

> Javni jamstveni in preživninski sklad Republike Slovenije

Letno poročilo 2002 <

> *Public Guarantee and Maintenance Fund of the Republic of Slovenia*

Annual report 2002 <



> Kazalo

> *Contents*

Beseda direktorice

A word from the director

5

1. Osnovni podatki o Skladu

1. Fund highlights

9

2. Delovanje jamstvenega sklada

2. Guarantee fund operation

13

3. Delovanje preživninskega sklada

3. Maintenance fund operation

25

4. Mednarodna dejavnost Sklada

4. Fund's international activity

37

5. Računovodski izkazi

5. Statements of account

41

- Beseda direktorice
- *A word from the director*



Spoštovani,

leto 2002 nam bo ostalo v spominu predvsem po peti obletnici delovanja jamstvenega sklada in po spremembah zakonodaje, ki so odpravile pomemben del omejitev glede pogojev za priznanje pravice do nadomestila preživnine oziroma pravice delavcev iz naslova insolventnosti delodajalca. Zagotovo najpomembnejša učinka teh sprememb, ki bosta v nadaljevanju podrobneje opisana, sta: odslej bo več otrok upravičenih do nadomestila preživnine in več delavcev do pravic iz naslova insolventnosti delodajalca. Pomemben vpliv na delovanje Sklada v letu 2002 je imel tudi vse večji obseg judikature s področja pravic delavcev v primerih izgube zaposlitve zaradi insolventnosti delodajalca in predvsem poenotenje stališč sodišč glede vprašanj s tega področja. Ne gre pa tudi prezreti sodelovanja Sklada z Mednarodno organizacijo dela in s sorodnimi ustanovami v tujini.

Spremembe Zakona o Jamstvenem in preživninskem skladu Republike Slovenije so sad prizadevanj, da bi na eni strani našo zakonodajo uskladili z mednarodno veljavnimi akti, na drugi strani pa dosegli enako obravnavanje vseh otrok, ki živijo v enoroditeljskih družinah in kjer preživninski zavezanci ne prispevajo k preživljanju skupnih otrok. Zadovoljni smo, da je konec leta 2002 prinesel zakonske spremembe, ki v še večji meri lahko pomagajo uresničevati poslanstvo Sklada, tj. da se vsaj delno izboljša socialna varnost otrok in zmanjša socialna stiska delavcev ob izgubi zaposlitve. In čeprav so vsa prizadevanja omejena s finančnimi možnostmi države, smo prepričani, da so omenjene zakonske spremembe korak v pravo smer. S tem v zvezi je vsekakor potrebno omeniti tudi prizadevanja vseh na Skladu, da bi tisti, ki se jih spremembe zakonodaje tičejo, do svojih pravic prišli s čim manj truda in nepotrebnih stroškov. Prav zato smo precej naporov vložili v izčrpana pojasnila številnim, ki so takoj po objavi zakonskih sprememb klicali na naši brezplačni telefonski številki. Veliko pozornosti smo posvetili tudi organizacijski pripravi na začetek veljavnosti sprememb v letu 2003 in nenazadnje pripravi nekaterih novih dokumentov (uradnih obrazcev, navodil idr.), v katerih bodo upošteevane zakonske spremembe.

Dear readers,

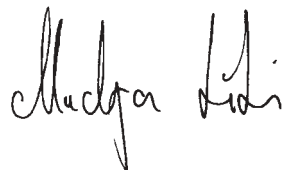
We will remember the year 2002 mainly for two things: for the Guarantee Fund's fifth anniversary of operation, and for changes in legislation that have abolished a significant portion of the limitations on conditions for acknowledging entitlement to receive a maintenance replacement, or rights of employees arising from employer's insolvency. Without doubt, the most important effects of these changes – which will be addressed in greater detail later in this report – are that more children will henceforth be entitled to receive a maintenance replacement, and that more employees will be entitled to rights based on employer's insolvency. The increasing extent of judicature in the field of employee's rights arising from loss of employment due to employer's insolvency, especially the unifying of courts' viewpoints regarding issues in this field, also had an important effect on the Fund's operations in 2002. However, one should also not overlook the Fund's co-operation with the International Labour Organisation and similar institutions abroad.

On the one hand, changes in the Guarantee and Maintenance Fund Act are the result of efforts to harmonise our legislation with international regulations; on the other, they follow from efforts to achieve equal treatment for all children living in single-parent families and the persons liable to pay maintenance do not contribute to the maintenance of joint children. We are very pleased that the end of 2002 brought legislative changes which are helping us implement the Fund's mission to an even greater extent, namely to at least partially improve the social security of children and alleviate the social distress in which people find themselves after loss of employment. And even though all efforts are limited by the state's financial possibilities, we are convinced that these legal changes are a step in the right direction. In connection with this, it is also important to mention the efforts of all of us at the Fund to try and make it possible for all those affected by the legislative changes to enforce their rights with as little effort and unnecessary expenses as possible. Considerable efforts have been invested in providing exhaustive information to the many who called our toll-free telephone line immediately after the publication of the new legislative changes, in organisational preparations for the changes coming into

Kot smo že omenili, je v letu 2002, natančneje 3. novembra, minilo pet let od začetka delovanja jamstvenega sklada. V tem obdobju je jamstveni sklad izplačal finančna sredstva več kot 47 tisoč upravičencem v skupnem znesku skoraj 7 milijard tolarjev. Ponosni smo, da smo v tem relativno kratkem obdobju dosegli zavidljivo stopnjo ustaljenosti dela ter z aktivnostmi na področju izterjav dolga pomembno povečali pritek sredstev iz naslova subrogacij.

Ko se torej ob peti obletnici ozremo nazaj, do začetkov delovanja jamstvenega sklada, lahko z zadovoljstvom zaključimo, da smo uresničili veliko ali celo večino ciljev, ki smo si jih takrat zastavili in to nam daje nove energije za uspešno delovanje tudi v prihodnje. Hkrati pa smo trdno prepričani in odločeni, da bomo z enakimi občutki ocenjevali delo tudi ob peti obletnici delovanja preživninskega sklada.

Direktorica:
mag. Lilijana Madjar

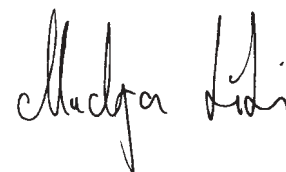


force in 2003, and last but not least, in the preparation of certain new documents (official forms, instructions, etc.) in which these legislative changes will be taken into account.

In the year 2002 – 3 November to be exact – five years had passed since the Guarantee Fund began its operation. In this period, the Guarantee Fund paid out funds to over 47 thousand beneficiaries totalling almost 7 billion Slovenian tolar. We are proud to have achieved an enviable degree of stability of our operations in this relatively short period of time, and to have significantly increased the inflow of funds arising from subrogations and debt collection activities.

When at the Fund's fifth anniversary we look back to the beginning of operation of the Guarantee Fund, we are pleased to conclude that many or even the majority of the goals that we set at that time have been achieved. This gives us new energy for successful operation in the future. At the same time, we are firmly convinced, and have decided to ensure, that we will be able to assess our work at the fifth anniversary of the Maintenance Fund with the same feelings.

Lilijana Madjar, M.Sc.
Fund Director



- > 1. Osnovni podatki o Skladu
- > 1. *Fund highlights*



Splošno o Skladu

Ime: Javni jamstveni in preživninski sklad Republike Slovenije

Sedež: Kotnikova 28, Ljubljana

Telefon: (01) 4720 990

Brezplačni telefonski številki:

080 11 21 za jamstveni sklad

080 14 14 za preživninski sklad

Telefaks: (01) 4720 991

Elektronski naslov: jpsklad@ess.gov.si

Spletni naslov: <http://ciiweb.ijs.si/jps/home.htm>

Organizacija Sklada

Direktorica: mag. Lilijana Madjar, univ. dipl. oec.

Sekretarka: Ajda Likar, univ. dipl. iur.

Vodja pravno upravnega sektorja:

Miriam Ravnika Šurk, univ. dipl. iur.

Vodja finančno računovodskega sektorja:

Ana Šparemblek, univ. dipl. oec.

Nadzorni svet:

Predsednik: dr. Vlado Dimovski,

Člani: Goran Bizjak, Nevenka Lekše, Vitko Roš, Nives Vogrič

Število zaposlenih: 20

General

Name: Public Guarantee and Maintenance Fund of the Republic of Slovenia

Head Office: Kotnikova 28, Ljubljana

Phone: +386 (0)1 4720 990

Special toll-free numbers:

080 11 21 Guarantee Fund

080 14 14 Maintenance Fund

Fax: +386 (0)1 4720 991

E-mail: jpsklad@ess.gov.si

Website: <http://ciiweb.ijs.si/jps/home.htm>

Fund Organisation

Director: Lilijana Madjar, B.A. Econ., M.Sc.

Executive Assistant: Ajda Likar, LLB

Head of Legal and Administrative Department:

Miriam Ravnika Šurk, LLB

Head of Financial and Accounting Department:

Ana Šparemblek, B.A. Econ.

Supervisory Board:

Chairman: Vlado Dimovski, Ph.D.

Members: Goran Bizjak, Nevenka Lekše, Vitko Roš, Nives Vogrič

Number of staff: 20

Delovanje Sklada

Pravna oblika: javni sklad

Datum ustanovitve: 09. 05. 1997

Ustanovitelj: Republika Slovenija

Začetek delovanja:

03. 11. 1997 jamstveni sklad

18. 10. 1999 preživninski sklad

Zakonski okviri: Zakon o Javnem jamstvenem in preživninskem skladu Republike Slovenije (Ur. l. RS, št. 25/97, 10/98, 41/99, 53/99 in 119/02) ter Zakon o javnih skladih (Ur. l. RS, št. 22/00)

Dejavnost Sklada

- zagotavljanje **pravic delavcev**, ki jim je delovno razmerje prenehalo **zaradi insolventnosti delodajalca**, kar pomeni, da je nad njim začel stečajni postopek ali da je sklep o potrditvi prisilne poravnave postal pravnomočen (v tem primeru govorimo o delovanju jamstvenega sklada);
- zagotavljanje uveljavljanja **pravice do nadomestila preživnine** tistim otrokom, ki jim je s pravnomočno sodbo, začasno odredbo oziroma dogovorom pri centru za socialno delo določena preživnina, vendar je preživninski zavezanci ne plačujejo (v tem primeru govorimo o delovanju preživninskega sklada) in
- izterjava terjatev.

Fund Operation

Legal status: public fund

Date of founding: 9 May 1997

Founder: Republic of Slovenia

Start of operation:

3 November 1997, Guarantee Fund

18 October 1999, Maintenance Fund

Legal basis: Public Guarantee and Maintenance Fund of the Republic of Slovenia Act (Official Gazette of the Republic of Slovenia, Nos. 25/97, 10/98, 41/99, 53/99 and 119/02) and Public Funds Act (Official Gazette of the Republic of Slovenia, No. 22/00)

Fund's Activity

- to provide for the **rights of workers** whose employment was terminated due to **employer's insolvency**, i.e. bankruptcy proceedings have been initiated against the employer or a decision confirming forced settlement has become final (this contingency is covered by the Guarantee Fund);
- to provide for the enforcement of **rights to receive maintenance replacement** to those children who have been awarded maintenance by virtue of a final court decision, injunction or agreement with a social security department, but where those liable to pay maintenance are defaulting on the payments (this is covered by the Maintenance Fund) and
- debt collection.

- 2. Delovanje jamstvenega sklada
- 2. *Guarantee fund operation*



Pravico do izplačila sredstev iz jamstvenega sklada imajo tisti delavci, ki so **izgubili delo zaradi začetka stečajnega postopka ali prisilne poravnave**. V letu 2002 je še veljalo zakonsko določilo, da so morali biti upravičenci pred prenehanjem delovnega razmerja pri istem delodajalcu **neprekinjeno zaposleni najmanj tri mesece** (gre za delovna razmerja za nedoločen ali določen čas, ne pa za dela, ki temeljijo na pogodbi o delu ali kakšni drugi civilnopравни pogodbi). Novela Zakona o Jamstvenem in preživninskem skladu Republike Slovenije prinaša prav na tem področju spremembe. Te bodo začele veljati v letu 2003, kar pomeni, da bodo poslej to pravico imeli tudi tisti delavci, ki so bili pri delodajalcu zaposleni manj kot tri mesece. Poleg tega morajo delavci, ki želijo uveljavljati pravice iz zakona o Javnem jamstvenem in preživninskem skladu Republike Slovenije (v nadaljevanju Zakon), **svoje terjatve prijaviti** v rokih in na način, določen v zakonu o prisilni poravnavi, stečaju in likvidaciji oziroma zahtevati varstvo svojih pravic v rokih in na način, določen v predpisih, ki urejajo delovna razmerja. Prav tako je pomembno, da še **niso bili poplačani** najmanj v višini, ki jo pokriva jamstveni sklad.

