

EUROPEAN COURT OF HUMAN RIGHTS  
COUR EUROPÉENNE DES DROITS DE L'HOMME



FIRST SECTION

ANNUAL ACTIVITY REPORT 2003

January 2004

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## **I. INTRODUCTION**

In 2003, the Section held 39 Chamber sessions. Oral hearings were held in four cases. The Section delivered 230 judgments, of which 179 concerned the merits, 43 concerned friendly settlements and three concerned the striking out of cases. The remainder concerned revision or just satisfaction. The Section applied Article 29 § 3 of the Convention (combined examination of admissibility and merits) in 197 cases.

Of the cases examined by a Chamber

- (a) 152 applications were declared admissible;
- (b) 77 applications were declared inadmissible;
- (c) 72 applications were struck out of the list; and
- (d) 460 applications were communicated to the State concerned for observations, out of which 358 were communicated by the President.

In addition, the Section held 22 Committee sessions. 5,491 applications were declared inadmissible and 30 applications were struck out of the list. The total number of applications rejected by a Committee represented almost 97.5 % of the inadmissibility and strike-out decisions taken by the Section during the year.

At the end of the year, 10,363 applications were pending before the Section.

## II. COMPOSITION OF THE SECTION

Christos **Rozakis** (Greek), *President*,  
Peer **Lorenzen** (Danish), *Vice-President*,  
Giovanni **Bonello** (Maltese),  
Françoise **Tulkens** (Belgian),  
Nina **Vajic** (Croatian),  
Egils **Levits** (Latvian),  
Snejana **Botoucharova** (Bulgarian),  
Anatoly **Kovler** (Russian),  
Vladimiro **Zagrebelsky** (Italian),  
Elisabeth **Steiner** (Austrian),  
Khanlar **Hajiyev**<sup>1</sup> (Azeri), *Judges*,  
  
Søren **Nielsen**, *Registrar a.i.*

## III. HEARINGS

Four hearings were held in the following cases:

### (1) **Kyrtatos v. Greece, no. 41666/98**

The applicants own a house and a small peninsula adjacent to a swamp on the island of Tinos which is considered as a natural habitat for protected species. As a result of the Prefect's decision to redraw the boundaries of the area, some building permits were delivered and two buildings were erected. The Prefect's decision, which was found to violate Article 24 of the Constitution relating to the protection of the environment, was quashed by the Council of State. The applicants complained about the failure of the authorities to comply with the decisions of the Council of State, about the refusal to demolish the impugned buildings, and about the length of the proceedings. The applicants further alleged that the destruction of their specially protected environment affected the enjoyment of their private life.

– Articles 6 § 1 and 8 of the Convention

The case was declared partly admissible on 13 September 2001. A hearing on the merits was held on 23 January 2003. Judgment was delivered on 22 May 2003 – violation of Article 6 § 1.

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<sup>1</sup> Elected on 2 April 2003.

**(2) Scordino v. Italy, no. 36813/97**

The case concerns the duration of compensation proceedings regarding the expropriation of a plot of land belonging to the applicants and the inadequacy of the compensation. The case raises the issue of the effectiveness of the remedy created by the Pinto law.

– Article 6 § 1 of the Convention and Article 1 of Protocol No. 1

A hearing on the admissibility and merits was held on 27 March 2003. The case was declared admissible. Judgment will be delivered at a later date.

**(3) Makaratzis v. Greece, no. 50385/99**

The applicant, an unarmed civilian, was injured in an incident in which the police used potentially lethal force. He complains that his life was threatened by the police officers, that the investigation into the incident was deficient and that his compensation claim was not determined within a reasonable time.

– Articles 2 and 3 of the Convention

The case was declared admissible on 18 October 2001. A hearing on the merits was held on 3 April 2003. The Chamber has expressed the intention to relinquish the case to the Grand Chamber.

**(4) Zdanoka v. Latvia, no. 58278/00**

The case concerns the applicant's ineligibility to stand for election due to her former participation in an organisation which was declared anti-constitutional.

– Article 3 of Protocol No. 1 and Articles 10 and 11 of the Convention

The case was declared partly admissible on 6 March 2003. A hearing on the merits was held on 15 May 2003. Judgment will be delivered at a later date.

