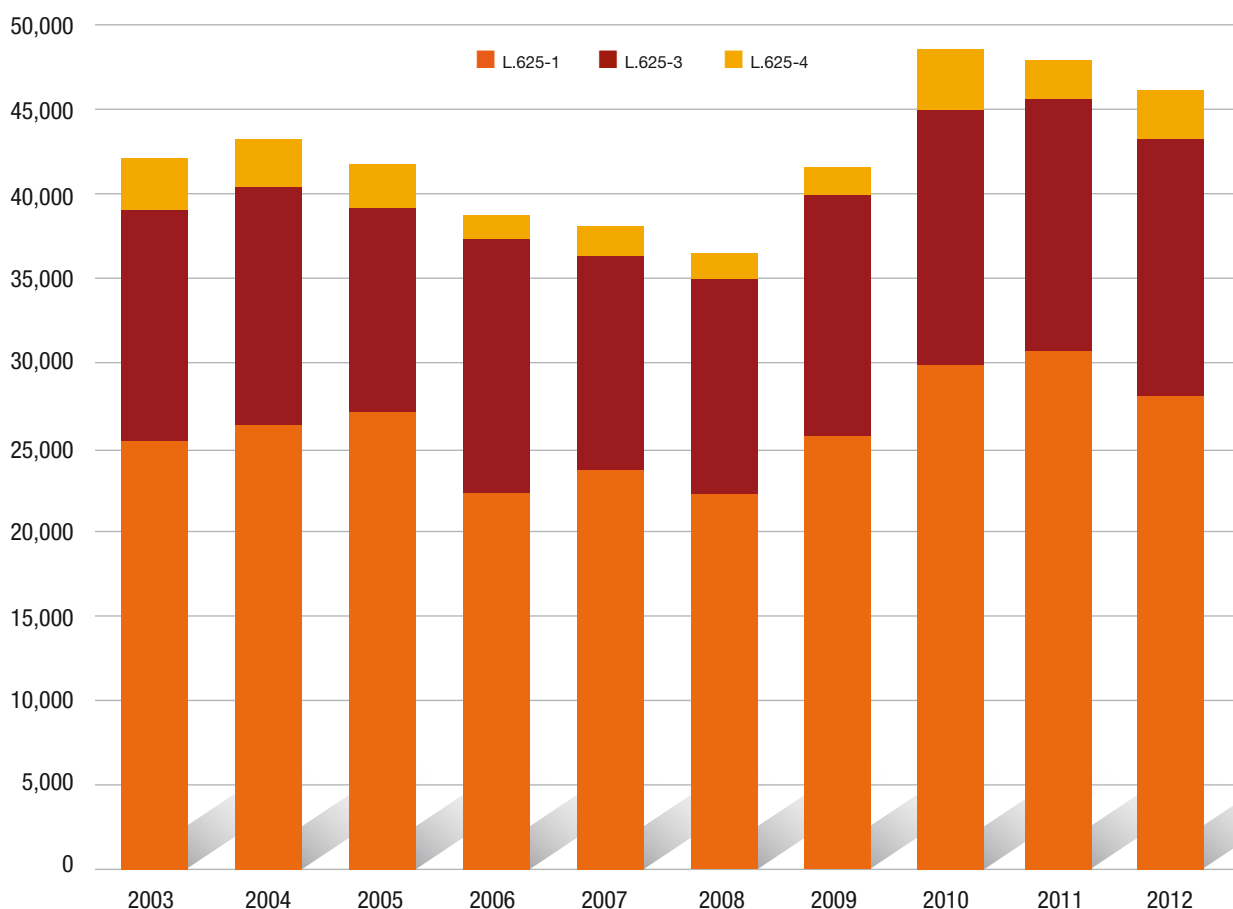
The fall in beneficiary numbers 2010-2011 had a moderate impact on the number of disputes, which remains high - mainly because of collective actions involving over 25,000 employees in 2012.

Almost 46,000 labour court disputes

While still large, the number of labour court disputes fell 4% in 2012 in line with drop in beneficiary numbers over the two previous years. The two sets of figures usually move in parallel after a gap to allow for summons to be served.

Breakdown by origin has changed little over several years: 61% of 2012 disputes were caused by the receiver's refusal to allow all or any of an employee's claims onto the list of claims in bankruptcy, 34% arose before insolvency proceedings were started and only 5% from a challenge by AGS to all or any of the claims presented.