Leto 2002 je že peto leto, odkar deluje jamstveni sklad. V tem času smo vzpostavili kontinuiteto dela, hkrati pa ugotavljamo, da je jamstveni sklad postal prepoznaven v slovenskem prostoru. Delavci so tako v vse večji meri seznanjeni s pravicami, za katere jamči jamstveni sklad, k temu pa je nemalo prispeval prav Sklad z intenzivnim obveščanjem javnosti o svojem delovanju. Prav tako je prišlo do pomembnih premikov v sodni praksi, kjer se je izoblikovalo stališče, da od začetka veljavnosti novele Zakona o Jamstvenem in preživninskem skladu Republike Slovenije z dne 03. 07. 1999 delavcem, ki so izgubili zaposlitev zaradi uvedbe stečajnega postopka oziroma v okviru finančne reorganizacije, nedvomno pripada odpravnina v višini in pod pogoji, kot pripada delavcem, ki jim je delovno razmerje prenehalo zaradi nujnih operativnih razlogov po zakonu o delovnih razmerjih.

Za leto 2002 je bilo značilno povečanje skupno izplačanih sredstev v primerjavi z letom 2001, in sicer za skoraj 37 odstotkov, čeprav je bilo upravičencev do sredstev jamstvenega sklada celo nekaj manj. Razlogov je

*The right to receive payments from the Guarantee Fund is awarded to those employees who have **lost their employment as a result of the initiation of bankruptcy proceedings or forced settlement**. In 2002, the legal provision that prior to termination the potential beneficiary had to be employed with the same employer for at least three months without interruption (this applies to employment for an indefinite or definite period of time, but not to contract work or other forms of contractual employment). The amending act of the Guarantee and Maintenance Fund Act has brought changes in this field. These changes will come into force in 2003, which means that from then on this right will also be awarded to employees who have been employed with the same employer for less than three months. In addition, employees desiring to claim their rights arising from the Guarantee and Maintenance Fund Act (hereinafter the "law"), are **obliged to file applications** within the deadlines and in the manner stipulated in the Forced Settlement, Bankruptcy and Liquidations Act or demand that their rights be protected within the deadlines and in the manner stipulated by the employment regulations. It is also important that they **had not received compensation** beyond the minimum amount covered by the Guarantee Fund.*

The year 2002 is the fifth year of the Guarantee Fund's operation. During this period, we have established a continuity of work and are pleased to find that the Guarantee Fund has become more widely known in Slovenia. Employees are thus increasingly better informed about their rights provided by the Guarantee Fund, which is owing largely to the Fund's intense efforts to inform the public of its operations. Important shifts have also occurred in the court's practice. Since the amending act of the Guarantee and Maintenance Fund Act came into force on 3 July 1999, a viewpoint has been formed that employees whose working relations have been terminated due to initiation of bankruptcy proceedings or as a result of financial restructuring are undoubtedly entitled to a severance pay in the same amount and under the same terms as those whose working relations have been terminated because of urgent operative reasons under the Employment Relations Act.

The year 2002 was characterised by an almost 37% increase in the total amount of payments compared to 2001, even though there were even slightly fewer beneficiaries entitled to the Guarantee Fund's payments. There are several reasons for this;

več, najpomembnejši pa so povečanje oziroma naraščanje višine minimalne plače, vse večji obseg neporavnavanja obveznosti delodajalcev do delavcev ter povečanje števila zahtev delavcev, ki so zaposlitev izgubili zaradi uvedbe stečajnega postopka v primerjavi s številom delavcev, ki so zaposlitev izgubili zaradi prisilne poravnave. Slednji imajo namreč praviloma nižje terjatve do delodajalca kot delavci, katerih delodajalec je šel v stečaj.

2.1. Vložene zahteve

Postopek za uveljavitev pravic se vedno začne **na zahtevo upravičenca**, ki odda zahtevo za poravnavo obveznosti iz naslova pravic delavcev v primeru insolventnosti delodajalca na območno službo Zavoda Republike Slovenije za zaposlovanje (v nadaljevanju Zavod). Rok za oddajo zahteve je 90 dni od datuma prenehanja delovnega razmerja.

Od 1. januarja do 31. decembra 2002 je jamstveni sklad prejel **2.893 zahtev za uveljavljanje pravic zaradi insolventnosti delodajalca**. Posredovali so jih zaposleni iz 133 podjetij. Iz desetih podjetij je Sklad v letu 2002 prejel več kot sto zahtev, in sicer: Tekstil Pletilstvo d.d., Prosenjakovci – 272 zahtev, KORS, konfekcija oblačil d.d., Rogaška Slatina – 217 zahtev, Bača d.d., Podbrdo – 162 zahtev, E šport, Konfekcija Šentjur d.o.o., Šentjur – 140 zahtev, Inles SDR d.d., Sodražica – 139 zahtev, Labod, Konfekcija Libna d.o.o., Krško – 137 zahtev, MIK, modna konfekcija d.d., Prebold – 131 zahtev, Jeklotehna trgovina d.o.o., Maribor – 126 zahtev, Gradbeno podjetje Novo mesto d.o.o. – 110 zahtev, Jutranjka konfekcija d.o.o., Dol – 106 zahtev.

Največ zahtev je prispelo iz celjske območne službe Zavoda (23,2 odstotka), sledi ljubljanska območna služba (21,9 odstotka), najmanj zahtev pa iz velenjske območne službe (1,5 odstotka).

Iz 85 podjetij je Sklad prejel manj kot 10 zahtev na podjetje, iz česar je razvidno, da so se tudi v letu 2002 (podobno kot v letu 2001) začeli postopki zaradi insolventnosti delodajalca večinoma v manjših podjetjih. V letu 2002 je bilo v Sloveniji **513 podjetij**, v katerih je bil **začet stečajni postopek** (v letu 2001 je bilo takih podjetij 387).

the most important ones include increased minimum salary, increasingly greater amount of unpaid employer liabilities towards employees and greater number of claims filed by employees who have lost employment as a result of initiation of bankruptcy proceedings compared to those whose employment were terminated due to forced settlement. This is because the claims of the latter are usually lower than of those whose employers went bankrupt.

2.1. Filed applications

*The procedure for enforcing the rights of employees always begins with an **application by the beneficiary**, who files a claim for the compensation of entitlements arising from employee's rights in the case of employer's insolvency with the respective regional office of the Employment Service of Slovenia. The deadline for applications is 90 days from the date of termination of employment.*

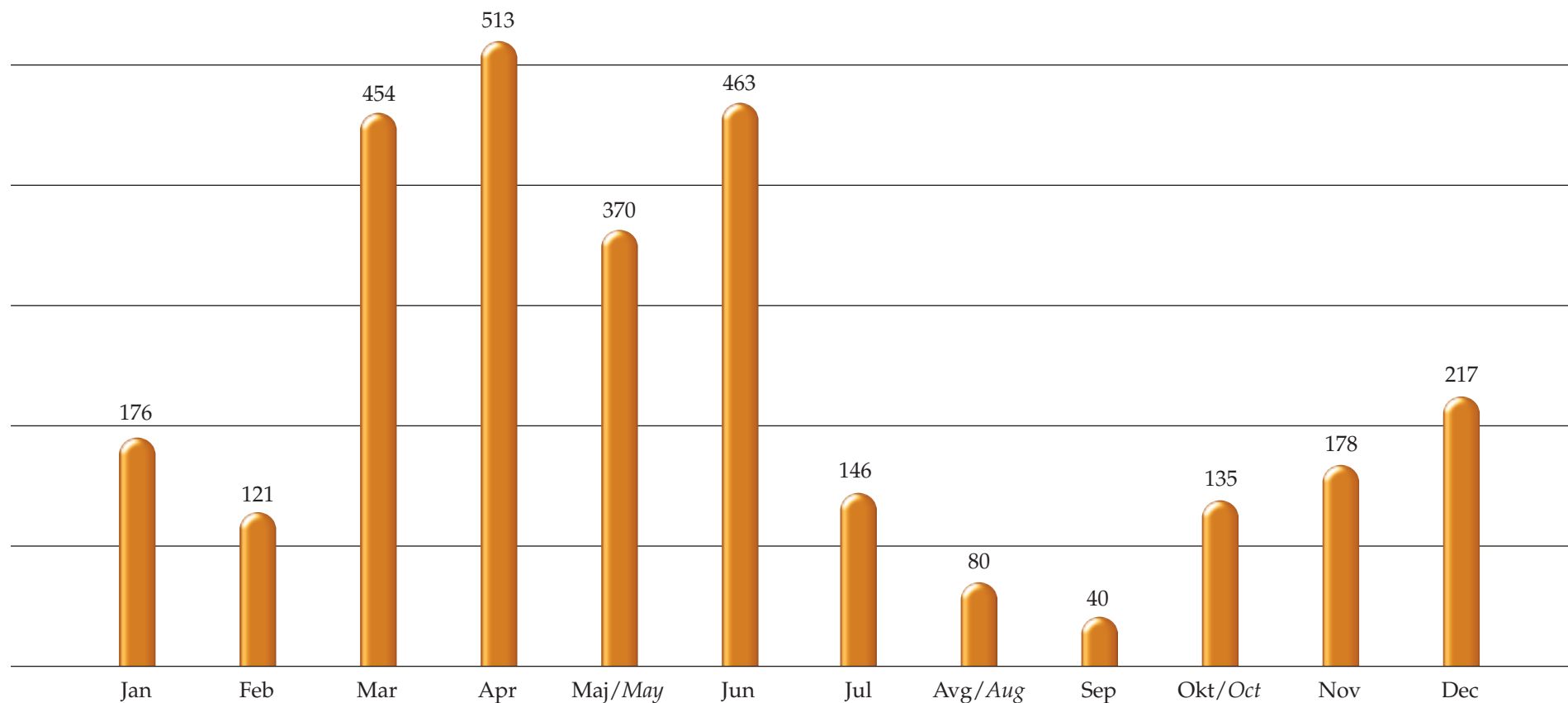
*Between 1 January and 31 December 2002, the Guarantee Fund received **2,893 claims enforcing employee's rights arising from employer's insolvency**. These were filed by employees from 133 companies. However, over 100 per company were received in 2002 from the following 10 companies: Tekstil Pletilstvo d.d., Prosenjakovci (272 claims), KORS, konfekcija oblačil d.d., Rogaška Slatina (217 claims), Bača d.d., Podbrdo (162 claims), E Šport, Konfekcija Šentjur d.o.o., Šentjur (140 claims), Inles SDR d.d., Sodražica (139 claims), Labod, Konfekcija Libna d.o.o., Krško (137 claims), MIK, modna konfekcija d.d., Prebold (131 claims), Jeklotehna trgovina d.o.o., Maribor (126 claims), Gradbeno podjetje Novo mesto d.o.o. (110 claims), Jutranjka konfekcija d.o.o., Dol (106 claims).*

The greatest number of claims were received from the Regional Office of Celje (23.2%), followed by the Regional Office of Ljubljana (21.9%); the lowest number of claims arrived from the Regional Office of Velenje (1.5%).

*The Fund received less than 10 claims per company from 85 companies. This shows that, similarly to 2001, in 2002 as well proceedings due to employer's insolvency were initiated mainly in smaller companies. In 2002, **bankruptcy proceedings were initiated against 513 companies** in Slovenia, while in 2001 there were 387 such companies.*

Graf 1: Število vloženih zahtev – po mesecih v letu 2002

Diagram 1: Claims filed in 2002 per month



Iz grafa je razvidno, da so zahteve na jamstveni sklad med letom prihajale neenakomerno, največ zahtev je prispelo meseca aprila in junija (33,7 odstotka vseh vloženih zahtev), najmanj pa meseca avgusta in septembra (4 odstotke vseh vloženih zahtev).

The diagram shows large fluctuations in the monthly numbers of claims received by the Guarantee Fund. Most were received in April and June (33.7% of all filed claims), and least in August and September (4% of all filed claims).