#### **IV. CASES RELINQUISHED TO THE GRAND CHAMBER**

The Section decided to relinquish to the Grand Chamber the following cases:

**(1) Perez v. France, no. 47287/99**

The case concerns the applicability of Article 6 § 1 to the civil party in criminal proceedings and the alleged unfairness of the proceedings.

**(2) Makaratzis v. Greece, no. 50385/99**

(See p. 3 above.)

#### **V. OTHER CASES OF INTEREST**

Of the judgments delivered and decisions adopted by the Section this year, the most interesting included the following:

**(1) Cordova v. Italy, no. 40877/98**

Parliamentary immunity: the case concerns a dispute between the applicant, a former public prosecutor, and a former President of Italy and senator (Mr Cossiga), who was accused of having insulted the applicant. The Senate found that the opinions had been expressed in the exercise of parliamentary functions, which led the judge to discharge the accused. The applicant maintained that the dispute was private and complained about the lack of a fair trial due to the discharge based on deliberations of the Senate, as well as about the discrimination he suffered due to the fact that the accused was allowed to exercise his freedom of expression beyond the limits imposed on other citizens.

– Articles 6 § 1, 13 and 14 of the Convention

Judgment of 30 January 2003 – violation of Article 6 § 1.

**(2) Cordova v. Italy (no. 2), no. 45649/99**

Parliamentary immunity: the applicant, a former public prosecutor, instituted proceedings against a Member of the Italian Parliament who had in two public speeches allegedly insulted his reputation and honour. The latter was given a suspended sentence of two months' imprisonment, but the

Court of Cassation ordered the transmission of the decisions to the Chamber of Deputies, which considered that the statements in question had been made in the exercise of parliamentary duties and annulled the sentence.

– Articles 6 § 1, 13 and 14 of the Convention

Judgment of 30 January 2003 – violation of Article 6 § 1.

**(3) Papastavrou v. Greece, no. 46372/99**

In 1994 the Prefect of Athens decided that a certain area of land should be reafforested. The applicants, who are involved in a long-standing dispute with the State over ownership of a plot of land within that area, challenged the Prefect's decision, on the basis of their alleged ownership of the plot. In 1998 the Council of State declared their appeal inadmissible on the ground that the Prefect's decision was not an executory act, since it simply confirmed a ministerial decision of 1934.

– Article 1 of Protocol No. 1

Judgment of 10 April 2003 – violation.

**(4) Fischer v. Austria, no. 27569/02**

The applicant complains that the Supreme Court failed to hold a public hearing in the proceedings concerning his application under Article 363a of the Code of Criminal Procedure (request for retrial following a finding of a violation by the Court).

– Article 6 of the Convention

Inadmissible (decision of 6 May 2003) – held that Article 6 did not apply to the proceedings concerned.

**(5) Covezzi and Morselli v. Italy, no. 52763/99**

The case concerned the decisions of the Youth Court to take the applicants' four children into care following alleged sexual abuse by members of the family in the context of satanic rites, and to put them in four different host families without hearing the parents and without providing any contact with them. The applicants complained of the taking into care of the children, that they were unable to appeal against the decisions of the Youth Court due to the provisional nature of the decisions taken and of the prolonged lack of a final decision (the provisional decision was in force one year and eight months).

– Articles 6, 8 and 13 of the Convention

Judgment of 9 May 2003 – violation of Article 8 on account of the failure to involve the applicants sufficiently in the decision-making process.

**(6) Pedersen and Baadsgaard v. Denmark, no. 49017/99<sup>2</sup>**

The applicants, journalists, were convicted of defamation following allegations that a Chief Superintendent had committed a criminal offence by suppressing vital evidence with the consequence that a miscarriage of justice had taken place. They complain about the length of the proceedings and about the unjustified interference with their right to freedom of expression.

– Articles 6 § 1 and 10 of the Convention.  
Judgment of 19 June 2003 – no violation.

**(7) Karner v. Austria, no. 40016/98**

The case concerns a homosexual who lived with his partner in a flat which the latter had rented. When the partner died the applicant was thrown out of the flat since the Supreme Court did not find that the provision of the Rent Act, which provided that family members had a right to succeed to a tenancy, was applicable to a homosexual relationship. The Supreme Court held that a “life companion” did not include persons of the same sex. During the Strasbourg proceedings, the applicant died and no heirs wanted to pursue the matter.