Number of labour court disputes
2003-2012 by grounds
for summons



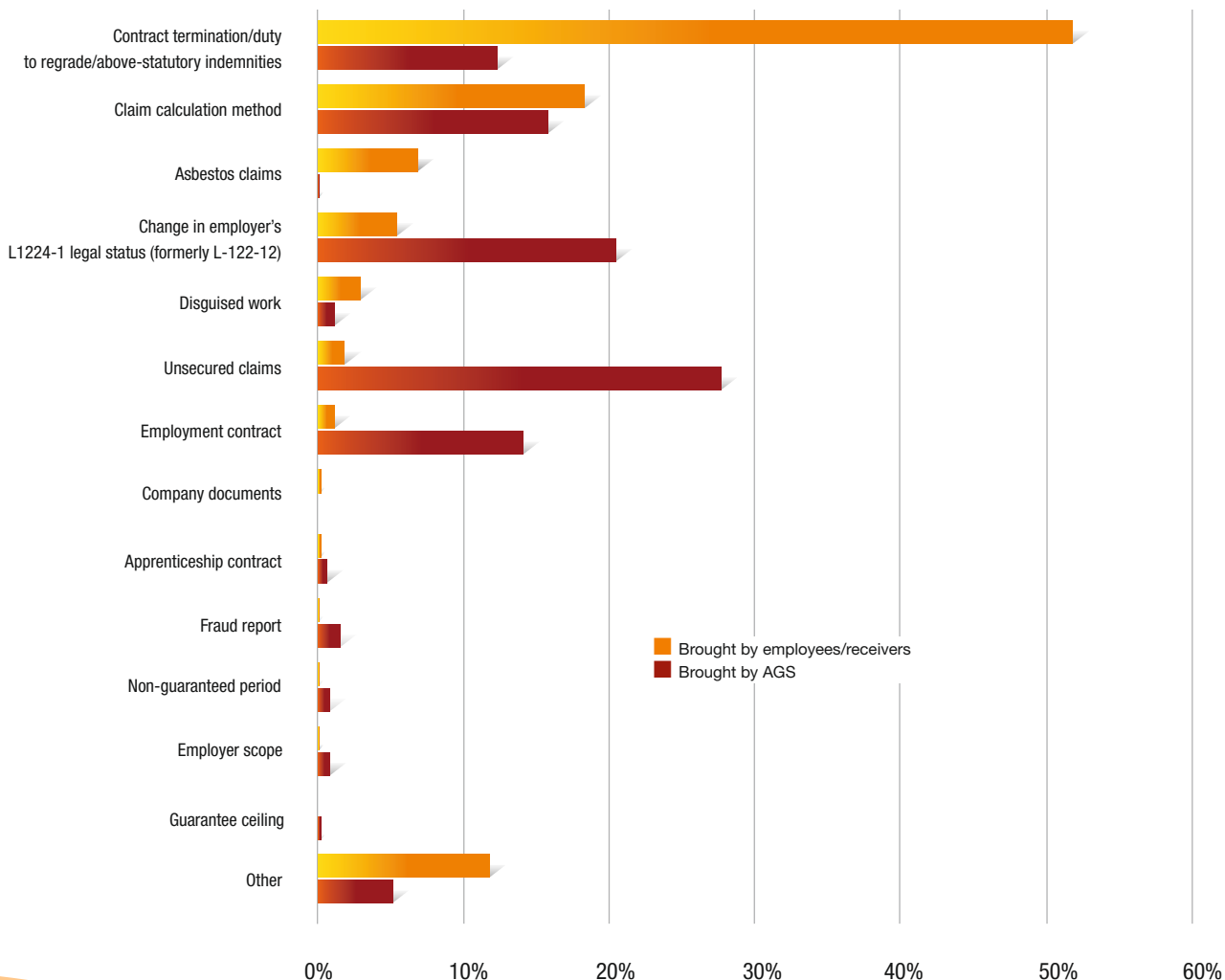
Note: This annual data covering 10 years has been updated and therefore may differ from the data provided in previous editions of this Report. The 48,000 labour court disputes recorded for 2010 make it a record year for this type of litigation, followed closely by 2011. Labour court proceedings are recorded by number of employees involved.