Graf 2: Število vloženih zahtev – po območnih službah Zavoda v letu 2002

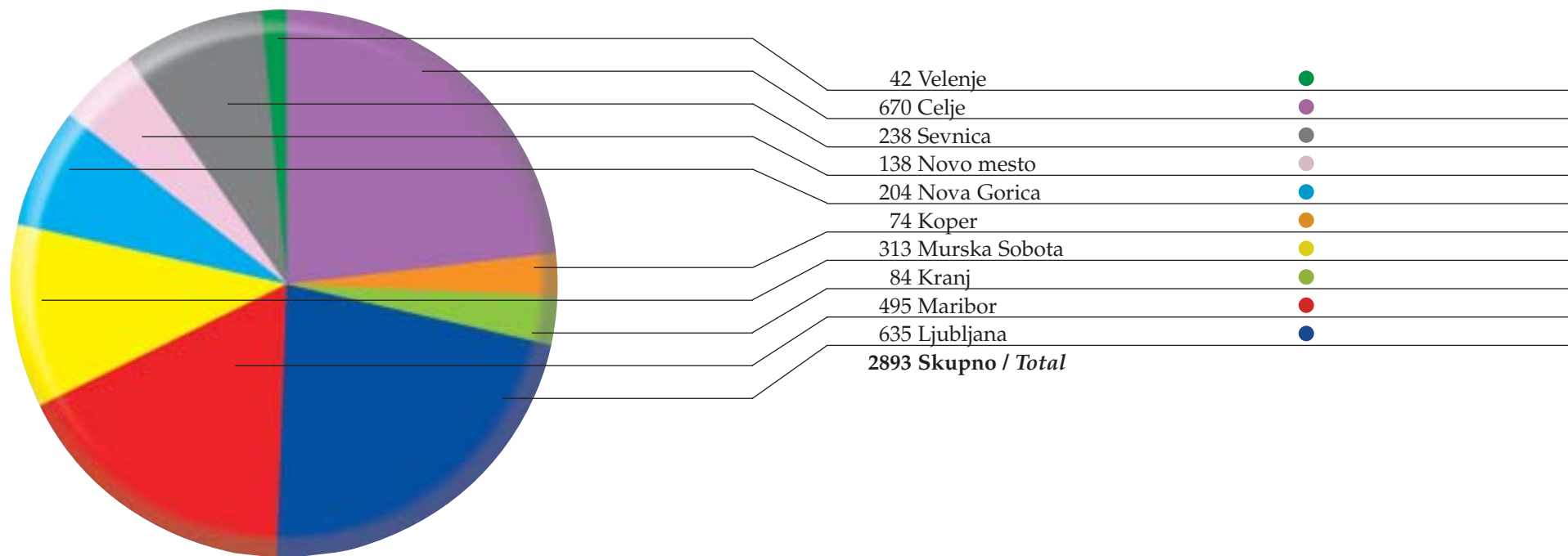


Diagram 2: Claims received per Regional Office in 2002

Jamstveni sklad za zbiranje zahtev uporablja že obstoječo mrežo območnih služb Zavoda, zato je mogoče vložene zahteve analizirati tudi po regijskem ključu. Čeprav je kar štiri leta zapored največ zahtev prispelo iz območne službe Ljubljana, v letu 2002 ni bilo tako. Tokrat je največ zahtev prispelo iz **celjske območne službe Zavoda in sicer 670 zahtev (23,1 odstotka)**, sledi **ljubljska območna služba s 635 zahtevami (21,9 odstotka)**, medtem ko je 495 (17,1 odstotka) zahtev prispelo iz **mariborske območne službe**. Iz teh območnih služb je prispelo dobrih 62 odstotkov vseh vloženih zahtev. Tudi v letu 2002 je najmanj zahtev prispelo iz velenjske območne službe (42 zahtev oziroma 1,4 odstotka).

*In its activities for collecting claims, the Guarantee Fund uses a network of regional offices of the Employment Service of Slovenia. Therefore, filed claims can be analysed by region as well. Even though for the past four consecutive years the greatest number of claims had been received from the Regional Office of Ljubljana, this was not the case in 2002. Most claims were from the **Regional Office of Celje (670 claims, 23.1%)**, followed by the **Regional Office of Ljubljana (635 claims, 21.9%)**, and **495 claims (17.1%)** which arrived from the **Regional Office of Maribor**. Slightly over 62% of all filed claims were thus received from the mentioned regional employment offices. In 2002 as well, the lowest number of claims were from the Regional Office of Velenje (42 claims, i.e. 1.4%).*

2.2. Izdane odločbe

Tabela 1: Število vloženih zahtev, odločb in izplačil – po območnih službah Zavoda v letu 2002

Območna služba <i>Regional Office</i>	Vložene zahteve <i>Claims filed</i>	Pozitivne <i>Approved</i>	Zavrnilne <i>Denied</i>	Zavržbe <i>Rejected</i>	Odločene <i>Decisions</i>	Izplačane <i>Payments</i>
Celje	670	549	15	10	574	506
Koper	74	17	19	1	37	36
Kranj	84	334	31	2	367	346
Ljubljana	635	543	58	6	607	473
Maribor	495	349	135	5	489	431
Murska Sobota	313	405	10	0	415	404
Nova Gorica	204	198	4	0	202	194
Novo mesto	138	163	0	0	163	163
Sevnica	238	237	1	1	239	231
Velenje	42	32	1	0	33	15
Skupaj / Total	2893	2827	274	25	3126	2799

V letu 2002 je bilo na podlagi zahtev, ki so jih upravičenci vložili zaradi uveljavljanja pravic iz naslova insolventnosti delodajalca, izdanih **3.126 odločb**, od tega **2.827 pozitivnih** (90,4 odstotka) in 299 odločb (9,6 odstotka), s katerimi je Sklad v celoti ali delno zavrnil oziroma zavrzel zahtevo vlagatelja. Negativne odločbe so bile izdane zaradi neizpolnjevanja zakonskih pogojev ali zaradi tega, ker so delavci že prejeli poplačilo svojih terjatev vsaj v višini, ki jo zagotavlja Zakon. Na Sklad je bilo v letu 2002 vloženih 200 pritožb (171 na pozitivno odločbo in 29 na negativno odločbo).

Večje število odločenih zahtev od vloženih je posledica dejstva, da so bile nekatere zahteve posredovane na Sklad konec leta 2001, tako da je bilo o njih mogoče odločiti šele v letu 2002.

2.2. Issued decisions

Table 1: Number of claims, decisions and payments per regional offices in 2002

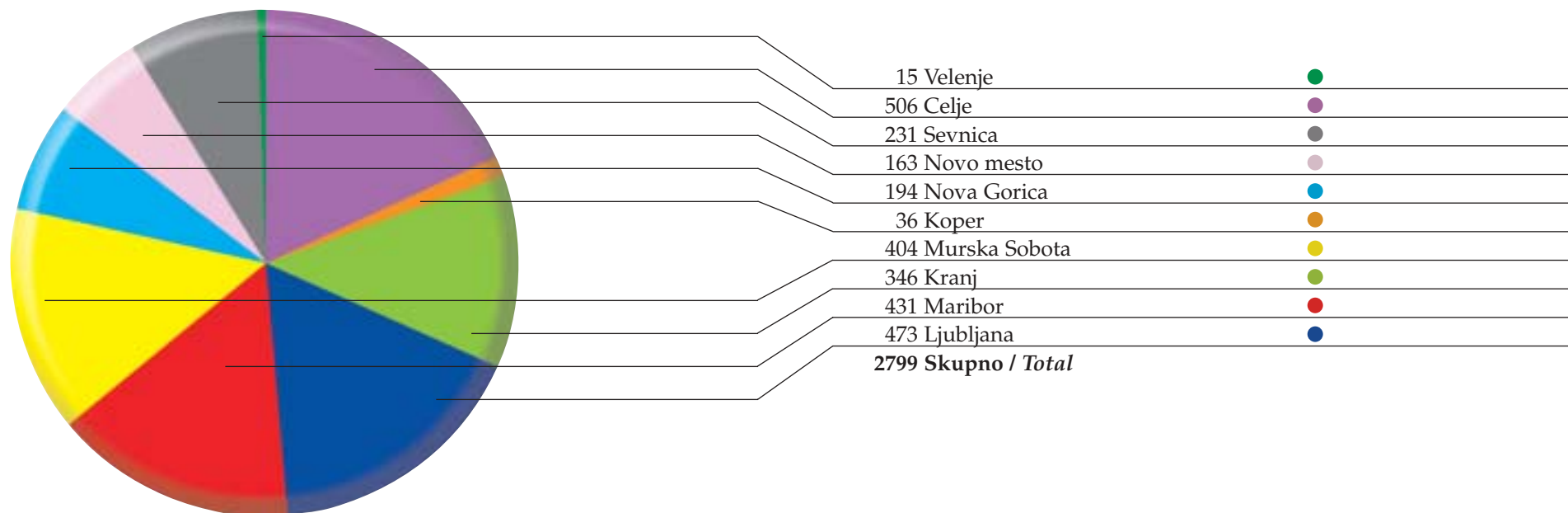
In 2002, **3,126 decisions** based on claims filed by beneficiaries for enforcement of their rights arising from employer's insolvency were issued, of which **2,827 were approvals** (90.4%) and 299 denials (9.6%) fully or partially denying the applicant's claim. Negative decisions were issued because of the applicant's failure to fulfil the legal requirements or because the applicant has already received a payment of their receivables, at least to the amount provided for by the law. A total of 200 appeals were filed in 2002 (171 against approvals and 29 against negative decisions).

The number of decisions issued exceeds that of claims filed because some claims were received by the Fund at the end of 2001, so that a decision could not be issued before 2002.

2.3. Izplačila

Znesek, ki ga upravičenci prejmejo na podlagi odločbe o priznanju pravic, lahko vključuje neizplačane plače oz. nadomestila plač za zadnje tri mesece pred datumom prenehanja delovnega razmerja – v višini največ 3 minimalnih plač, določenih s posebnim predpisom na dan izdaje odločbe, nadomestila plače za čas neizrabljenega letnega dopusta, do katerega je delavec upravičen v tekočem koledarskem letu – v višini največ ene polovice minimalne plače in odpravnine v višini in pod pogoji, kot jih za presežne delavce določajo predpisi, ki urejajo delovna razmerja – v višini največ 1 minimalne plače. Upravičenci lahko od jamstvenega sklada prejmejo sredstva v skupni višini največ **4,5 minimalne plače**.

Graf 3: Število upravičencev, ki so v letu 2002 prejeli nadomestilo – po območnih službah Zavoda



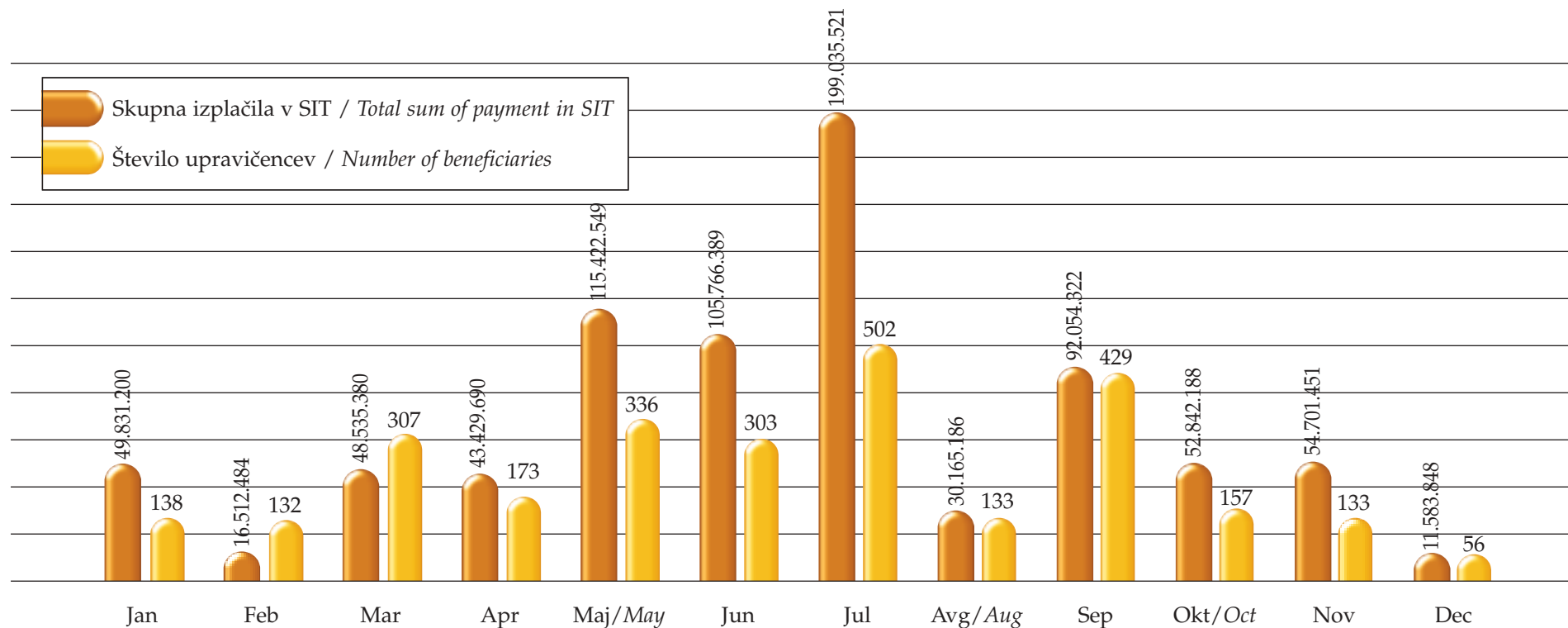
2.3. Payments

The amount a beneficiary is entitled to receive from the Fund on the basis of an issued positive decision may include unpaid salaries or salary replacement for the last three months before the date of termination of employment – up to 3 minimum salaries, as determined by a special regulation, on the day of issuance of the decision; salary replacement for the unused paid annual leave to which the employee is entitled in the current calendar year – up to one half of the minimum salary; and severance pay in the amount and under the conditions stipulated for redundant employees by labour regulations – up to 1 minimum salary. From the Guarantee Fund beneficiaries are entitled to payments in the maximum amount of **4.5 minimum salaries**.