– Articles 8 and 14 of the Convention  
Judgment of 24 July 2003 – violation. (Under Article 37 § 1 of the Convention the Court found that a continuation of the examination of the case was required and thus rejected the Government’s strike off request.)

**(8) Ryabykh v. Russia, no. 52854/99**

The applicant sued the State since the economic reforms in Russia had significantly decreased the value of her savings and since the State had not revalued the amount as required by law. A final judgment in the applicant’s favour was pronounced on 18 June 1998 and enforcement proceedings commenced. This final judgment was later set aside on “supervisory view”. Three more judgments in the applicant’s favour were overruled. The fifth judgment in which her claims were dismissed was set aside on “supervisory review” and in a sixth judgment she was eventually awarded an appropriate amount and the national court acknowledged a violation of Article 1 of Protocol No. 1.

– Article 6 (legal certainty) and Article 1 of Protocol No. 1  
Judgment of 24 July 2003 – violation.

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<sup>2</sup> The case is currently pending before the Grand Chamber.

**(9) Acimovic v. Croatia, no. 61237/00**

The applicant alleged that his right of access to a court had been violated because the proceedings concerning his compensation claim had been stayed as a consequence of a change in the law.

– Article 6 § 1 of the Convention

Judgment of 9 October 2003 – violation.

**VI. RULE 39 (INTERIM MEASURES) AND RULE 41 (PRIORITY) REQUESTS**

(a) No requests for interim measures pursuant to Rule 39 of the Rules of Court were granted.

(b) Requests for priority pursuant to Rule 41 of the Rules of Court were granted in the following cases:

**(1) Fedorova and others v. Latvia, no. 69405/01**

The application, introduced by a married couple and their adult daughter, concerns the expulsion of the latter from Latvian territory.

– Article 8 of the Convention

The case is pending.

**(2) Gomi and others v. Turkey, no. 35962/97**

The case concerns the death of nine of the applicants' relatives and injuries caused to 49 applicants in 1995-96 following a raid by warders, gendarmes and police officers in the prison where they were detained.

– Articles 2, 3, 6 and 13 of the Convention

Admissible (decision of 29 April 2003).

## VII. THIRD-PARTY INTERVENTION (ARTICLE 36 AND RULE 61)

Leave to submit third-party comments was given by the President pursuant to Rule 61 § 3 of the Rules of Court in five cases:

### (1) **M.C. v. Bulgaria, no. 39272/98**

The applicant alleged that she had been raped by two men when she was fourteen years and ten months old. The ensuing investigation was terminated with the conclusion that there had been insufficient proof of the applicant's having been compelled to have sex.

– Articles 3 and 8 of the Convention

Judgment of 4 December 2003 – violation.

### (2) **Isayeva, Yusupova and Bazayeva v. Russia, nos. 57947/00, 57948/00 and 57948/00**

The cases concern the bombing of a civilian convoy by Russian military planes which resulted in the death of the first applicant's relatives, bodily harm to the first and second applicants and destruction of the third applicant's car and belongings.

– Articles 2 § 1, 3 and 13 of the Convention and Article 1 of Protocol No. 1

### (3) **Blecic v. Croatia, no. 5953200**

The case concerns the termination of the applicant's specially protected tenancy following her six months' stay with her daughter in Rome. She complains that her right to respect for her home was violated and that the termination of her tenancy prevented her from buying the flat under favourable conditions like other holders of the special tenancy.

– Article 8 of the Convention and Article 1 of Protocol No. 1. (A special issue as regards admissibility *ratione temporis*.)

### (4) **Alija v. Greece, no. 73717/01**

The applicant is an Albanian arrested on suspicion of having committed several thefts by force of arms. Detained on remand for thirteen months, he was sent for judgment and acquitted by the Court of Appeal of Salonika. The applicant then introduced an action for compensation for his detention. The Court of Appeal rejected it because at the time of the facts, there were serious indications that the offences had been committed by the applicant.

