

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



FIRST SECTION

ANNUAL ACTIVITY REPORT 2004

January 2005

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I. INTRODUCTION

In 2004, the Section held 37 Chamber sessions. Oral hearings were held in six cases. The Section delivered 198 judgments, of which 156 concerned the merits, 33 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 328 cases.

Of the cases examined by a Chamber

- (a) 262 applications were declared admissible;
- (b) 122 applications were declared inadmissible;
- (c) 85 applications were struck out of the list; and
- (d) 647 applications were communicated to the State concerned for observations, out of which 538 were communicated by the President.

In addition, the Section held 63 Committee sessions. 6 034 applications were declared inadmissible and 68 applications were struck out of the list. The total number of applications rejected by a Committee represented almost 96.7 % of the inadmissibility and strike-out decisions taken by the Section during the year.

At the end of the year, 11,276 applications were pending before the Section.

II. COMPOSITION OF THE SECTION

From 1 January until 31 October 2004 the Section was composed as follows :

Christos **Rozakis** (Greek), *President*,
Peer **Lorenzen** (Danish), *Vice-President*,
Giovanni **Bonello** (Maltese),
Françoise **Tulkens** (Belgian),
Nina **Vajić** (Croatian),
Egils **Levits**¹ (Latvian),
Snejana **Botoucharova** (Bulgarian),
Anatoly **Kovler** (Russian),
Vladimiro **Zagrebelky** (Italian),
Elisabeth **Steiner** (Austrian),
Khanlar **Hajiyev** (Azeri), *Judges*,

Søren **Nielsen**, *Registrar*
Santiago **Quesada**, *Deputy Registrar*

The Section was recomposed as from 1 November 2004 (Rule 25 of the Rules of Court). As from 1 November 2004 the Section was composed as follows :

Christos **Rozakis** (Greek), *President*,
Loukis **Loucaides** (Cypriot), *Vice-President*,
Françoise **Tulkens** (Belgian),
Peer **Lorenzen** (Danish),
Nina **Vajić** (Croatian),
Snejana **Botoucharova** (Bulgarian),
Anatoly **Kovler** (Russian),
Elisabeth **Steiner** (Austrian),
Khanlar **Hajiyev** (Azeri),
Dean **Spielmann** (Luxemburger),
Sverre Erik **Jebens** (Norwegian), *Judges*,

Søren **Nielsen**, *Registrar*
Santiago **Quesada**, *Deputy Registrar*

¹ Left the Court in April 2004

III. HEARINGS

Six hearings were held, in the following cases:

(1) **Sardinas Albo v. Italy, no. 56271/00**

The applicant complained about the length and unfairness of three sets of proceedings and about the length of his detention on remand, and alleged that, if extradited to the United States, he would be submitted to a deprivation of liberty of indefinite duration because of his Cuban origins.

– Article 5 § 3 of the Convention, length of detention

Following a hearing on admissibility and the merits, the case was declared admissible on 8 January 2004 in so far as it concerned the length of the applicant's detention prior to his conviction (Article 5 § 3 of the Convention). The other issues were declared inadmissible. Judgment on the admissible part of the application will be delivered at a later date.

(2) **Connors v. the United Kingdom, no. 66746/01**

The case concerns the eviction of the applicant and his family from a local authority caravan site in a summary procedure.

– Articles 8 and 14 of the Convention

The Court declared the application admissible on 14 November 2002. A hearing on the merits was held on 22 January 2004. Judgment was delivered on 27 May 2004 – violation of Article 8. The Court held that the eviction of the applicant and his family from the local authority site was not attended by the requisite procedural safeguards, namely the requirement to establish proper justification for the serious interference with his rights, and consequently could not be regarded as justified by a “pressing social need” or proportionate to the legitimate aim pursued.

(3) **Achour v. France, no. 67335/01**

The applicant was convicted for certain drug offences in 1984. In 1995 he was convicted for similar offences and the sentence imposed was based *inter alia* on Article 132-9 of the new Penal Code, which had entered into force on 1 March 1994 and which had prolonged the period during which an offender was to be considered a recidivist. The applicant complained that the application of Article 132-9 of the new Penal Code violated Article 7 of the Convention.

