

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



FOURTH SECTION

ANNUAL ACTIVITY REPORT 2002

January 2003

## CONTENTS

	Page
I. Introduction .....	1
II. Composition of the Section .....	1
III. Hearings.....	2
IV. Cases relinquished to the Grand Chamber .....	4
V. Other cases of interest.....	5
VI. Rule 39 (interim measures) and Rule 41 (priority) requests .....	9
VII. Third-party intervention (Article 36 and Rule 61) .....	10
VIII. Statistical information .....	11

## I. INTRODUCTION

In 2002, the Section held 40 Chamber sessions. Seven oral hearings were held. The Section delivered 141 judgments, of which 119 concerned the merits, 18 concerned friendly settlements, two concerned striking out and two concerned revision. The Section applied Article 29 § 3 of the Convention (combined examination of admissibility and merits) in 16 cases, of which one judgment (*Hałka and Others v. Poland*, no. 71891/01) has been delivered.

Of the cases examined by a Chamber

- (a) 101 applications were declared admissible;
- (b) 516 applications were declared inadmissible;
- (c) 30 applications were struck out of the list; and
- (d) 524 applications were communicated to the State concerned for observations.

In addition, the Section held 59 Committee sessions. 3,880 applications were declared inadmissible and 36 applications were struck out of the list. The total number of applications rejected by a Committee represented 88% of the inadmissibility and strike-out decisions taken by the Section during the year.

At the end of the year, 7,507 applications were pending before the Section.

## II. COMPOSITION OF THE SECTION

Nicolas **Bratza** (British), *President*,  
Matti **Pellonpää** (Finnish), *Vice-President*,  
Antonio **Pastor Ridruejo** (Spanish),  
Elisabeth **Palm** (Swedish),  
Viera **Strážnická** (Slovakian),  
Marc **Fischbach** (Luxemburger),  
Josep **Casadevall** (Andorran),  
Rait **Maruste** (Estonian),  
Stanislav **Pavlovschi** (Moldovan),  
Lech **Garlicki**<sup>1</sup> (Polish), *Judges*,

Michael **O'Boyle**, *Registrar*,  
Françoise **Elens-Passos**, *Deputy Registrar*.

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1. Sworn in on 2 July 2002 – replaced Judge Jerzy Makarczyk.

### III. HEARINGS

Hearings were held in the following cases:

**(1) no. 2346/02 Pretty v. the United Kingdom**

The case was lodged on 21 December 2001 and was given priority. The applicant, a 43 year old woman dying of motor neurone disease, wished to be assisted by her husband to commit suicide to avoid prolonged suffering. Her request to the Director of Public Prosecutions (DPP) that her husband not be prosecuted if he assisted her in committing suicide was refused. The House of Lords, in a judgment which fully examined the Convention issues, refused to grant judicial review of the DPP's refusal. The applicant complained that as a result of the blanket application of the law against assisted suicide she was compelled to suffer degrading treatment.

– Articles 2, 3, 8, 9 and 14 of the Convention

A hearing on admissibility and merits was held on 19 March 2002. The case was declared admissible. Judgment was delivered on 29 April 2002 (no violation).

**(2) no. 38678/97 Paslawski v. Poland**

The applicant complained that he had no right to compensation for damage caused to his land by game hunters.

– Article 1 of Protocol No. 1

A hearing on admissibility and merits was held on 11 June 2002. The case was declared inadmissible.

**(3) no. 40461/98 Lewis v. the United Kingdom  
no. 39647/98 Edwards v. the United Kingdom**

The cases concern criminal proceedings in which the applicants were convicted of serious drug-related offences, allegedly because of the involvement of *agents provocateurs*. The applicants complain of unfair proceedings due to entrapment, the non-disclosure of evidence and failure to identify or call as material witnesses the other participants in the offence. The prosecution in both cases had applied successfully to the court in an *ex parte* procedure for a non-disclosure order in respect of certain evidence. The trial judge and subsequently the appeal courts examined the claim of entrapment and rejected it, holding that there was nothing in the undisclosed material which supported the allegations and, in the Edwards case, that there was material that would be damaging to the defence if it was revealed.

