

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



THIRD SECTION

ANNUAL ACTIVITY REPORT 2003

January 2004

CONTENTS

	Page
I. Introduction	1
II. Composition of the Section on 31 December 2003	2
III. Hearings	2
IV. Cases relinquished to the Grand Chamber	4
V. Other interesting cases	5
VI. Rule 39 (interim measures) and Rule 41 (priority) requests	8
VII. Statistical information	9

I. INTRODUCTION

In 2003 the Section held 37 Chamber sessions. Eight oral hearings were held concerning 14 applications. The Section delivered 127 judgments (two of which related to the same application), of which 111 concerned the merits, one concerned just satisfaction and 15 concerned striking out following friendly settlements. The Section applied Article 29 § 3 of the Convention (combined examination of admissibility and merits) in 511 cases, delivering judgment in 45 of them.

Of the cases examined by a Chamber

- (a) 138 applications were declared admissible;
- (b) 119 applications were declared inadmissible;
- (c) 125 applications were struck out of the list; and
- (d) 471 applications were communicated to the respondent State for observations, including 349 communicated by the President of the Section under Rule 54.

In addition, the Section held 28 Committee sessions. 2,761 applications were declared inadmissible and 28 were struck out of the list. The total number of applications rejected by a Committee represented almost 92 % of the inadmissibility and strike-out decisions taken by the Section during the year.

At the end of the year, 10,016 applications were pending before the Section.

II. COMPOSITION OF THE SECTION ON 31 DECEMBER 2003

Georg **Ress** (German), *President*,
Ireneu **Cabral Barreto** (Portuguese), *Vice-President*,
Lucius **Cafilisch**¹ (Swiss),
Pranas **Kuris** (Lithuanian),
Riza **Türmen** (Turkish),
Boštjan **Zupancic** (Slovenian),
John **Hedigan** (Irish),
Margarita **Tsatsa-Nikolovska** (Former Yugoslav Republic of
Macedonia),
Hanne Sophie **Greve** (Norwegian),
Kristaq **Traja** (Albanian),
Alvina **Gyulumyan**² (Armenian), *Judges*,

Vincent **Berger** (French), *Registrar*,
Mark **Villiger** (Swiss), *Deputy Registrar*.

III. HEARINGS

Hearings were held in the following cases:

(1) **Brudnicka and others v. Poland, no. 54723/00**

The case concerns the composition of the admiralty divisions of the regional courts (which determine the causes of accidents at sea and the responsibility of crews in the event of shipwreck) and the fairness of proceedings before them. The applicants are the wives or parents of sailors who were killed when their ship was wrecked in the Baltic Sea in 1993 with the loss of 55 lives.

– Article 6 § 1 of the Convention

A hearing on the admissibility and merits was held on 16 January 2003. The application was declared admissible. Judgment will be delivered at a later date.

1. Judge elected in respect of Liechtenstein.
2. Took up office on 2 April 2003.

(2) Smirnova v. Russia, nos. 46133/99 and 48183/99

The cases concerned the number and length of periods of detention pending trial, the length of criminal proceedings and failure to return an “internal passport”.

– Articles 5 § 3, 6 § 1 and 8 of the Convention

A hearing on the merits was held on 6 February 2003. In a judgment of 24 July 2003 the Court held that there had been violations of Article 5 §§ 1 and 3 and Article 6 § 1 in respect of both applicants and a violation of Article 8 in respect of one of them.

(3) Paulino Tomas and Gouveia da Silva Torrado v. Portugal, nos. 58698/00 and 65305/01

The cases concerned the length of proceedings in two civil cases, one of them pending and the other decided, and the effectiveness of applications to the administrative courts for compensation.

– Articles 6 § 1 and 35 § 1 of the Convention

A hearing on the admissibility and merits was held on 27 March 2003. The applications were declared inadmissible.

(4) R. L. and M.-J. D. v. France, no. 44568/98

The case concerns the treatment suffered by restaurant owners at the hands of police called by neighbours complaining of excessive nocturnal noise, and the fact that one of them was detained in the psychiatric infirmary at Paris police headquarters.

– Article 3, Article 5 §§ 1(c) to (e) and 5, and Article 8 of the Convention

A hearing on the merits was held on 19 June 2003. The Article 8 complaint was declared admissible. Judgment will be delivered at a later date.

