

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



THIRD SECTION

ANNUAL ACTIVITY REPORT 2005

January 2006

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## **I. INTRODUCTION**

In 2005, the Section held 45 Chamber sessions<sup>1</sup>. An oral hearing was held concerning four applications. The Section delivered 212 judgments, of which 187 concerned the merits and 20 concerned the striking out of a case (12 of which following friendly settlement)<sup>2</sup>. The Section applied Article 29 § 3 of the Convention (combined examination of admissibility and merits) in 618 cases and 114 judgments were delivered under this procedure.

Of the cases examined by a Chamber

- (a) 214 applications were declared admissible;
- (b) 151 applications were declared inadmissible;
- (c) 91 applications were struck out of the list; and
- (d) 575 applications were communicated to the State concerned for observations of which 504 were communicated by the President under the new procedure instituted on 1 January 2003.

In addition, the Section held 60 Committee sessions. 5,282 applications were declared inadmissible and 121 applications were struck out of the list. The total number of applications rejected by a Committee represented 96.4% of the inadmissibility and striking-out decisions taken by the Section during the year.

At the end of the year 15,111 applications were pending before the Section.

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1. Including 7 sessions in its composition before 1 November 2004.

2. Including 18 judgments of the Third Section in its composition before 1 November 2004, of which 14 concerned the merits and 3 the striking out of a case.

## II. COMPOSITION OF THE SECTION

Boštjan M. **Zupančič** (Slovenian), *President*,  
John **Hedigan** (Irish), *Vice-President*,  
Lucius **Cafilisch**<sup>3</sup> (Swiss),  
Corneliu **Bîrsan** (Romanian),  
Margarita **Tsatsa-Nikolovska** (the former Yugoslav Republic of  
Macedonia),  
Vladimiro **Zagrebelky** (Italian),  
Alvina **Gyulumyan** (Armenian),  
Renate **Jaeger** (German),  
Egbert **Myjer** (Dutch),  
**David Thór Björgvinsson** (Icelandic),  
Ineta **Ziemele**<sup>4</sup> (Latvian), *Judges*,  
  
Vincent **Berger**, *Registrar*,  
Mark **Villiger**, *Deputy Registrar*.

## III. HEARINGS

A hearing was held in the following cases:

<b>no. 71907/01</b>	<b>Kavakci v. Turkey</b>
<b>no. 1444/02</b>	<b>Fazilet Partisi and Kutan v. Turkey</b>
<b>no. 8691/02</b>	<b>Silay v. Turkey</b>
<b>no. 15394/02</b>	<b>Ilicak v. Turkey</b>

The applications relate to the dissolution of a political party *Fazilet Partisi* (the Virtue Party) by the Turkish Constitutional Court and restrictions imposed for varying periods on certain political rights of the applicants, who were members and elected representatives of the party at the material time.

– Articles 6, 7, 9, 10, 11, 14, 17 and 18 of the Convention, and Articles 3 of Protocol No. 1 and 4 of Protocol No. 7.

The applications were declared admissible on 30 June 2005. A hearing on the merits was held on 13 October 2005. Judgment will be delivered at a later date.

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3. Judge elected in respect of Liechtenstein.

4. As from 6 September 2005.

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

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

**(1) no. 54810/00 Jalloh v. Germany**

The case concerns the administration of emetics by force to the applicant, who was suspected of drug-trafficking, in order to obtain the drugs contained in small plastic bags which he had swallowed on arrest.

- Articles 3, 6, 8, and 13 of the Convention
- Admissible (decision of 26 October 2004).

**(2) no. 1398/03 Markovic and Others v. Italy**

The application concerns claims for compensation in the Italian courts arising out of Italy's involvement in the NATO air strikes on the Radio Televizije Srbije in Belgrade during the Kosovo conflict, the incident at the origin of the Bankovic and Others case (no. 52207/99).

- Article 6 § 1 of the Convention

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

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

**(1) no. 62023/00 Emesa Sugar N.V. v. the Netherlands**

The case concerned the interaction between the Convention and European Union law. The applicant company complained that it was deprived of a fair hearing in that in the proceedings before the Court of Justice of the European Communities, on a request for a preliminary ruling from the President of the Hague Regional Court, it was not allowed to respond to the Opinion of the Advocate General to the Court of Justice of the European Communities.