– Article 6 § 1 of the Convention

A hearing on admissibility and merits was held on 10 September 2002. The case was declared admissible. Judgment will be delivered at a later date.

**(4) no. 55782/00 Cañete de Goñi v. Spain**

The applicant was not sent notice of summons to take part in administrative court proceedings which concerned her. She had been offered a teaching post following a competitive recruitment examination which was subsequently declared void. Numerous appeals were lodged against the decision. Spanish law required that interested parties be sent notification of the proceedings. The Constitutional Court had rejected her request for *amparo* on the grounds that she must be taken to have known of the large number of appeals lodged and that extra-judicial knowledge, according to that court's case-law, could be taken into account in determining whether there had been any unfairness.

– Article 6 § 1 of the Convention

The case was declared admissible on 15 January 2002. A hearing on the merits was held on 25 June 2002. Judgment was delivered on 15 October 2002 (no violation).

**(5) no. 44306/98 Appleby and Others v. the United Kingdom**

The applicants complain that they were inhibited from meeting in their town centre – an extensive and privately-owned shopping mall – to impart information and ideas about proposed plans to build in a green area. They were prevented, by the privately-owned shopping centre, from setting up a stall, giving out leaflets and collecting signatures for a petition against the development. The case raises issues concerning freedom of expression and assembly in quasi-public places.

– Articles 10, 11 and 13 of the Convention

A hearing on admissibility and merits was held on 15 October 2002. The case was declared admissible. Judgment will be delivered at a later date.

**(6) no. 41556/98 Tekin v. Turkey  
no. 44774/98 Şahin v. Turkey**

The cases concern a ban on the applicants wearing headscarves in Turkish higher-education establishments. Ms Tekin, a second-year student at the Nursing College of Ege University, was given a reprimand for wearing an Islamic headscarf instead of the regulation cap during practical training classes. Ms Şahin was a fifth-year medical student at Istanbul University. She was refused the right to sit written tests in one of her subjects because she was wearing an Islamic headscarf. Subsequently, she was refused admission to the school and could not sit further written tests. The applicants complain of the ban on their wearing Islamic headscarves and of an unjustified interference with their right to education.

– Article 9 of the Convention and Article 2 of Protocol No. 1 (Ms Şahin further alleges breaches of Article 14 combined with Article 9 and Articles 8 and 10 of the Convention)

The cases were declared admissible on 2 July 2002. A hearing on the merits was held on 19 November 2002. Judgment will be delivered at a later date.

**(7) no. 56673/00 Iglesias Gil y Urcera Iglesias v. Spain**

The applicant complains of the lack of steps taken by the Spanish authorities to enforce court decisions concerning her son's custody after the father fled with him (aged 14 months) to the United States and the fact that she was prevented from seeing her son for more than three years. She alleges that the authorities did little to assist her in securing the return of the child. The courts refused to issue an international warrant, since under Spanish law a father could not be charged with kidnapping his child but could only be charged with the lesser offence of disobedience to a court order, which was not an extraditable offence.

– Article 8

The case was declared admissible on 5 March 2002. A hearing on the merits was held on 10 December 2002. 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) no. 31443/96 J.B. v. Poland**

The case concerns a claim for compensation for property abandoned by the applicant's ancestors, citizens of pre-war Poland, in the so-called "territories beyond the Bug River". Following the Yalta and Potsdam conferences, the Polish State assumed an obligation to compensate persons who were repatriated from territories beyond a fixed boundary line and have had to abandon property there. Under Polish law it has been recognised that repatriated persons have an entitlement to obtain compensation in kind, i.e. to purchase land from the State Treasury and have the value of the abandoned property deducted from the cost. The applicant complains that she had not received full compensation for the property abandoned by her ancestors, but only a small building plot the value of which amounts to a small fraction of the compensation due. (Article 1 of Protocol No. 1).

The Chamber decided to relinquish jurisdiction to the Grand Chamber and to adjourn its consideration of other similar cases.

**(2) no. 57067/00 Grieves v. the United Kingdom**

The case concerns the independence and impartiality of a court martial and the fairness of the proceedings (Article 6 § 1 of the Convention).