Diagram 3: Number of beneficiaries who received payments in 2002 per Regional Office

V letu 2002 je na podlagi odločb o priznanju pravic iz naslova insolventnosti delodajalca prejelo **izplačila 2.799 upravičencev iz 104 podjetij** in sicer v skupni višini **819.880.208 tolarjev**. Najvišja izplačila so prejeli upravičenci, ki so bili zaposleni v podjetjih: Tekstil Pletilstvo d.d – 107.080.265 tolarjev, Bača d.d. – 59.278.877 tolarjev, E šport, Konfekcija Šentjur d.o.o. – 58.085.142 tolarjev. Največ izplačil so upravičenci prejeli v mesecu juliju in sicer sta 502 upravičenca prejela izplačila v skupnem znesku 199.035.521 tolarjev.

Graf 4: Skupna izplačila in število upravičencev, ki so v letu 2002 prejeli sredstva – po mesecih



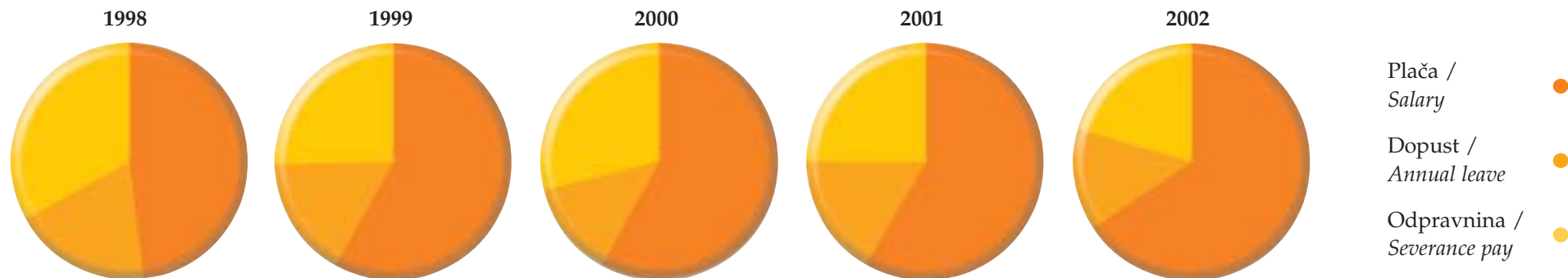
In the year 2002, 2,799 beneficiaries from 104 companies received payments on the basis of positive decisions granting them rights due to employer's insolvency in the total amount of SIT 819,880,208. The highest payments were received by beneficiaries formerly employed by Tekstil Pletilstvo d.d. (SIT 107,080,265), Bača d.d. (SIT 59,278,877), E Šport, Konfekcija Šentjur d.o.o. (SIT 58,085,142). The highest monthly sum of payments (SIT 199,035,521) was remitted in July for 502 beneficiaries.

Diagram 4: Total sum of payment and number of beneficiaries who received payments in 2002 per month

Povprečno neto izplačilo na upravičenca je v letu 2002 znašalo **196.332 tolarjev**, najvišje izplačilo je bilo 308.893 tolarjev neto. Največ (17,9 odstotka) vseh izplačil so prejeli upravičenci iz ljubljanske območne službe Zavoda, najmanj (0,4 odstotka) pa iz velenjske območne službe Zavoda.

V letu 2002 je opazno precejšnje povečanje povprečnega izplačila na upravičenca. Tako se je povprečno bruto izplačilo na upravičenca povečalo za 51 odstotkov, povprečno neto izplačilo pa za 44 odstotkov. V letu 2001 je bilo povprečno neto izplačilo 134.756 tolarjev, v letu 2002 pa 196.332 tolarjev. Čeprav je bilo izplačil v letu 2002 manj kot v letu poprej – v letu 2002 jih je bilo 2.799, v letu 2001 pa 3.085 – se je skupni znesek izplačil povečal za 37 odstotkov glede na leto 2001 in je znašal kar 819.880.208 tolarjev, v letu 2001 je bilo namreč izplačanih 599.473.483 tolarjev. Skupni znesek izplačil v letu 2002 je bil najvišji v zadnjih treh letih. Razlogov je več, najpomembnejši pa so povečanje oziroma naraščanje višine minimalne plače, večji obseg neporavnavanja obveznosti delodajalcev do delavcev ter povečanje števila zahtev delavcev, ki so zaposlitev izgubili zaradi uvedbe stečajnega postopka v primerjavi s številom delavcev, ki so zaposlitev izgubili zaradi prisilne poravnave. Slednji imajo namreč praviloma nižje terjatve do delodajalca kot delavci, katerih delodajalec je šel v stečaj.

Graf 5: Deleži posameznih vrst izplačil – po letih



The average net payment per beneficiary in 2002 was SIT 196,332 and the highest net payment was SIT 308,893. Most (17.9%) payments were received by beneficiaries from the Regional Office of Ljubljana, and least (0.4%) by those from the Regional Office of Velenje.

In 2002, there was a notable increase in the average payment per beneficiary. The average gross payment per beneficiary increased by 51%, and the average net payment by 44%. In 2001, the average net payment per beneficiary amounted to SIT 134,756, and in 2002 to SIT 196,332. Even though there were fewer payments in 2002 than in 2001 – 2,799 in 2002 compared to 3,085 in 2001 – the total amount of payments increased by 37% with respect to 2001, amounting to as much as SIT 819,880,208 in 2002, while in 2001 to SIT 599,473,483. The total amount of payments in 2002 was the highest for the past three years. There are several reasons for this; among the most important ones are increased minimum salary, greater extent of unpaid employer's liabilities towards employees and increased number of claims filed by employees who lost their employment due to initiation of bankruptcy proceedings compared to the number of those who lost their employment due to forced settlement. This is because the receivables of the latter from their employers are lower than those arising from bankruptcy.

Diagram 5: Structure of payments by entitlement per year

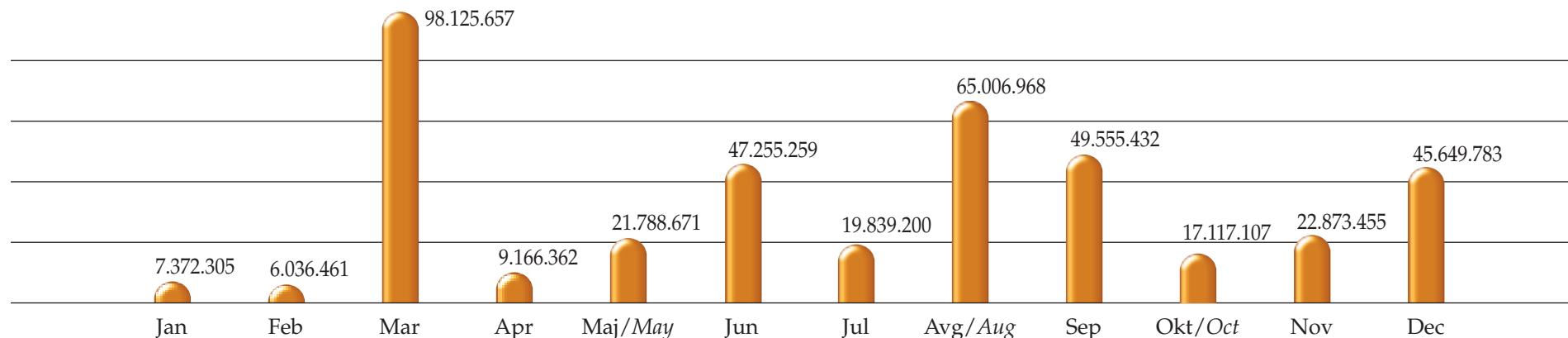
V letu 2002 je bilo upravičencem največ sredstev izplačanih iz naslova **neizplačanih plač in neizplačanih nadomestil plač za plačane odsotnosti z dela** in sicer 65,6 odstotka vseh izplačil. 20,5 odstotka vseh izplačil predstavlja izplačilo za neizplačane odpravnine, 13,9 odstotka izplačanih sredstev pa je jamstveni sklad izplačal za nadomestila plač za čas neizkoriščenega letnega dopusta.

Primerjava deležev sredstev, izplačanih za posamezno pravico v letu 2002 z deleži v preteklih letih, kaže, da se je v letu 2002 povečal delež izplačanih sredstev iz naslova neizplačanih plač in nadomestil plač. V letih od 1999 do 2001 se je ta delež gibal okoli 58 odstotkov, medtem ko se je v letu 2002 povečal na 65,6 odstotka. V primerjavi z letom 2001 se je za 4,5 odstotne točke znižal delež za odpravnine, za dobre 3 odstotne točke pa je nižji delež izplačanih sredstev za neizkoriščen letni dopust.

2.4. Terjatve

V letu 2002 je bilo iz naslova subrogacij (subrogacija pomeni, da z izvršitvijo odločb, ki jih je izdal jamstveni sklad, preidejo terjatve delavca na Sklad in sicer do višine, ki jo je izplačal Sklad) Skladu nakazano **409.786.660 tolarjev**, kar predstavlja **50 odstotkov izplačanih sredstev upravičencem** v navedenem obdobju. V letu 2002 je bilo največ vračil meseca marca, in sicer 98.125.657 tolarjev.

Graf 6: Vračila iz naslova subrogacij – po mesecih v letu 2002 v SIT



In 2002, the greatest percentage of amounts paid to beneficiaries was for **unpaid salaries and unpaid salary replacements for paid leave**, namely 65.6% of all payments. Payments to make up for unpaid severance pay accounted for a total of 20.5% of all payments, and 13.9% of the amounts paid by the Guarantee Fund was for salary replacements for unused annual leave.

A comparison of the shares of amounts paid for individual entitlements in 2002 with those for past years shows that the share of funds paid for unpaid salaries and salary replacements increased in 2002. In the years from 1999 to 2001, this share ranged around 58%, but in 2002 it increased to 65.6%. In comparison with 2001, the share of severance pay decreased by 4.5% and the share of funds paid for unused annual leave decreased by slightly over 3%.

2.4. Claims

In 2002, the Fund received **SIT 409,786,660** in subrogations (meaning that upon execution of decisions issued by the Guarantee Fund the debt is transferred from an employee to the Fund, up to the amount paid by the Fund), accounting for **50% of the funds paid to beneficiaries** during the stated period. In 2002, most reimbursements were made in March, i.e. SIT 98,125,657.

Diagram 6: Reimbursements from subrogations per month in 2002 in SIT

Tabela 2: Vračila iz subrogacij – po letih

Leto / Year	Vračila v SIT / Reimbursements in SIT
1998	50.955.218
1999	638.228.844
2000	467.126.216
2001	421.319.391
2002	409.786.665
Skupaj / Total	1.987.416.334

Od leta 1998, ko se je jamstveni sklad začel ukvarjati tudi z izterjavami, je z uspešno izterjavo državni proračun razbremenil za **skupaj 1.987.416.334 tolarjev**.