Considering that this decision was not reasoned, the applicant requested State Counsel at the Supreme Court to lodge an appeal. The latter refused, simply indicating on the text of the applicant's request that there was no reason to lodge an appeal.

– Article 6 § 1 of the Convention

**(5) Vikulov and others v. Latvia, no. 16870/03**

The case, introduced by the parents and their under age son, concerns their expulsion from Latvian territory. The three applicants are Russian.

– Articles 8 and 14 of the Convention

**VIII. STATISTICAL INFORMATION**

1. Results for year
2. Results by month
3. Applications pending
4. Graphic charts
  - (a) Judgments delivered
  - (b) Inadmissibility and strike-out decisions
  - (c) Admissibility decisions
  - (d) Applications communicated
  - (e) Applications pending by year of allocation to a decision body
  - (f) Applications pending by State

## APPENDIX 1

| <b>Judgments delivered in 2003</b> |            |
|------------------------------------|------------|
| Merits                             | 179        |
| Striking out                       | 3          |
| Friendly settlement                | 43         |
| Just satisfaction                  | 2          |
| Revision                           | 3          |
| <b>Total</b>                       | <b>230</b> |

| <b>Chamber decisions adopted in 2003</b> |            |
|--|------------|
| Applications declared admissible         | 152        |
| Applications declared inadmissible       | 77         |
| Applications struck out of the list      | 72         |
| <b>Total</b>                             | <b>301</b> |

| <b>Committee decisions adopted in 2003</b> |             |
|--|-------------|
| Applications declared inadmissible         | 5491        |
| Applications struck out of the list        | 30          |
| <b>Total</b>                               | <b>5521</b> |

| <b>Applications communicated in 2003</b> |            |
|--|------------|
| <b>Total</b>                             | <b>460</b> |

|  |             |
|--|-------------|
| <b>Total applications finalised in 2003</b><br>(judgments* and inadmissibility and strike-out decisions) | <b>6308</b> |
|--|-------------|

\* Not including judgments on just satisfaction and revision but including judgments which are not yet final. Some judgments dealt with a number of joined applications.

## APPENDIX 2

|              | Chambers   |            |              |            |              | Committees   |            |
|--------------|------------|------------|--------------|------------|--------------|--------------|------------|
|              | Judgments  | Admissible | Inadmissible | Struck out | Communicated | Inadmissible | Struck out |
| January      | 29         | 6          | 2            | 1          | 16           | 457          | 1          |
| February     | 7          | 5          | 9            | 0          | 18           | 225          | 1          |
| March        | 5          | 21         | 6            | 3          | 37           | 466          | 3          |
| April        | 36         | 17         | 10           | 0          | 22           | 385          | 4          |
| May          | 11         | 13         | 4            | 3          | 67           | 623          | 8          |
| June         | 7          | 10         | 7            | 7          | 37           | 450          | 2          |
| July         | 38         | 4          | 2            | 1          | 15           | 220          | 0          |
| August       | 0          | 0          | 0            | 0          | 20           | 155          | 0          |
| September    | 5          | 24         | 10           | 37         | 53           | 457          | 0          |
| October      | 34         | 14         | 8            | 3          | 81           | 568          | 3          |
| November     | 21         | 10         | 15           | 5          | 60           | 917          | 4          |
| December     | 37         | 28         | 4            | 12         | 34           | 568          | 4          |
| <b>Total</b> | <b>230</b> | <b>152</b> | <b>77</b>    | <b>72</b>  | <b>460</b>   | <b>5491</b>  | <b>30</b>  |

### APPENDIX 3

| <b>Applications pending on 31 December 2003</b> |             |
|---|-------------|
| <b>Total applications not yet examined</b>      | <b>7001</b> |
|   |             |
| <b>Adjourned/Communicated for information</b>   | <b>4</b>    |
|   |             |
| <b>Communicated for observations</b>            | <b>665</b>  |
|   |             |
| <b>Admissible</b>                               | <b>202</b>  |
|   |             |
| <b>Judgments not yet final</b>                  | <b>88</b>   |
|   |             |
| <b>TOTAL APPLICATIONS PENDING</b>               | <b>7960</b> |
| (Chamber: 1923)                                 |             |
| (Committee: 5073)                               |             |