**V. OTHER CASES OF INTEREST**

Other cases of interest include the following:

**(1) no. 46726/99 Podkolzina v. Latvia**

The case concerned the rejection of the applicant's candidature in legislative elections, due to insufficient knowledge of the Latvian language (Article 3 of Protocol No. 1).

Judgment of 9 April 2002 – violation.

**(2) no. 27243/95 Sabuktekin v. Turkey**

The applicant claimed that her husband was killed by the security forces due to his suspected participation in a fundamentalist group (Articles 2 and 13 of the Convention).

Judgment of 19 March 2002 – no violation.

**(3) no. 53360/99 De Savoie v. Italy**

The case concerned the former constitutional provision which prevented the pretender to the Italian throne, Victor-Emmanuel de Savoie, from entering Italian territory (Articles 2 and 3 § 2 of Protocol No. 4, Articles 3, 6, 8, 11 and 14 of the Convention and Articles 1 and 3 of Protocol No. 1). A hearing in the case was postponed pending amendment of the Constitution.

**(4) no. 25754/94 Haran v. Turkey**

The applicant alleged that his son was unlawfully killed by security forces (Articles 2, 3, 6 and 14 of the Convention).

Judgment of 26 March 2002 – the case was struck out under Article 37 of the Convention on the basis that it was no longer justified to continue its examination.

**(5) no. 22723/93 H.E.P. (People's Work Party) v. Turkey  
no. 22724/93 H.E.P. and Karatas v. Turkey  
no. 22725/93 H.E.P. and Aksoy v. Turkey**

The case concerned the dissolution of a political party which had allegedly infringed the Constitution and laws governing political parties (Articles 6 § 1, 9, 10, 11 and 14 of the Convention).

Judgment of 9 April 2002 – violation of Article 11.

(See also no. 25141/94, D.E.P. (Democracy Party) v. Turkey, judgment of 10 December 2002.)

**(6) no. 62806/00 S.R. v. Sweden**

The applicant claimed that he might be subjected to torture during questioning if he were to be returned to Iran because of drug offences committed in Sweden (Articles 2 and 3 of the Convention, Article 1 of Protocol No. 6 and Article 4 of Protocol No. 7).

Decision of 23 April 2002 – case inadmissible.

**(7) no. 28856/95 Jokela v. Finland**

In proceedings for expropriation of land, the applicant's property was estimated at a substantially lower value than that applied to the same property for the calculation of inheritance tax (Article 1 of Protocol No. 1 and Articles 6 and 14 of the Convention).

Judgment of 21 May 2002 – violation of Article 1 of Protocol No. 1.

**(8) no. 55524/00 Stone Court Shipping Company, S.A. v. Spain**

The applicant company complains that its appeal on points of law, submitted one day before expiry of the time-limit, was rejected by the Supreme Court as being out of time (Article 6 § 1 of the Convention).

Decision of 7 May 2002 – case admissible (pending).

**(9) no. 43290/98 McShane v. the United Kingdom**

The applicant's husband died after being crushed by an army vehicle during disturbances in Northern Ireland (Articles 2, 13 and 14 of the Convention).

Judgment of 28 May 2002 – violation of Article 2.

**(10) no. 66336/01 The Gypsy Council and Others v. the United Kingdom**

The applicants, members of the travelling community, complained of a prohibition order which prevented a traditional fair from taking place in a particular town (Articles 6, 8, 11 and 14 of the Convention).

Decision of 14 May 2002 – case inadmissible.

**(11) no. 25144/94 Sadak and Others v. Turkey**

The case concerned the withdrawal of the applicants' parliamentary mandates following the banning of a political party (Article 3 of Protocol No. 1).

Judgment of 11 June 2002 – violation.

**(12) no. 36042/97 Willis v. the United Kingdom**

The case concerned the difference in treatment under social security legislation between men and women whose spouses have died (Article 14 of the Convention taken in conjunction with Article 1 of Protocol No. 1).

Judgment of 11 June 2002 – violation.