Sklad na dan 31.12.2002 izkazuje terjatve do 272 podjetij v skupnem znesku 2.103.281.967 tolarjev. Dobro tretjino vseh odprtih terjatev predstavlja dolg 10 podjetij, največji dolžnik pa dolguje skoraj 10 odstotkov vseh sredstev. S svojimi aktivnostmi si jamstveni sklad prizadeva, da bi v čim večji meri izterjal izplačana sredstva in si s tem zagotovil pomemben vir sredstev za izplačila iz naslova insolventnosti delodajalcev. V primerih, ko je družba dolžnica v postopku prisilne poravnave, skuša jamstveni sklad v okviru veljavne zakonodaje doseči z vodstvom družbe dogovor o načinu vračila dolga, ki bi bil za družbo sprejemljiv z vidika nadaljnega poslovanja. Če do dogovora ni mogoče priti, jamstveni sklad zavaruje terjatev z vložitvijo tožbe. Če je postopek prisilne poravnave neuspešen in je nad družbo dolžnico uveden stečajni postopek, Sklad pravočasno prijavi terjatev.

Table 2: Reimbursements from subrogations per year

Since 1998, when the Guarantee Fund also began engaging in debt collection, successfully collected debts lessened the burden on the state budget by a total of **SIT 1,987,416,334**.

As on 31 December 2002, the Fund reports receivables from 272 companies in a total amount of SIT 2,103,281,967. The total debt of just 10 companies accounts for slightly over a third of all outstanding receivables, and the greatest debtor owes almost 10% of all funds. With its activities, the Guarantee Fund strives to collect as much of the paid funds as possible, and thereby provides an important source of funds for payments to beneficiaries because of their employer's insolvency. In cases when the debtor company is undergoing the forced settlement proceedings, the Guarantee Fund attempts to come to an agreement with the company's management – within the framework of the valid legislation – in order to find a method of debt repayment that would be acceptable for the company from the viewpoint of its further operations. If such an agreement cannot be reached, the Guarantee Fund secures the receivable by filing a lawsuit. If the forced settlement proceedings fail and bankruptcy proceedings are initiated against the debtor company, the Fund makes sure that the receivable is reported in time.

- 3. Delovanje preživninskega sklada
- 3. *Maintenance fund operation*



Delovanje preživninskega sklada je namenjeno upravičencem – otrokom, ki jim je s pravnomočno sodbo, začasno odredbo oziroma z dogovorom pri centru za socialno delo **določena preživnina, ki pa je preživninski zavezanci ne plačujejo**. Preživninski zavezanec ne plačuje preživnine, če le-ta ni plačana zaporedoma tri mesece oziroma jo plačuje neredno. Za neredno plačevanje gre, če v zadnjih 12 mesecih preživninski zavezanec skupno dolguje vsaj tri mesečne preživnine. Pravico do nadomestila preživnine ima otrok, ki je **državljan** Republike Slovenije in ima **stalno prebivališče** v Republiki Sloveniji oziroma je **tujec in ima stalno bivališče** v Republiki Sloveniji, če je tako določeno z meddržavnim sporazumom ali ob pogoju vzajemnosti. Poleg tega je za uveljavitev te pravice nujno, da je bil sprožen ustrezen **postopek za izterjavo preživnine**, pa je bil le-ta **neuspešno zaključen** oziroma **traja že več kot tri mesece**. Pravica do izplačila nadomestila preživnine traja do dopolnjenega 15. leta starosti oziroma 18. leta starosti otroka, če le-ta ni v delovnem razmerju. Sicer pa je v letu 2002 še veljala omejitev, da **dohodek** na družinskega člana družine, v kateri otrok živi, ne presega 55 odstotkov povprečne plače v državi v preteklem letu. Že omenjene zakonske spremembe so to omejitev odpravile.

Sklad je začel sprejemati zahteve za uveljavitev pravice do nadomestila preživnine 18. oktobra 1999, tako da so za nami dobra tri leta izkušenj na tem področju. Še vedno opažamo, da so zahteve zakonitih zastopnikov otrok pogosto nepopolne, kar pomeni, da niso priložena vsa dokazila, ki jih Sklad potrebuje za pravilno in zakonito, predvsem pa hitro odločanje. V takih primerih Sklad nemudoma pozove zakonitega zastopnika oziroma zastopnico k dopolnitvi zahteve ter nato po prejemu zahtevane dopolnitve odloči o zahtevi.

Poudariti je potrebno, da lahko spremljanje posamezne zahteve, ki se začne z njeno vložitvijo, traja tudi do 18 let. V tem času se okoliščine, ki vplivajo na pravico do nadomestila preživnine, večkrat spremenijo, Sklad pa mora vsako spremembo upoštevati in ustrezno ukrepati. Tako npr. starost otroka vpliva na višino nadomestila preživnine, morebitna plačila preživnine preživninskega zavezanca lahko pomenijo ustavitev izplačil Sklada oziroma

*The Maintenance Fund is intended for the beneficiaries, i.e. for children who have been **awarded maintenance** by a final court decision, temporary injunction or agreement with the social security department, **but the persons liable to pay maintenance are defaulting on their payments**. It is deemed that the person liable to pay maintenance has defaulted on the payments if he/she fails to pay maintenance for three consecutive months or if he/she makes payments irregularly. If the person liable to pay maintenance owes a total of at least three monthly payments for the past 12 months, this constitutes irregular payments. Those entitled to receive maintenance replacements are children who are either **citizens** of the Republic of Slovenia and have their **permanent residence** in the Republic of Slovenia, or children with **foreign citizenship with permanent residence** in the Republic of Slovenia if so stipulated by a bilateral treaty or on condition of reciprocity. Another condition for being able to exercise these rights is the initiation of the appropriate **maintenance recovery proceedings**, which were either **unsuccessful** or are lasting **over three months**. The right to receive maintenance replacement lasts until the beneficiary's age of 15, or if the beneficiary is unemployed, until the age of 18. In 2002, a limitation was still in force that household **income per family member** must not exceed 55% of the national average salary for the past year, but this was abolished by the mentioned legislative changes.*

The Fund began collecting applications from claimants exercising the right to maintenance replacement on 18 October 1999, so that we have now over three years of experience in this field. We are still noticing that the claims filed by children's legal representatives are often incomplete, i.e. they do not contain all of the documents required by the Fund to enable correct, legal, and above all quick decision-making. In such cases, the Fund immediately calls upon the child's legal representative to supplement the application with the necessary documents and can pass its decision only when the application has been completed.

It should be noted that monitoring of an individual claim, which begins with its filing, may last up to 18 years. During this time, circumstances affecting entitlement to maintenance replacement often change. The Fund is obliged to take each such change into account and act accordingly. For example, the child's age affects the amount of maintenance replacements; any payments provided by the person liable to

mirovanje pravice do nadomestila, otrok se po 15. letu lahko zaposli, s čimer pravica do nadomestila preneha, lahko pa tudi pride do spremembe višine preživnine z novo sodbo sodišča ali novim dogovorom pri centru za socialno delo ipd..

Podatek o vloženi zahtevah v letu 2002 tako govori le o številu novih zahtev, medtem ko je večina dela usmerjena na spremljanje zadev za otroke, ki imajo pozitivno odločbo o priznanju pravice iz naslova nadomestila preživnine in se jim ta tudi tekoče izplačuje oziroma zadrži, če je preživnina tekoče plačana. Od začetka delovanja preživninskega sklada leta 1999 do 31. 12. 2002 je prispelo na Sklad 3.513 zahtev za 4.507 otrok. V nadaljevanju poročila si bomo najprej ogledali, koliko je bilo na Sklad vloženi novih zahtev, strukturo premoženjskega stanja družin, iz katerih ti otroci prihajajo, strukturo odločb, ki jih je izdal Sklad, in nato tudi dinamiko izplačil, ki jih je Sklad izvedel za otroke v letu 2002.

Zahtevnemu področju izterjav se je preživninski sklad intenzivno posvetil tudi v letu 2002. Posebno pozornost je namenil pripravi kakovostnega izvršilnega predloga, ki je temelj za uspešno izterjavo. Veliko dela je bilo namenjenega pridobivanju podatkov, ki bi omogočili čimbolj učinkovito izterjavo, pri čemer je treba omeniti tudi zahtevnost oziroma kompleksnost posameznih primerov. Pri ocenjevanju uspešnosti izterjave je potrebno upoštevati, da so dolžniki Sklada zavezanci, katerih dolg je zelo težko izterjati. Eden od pogojev za priznanje pravice do nadomestila preživnine je namreč ta, da je bila izvršba zakonitega zastopnika na sodišču neuspešno končana ali pa poteka že več kot tri mesece. Ugotoviti pa je mogoče, da je že sam obstoj preživninskega sklada mnoge zavezance prisilil k plačevanju preživnin in k ureditvi odnosov z otrokovim zakonitim zastopnikom.

Za leto 2002 bi lahko rekli, da se je število upravičencev dokaj enakomerno povečevalo, večji porast pa pričakujemo v prvi polovici leta 2003 zaradi že omenjene spremembe zakona, ki ukinja dohodkovni pogoj za pridobitev pravice do nadomestila preživnine.

pay maintenance may result in stoppage of the payments by the Fund or suspension of the right to receive maintenance replacement. The beneficiary may also become employed after the age of 15, thus losing his/her right to receive maintenance replacement. The amount of maintenance may also be changed by a new court decision or new agreement with the social security department, etc.

The data about claims filed with the Fund in 2002 thus only includes the number of new claims, but the majority of the Fund's work consists of monitoring the course of proceedings for children with a positive decision that grants them entitlement to receive maintenance replacement. In such cases, maintenance replacement is paid or withheld if the person liable to make these payments has made the due payments. Between the beginning of its operations in 1999 and 31 December 2002, the Maintenance Fund received 3,513 claims for 4,507 children. The continuation of this report discusses the number of new claims filed, structure of the assets of these families, structure of the decisions issued by the Fund and dynamics of the Fund's payments to beneficiaries throughout the year.

In 2002 as well, the Maintenance Fund focused intensely on the complex and difficult field of debt collection. Particular attention was dedicated to the preparation of detailed enforcement proposals, which constitute the foundation of successful debt collection. Much work was invested in data acquisition in order to enable efficient debt collection and it should be mentioned that some cases were particularly difficult and complex. In assessing the success of debt collection one should not forget that the Fund is owed by persons liable to pay maintenance and that this type of debt is very difficult to collect. This is because one of the conditions for granting entitlement to maintenance replacement is that the execution proceedings filed by the legal representative were either unsuccessful or lasted over three months. But it should be noted that the mere existence of the Maintenance Fund has forced many of those liable to pay maintenance to do so and also to come to an agreement with the child's legal representative.

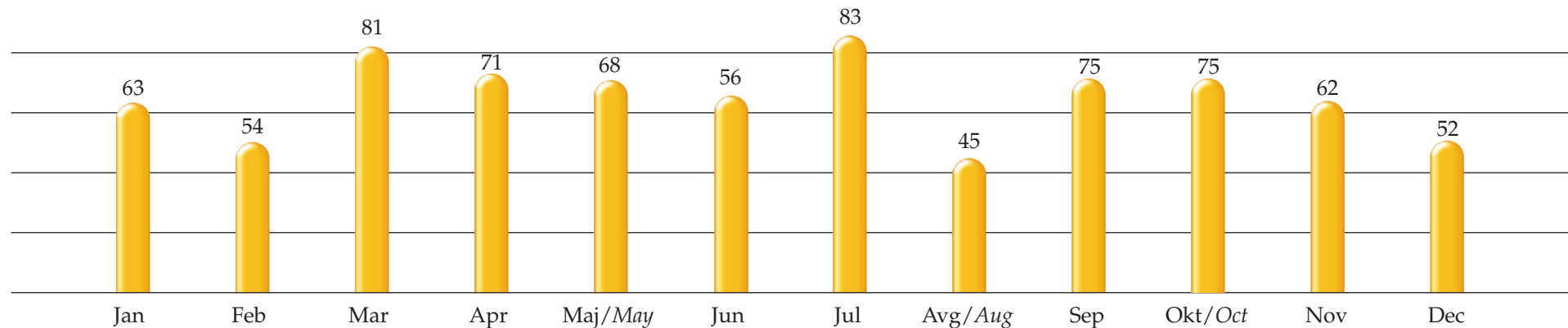
It could be said that in 2002 the number of beneficiaries increased quite uniformly throughout the year. A greater increase is expected to occur in the first half of 2003 because of the above-mentioned legislative changes abolishing the former condition regarding the level of income for acquiring entitlement to maintenance replacement.