## APPENDIX 4

Chart 1: Judgments delivered in 2003

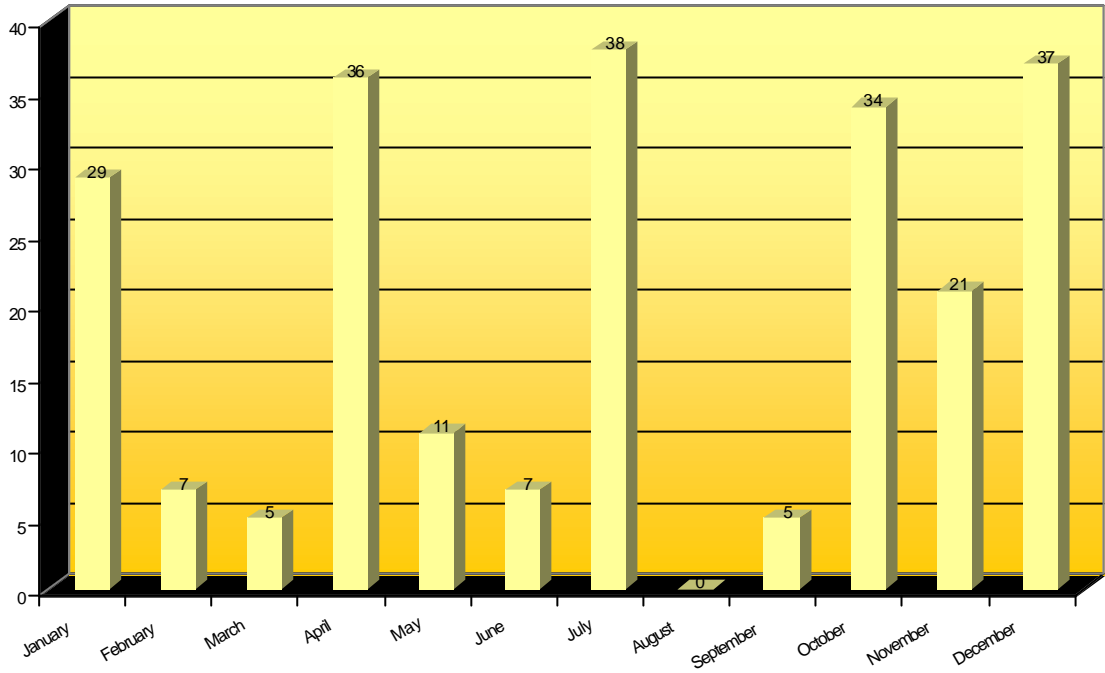


Chart 2: Inadmissibility and strike-out decisions adopted in 2003

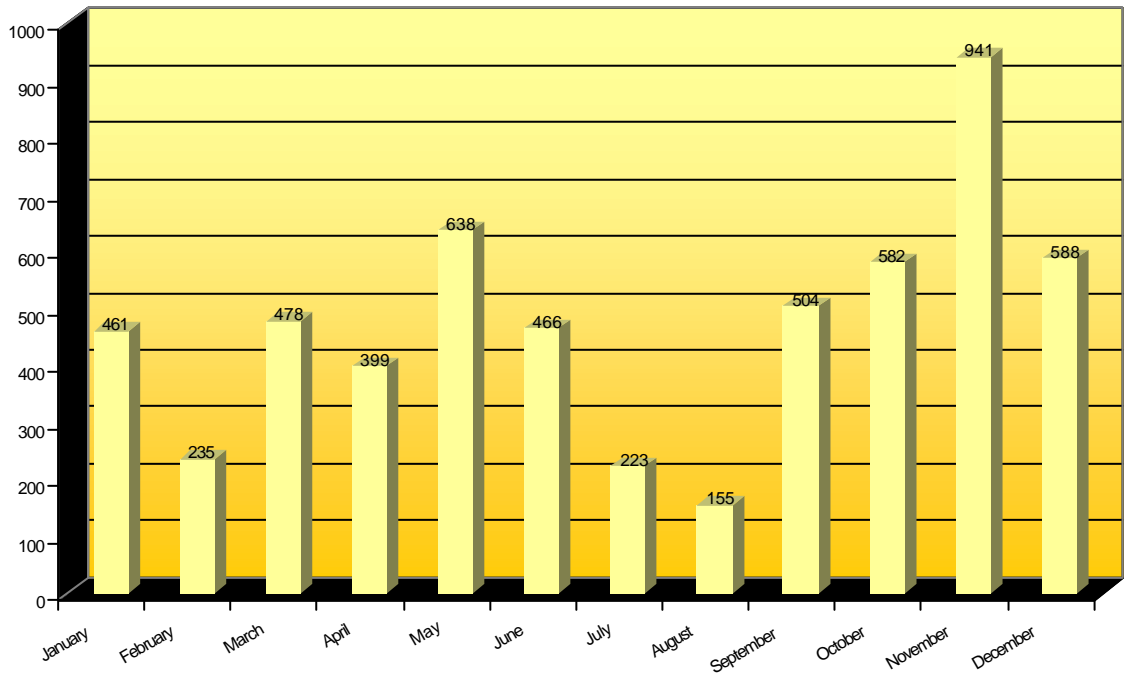