**(13) no. 48539/99 Allan v. the United Kingdom**

The case concerned the admission in evidence of statements elicited from the accused by a fellow prisoner who had been placed in the same cell by the police in order to get information (Articles 6, 8 and 13 of the Convention).

Judgment of 5 November 2002 – violation.

**(14) no. 32979/96 Yildiz v. Turkey**

The case concerned ill-treatment by police officers during custody (Articles 3 and 6 § 1 of the Convention).

Judgment of 16 July 2002 – friendly settlement.

**(15) no. 29178/95 Finucane v. the United Kingdom**

The case concerns the killing of a solicitor in Northern Ireland and alleged security force collusion with the killers (Articles 2 and 13 of the Convention).

Decision of 2 July 2002 – case admissible (pending).

**(16) no. 32771/96 Cuscani v. the United Kingdom**

The applicant, an Italian national, complained of the unfairness of criminal proceedings on the ground that there was no interpretation in court and his legal aid defence lawyer did not speak Italian (Article 6 §§ 1 § 3 (e) of the Convention).

Judgment of 24 September 2002 – violation.

**(17) no. 27824/95 Posti and Rahko v. Finland**

The case concerned lack of access to a court to challenge restrictions on the applicants' fishing rights (Articles 6, 13 and 14 of the Convention and Article 1 of Protocol No. 1).

Judgment of 24 September 2002 – violation of Article 6 § 1.

**(18) no. 44652/98 Beckles v. the United Kingdom**

The case concerned the right of an accused to remain silent and the drawing of adverse inferences from his silence (Article 6 § 1 of the Convention).

Judgment of 8 October 2002 – violation.

**(19) no. 27692/95) Karakoc v. Turkey  
no. 28498/95) Akyol v. Turkey  
no. 28138/95) Alpaslan v. Turkey**

The case concerns freedom of expression and alleged unfair trial (Articles 10 and 6 § 1 of the Convention).

Judgment of 15 October 2002 – violation.

**(20) no. 47293/99 Selim v. Cyprus**

The case concerns the inability of a Turkish Cypriot to get married in Cyprus (Articles 8, 12, 13 and 14 of the Convention).

Judgment of 16 July 2002 – friendly settlement.

**(21) no. 45676/99 Maillet v. France**

The case concerns the rejection of an appeal to the Court of Cassation on the ground that the applicant had not signed the appeal papers personally (Article 6 of the Convention).

Decision of 8 October 2002 – case inadmissible.

**(22) no. 64359/01 Fernandez-Molina Gonzalez and 370 Others  
v. Spain**

The case involved the numerous victims of Colza oil intoxication in May 1981 who had sought compensation before the courts. The complaints concerned the length and fairness of civil proceedings and the level of compensation awarded (Articles 6 § 1, 13 and 14 of the Convention and Article 1 of Protocol No. 1).

Decision of 8 October 2002 – case inadmissible.

**(23) no. 43191/98 Laidin v. France**

The case concerned the length of judicial determination of the lawfulness of the applicant's internment in an asylum (Articles 5 § 4).

Judgment of 5 November 2002 – violation.

**(24) no. 49821/99 Tosto v. Italy**

The case concerned a decree which *inter alia* prohibited the taking of blood from homosexuals (Articles 8 and 14 of the Convention).

Decision of 15 October 2002 – case struck out of the list.

**(25) no. 57984/00 Andrašik v. Slovakia**

The case concerned the length of court proceedings and the existence of an effective remedy in respect of complaints concerning the length of proceedings (Articles 6 § 1 and 13 of the Convention).

Decision of 22 October 2002 – case inadmissible.

**(26) no. 38629/97 Lundevall v. Sweden**

The case concerned the absence of an oral hearing in proceedings to challenge the rejection of a claim for disability benefits by the Social Insurance Office (Article 6 of the Convention).

Judgment of 12 November 2002 – violation.

**(27) no. 56529/00 Enhorn v. Sweden**

The applicant, HIV positive, was placed in compulsory isolation on the basis that, by his reckless sexual behaviour, he endangered the life of others (Articles 5 and 8 of the Convention).

Decision of 10 December 2002 – case admissible (pending).