- Article 6 § 1 of the Convention
- Inadmissible (decision of 13 January 2005).

**(2) no. 30598/02 Accardi and Others v. Italy**

The case concerned alleged unfairness in criminal proceedings for child abuse. The applicants complained, in particular, that they had been prevented from cross-examining the children concerned and that the court had refused to order psychiatric reports establishing whether the children were capable of telling the truth about the alleged abuse.

- Article 6 §§ 1, 2 and 3 (d) of the Convention  
Inadmissible (decision of 20 January 2005).

**(3) no. 54723/00 Brudnicka and Others v. Poland<sup>5</sup>**

The applicants, the parents and widows of sailors who died in a shipwreck, complained that the Maritime Disputes Chambers that had heard the case were not impartial and independent tribunals within the meaning of the Convention.

- Article 6 § 1 of the Convention  
Judgment of 3 March 2005 – violation.

**(4) no. 50196/99 Skender v. the former Yugoslav Republic of Macedonia**

The case concerned the refusal, on residential grounds, of a request to allow a child to attend a primary school in a neighbouring district which gave classes in Turkish.

- Articles 14 of the Convention and 2 of Protocol No. 1  
Inadmissible (decision of 10 March 2005).

**(5) no. 41604/98 Buck v. Germany**

The case concerned a search of the applicant's residential and business premises in connection with a minor traffic offence committed by his son in a company car.

- Articles 6 and 8 of the Convention  
Judgment of 28 April 2005 – violation.

**(6) no. 65411/01 Sacilor-Lormines v. France**

The application concerns the termination of mining leases and domestic proceedings that ended with judgments of the *Conseil d'État*.

- Articles 6 § 1 of the Convention and 1 of Protocol No. 1  
Admissible (decision of 12 May 2005).

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5. Third Section in its composition before 1 November 2004.

**(7) no. 57884/00 Kalanyos and Others v. Romania**  
**no. 62954/00 Tanase and Others v. Romania**

The cases concern a mob attack against the Roma population in a village which led to the death of two Roma, the burning of twenty-seven houses belonging to Roma and the expulsion of the Roma community from the village.

- Articles 3, 6 § 1, 8, 13, 14 of the Convention
- Admissible (decisions of 19 May 2005).

**(8) no. 55120/00 Independent News and Media and Independent Newspapers Ireland Limited v. Ireland<sup>6</sup>**

In July 1997 a jury found an article published by the second applicant to be defamatory and awarded damages against the first applicant (the parent company and defendant in the proceedings) in an amount that was three times more than the highest libel award previously approved by the Supreme Court.

- Article 10 of the Convention
- Judgment of 16 June 2005 – no violation.

**(9) no. 18670/03 Berisha and Haljiti v. the former Yugoslav Republic of Macedonia**

The applicants complain that they were persecuted and ill-treated after being denied asylum in the former Yugoslav Republic of Macedonia, that by a single decision they were collectively expelled to Serbia and Montenegro and that the proceedings were unfair.

- Articles 3, 6, 13 of the Convention and 4 of Protocol No. 4
- Communication of complaints under Article 6 and remainder inadmissible (partial decision of 16 June 2005).

**(10) no. 33538/96 Alatulkkila and Others v. Finland**

The case concerned complaints by fishermen, associations and owners that they were unable to secure judicial review of a ban on fishing that had been imposed by the Finnish-Swedish Frontier Rivers Commission, that the ban violated their property rights, that they had not been sufficiently involved in the decision-making process and that the ban was discriminatory.

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6. and 7. Third Section in its composition before 1 November 2004.

- Articles 6 of the Convention and 1 of Protocol No. 1  
Judgment of 28 July 2005 – no violation.

**(11) no. 36549/03 Harutyunyan v. Armenia**

The case concerns criminal proceedings against the applicant and the use in evidence against him of a confession and witness statements which he alleges were obtained under torture.

- Article 6 of the Convention

Communication of complaints under Article 6 and remainder inadmissible (partial decision of 16 June 2005).

**(12) no. 23032/02 Lukenda v. Slovenia**

The case concerned the length of civil proceedings and the effectiveness of remedies for delays.

- Articles 6 § 1 and 13 of the Convention

Judgment of 6 October 2005 – violation.