Chart 3: Admissibility decisions adopted in 2003

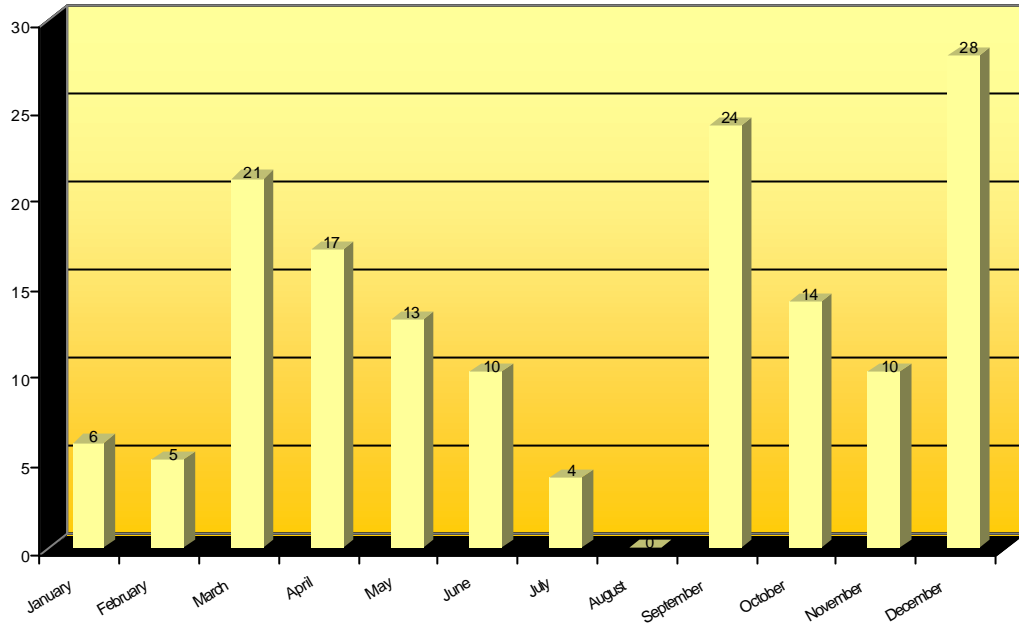


Chart 4: Applications communicated in 2003

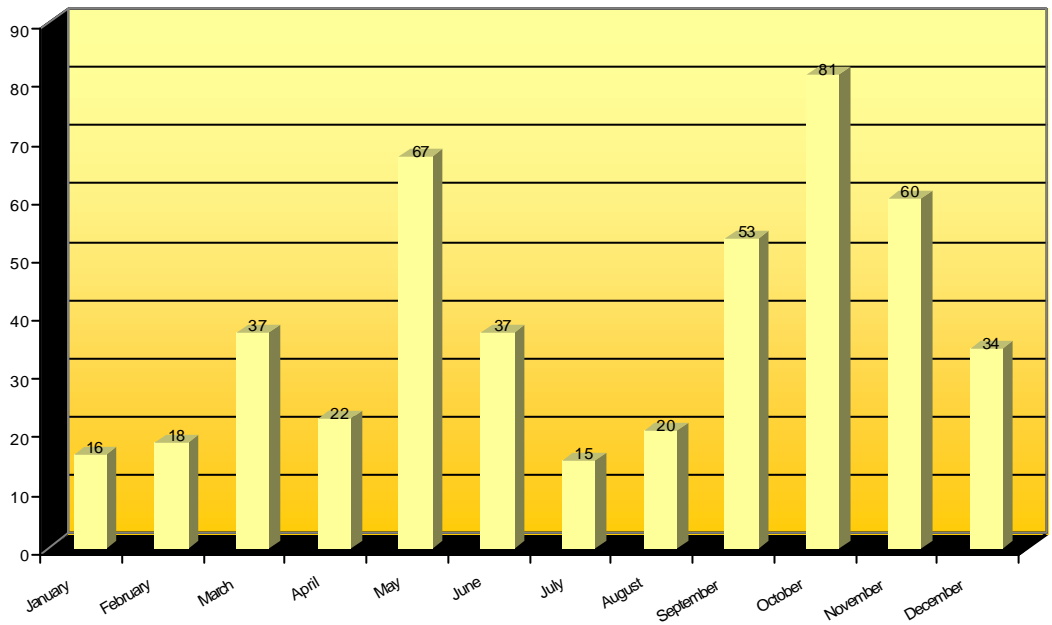