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

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

**(1) no. 36812/02 F. v. the United Kingdom**

The applicant is a Libyan national and failed asylum seeker. He fears ill-treatment if he is sent back to Libya. The case is pending.

**(2) no. 33692/02 Abraham Lunguli v. Sweden**

The applicant claims that she would risk being subjected to female genital mutilation if she is forced to return to Tanzania. The case is pending.

**(3) no. 38865/02 Nasimi v. Sweden**

The applicant, an Iranian national of Kurdish origin, fears imprisonment and torture for political activities if he is deported to Iran. The case is pending.

**(4) no. 43136/02 Basnet v. the United Kingdom**

The applicant fears persecution if deported to Nepal. The case is pending.

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

- no. 2346/02 Pretty v. the United Kingdom** (see page 2 above)
- no. 68183/01 Koons v. Italy**
- no. 55106/00 Gorka v. Poland**
- no. 60225/00 Jablonska v. Poland**
- no. 53566/99 Muslim v. Turkey**
- no. 6214/02 Kranz v. Poland**
- no. 65888/01 Jeruzal v. Poland**
- no. 61437/00 Jagiello v. Poland**
- no. 71894/01 Dybo v. Poland**
- no. 77746/01 Kroenitz v. Poland**
- no. 67979/01 Szenk v. Poland**

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

Leave to file third-party comments was given by the President pursuant to Rule 61 § 3 of the Rules of Court in 2346/02, *Pretty v. United Kingdom* (Voluntary Euthanasia Society and the Catholic Bishops' Conference of England and Wales) and in 68183/01, *Koons v. Italy* (National Center for Missing and Exploited Children).

**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 lodging
  - (f) Applications pending by State

## APPENDIX 1

<b>Judgments delivered in 2002</b>	
Merits	119
Striking out	2
Friendly settlement	18
Just satisfaction	0
Revision	2
<b>Total</b>	<b>141</b>

<b>Chamber decisions adopted in 2002</b>	
Applications declared admissible	101
Applications declared inadmissible	516
Applications struck out of the list	30
<b>Total</b>	<b>647</b>

<b>Committee decisions adopted in 2002</b>	
Applications declared inadmissible	3880
Applications struck out of the list	36
<b>Total</b>	<b>3916</b>

<b>Applications communicated in 2002</b>	
<b>Total</b>	<b>524</b>

<b>Total applications finalised in 2002</b> (judgments*, inadmissibility and striking-out decisions)	<b>4621</b>
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\* 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	1	6	27	5	27	164	0
February	72	6	6	1	8	212	3
March	4	13	19	3	28	568	5
April	6	6	4	0	33	315	2
May	5	13	13	2	59	380	8
June	15	8	15	5	44	269	0
July	7	5	13	1	14	58	0
August	0	2	2	0	4	0	0
September	3	7	6	2	68	350	0
October	21	13	392	5	69	544	3
November	22	14	6	3	137	463	4
December	3	8	13	3	33	557	11
<b>Total</b>	<b>159</b>	<b>101</b>	<b>516</b>	<b>30</b>	<b>524</b>	<b>3880</b>	<b>36</b>

### APPENDIX 3

<b>Applications pending on 31 December 2002</b>	
<b>Total applications not yet examined</b>	<b>6342</b>
<b>Adjourned/Communicated for information</b>	<b>12</b>
<b>Communicated for observations</b>	<b>943</b>
<b>Admissible</b>	<b>163</b>
<b>Judgments not yet final</b>	<b>47</b>
<b>TOTAL APPLICATIONS PENDING</b>	<b>7507</b>
(Chamber: 3077)	
(Committee: 3265)	