(5) Jahn and Thurm, Rissmann and Höller, and Loth v. Germany, nos. 46720/99, 72203/01 and 72552/01

The cases concern the obligation for the heirs of the owners of landholdings created as a result of land reform in the GDR to return the land concerned to the tax authorities of their respective *Länder* on the ground that on 15 March 1990 they were not engaged in an activity in the sectors of agriculture, forestry or the food industry and had not carried on such an activity within the previous ten years.

– Article 1 of Protocol No. 1 and Article 14 of the Convention

A hearing on the merits was held on 18 September 2003. Judgment will be delivered at a later date.

**(6) Kovacic, Mrkonjic and Golubovic v. Slovenia,
nos. 44574/98, 45133/98 and 48316/99**

The case concerns the refusal by a Slovenian bank to return to Croatian investors sums in foreign currencies which they had deposited with its subsidiary in Zagreb before the break-up of the Socialist Federal Republic of Yugoslavia in 1991.

– Article 1 of Protocol No. 1 and Article 14 of the Convention

A hearing on the admissibility and merits was held on 9 October 2003. A decision on admissibility will be delivered at a later date.

**(7) Independent News and Media Plc and Independent Newspapers
(Ireland) Limited v. Ireland, no. 55120/00**

The case concerns the amount of damages (IRP 300,000) awarded by a High Court jury to a libel victim.

– Article 10 of the Convention

A hearing on the merits was held on 16 October 2003. Judgment will be delivered at a later date.

(8) von Hannover v. Germany, nos. 59320/00

The case concerns the publication in various magazines of photographs taken of the applicant, the eldest daughter of Prince Rainier III of Monaco, without her knowledge, by *paparazzi*. The photographs showed scenes from her everyday life (at a restaurant, with her family, etc.). According to the case-law of the Federal Court of Justice and the Federal Constitutional Court, a person who is incontestably a leading “figure” of the era must establish that he or she was out of the public gaze in order to qualify for protection of his or her private life.

– Article 8 of the Convention

A hearing on the merits was held on 6 November 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 case:

Vo v. France, no. 53924/00

The case concerns the impossibility of classifying as involuntary homicide an imprudent or negligent act by a hospital doctor causing the death of a 20 to 24-week foetus in perfect health.

– Article 2 of the Convention

V. OTHER INTERESTING CASES

Of the judgments delivered and decisions adopted by the Section this year, the following were of particular interest:

(1) Wendenburg and others v. Germany, no. 71630/01

The case concerned the abolition by the Federal Constitutional Court of the monopoly enjoyed by certain advocates with regard to the right of audience in Courts of Appeal in civil cases, with a transitional period of a year and a half.

– Article 1 of Protocol No. 1

Inadmissible (decision of 6 February 2003).

(2) Djavit An v. Turkey, no. 20652/92

The case concerned the refusal by the Turkish and Turkish Cypriot authorities to permit a Cypriot paediatrician to travel to southern Cyprus to attend bicomunal meetings.

– Articles 11 and 13 of the Convention

Judgment of 20 February 2003 – violation.

(3) P4 Radio Hele Norge ASA v. Norway, no. 76682/01

The case concerned the refusal to authorise the live radio broadcast of a murder trial.

– Articles 10 and 13 of the Convention

Inadmissible (decision of 6 May 2003).

(4) Mehemi v. France, no. 53470/99

The case concerned the partial refusal of an application for the lifting of an order concerning an Algerian national's permanent exclusion from French territory after the Court had found a violation of Article 8 of the Convention, and the refusal of legal aid.

– Article 8 of the Convention

Judgment of 10 April 2003 – no violation.

(5) Yvon v. France, no. 44962/98

The case concerned the role of the *commissaire du gouvernement* (who was at the same time a director of the Inland Revenue Service) in proceedings fixing compensation for expropriation, and the failure to supply a copy of his submissions to the parties.

– Article 6 § 1 of the Convention

Judgment of 24 April 2003 – violation.

(6) Frommelt v. Liechtenstein, no. 49158/99

The case concerns the length of detention pending trial, proceedings to review the lawfulness of the detention and confinement in the psychiatric service of an Austrian hospital.

– Articles 3, 5, 6 and 8 of the Convention

Admissible (decision of 15 May 2003).

(7) Gutfreund v. France, no. 45681/99

The case concerned the refusal to grant legal aid to a defendant charged with a summary offence and the fact that the same judge who had adjudicated as the president of the legal aid office later ruled as its president on an appeal against its decision.