Chart 5: Applications pending on 31 Decembre 2003 by year of lodging

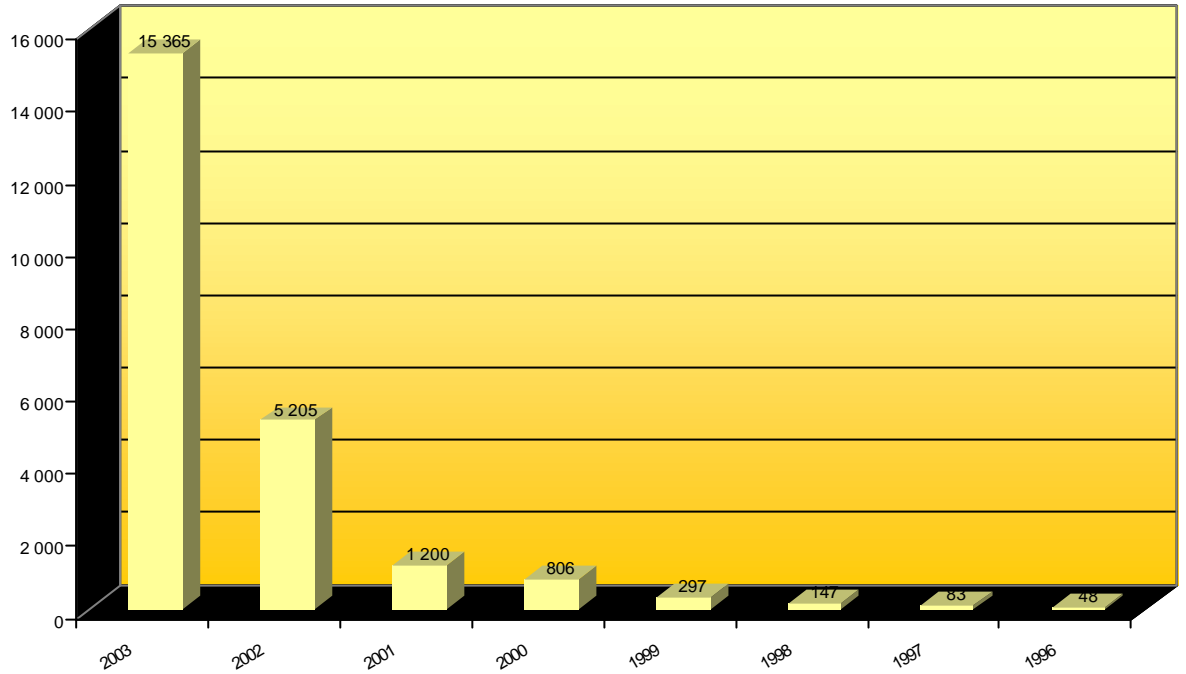


Chart 6: Applications pending on 31 Decembre 2003 by State