## APPENDIX 4

Chart 1: Judgments delivered in 2002

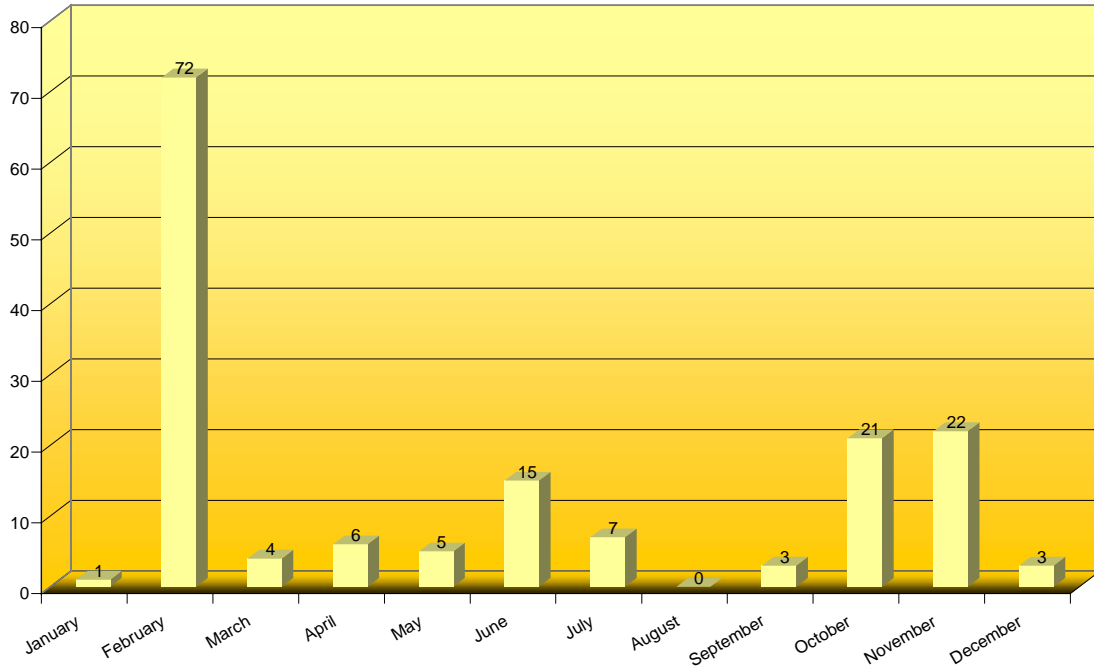