– Article 6 § 1 of the Convention

Judgment of 12 June 2003 – Article 6 § 1 not applicable.

(8) Maire v. Portugal, no. 48206/99

The case concerned the impossibility of obtaining enforcement of judicial decisions granting the applicant (a French national) custody of his child.

– Article 6 § 1 of the Convention

Judgment of 26 June 2003 – violation.

(9) Doran v. Ireland, no. 50389/99

The case concerned the length of civil proceedings and related appeals.

– Articles 6 § 1 and 13 of the Convention

Judgment of 31 July 2003 – violation.

(10) Qufaj CO.SH.P.K. v. Albania, no. 54268/00

The case concerns Tirana City Council's failure to comply with a final judgment requiring it to pay damages to a property developer.

– Articles 6, 13 and 14 of the Convention

Admissible (decision of 2 October 2003).

(11) Murphy v. Ireland, no. 44179/98

The case concerned a ban preventing a minister of religion from placing an advertisement (about videofilm shows organised by a religious community on Christ's resurrection) on a local commercial radio station, a decision grounded on the Radio and Television Act 1988, which prohibits all radio and television advertising for religious or political purposes, or in connection with an industrial dispute.

– Article 10 of the Convention

Judgment of 10 July 2003 – no violation.

(12) Zollmann v. the United Kingdom, no. 62902/00

The case concerned Belgian diamond merchants who considered that they had been slandered when a British Minister accused them in the House of Commons of breaching the embargo imposed by the UN Security Council on diamond exports from Angola by the UNITA party. They were unable to bring legal proceedings against the Minister concerned as MPs enjoy parliamentary immunity in respect of their statements in parliament.

– Articles 6 §§ 1 and 2, 8, 13 and 14 of the Convention

Inadmissible (decision of 27 November 2003).

(13) TRANSADO – Transportes Fluviais do Sado, S.A. v. Portugal, nº 35943/02

The case concerned the deprivation of possessions as the result of the manner in which an arbitration tribunal interpreted a clause in a concession contract.

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

Inadmissible (decision of 16 December 2003).

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

(a) Requests for interim measures pursuant to Rule 39 of the Rules of Court were granted in the following cases:

(1) Panevskii and others v. Ireland, no. 2453/03

The case concerns the planned deportation from Ireland to Moldova of a couple of Moldovans of Transdnestrrian origin, whose asylum application has been refused, and their child, who was born in Ireland and has an Irish passport.

– Articles 3, 5 and 6 of the Convention, and Article 13 in conjunction with Article 3.

The case is pending.

(2) Ghiban v. Germany, no. 11103/03

The case concerns the deportation of the applicant, a stateless person of Romanian origin, to Romania. It raises issues under Article 3 of the Convention in so far as the applicant refuses to return to Romania and runs the risk of being confined indefinitely in the transit zone of Bucharest airport. The case is pending.

(b) Requests for priority under Rule 41 of the Rules of Court were granted in 168 cases.

VII. 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

Judgments delivered in 2003	
Merits	111
Striking out	0
Friendly settlement	15
Just satisfaction	1
Revision	0
Total	127
Chamber decisions adopted in 2003	
Applications declared admissible	138
Applications declared inadmissible	119
Applications struck out of the list	125
Total	382
Committee decisions adopted in 2003	
Applications declared inadmissible	2761
Applications struck out of the list	28
Total	2789
Applications communicated in 2003	
Total	471
Total applications finalised in 2003 (judgments*, inadmissibility and striking-out decisions)	
	3159
* Not including judgments on just satisfaction or 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	4	12	10	15	17	310	2
February	15	2	10	1	57	160	0
March	2	15	10	1	71	249	0
April	10	5	4	3	86	167	3
May	1	9	4	5	13	109	3
June	15	7	10	5	43	192	1
July	14	11	11	8	30	63	2
August	0	0	0	0	0	0	0
September	0	8	40	5	88	323	4
October	34	27	9	47	16	272	6
November	14	23	7	4	38	648	4
December	18	19	4	31	12	268	3
Total	127	138	119	125	471	2761	28

APPENDIX 3

Applications pending on 31 December 2003	
Total applications not yet examined	8668
Adjourned/Communicated for information	67
Communicated for observations	1043
Admissible	176
Judgments not yet final (number of applications)	62
TOTAL APPLICATIONS PENDING	10016
(Chamber: 5602)	
(Committee: 4414)	