**(13) no. 20420/02 Mogos v. Romania**

The application concerned ill-treatment allegedly inflicted on the applicants, conditions in the transit centre at Bucharest Otopeni Airport and interference with their correspondence with the Court.

- Articles 3 and 34 of the Convention

Judgment of 13 October 2005 – no violation.

**(14) no. 71525/01 Popescu v. Romania**

The application concerns the allegedly illegal interception of telephone communications by special services and the use of transcriptions of the communications as evidence in criminal proceedings against the applicant for smuggling cigarettes and criminal conspiracy.

- Articles 8 and 6 § 1 of the Convention

Admissible (decision of 22 September 2005).

**(15) no. 52391/99 Ramsahai and Others v. the Netherlands**

The case concerned the shooting by a policeman of a young man who had just stolen a scooter at gunpoint and who had tried to evade arrest by brandishing a pistol at the arresting officers.

- Article 2 of the Convention

Judgment of 10 November 2005 – violation.

**(16) no. 4591/04 Gunnarsson v. Iceland**

The case mainly concerns a complaint that in defamation proceedings brought by the applicant, a member of a bank's governing board, the Icelandic courts had relieved the author of the offending newspaper article of the normal burden of proving the veracity of his allegations of inappropriate business conduct.

- Articles 6, 8 and 14 of the Convention  
Inadmissible (decision of 20 October 2005).

**(17) no. 14079/04 X. v. Ireland**

The case concerns the failure to prevent the press from publishing the applicant's name and picture and the difference in treatment of minors in the Children Court and minors in the Circuit Criminal Court.

- Articles 6, 8 and 14 of the Convention  
Communicated on 3 November 2005.

**(18) no. 22913/04 Yildiz v. Turkey<sup>7</sup>**

The application concerned the compatibility of reimprisonment with the condition of the applicant, who was suffering from Wernicke-Korsakoff Syndrome after going on hunger strike while in prison.

- Articles 5 and 13 of the Convention  
Judgment of 10 November 2005 – violation.

**(19) no. 59624/00 Zu Leiningen v. Germany**

The applicant, the eldest son of an old aristocratic family, complained about German court decisions upholding his late father's refusal to consent to his second marriage, which, following the family's traditional laws on the order of succession, had led to his exclusion from the line of succession.

- Articles 8 and 12 of the Convention and 1 of Protocol No. 1  
Strike out (decision of 17 November 2005).

**(20) no. 73047/01 Haas v. Germany**

The case concerned criminal proceedings in which the applicant was convicted of aiding and abetting an attack on air traffic, taking hostages, kidnapping and two counts of attempted murder.

- Article 6 §§ 1 and 3d) of the Convention  
Inadmissible (decision of 17 November 2005).

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7. Third Section in its composition before 1 November 2004.

**(21) no. 72596/01 Balsyte-Lideikiene v. Lithuania**

The case concerns an alleged lack of fairness and a failure to respect the defence rights in a case in which the applicant was punished for publishing racist material.

- Articles 6 § 1, 9, 10 and 14 of the Convention  
Admissible (decision of 24 November 2005).

**(22) no. 27574/02 Otto v. Germany**

The case concerned the failure of a chief inspector to gain promotion, allegedly on account of his political activities. He relied, in particular, on his rights to freedom of expression and association.

- Articles 10, 11 and 14 of the Convention  
Inadmissible (decision of 24 November 2005).

**(23) no. 74762/01 Mahdid and Haddar v. Austria**

The case concerned complaints by the applicants, who were Algerian nationals, that on their arrival at Vienna International Airport on a flight from Tunisia, they were forced to remain in the airport transit zone, were refused leave to enter Austria and were unable to challenge that refusal.

- Article 5 §§ 1 and 5 of the Convention  
Inadmissible (decision of 8 December 2005).

**(24) no. 46347/99 Xenides-Arestis v. Turkey<sup>8</sup>**

The case concerned Greek-Cypriot property in northern Cyprus to which the applicant was denied access. A number of similar cases are still pending before the Court.

- Articles 8, 14 of the Convention and 1 of Protocol No. 1  
Judgment of 22 December 2005 – violation.

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8. Third Section in its composition before 1 November 2004.