Grounds for litigation: 1 in 2 cases concern dismissal

As in previous years, the most common ground for disputes brought either by employees or by receivers concern employment contract termination (51%), almost 1 in 5 being about the calculation of the claim.

Grounds for AGS challenges (+20% on 2011) are different and their priority has changed. 27% concern unsecured claims (just 3% in 2011), 20% change in the employer's L.1224-1 legal status (32% in 2011) and 16% claim calculation method (19% in 2011).

Grounds for litigation in 2012



Multiple disputes

In 2012 over 25,000 employees were involved in multiple disputes involving between 2 and just under 500 employees.

As in 2010 and 2011, while disputes involving 20 employees or more accounted for under 1% of all labour court proceedings, they represented

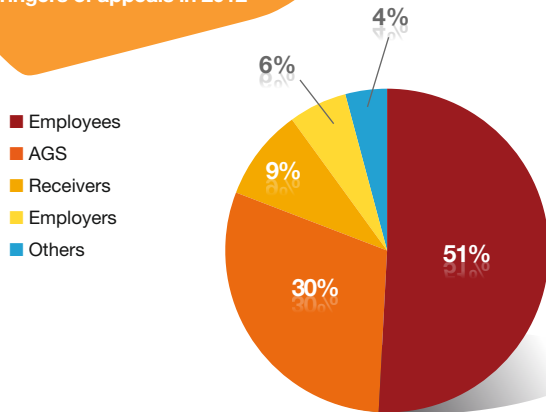
a huge proportion of the amounts claimed. They are therefore monitored closely because of the financial challenges they pose and the possibility for abuse of the Wage Guarantee Scheme.

Judgments, orders and appeals on points of law

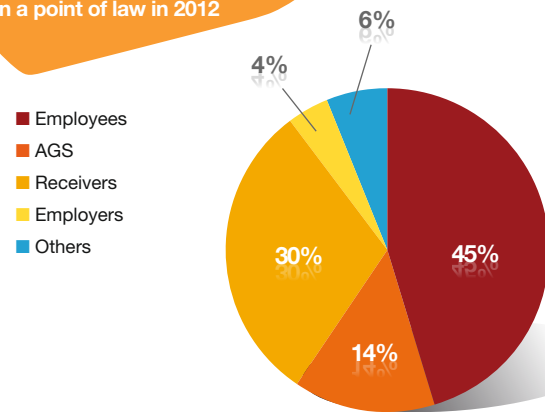
31,960 judgments were made in 2012 by the labour courts and recorded by AGS (-7% on 2011). 27% of the judgments were appealed (24% in 2011) 51% of which by the employee (60% in 2011).

9796 appeal court judgments were made (+11% on 2011), 9% on appeals on a point of law (6% in 2011) 45% of which were brought by the employee (43% in 2011).

Bringers of appeals in 2012



Bringers of appeals on a point of law in 2012



Analysis

What do you see as the factors contributing to the rise in these disputes that often involve specialist litigators who challenge all redundancies and PSEs simply to bring AGS into the picture as the solvent source of compensation?

As you've mentioned these specialist litigators, it must be said that the fact that their payment is a percentage of all amounts recovered does encourage this type of action. But the real reason for the increase is the growing complexity of insolvency procedures, which are giving employees new options thanks to group, co-employment and regrading concepts. Group globalisation, for example, has made it harder to set regrading search bounds and we are finding ourselves dealing with foreign companies who do not understand French legal requirements.

Procedures are too short to allow us to obtain full details about the company and its employees while at the same time working to complete all our duties, especially attempts to regrade and the various searches needed for regrading. The other problem is that judges fail to take account of all the details

«The increasing complexity of procedures is contributing to the growth in collective actions.»

of the right to make redundancies during insolvency procedures, which differs from the rights of solvent companies, or of case law in this area.

Finally, the lack of ring-fenced compensation resources and the fact that it is almost impossible to manage individual transactions means that employees feel they have lost out when they compare themselves with the employees of other companies whose high redundancy payouts are reported in the media.

What might put an end this?

The solution would be to make redundancy law better suited to insolvency procedures. In the case of restructurings, the duty to try and regrade abroad ought to be abolished and a definition of «group» ought to be written into company law. Other solutions could also be looked into, such as lowering minimum statutory compensation levels and creating scales that different courts cannot exceed, or making compensation above statutory limits illegal.