APPENDIX 4

Chart 1: Judgments delivered in 2003

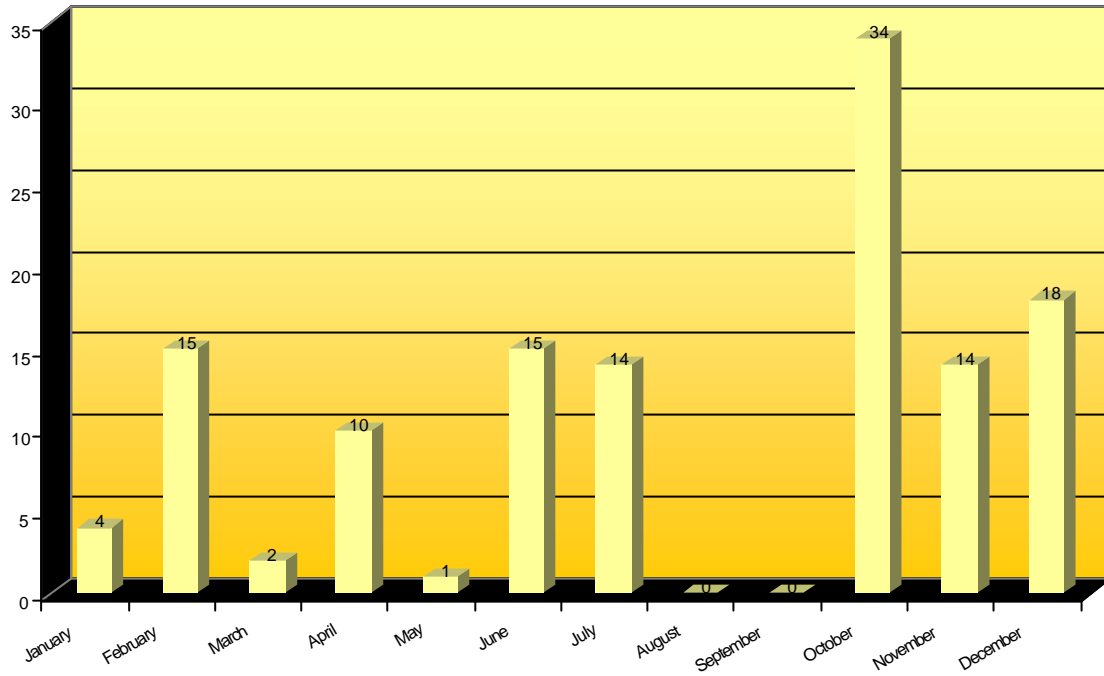


Chart 2: Inadmissibility and strike-out decisions adopted in 2003

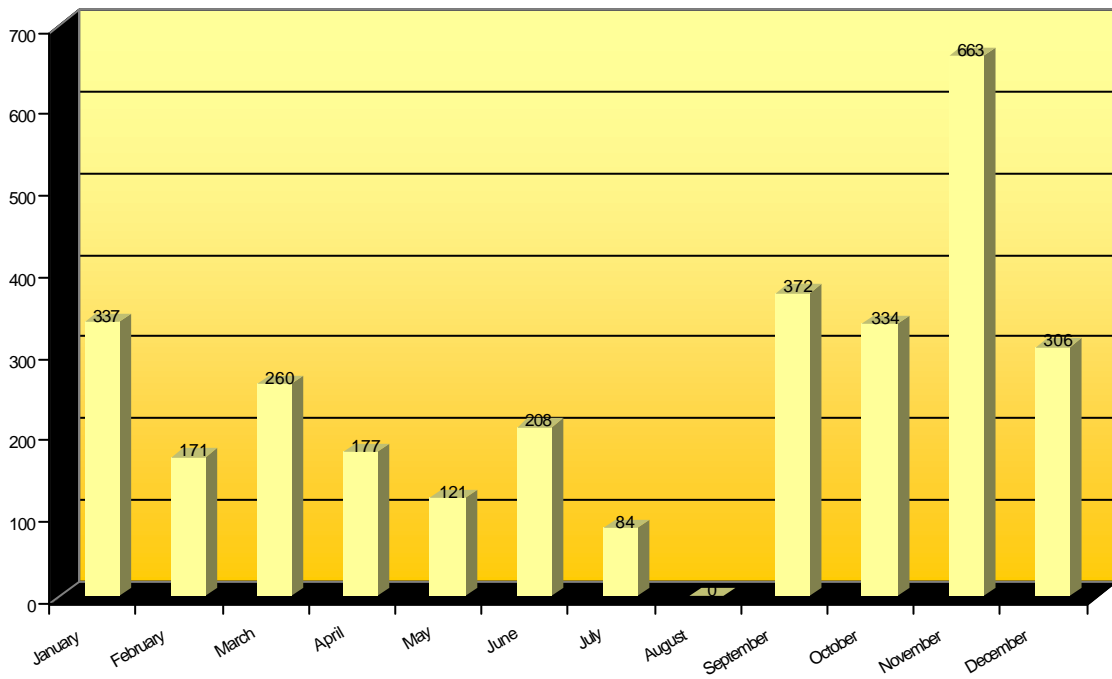