**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) no. 44922/04 Keljmendi v. the former Yugoslav Republic of Macedonia**

The applicants (parents and three juvenile children), of Ashkaelia/ Roma ethnic origin from Kosovo unsuccessfully applied for asylum. They claimed that they were liable to be subjected to degrading and life-threatening treatment if they were expelled to Kosovo.

– Articles 2, 3 and 13 of the Convention

Rule 39 was applied from 11 January until 3 March 2005, when the applicants left the former Yugoslav Republic of Macedonia.

**(2) no. 3477/05 Aido Ali v. Romania**

The applicant complains of ill-treatment while in pre-trial detention and of the length of such detention.

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

The case is pending.

**(3) no. 3418/05 Afify v. the Netherlands**

The case concerned the applicant's complaints that, if he was expelled to Egypt, he would be exposed to a risk of treatment in breach of Article 3 and would not have an effective remedy. Rule 39 was applied from 2 February until 6 October 2005. The applicant withdrew his application pending the outcome of his third asylum request.

– Articles 3 and 13 of the Convention

Strike out (decision of 6 October 2005).

**(4) no. 23254/05 Esmaili v. the Netherlands**

The case concerns an Iranian woman and two children whose successive asylum requests were rejected by the Dutch authorities. In the course of the proceedings on her asylum request, she started a relationship with a Dutch national of Iranian origin, with whom she had a son.

– Article 3 of the Convention

The case is pending.

**(5) no. 25424/05 Ramzy v. the Netherlands**

The case concerns the possible expulsion to Algeria of a person suspected of being involved in an Islamic extremist network in the Netherlands.

– Article 3 of the Convention

The case is pending.

**(6) no. 31956/05 Hamidovic v. Italy**

The application concerns the imminent deportation of the applicant, who is of Bosnia-Herzegovinan nationality and of Roma ethnic origin.

– Article 8 of the Convention

The case is pending.

**(7) no. 61292/00 Useinov v. the Netherlands**

The case concerns the refusal by the Dutch authorities to allow the applicant – a national of the former Yugoslav Republic of Macedonia – to reside in the Netherlands despite the fact that his two minor children, who were born in the Netherlands and have Dutch nationality and with whom he has very regular contact, reside in the Netherlands with their mother, who is also a Dutch national. Family life began when the applicant was awaiting the outcome of his application for asylum in the Netherlands.

– Article 8 of the Convention

The case is pending.

**(8) no. 44092/05 Safahani Langeroudi and Zende Del v. the Netherlands**

The applicants are Iranian nationals who are due to be expelled to their country of origin. The first applicant says that he fears political persecution, having carried out activities for a political organisation; the second applicant is said to be suffering from serious physical and mental health problems for which she received treatment in the Netherlands that she will be unable to continue in Iran.

– Articles 3 and 13 of the Convention

The case is pending.

(b) Requests for priority pursuant to Rule 41 of the Rules of Court were granted in 29 applications, including pending cases in which Rule 39 was applied.

**VII. THIRD-PARTY INTERVENTION (ARTICLE 36 AND RULE 44)**

Leave to submit third-party comments was given by the President pursuant to Rule 44 § 2 of the Rules of Court in the following cases:

**(1) no. 1398/03 Markovic and Others v. Italy**

On 2 March 2005 to the Government of Serbia and Montenegro.

**(2) no. 39828/03 Sekasi v. the Netherlands**

On 11 March 2005 to the non-governmental organisations the Dutch Refugee Council, the European Council on Refugees and Exiles, Human Rights Watch, the Dutch section of the International Commission of Jurists, Legal Aid and the Netherlands Bar Association.

**(3) no. 31252/03 Mir Isfahani v. the Netherlands**

On 26 April 2005 to the non-governmental organisations *Vluchtelingenwerk*, *Nederlands Juristen Comité voor de Mensenrechten*, *European Council on Refugees and Exiles* and *Legal Aid*.

**(4) no. 71907/01 Kavakci v. Turkey**

On 13 May 2005 to the Inter-Parliamentary Union. to participate in the written proceedings.

**(5) no. 16646/03 Bocciarelli v. Italy**

On 20 May 2005 to the Government of Poland.

**(6) no. 16420/03 Siekanska v. Italy**

On 29 August 2005 to the Government of Poland.