Eric Bauland is a court-appointed administrator in Lyon and a partner of SELARL BGM. He gave us his views on the development in recent years of the type of collective action now facing AGS.

Position at 31 March 2013	New cases with opening judgement in 2012	Region (% of new cases)	Number of employees in new cases in 2012	Region (% employees entitled to compensation)	Amount advanced (€K) on new cases in 2012	Region (% of total advanced)	New cases with 100+ employees in 2012*	Region (% new cases with 100+ employees)
Alsace	670	2.8%	5515	2.9%	40,412	3.8%	7	4.2%
Aquitaine	1291	5.3%	7796	4.1%	44,901	3.5%	5	3.0%
Auvergne	410	1.7%	3152	1.7%	23,288	1.8%	5	3.0%
Lower Normandy	505	2.1%	4381	2.3%	29,458	2.3%	4	2.4%
Burgundy	584	2.4%	3959	2.1%	21,122	1.6%	4	2.4%
Brittany	1123	4.6%	14,129	7.4%	79,488	6.2%	8	4.8%
Centre	984	4.1%	6277	3.3%	40,335	3.1%	3	1.8%
Champagne/ Ardennes	479	2.0%	3447	1.8%	19,597	1.5%	2	1.2%
Corsica	81	0.3%	469	0.2%	2926	0.2%	0	0.0%
Overseas Départements	714	2.9%	5613	2.9%	39,220	3.0%	3	1.8%
Franche Comté	428	1.8%	2968	1.6%	22,557	1.7%	3	1.8%
Upper Normandy	611	2.5%	5629	3.0%	39,998	3.1%	5	3.0%
Ile-de-France	4137	17.1%	40,069	21.1%	335,679	26.0%	52	31.3%
Languedoc Rousillon	1323	5.5%	6942	3.6%	44,735	3.5%	3	1.8%
Limousin	253	1.0%	1577	0.8%	8634	0.7%	0	0.0%
Lorraine	980	4.0%	9818	5.2%	57,062	4.4%	11	6.6%
Midi-Pyrénées	990	4.1%	6643	3.5%	43,818	3.4%	4	2.4%
Nord Pas-de-Calais	1579	6.5%	11,898	6.3%	82,886	6.4%	8	4.8%
Provence-Alpes- Côte d'Azur	2080	8.6%	14,110	7.4%	74,207	5.7%	11	6.6%
Pays de la Loire	1207	5.0%	9055	4.8%	56,102	4.3%	6	3.6%
Picardy	661	2.7%	4911	2.6%	32,693	2.5%	2	1.2%
Poitou-Charentes	630	2.6%	3998	2.1%	24,413	1.9%	3	1.8%
Rhône-Alpes	2506	10.3%	17,973	9.4%	119,082	9.2%	17	10.2%

* Companies or establishments

Key business criteria

Position at 31 March 2013	2008	2009	2010	2011	2012
Advances during the year (€ millions)	1463	2117	1948	1865	2077
Recoveries during the year (€ millions)	570	642	672	683	724
Recovery rate at 31 December on cases under the 1985 Act	36.7%	36.4%	36.2%	36.3%	36.2%
Contributions during the year (€ millions)	574	916	1756	1502	1412
Contribution rate	0.15% then 0.10% at 01/07	0.10% then 0.20% at 01/04. 0.30% at 01/07. 0.40% at 01/10	0.40%	0.40% then 0.30% at 01/04	0.30%
Company failures (court order date - source Bank of France)	55,562	63,205	60,330	59,572	61,294
New AGS cases (date of court order)	24,046	27,113	24,444	23,074	24,249
Cases involving 100+ employees (date of court order)	204	228	172	184	176
Employee beneficiaries during the year	235,062	289,780	270,449	258,934	277,303
Labour court proceedings	36,448	41,677	48,555	47,600	45,777
<i>Cour d'appel</i> orders	9982	10240	8887	9311	9796
Court of Cassation rulings involving AGS	16	10	8	7	-