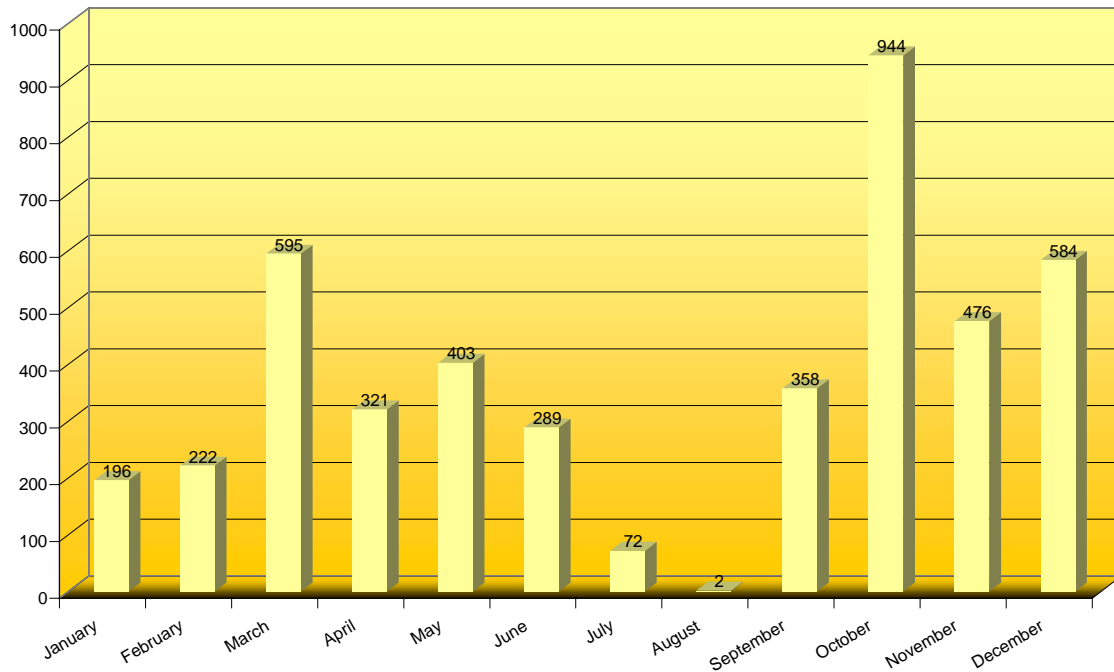
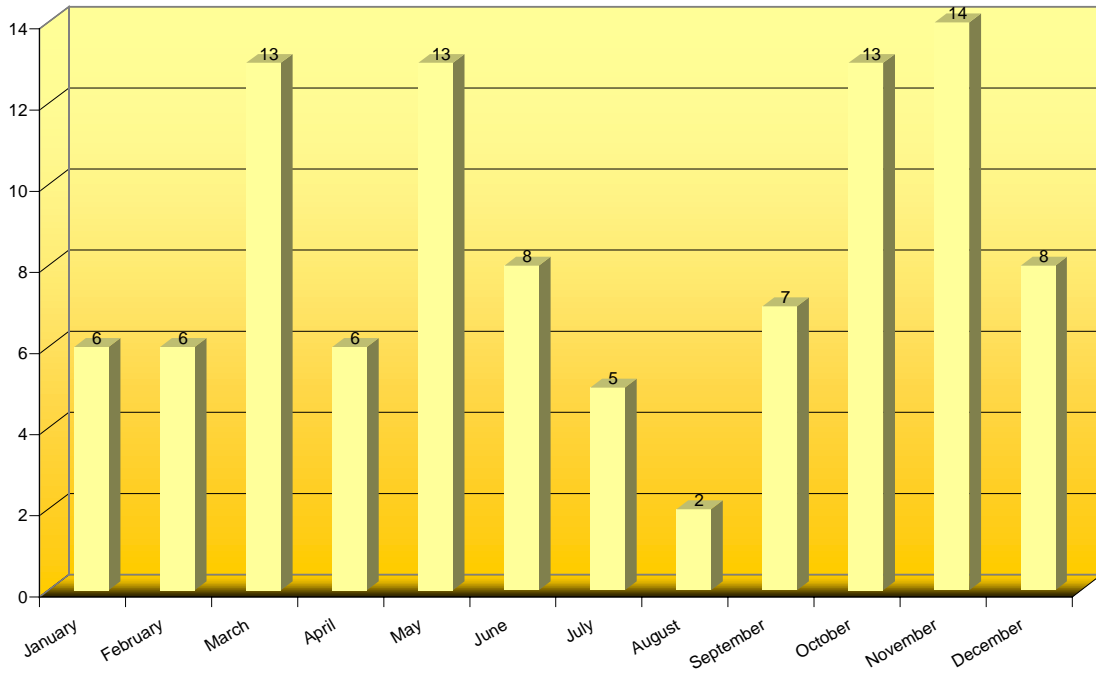