**(7) no. 25424/05 Ramzy v. the Netherlands**

On 26 September 2005 to the Government of the United Kingdom and on 11 October 2005 to the Governments of Italy, Lithuania, Portugal, and Slovakia as well as to the non-governmental organisations the AIRE Centre, Interights (together with Amnesty International Ltd, the Association for the Prevention of Torture, Human Rights Watch, The International Commission of Jurists, Open Society Justice Initiative and Redress), Liberty and Justice.

**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 2005</b>	
Merits	187
Striking out	8
Friendly settlement	12
Just satisfaction	2
Revision and other	3
<b>Total</b>	<b>212</b>

<b>Chamber decisions adopted in 2005</b>	
Applications declared admissible	214
Applications declared inadmissible	151
Applications struck out of the list	91
<b>Total</b>	<b>456</b>

<b>Committee decisions adopted in 2005</b>	
Applications declared inadmissible	5282
Applications struck out of the list	121
<b>Total</b>	<b>5403</b>

<b>Applications communicated in 2005</b>	
<b>Total</b>	<b>575</b>

<b>Total cases finalised in 2005</b> (judgments*, inadmissibility and strike-out decisions)	<b>5855</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	8	13	1	39	204	2
February	15	11	6	2	28	286	6
March	10	15	13	9	55	447	14
April	15	8	4	2	29	187	6
May	7	23	7	2	43	879	7
June	18	50	7	1	52	736	41
July	45	5	3		20	419	5
August	2					87	2
September	10	33	33	10	107	487	11
October	25	18	44	35	59	727	11
November	25	18	14	5	87	520	8
December	39	25	7	24	56	303	8
<b>Total</b>	<b>212</b>	<b>214</b>	<b>151</b>	<b>91</b>	<b>575</b>	<b>5282</b>	<b>121</b>

### APPENDIX 3

<b>Applications pending on 31 December 2005</b>	
<b>Total applications not yet examined</b>	<b>13001</b>
<b>Adjourned/Communicated for information</b>	<b>1</b>
<b>Communicated/Adjourned</b>	<b>2</b>
<b>Communicated for observations</b>	<b>1838</b>
<b>Admissible</b>	<b>184</b>
<b>Judgments not yet final</b>	<b>85</b>
<b>TOTAL APPLICATIONS PENDING</b>	<b>15.111</b>
(Chamber: 6,137)	
(Committee: 8,974)	

## APPENDIX 4

Chart 1: Judgments delivered in 2005

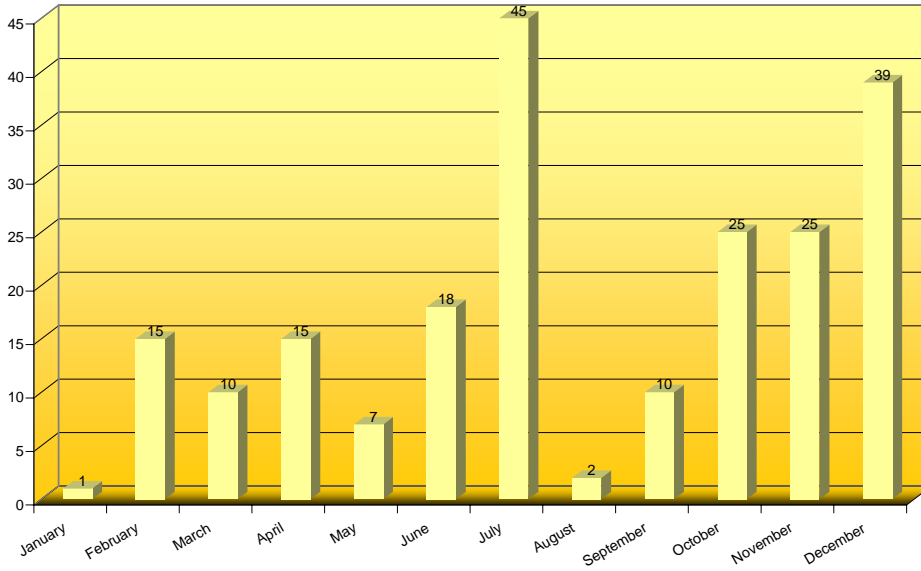
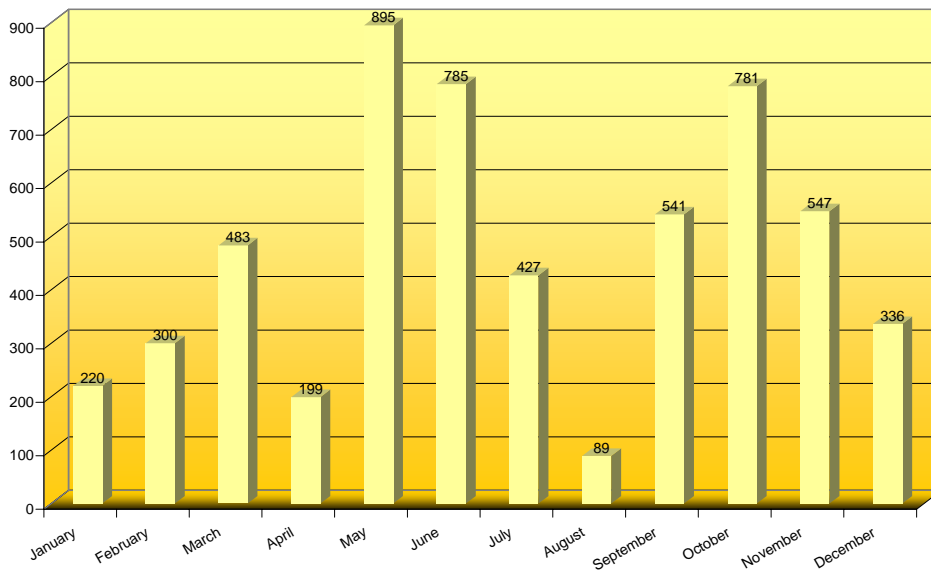