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National Director

Jacques Savoie

Chef de Cabinet

Yves Roussel

Internal auditor

Network Management

Michel Mathieu

Deputy Manager, Network

Maryse Deschamps

Head of Operational Support

Christophe Fourage

Head of Steering

Marie-Ange Nguyen

Head of Quality and Risk Management

Michel Deirmendjian

Head of the Fight against Fraud

Support and Services

Anne Varin

Secretary General and Head of Management and Resources

Franck Bouchut

Head of Studies and Statistics

Laurent Méry

Head of IT

Jacques Andrieu

Head of Communications

Laurence Monchaux

Head of HR

Béatrice Veysièrè

Head of Legal

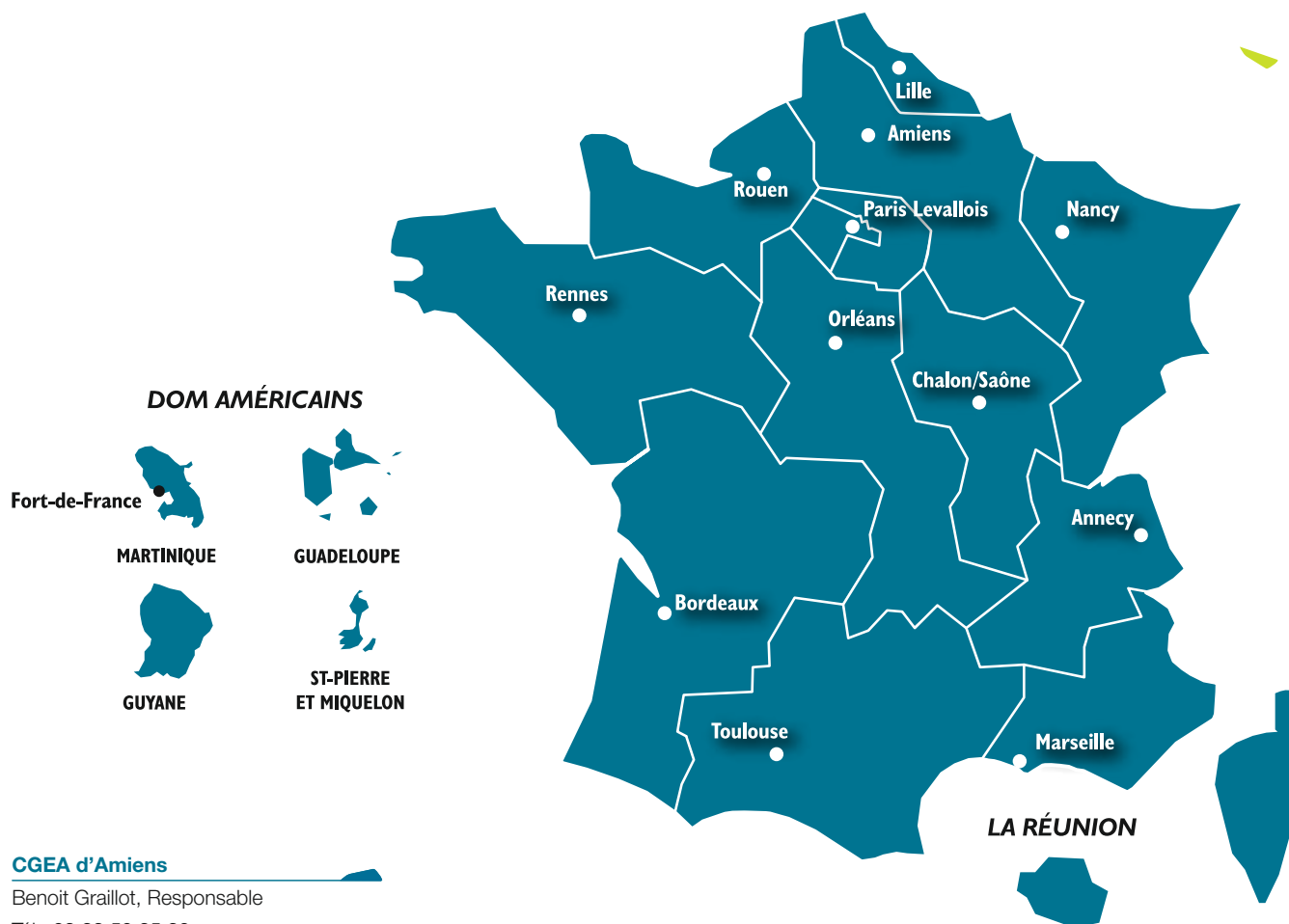
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