Chart 3: Admissibility decisions adopted in 2003

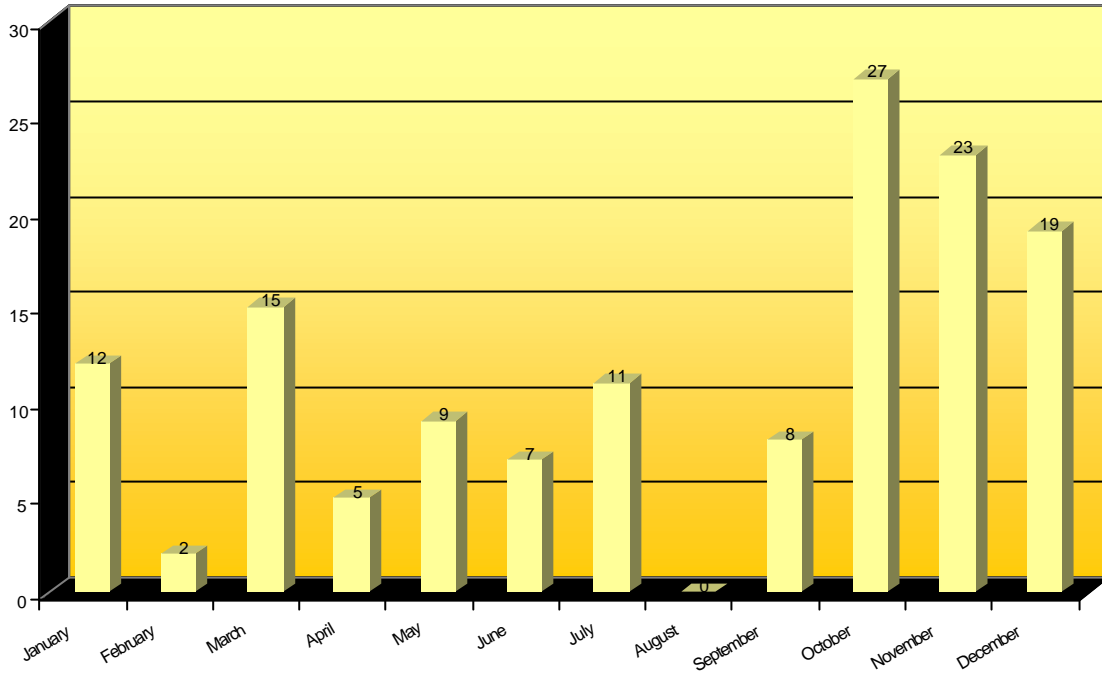


Chart 4: Applications communicated in 2003

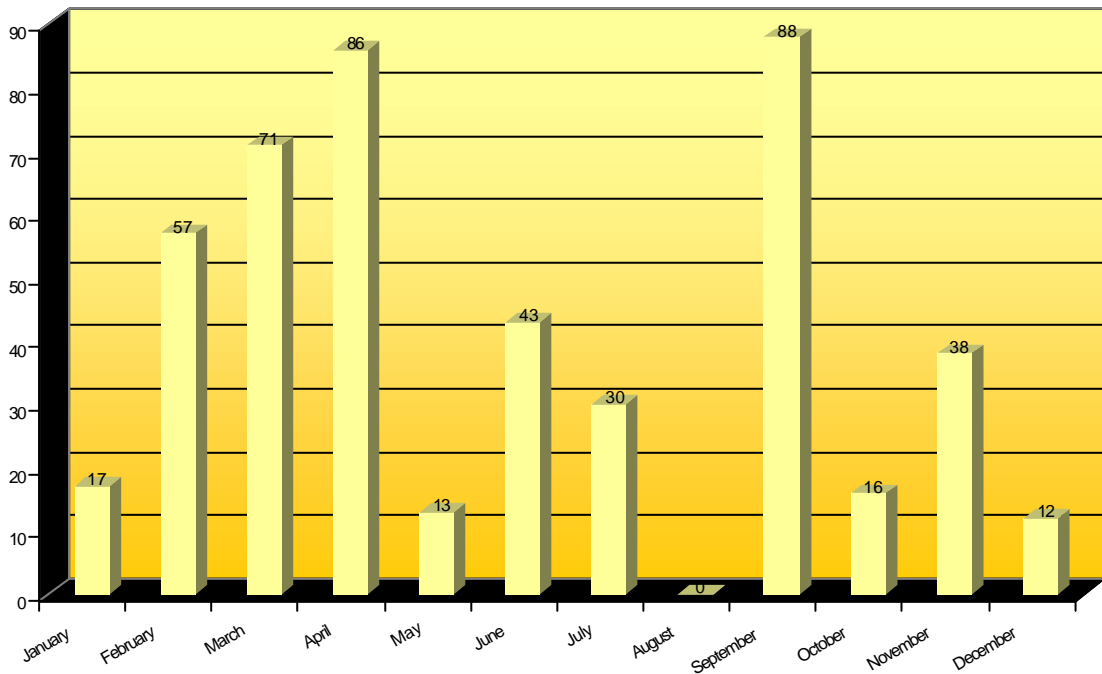