3.1. Vložene zahteve

Zahtevo za uveljavitev nadomestila preživnine vloži zakoniti zastopnik upravičenca – otroka na predpisanem obrazcu. Zahteva se posreduje neposredno Skladu po pošti ali osebno. Pravica do izplačila nadomestila preživnine traja **do otrokovega dopolnjenega 15. leta starosti** oziroma do **18. leta**, če upravičenec **ni v delovnem razmerju**. Sklad je v letu 2002 prejel **619 zahtev za 785 otrok**. Z eno zahtevo lahko namreč zakoniti zastopnik zahteva nadomestilo preživnine za več otrok istega preživninskega zavezanca, kljub temu pa preživninskega sklada spremlja vsakega posameznega otroka kot samostojnega upravičenca. Od začetka delovanja preživninskega sklada leta 1999 je prispelo 3.513 zahtev za 4.507 otrok.

Največ zahtev za uveljavljanje nadomestila preživnine je bilo v celotnem obdobju delovanja preživninskega sklada vloženo v prvih treh mesecih delovanja, torej še v letu 1999. Od tega prvega »vala« naprej pa lahko ugotovimo, da je bila dinamika vložnih zahtev skozi leta veliko bolj enakomerna. Tako tudi v letu 2002 nismo zasledili izrazitega povečanja števila zahtev, zakoniti zastopniki so največ zahtev posredovali meseca julija.

Graf 7: Število otrok, za katere je bila v letu 2002 vložena zahteva – po mesecih



3.1. Received applications

An application claiming entitlement to maintenance replacement is filed by the beneficiary's legal representative on the prescribed official form. The application should be sent directly to the Fund by mail or delivered in person. Entitlement to receive maintenance replacement lasts until **the beneficiary turns 15 or 18**, provided he/she is **not employed**. In 2002, the Fund received 619 claims for 785 children. This is because a legal representative may demand maintenance replacement for several children of the same person liable to pay maintenance with a single application. Nevertheless, the Maintenance Fund keeps records for each individual child as an independent beneficiary. Since the beginning of its operations in 1999, the Maintenance Fund has thus received a total of 3,513 applications for 4,507 children.

Over the entire period of the Maintenance Fund's existence, the greatest number of applications for enforcing entitlement to maintenance replacement were received during the first three months of its operations, i.e. back in 1999. Since this first wave, the dynamics of filed applications have been much more uniform. No marked increase in the number of received applications was noted in 2002 either, most applications were filed in July.

Diagram 7: Number of children for which applications were filed in 2002 per month

Graf 8: Število otrok, za katere je bila v letu 2002 vložena zahteva – po regijah

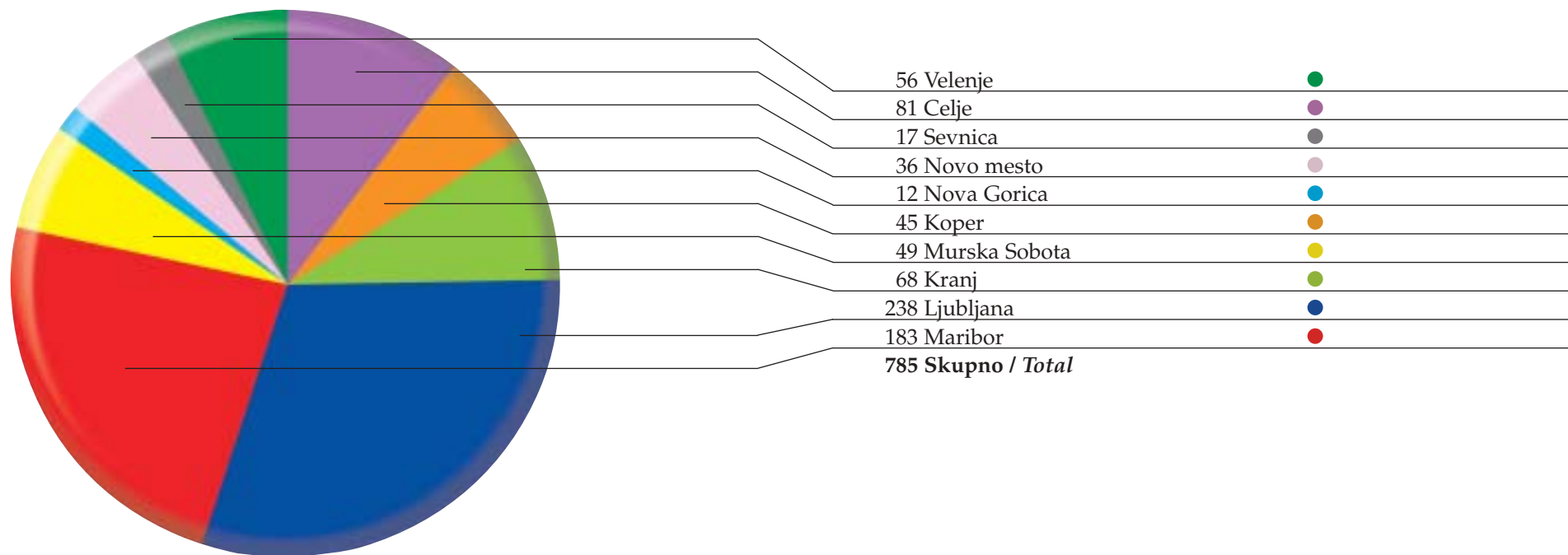


Diagram 8: Number of beneficiaries for which applications were filed in 2002 per region

Največ zahtev je v letu 2002 prispelo na preživninski sklad z območja **Ljubljane** (36 odstotkov) in z območja Maribora (23,3 odstotka), najmanj pa z območja Nove Gorice (1,5 odstotka).

Zakoniti zastopniki lahko z eno zahtevo uveljavljajo nadomestilo preživnine za vse otroke enega preživninskega zavezanca. V letu 2002 je bilo povprečno število otrok na zahtevo 1,4. **Največ zakonitih zastopnikov (73,3 odstotka)** je vložilo zahtevo **za enega otroka**, 23,9 odstotka je bilo zakonitih zastopnikov z dvema otrokoma, 2,8 odstotka zakonitih zastopnikov je vložilo zahtevo za tri in

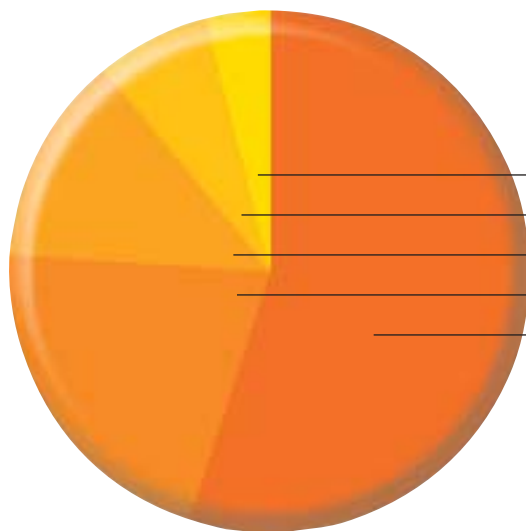
Most applications in 2002 were received from **Ljubljana** (36%) and Maribor regions (23.3%), and least from the Nova Gorica region (1.5%).

Legal representatives may claim maintenance replacement for all children by one person liable to pay maintenance with a single application. In 2002 there were on average 1.4 children per application. **Most legal representatives (73.3%)** filed applications for **one child**, 23.9% for two and 2.8% for three or more children. Three legal representatives also filed applications for 5 children and one for 7 children. Applications are still filed predominantly by female legal representatives (95.8%).

več otrok. Omenimo naj, da so na preživninski sklad prispele 3 zahteve, v vsaki od teh zakoniti zastopnik zahteva nadomestilo preživnine za 5 otrok ter ena zahteva, v kateri zakoniti zastopnik zahteva nadomestilo preživnine za 7 otrok. Zahteve večinoma vlagajo ženske zakonite zastopnice (95,8 odstotka).

Iz analize premoženjskega stanja družin, v katerih živijo otroci, za katere je bila vložena zahteva v letu 2002 (podatki so povzeti iz odločb o otroških dodatkih pristojnih centrov za socialno delo), je podobno kot v minulih letih razvidno, da največ otrok živi v družinah z izjemno nizkim dohodkom. Približno **55 odstotkov** otrok prihaja iz družin, v katerih znaša **dohodek na družinskega člana manj kot 25 odstotkov povprečnega dohodka** v Republiki Sloveniji v preteklem letu. V družinah, ki imajo povprečni dohodek na družinskega člana manj kot 35 odstotkov, živi kar 75 odstotkov otrok, za katere so vložene zahteve na preživninskem skladu.

Graf 9: Struktura vloženih zahtev v letu 2002 – po deležih glede na povprečno plačo v Sloveniji v letu 2001



Letno poročilo 2002

*Results of the analysis of family assets of the children for which applications were filed in 2002 (the data are taken from decisions on child allowances issued by the social security departments) are similar to those for the previous years. Most of these children live in families with an extremely low level of income. Approximately 55% of them come from families in which the **income per family member amounts to less than 25% of the average national income** in the Republic of Slovenia for the previous year. As many as 75% of children for which claims have been filed with the Maintenance Fund live in families with an average income per family member of less than 35% of the average national income.*

Diagram 9: Structure of filed applications in 2002 with respect to the average salary in the Republic of Slovenia for 2001

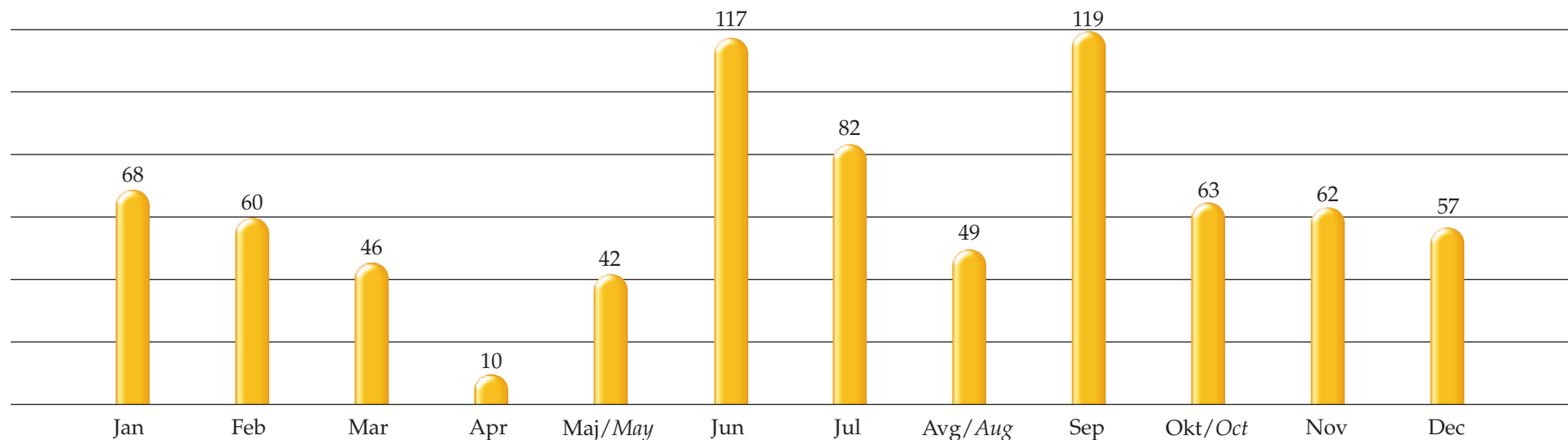
Delež povprečnega dohodka v RS na družinskega člana <i>Percentage of average national income per family member</i>	Delež od vseh zahtev <i>Percentage of all applications</i>	
Nad / Over 55%	4%	●
Med / Between 46 in 55%	7%	●
Med / Between 36 in 45%	13%	●
Med / Between 26 in 35%	21%	●
Manj kot / Less than 25%	55%	●

3.2. Izdane odločbe

V letu 2002 je Sklad izdal **610 odločb za 775 otrok**. Pravica do nadomestila preživnine je bila priznana **616 otrokom**, 71 otrok pa ni izpolnjevalo pogojev za pridobitev navedene pravice, predvsem zaradi starosti nad 18 let in preseganja 55 odstotkov povprečnega dohodka v RS v letu 2001 na družinskega člana, preostale zahteve pa so v postopku reševanja. Največ odločb je bilo izdanih za otroke z ljubljanskega in mariborskega območja, najmanj pa za otroke iz novogoriškega območja.