Chart 2: Inadmissibility and strike-out decisions adopted in 2005



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Chart 3: Admissibility decisions adopted in 2005

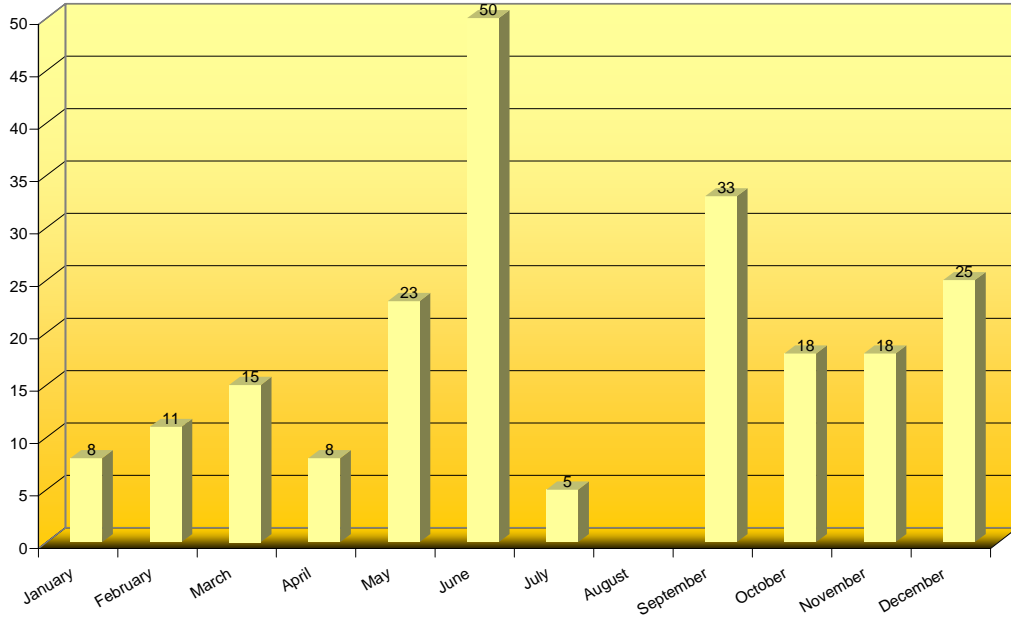


Chart 4: Applications communicated in 2005