Chart 5: Pending applications by year of allocation to a decision body

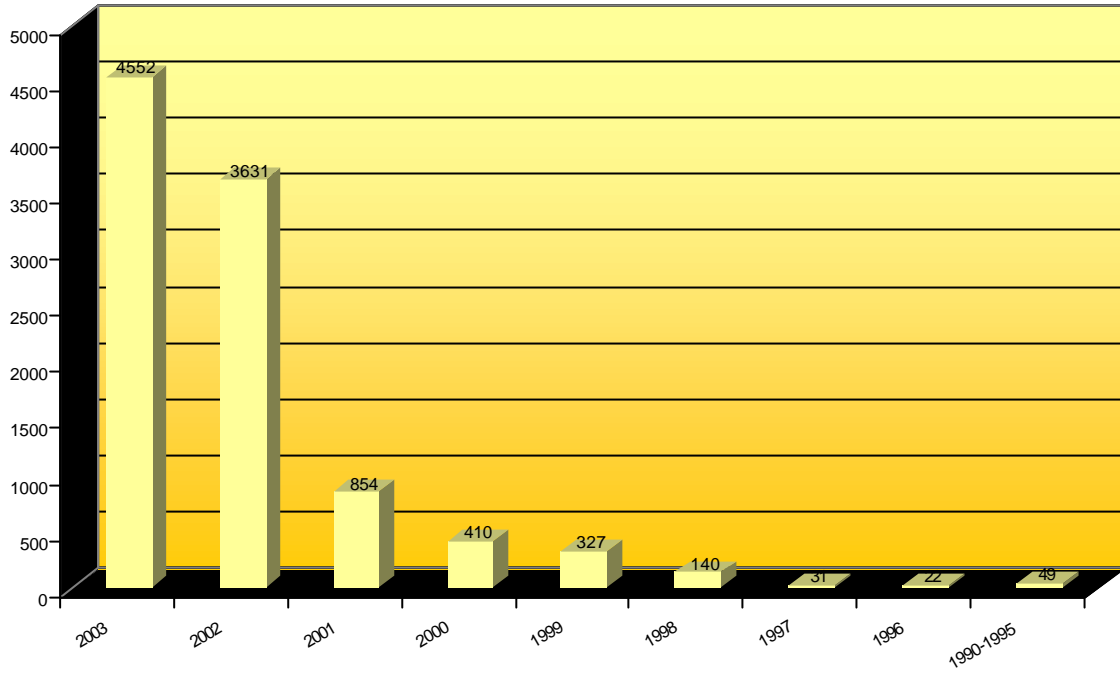


Chart 6: Applications pending on 31 December 2002 by State