V letu 2002 so zakoniti zastopniki še pred izdajo odločbe preživninskega sklada umaknili zahteve za 11 otrok. V večini primerov je bil razlog za umik ureditev tekočega plačevanja preživnine med zakonitim zastopnikom in preživninskim zavezancem. Sklad je v letu 2002 zavrgel nepopolne zahteve za 77 otrok, saj zakoniti zastopniki kljub pozivom zahteve niso dopolnili.

Graf 10: Število otrok, za katere je bila izdana odločba v letu 2002 – po mesecih



3.2. Issued decisions

In 2002, the Fund issued **610 decisions for 775 children**. The entitlement to **maintenance replacement** was granted to **616 children**, while 71 children did not fulfil the conditions for acquiring the said right, primarily because they were older than 18 or exceeded the national threshold of 55% of average income per family member in 2001. All other applications are still undergoing the proceedings. The greatest number of decisions were issued for children from the Ljubljana and Maribor regions, and the lowest for those from the Nova Gorica region.

In 2002, applications for 11 children were withdrawn by their legal representatives even before the Maintenance Fund issued its decision. In the majority of cases, the reason for withdrawal was an agreement between the representative and the person liable to pay maintenance. In 2002, the Fund rejected applications for 77 children as incomplete because their legal representatives failed to supplement the applications with the necessary documents even after receiving several invitations to do so.

Diagram 10: Number of children for which decisions were issued in 2002 per month

Tabela 3: Število otrok, za katere je bila v letu 2002 vložena zahteva, izdana odločba, izplačano nadomestilo – po regijah

Regija <i>Region</i>	Vložene zahteve <i>Claims filed</i>	Pozitivne <i>Approved</i>	Zavrnilne <i>Denied</i>	Zavržbe <i>Rejected</i>	Umiki pred odločbo <i>Withdrawn</i>	Skupaj <i>Total</i>
Celje	81	63	6	9	0	78
Koper	45	32	4	2	2	40
Kranj	68	61	7	7	1	76
Ljubljana	238	155	29	21	4	209
Maribor	183	155	12	20	2	189
Murska Sobota	49	40	2	6	0	48
Nova Gorica	12	11	1	3	0	15
Novo mesto	36	34	3	1	0	38
Sevnica	17	16	1	2	0	19
Velenje	56	49	6	6	2	63
Skupaj / Total	785	616	71	77	11	775

Table 3: Number of children for which applications were filed, decisions issued and payments made in 2002 per region

3.3. Izplačila

Nadomestilo preživnine se **uskkljuje skladno z rastjo cen življenjskih potrebščin in plač**. Vlada Republike Slovenije je v letu 2002 višino preživnine in nadomestil preživnine z rastjo življenjskih stroškov uskladila enkrat. Uskladitev je bila 1. aprila 2002 in sicer se je nadomestilo preživnine povišalo za 9,1 odstotka. Sklad je o teh spremembah obvestil zakonite zastopnike in preživninske zavezance.

Višina nadomestila preživnine je odvisna od otrokove starosti in od višine preživnine, določene s pravnomočno sodbo, začasno odredbo oziroma z dogovorom pri centru za socialno delo. Dne 31. 12. 2002 je nadomestilo preživnine za otroka do 6. leta starosti znašalo 12.483 tolarjev, za otroka od 6. do 14. leta starosti

3.3. Payments

The amount of maintenance replacement is adjusted by the consumer price index and the salary index. In 2002, the Government of the Republic of Slovenia adjusted the amounts of maintenance and maintenance replacement with the consumer price index once, on 1 April 2002. Consequentially, the maintenance replacement increased by 9.1%. The Fund informed the legal representatives and persons liable to pay maintenance of this change.

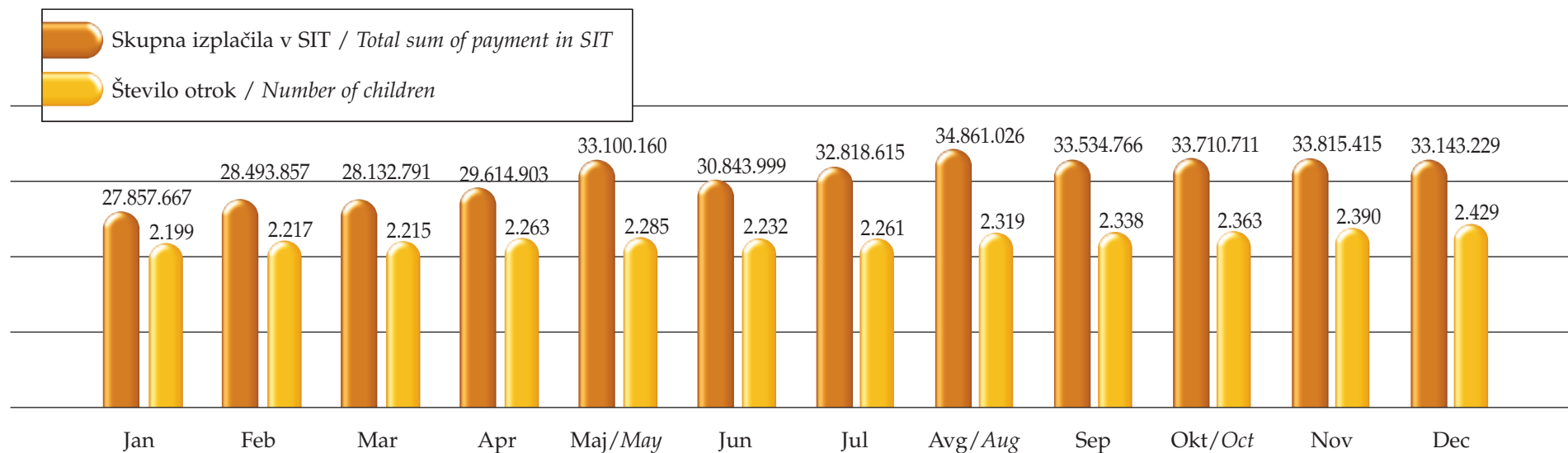
The amount of maintenance replacement depends on the child's age and on the amount of maintenance determined in the final court's ruling, temporary injunction or agreement before the social security department. As on 31 December 2002, the maintenance replacement for a child up to 6 years of age amounted to SIT 12,483, for a child aged 6 to 14 to SIT 13,731, and for a child above the age of 14 to SIT 16,227.

13.731 tolarjev, za otroka nad 14. letom starosti pa 16.227 tolarjev. V primeru, da je preživnina določena nižje od zakonsko določenega nadomestila, otroku pripada nadomestilo v višini, določeni s sodbo, začasno odredbo oziroma z dogovorom.

V decembru 2002 je Sklad izplačal nadomestilo preživnine 2.429 otrokom. Povprečna višina nadomestila preživnine v **decembru** je bila **13.398 tolarjev**. Višina povprečnega izplačila nadomestila preživnine je odvisna od višine določene preživnine za otroke ter strukture upravičencev po starostnih razredih. Poudariti velja, da kar tretjina otrok zaradi nizko določenih preživnin prejema nadomestilo preživnine, ki je **nižje** od višine, ki jo omogoča Zakon.

Povprečno izplačilo nadomestila preživnine se je v letu 2002 mesečno povečevalo. **Povprečna višina** izplačila upravičencem je v letu 2002 znašala **13.440 tolarjev**.

Graf 11: Število otrok, ki so v letu 2002 prejeli nadomestilo preživnine in skupna izplačila - po mesecih



If the allocated maintenance is lower than the legally stipulated replacement, the child is entitled to a compensation in the amount determined by the court ruling, temporary injunction or agreement.

*In December 2002, the Fund paid maintenance replacement to **2,429 children**. The **average** maintenance replacement for the month of December amounted to **SIT 13,398**. The level of the average maintenance replacement payment depends on the level of determined maintenance for the children and the age structure of the beneficiaries. It should be noted, though, that as many as one third of the children are now receiving maintenance replacements lower than the law enables, due to low determined maintenance amounts.*

*The average maintenance replacement payment increased from month to month in 2002. The **average level of payments** to beneficiaries in 2002 was **SIT 13,440**.*

Diagram 11: Number of children who received maintenance replacement and total payments in 2002 per month

Tabela 4: Skupna izplačila nadomestil preživnine – po letih

Leto / Year	Izplačila v SIT / Payment in SIT
2000	205.240.546
2001	308.832.296
2002	379.927.139
Skupaj / Total	839.999.981

V letu 2002 je preživninski sklad izplačal nadomestila preživnine v skupni višini **379.927.139 tolarjev**. Od leta 2000 do konca leta 2002 je bil izplačan skupni znesek v višini **839.999.981 tolarjev**.

3.4. Terjatve

Preživninski sklad z dnem izplačila nadomestila preživnine zakonitim zastopnikom otrok postane upnik v razmerju do preživninskih zavezancev in sicer do višine izplačanega nadomestila. Preživninski sklad tako vstopi v terjatve otroka zoper preživninskega zavezanca do višine izplačila in na dan 31. 12. 2002 je izkazoval terjatve do več kot 2.500 dolžnikov oziroma preživninskih zavezancev.

Sklad že od začetka delovanja vodi postopke izterjave zoper preživninske zavezance tako samostojno kot s pomočjo odvetnikov, ki postopke izterjave vodijo v imenu in za račun Sklada. Takšno organizacijo vodenja postopkov izterjave nam narekuje načelo gospodarnega ravnanja s sredstvi Sklada, saj so izvršilni postopki povezani s precejšnjimi stroški, ne gre pa spregledati tudi pravne ureditve, po kateri lahko določena dejanja kot pooblaščenci pred sodiščem opravljajo izključno odvetniki.

Table 4: Total maintenance replacement payments per year

Leto / Year	Izplačila v SIT / Payment in SIT
2000	205.240.546
2001	308.832.296
2002	379.927.139
Skupaj / Total	839.999.981

In 2002, the Maintenance Fund paid maintenance replacements amounting to SIT 379,927,139 in total. From the beginning of 2000 to the end of 2002, the total amount paid was SIT 893,999,981.

3.4. Claims

As of the date of payment of maintenance replacement to legal representatives of the children, the Maintenance Fund becomes the creditor of the persons liable to pay maintenance, up to the amount of the paid maintenance replacement. In other words, the Maintenance Fund acquires the child's receivable from the person liable to pay maintenance up to the amount of the payments made. As on 31 December 2002, the Maintenance Fund reported receivables from over 2,500 debtors (i.e. persons liable to pay maintenance).

Since the beginning of its operations, the Fund has been conducting enforcement proceedings against persons liable to pay maintenance, both independently and with the assistance of attorneys managing the enforcement proceedings on the Fund's behalf and for its account. Such organisation is dictated by the need to manage the Fund's resources in a cost-efficient manner, as enforcement proceedings are associated with considerable costs. One should also not overlook the legal provisions according to which certain actions before courts may be performed only by attorneys at law.

Do 31. 12. 2002 je preživninski sklad vložil izvršilne predloge zoper 981 dolžnikov, pri čemer zoper 329 dolžnikov vodi postopek Sklad sam, v ostalih primerih pa s pomočjo odvetnikov. Vloženih predlogov bi bilo še več, vendar je dinamiko izterjav upočasnil sprejem Pravilnika o tarifi za plačilo dela izvršiteljev in o povračilu stroškov v zvezi z njihovim delom. S sprejemom tega pravilnika se je namreč pri nekaterih sodiščih pojavilo vprašanje, ali je Sklad oproščen plačila predujmov za delo sodnih izvršiteljev. Zakon v 5. odstavku 28. člena sicer določa, da je Sklad oproščen plačila sodnih stroškov, nastala pa je pravna dilema, ali med sodne stroške spadajo tudi zgoraj omenjeni predujmi za delo izvršiteljev. Dokončen odgovor je dala šele odločba Vrhovnega sodišča Republike Slovenije z dne 13. 12. 2001, v kateri je odločilo, da med sodne stroške sodijo tudi stroški izterjave dolga, torej sodnih izvršiteljev.