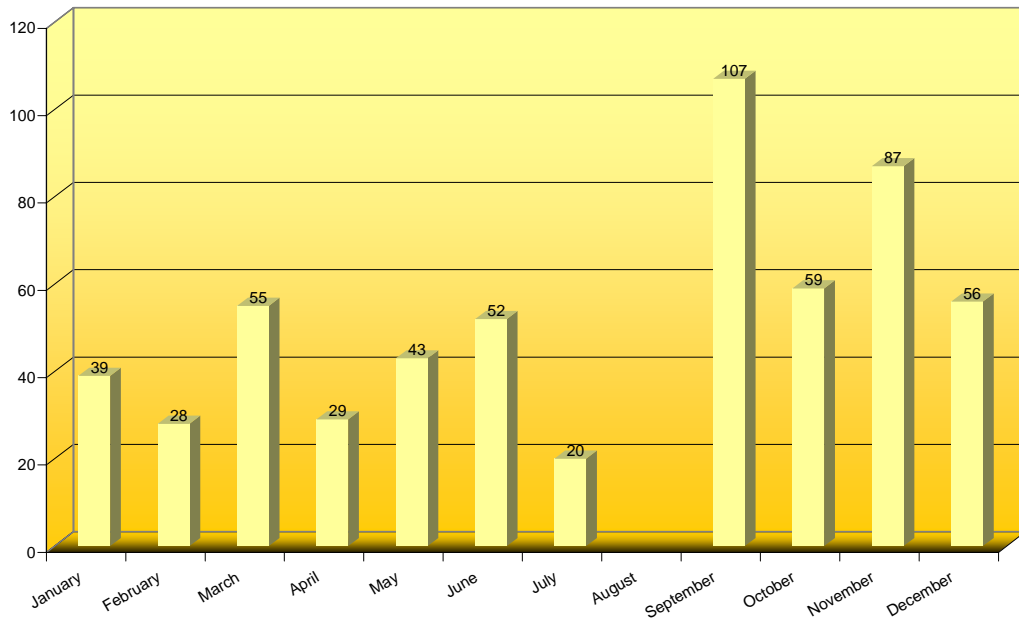


Chart 5: Applications pending on 31 December 2005 by year of lodging

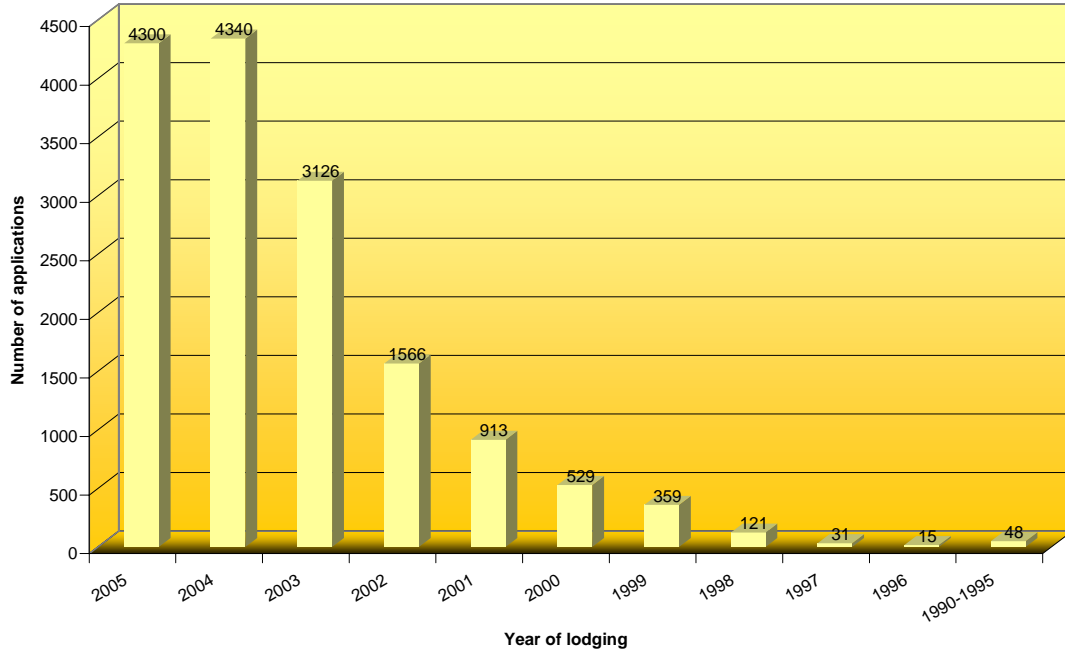


Chart 6: Applications pending on 31 December 2005 by State