Chart 2: Inadmissibility and strike-out decisions adopted in 2002



*Annual Report 2002: Fourth Section*

**Chart 3: Admissibility decisions adopted in 2002**



**Chart 4: Applications communicated in 2002**

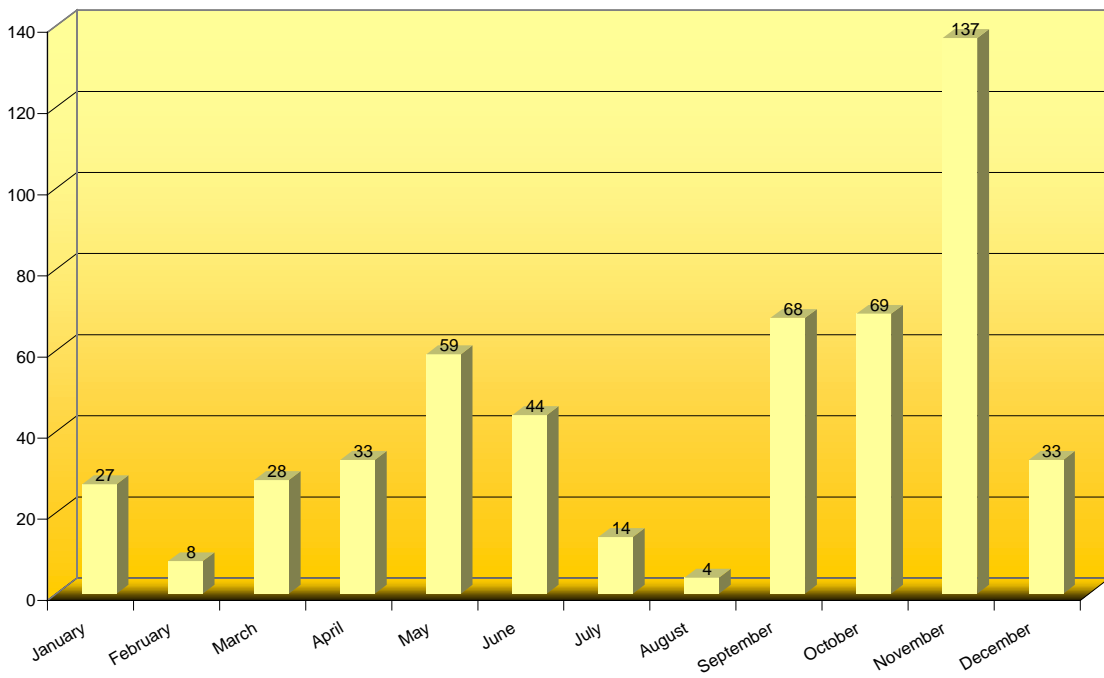


Chart 5: Applications pending on 31 December 2002 by year of lodging

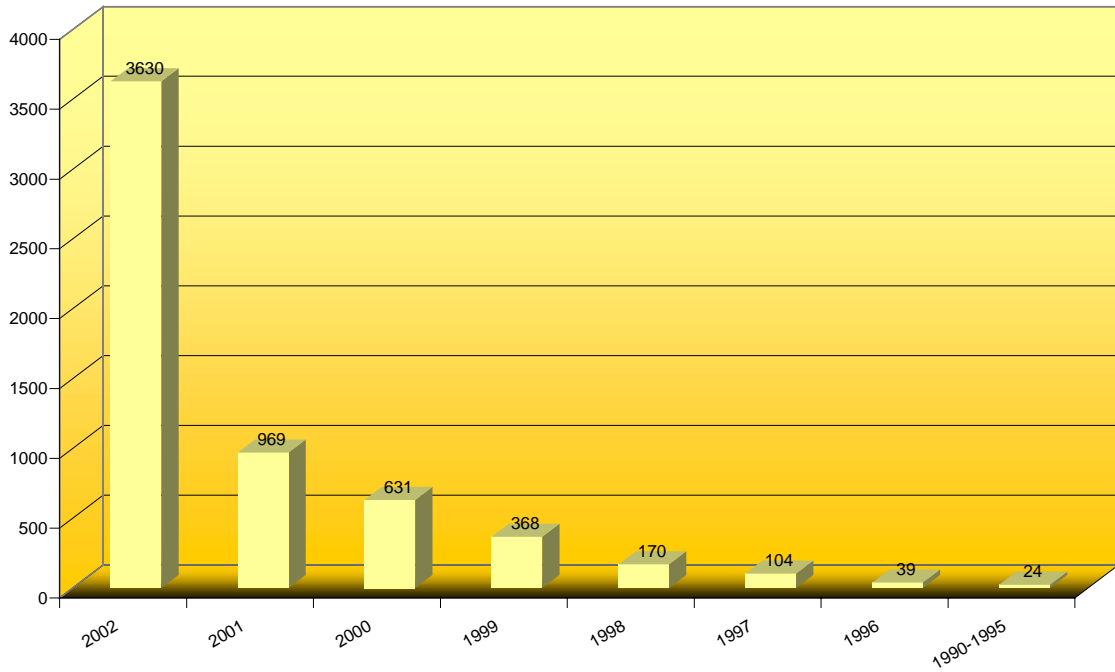


Chart 6: Applications pending on 31 December 2002 by State