Tabela 5: Zneski vračil iz naslova subrogacij po letih

Leto / Year	Vračila v SIT / Reimbursements in SIT
2000	6.459.408
2001	24.148.488
2002	27.997.276
Skupaj / Total	58.605.172

V letu 2002 je bilo preživninskemu skladu **vrnjenih 27.997.267 tolarjev**, v treh letih, odkar Sklad skupaj s pooblaščenimi odvetniki skrbi za postopke izterjave, pa se je iz naslova subrogacij nabralo več kot 58 milijonov tolarjev.

By 31 December 2002, the Maintenance Fund filed enforcement proposals against 981 debtors. The Fund by itself conducted the proceedings against 329 debtors and with the help of attorneys in all other cases. The number of proposals filed would have been even higher, but adoption of the Regulations on tariffs for payment of executors' work and reimbursement of their costs slowed the dynamics of enforcement. With the adoption of these regulations, some courts began to doubt whether the Fund is in fact exempt from payment of court executor advances. Even though the fifth paragraph of Article 28 of the law stipulates that the Fund is exempt from payment of court costs, a question arose whether these advances actually classify as court costs. The final answer to this question was provided by the ruling of the Supreme Court of the Republic of Slovenia dated 13 December 2001 stating that the costs of debt collection (including those of court executors) are in fact classified as court costs.

Table 5: Reimbursements by subrogations per year

*In 2002, the Maintenance Fund received reimbursements amounting to **SIT 27,997,267**. During the past three years when the Fund has been starting the enforcement proceedings in co-operation with attorneys at law, over SIT 58 million were collected in subrogations.*

- > 4. Mednarodna dejavnost Sklada
- > 4. *Fund's international activity*



V letu 2002 je Sklad poglobil svojo mednarodno dejavnost, tako s sodelovanjem z Mednarodno organizacijo dela, kot tudi z neposrednimi dvostranskimi povezavami z državami, v katerih delujejo institucije sorodne jamstvenemu oziroma preživninskemu skladu.

V maju 2002 sta se predstavnici Sklada na povabilo Mednarodne organizacije dela udeležili Tripartitnega seminarja o politiki plač in vprašanju delovanja jamstvenih skladov, ki je potekal v Sofiji, v Bolgariji. Predstavnici Sklada sta udeležencem predstavili delovanje jamstvenega sklada v Sloveniji, pravne podlage, organizacijo, financiranje ter izkušnje. V Bolgariji so bile strokovne službe v času seminarja v fazi pripravljavanja zakonodaje na področju plač in vzpostavljanja jamstvene institucije, zato je bila seznanitev z našimi izkušnjami zelo dobrodošla.

Poleg našega jamstvenega sklada je bilo na seminarju predstavljenih še nekaj drugih jamstvenih institucij. Ob tej priložnosti smo vzpostavili stike s številnimi predstavniki Mednarodne organizacije dela kot tudi s predstavniki drugih držav, ki delujejo na področju jamstvenih institucij.

V juliju 2002 je naš jamstveni sklad obiskal predstavnik iz Latvije, kjer so v tistem času potekale ključne priprave za vzpostavitev jamstvenega sklada, saj naj bi jamstvena institucija pričela s svojim delovanjem v začetku leta 2003. Naše znanje in izkušnje so se izkazale za zelo koristne državi, ki jamstveno institucijo šele ustanavlja.

Predstavnici Sklada so v decembru 2002 obiskali nemško zvezno Ministrstvo za družino, starejše, ženske in mladino, v okviru katerega deluje Urad za otroške dodatke in predujme, ki je od 01. 01. 1980 pristojen za izplačevanje predujmov preživnin v Zvezni republiki Nemčiji. Čeprav Nemčija nima samostojne ustanove, kot je naš Sklad, sta izplačevanje nadomestil preživnine in izterjava dolga preživninskih zavezancev urejeni zelo

In 2002, the Fund intensified its international activities by co-operation with the International Labour Organisation and also via direct bilateral contacts with other countries having similar institutions.

In May 2002, two of the Fund's representatives attended a tripartite seminar on the salary policy and guarantee fund operation on the invitation from the International Labour Organisation. The seminar took place in Sofia, Bulgaria. The Fund's representatives presented the Guarantee Fund of the Republic of Slovenia and the legal bases, as well as the Fund's organisation, financing and experiences. At the time of the seminar, the corresponding Bulgarian professional services were in the phase of preparing legislation in the field of salaries and establishing a guarantee institution themselves and highly appreciated the information provided by our representatives.

Guarantee institutions from several other countries were also presented at this seminar, so that contacts were established with their representatives, as well as with those of the International Labour Organisation.

In July 2002, the Guarantee Fund of the Republic of Slovenia was visited by a guest from Latvia. At that time, crucial preparatory activities were taking place in Latvia aimed at establishing their national guarantee fund, which was to begin its operations at the beginning of 2003. They found our knowledge and experiences to be very useful in establishing their own guarantee institution.

In December 2002, the Fund's representatives visited the German Federal Ministry of Family, the Elderly, Women and Children, part of which is the Office of Child Allowances and Benefits, which has been in charge of advance maintenance payments in the Federal Republic of Germany since 1 January 1980. Even though Germany has no independent institution for this purpose, the organisation of maintenance replacement payments and debt collection from persons liable to pay maintenance are regulated and arranged in a similar manner as in Slovenia. We therefore found detailed information on their legislation and operations, along with over 20 years of experience to be extremely useful to us.

podobno kot v Sloveniji, tako da je bila podrobna seznanitev z zakonodajo, sistemom delovanja in več kot dvajsetletnimi izkušnjami izjemno koristna.

Mednarodno sodelovanje nameravamo nadaljevati tudi v prihodnosti, saj je vsaka izkušnja podobne institucije dobrodošla pri izboljšanju dela in razvoju Sklada, prav tako pa so naše izkušnje lahko zelo koristne za države, ki šele ustanavljajo sorodne institucije.

The Fund plans to continue its international activities in the future, as any experience of a similar foreign institution will be a welcomed contribution to our efforts for improving the Fund's operations and development. By the same token, our experience may be very valuable for those countries which are in the process of establishing their national institutions of this type.

- > 5. Računovodski izkazi
- > 5. *Statement of Accounts*



5.1. Izkaz uspeha za 2002

5.1. Income statement for 2002

PRIHODKI / REVENUES (v 1000 SIT / in SIT 1000s)

Prihodki iz proračuna RS / Revenues from the national budget	809.256
Prihodki iz naslova subrogacij / Revenues from subrogations	437.784
Drugi prihodki / Other revenues	18.023
PRIHODKI SKUPAJ / TOTAL REVENUES	1.265.063

ODHODKI / EXPENDITURES (v 1000 SIT / in SIT 1000s)

Izplačila upravičencem / Payments to beneficiaries	1.199.832
Dejavnost Sklada / Fund overhead	194.984
ODHODKI SKUPAJ / TOTAL EXPENDITURES	1.394.816

PRESEŽEK ODHODKOV NAD PRIHODKI / SURPLUS EXPENDITURES

129.753

5.2. Bilanca stanja na dan 31. 12. 2002

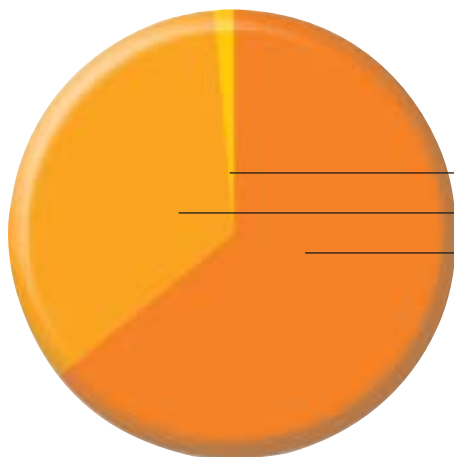
5.2. Balance sheet per 31 December 2002

A. SREDSTVA/ ASSETS (v 1000 SIT / in SIT 1000s)

1. Dolgoročna sredstva in sredstva v upravljanju / Fixed assets and assets under management	19.851
neopredmetena dolgoročna sredstva / <i>intangible fixed assets</i>	47.167
popravek vrednosti neopredmetenih dolgoročnih sredstev / <i>value adjustment for intangible fixed assets</i>	33.122
oprema in druga opredmetena osnovna sredstva / <i>equipment and other tangible fixed assets</i>	40.945
popravek vrednosti opreme in drugih opredmetenih osnovnih sredstev / <i>value adjustment for equipment and other tangible fixed assets</i>	35.139
2. Kratkoročna sredstva; razen zalog in aktivne časovne razmejitve / Current assets, less inventory and accruals	3.376.511
denarna sredstva v blagajni / <i>cash in hand</i>	88
denarna sredstva na računih / <i>cash in accounts</i>	126.100
kratkoročne terjatve do kupcev / <i>short-term receivables from customers</i>	7.327
kratkoročne terjatve iz financiranja / <i>short-term receivables from financing</i>	413
druge kratkoročne terjatve / <i>other short-term receivables</i>	3.235.010
neplačani odhodki / <i>unpaid expenditures</i>	7.573
AKTIVA SKUPAJ / TOTAL ASSETS	3.396.362
B. OBVEZNOSTI DO VIROV SREDSTEV / LIABILITIES (v 1000 SIT / in SIT 1000s)	
3. Kratkoročne obveznosti in pasivne časovne razmejitve / Short-term liabilities and deferrals	3.250.323
kratkoročne obveznosti do dobaviteljev / <i>short-term liabilities to suppliers</i>	7.573
druge kratkoročne obveznosti iz poslovanja / <i>other short-term operating liabilities</i>	2.962.145
neplačani prihodki / <i>unpaid revenues</i>	280.573
pasivne časovne razmejitve / <i>deferrals</i>	32
4. Lastni viri – sklad namenskega premoženja / Own resources	146.039
PASIVA SKUPAJ / TOTAL LIABILITIES	3.396.362

5.3. Prihodki in odhodki

Graf 12: Prihodki Sklada v letu 2002



5.3. Revenues and expenditures

Diagram 12: Fund revenues in 2002

Drugi prihodki / <i>Other revenues</i>	1.4%	●
Prihodki iz naslova subrogacij / <i>Revenues from subrogations</i>	34.6%	●
Prihodki iz proračuna RS / <i>Revenues from the national budget</i>	64.0%	●

Graf 13: Odhodki Sklada v letu 2002

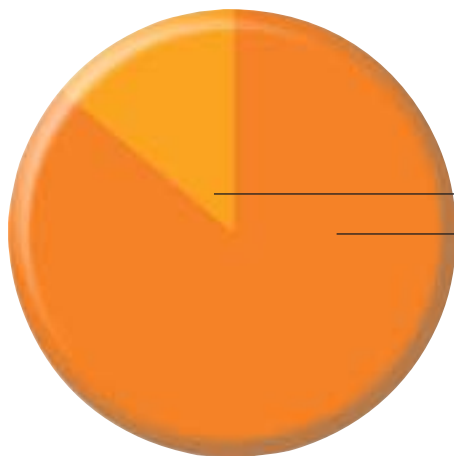


Diagram 13: Fund expenditures in 2002

Dejavnost Sklada / <i>Fund overhead</i>	14.0%	●
Izplačila upravičencem / <i>Payments to beneficiaries</i>	86.0%	●

5.4. Revidiranje sklada

Neodvisna revizijska hiša BDO EOS Revizija d.o.o. iz Ljubljane je v februarju 2003 revidirala poslovanje Sklada za poslovno leto 2002. V poročilu je podala mnenje, da je bila poraba sredstev Sklada zakonita, namenska, gospodarna in učinkovita.

5.4. Auditing

An independent audit organisation, BDO EOS Revizija d.o.o. of Ljubljana, audited the Fund's operations for the business year 2002 in February 2003. Their report states that the Fund's consumption of funds was legal, economic and efficient.

Izdajatelj: Javni jamstveni in preživninski sklad Republike Slovenije,
april 2003

Za izdajatelja: mag. Lilijana Madjar

Produkcija: MIT marketing, Maja Koren

Kreativna zasnova in oblikovanje: Borut Kuk

Uporaba in objava podatkov je dovoljena le z navedbo virov.

***Publisher:** Public Guarantee and Maintenance Fund of the Republic of Slovenia,
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***On behalf of the publisher:** Lilijana Madjar, M.Sc.*

***Production:** MIT marketing, Maja Koren*

***AD & D:** Borut Kuk*

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