The case was declared admissible on 11 March 2004, following a hearing on admissibility and the merits. Judgment was delivered on 10 November 2004 – violation of Article 7.

(4) Fadeyeva v. Russia, no. 55723/00

The case concerns the extent of the State's positive obligation to protect individuals from severe environmental hazards caused by operation of a privately-owned enterprise.

– Article 8 of the Convention

This issue was declared admissible on 16 October 2003. A hearing on the merits was held on 1 July 2004. Judgment will be delivered at a later date.

(5) Kuznetsov v. Russia, no. 184/02

The case concerns an alleged disruption of a religious meeting of hearing-impaired Jehovah's Witnesses, by the regional "Commissioner" for Human Rights and police officers. The applicants' complaint to a court was dismissed because they allegedly failed to prove that the meeting had been interrupted by State officials. The applicants complained that they had been prevented from having a religious meeting without undue interference by the authorities, that they were victims of discrimination on account of their religious beliefs and that a number of procedural defects flawed the court examination of their complaint and led the domestic courts to findings, untenable on the facts of the case. They relied on Articles 6, 8, 9, 10, 11 and 14 of the Convention.

Following a hearing on admissibility and the merits on 9 September 2004 the Court declared admissible the applicants' complaints about the disruption of their religious meeting and the unfair hearing of their complaint. Judgment will be delivered at a later date.

(6) Khashiyev and others v. Russia, nos. 57942/00, 57945/00, 57947/00, 57948/00, 57949/00 and 57950/00

The six applications, which are examined in three cases, relate to the situation in Chechnya in early 2000. The applicants claim that their relatives were tortured and/or killed by Russian servicemen and that the investigations into the events were inadequate. The cases raise issues under Articles 2, 3 and 13 of the Convention and Article 1 of Protocol No. 1.

The cases were declared admissible on 19 December 2002. A hearing on the merits was held on 14 October 2004. Judgment will be delivered at a later date.

IV. CASE RELINQUISHED TO THE GRAND CHAMBER

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

(1) Sørensen and Rasmussen v. Denmark, nos. 52562/99 and 52620/99

The cases concern the fundamental issue as to what extent the so-called negative right to freedom of association is protected, notably whether the existence of closed shop agreements as such is in compliance with the right to freedom of association (Article 11 issue).

V. OTHER CASES OF INTEREST

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

(1) Kosmopoulou v. Greece, no. 60457/00

The case concerned the question whether the Greek authorities had taken all steps to enable the applicant to maintain and develop family life with her daughter after separating from her husband, having regard to the fact that although the applicant had obtained visiting rights, she was unable to see her daughter or establish regular contact with her as the national court had suspended the visiting rights without having heard representations from her.

– Article 8 of the Convention

Judgment of 5 February 2004 – violation. The Court held that the applicant was not involved in the decision-making process to a degree sufficient to provide her with the requisite protection of her intents.

(2) Kolosovskiy v. Latvia, no. 50183/99

The applicant, a Russian national and former member of the Russian army, complained that the Latvian authorities' refusal to grant him a resident permit unjustifiably interfered with his rights secured to him under Article 8 of the Convention. Accepting that in the circumstances there was an interference with the applicant's private and family life the Court found the interference justified under Article 8 § 2 of the Convention (decision of 29 January 2004).

(3) Nachova and others v. Bulgaria, nos. 43577/98 and 43579/98

The applicants, four Bulgarian nationals of Roma origin, complained that their respective close relatives, who were shot by a military police officer trying to arrest them, were deprived of their lives in violation of Article 2 of the Convention, that the investigation into the events was ineffective and thus in breach of that provision and of Article 13 of the Convention. They also alleged that the events complained of were the result of discriminatory attitudes towards persons of Roma origin and entailed a violation of Article 14 of the Convention.

Judgment of 26 February 2004 – violation. The Court found a violation of Article 2 in respect of the deaths of the applicants' relatives and also in respect of the respondent State's obligation to conduct an effective investigation, taken alone and also read in conjunction with Article 14 of the Convention. The case is at present pending before the Grand Chamber.

**(4) Iorgov v. Bulgaria, no. 40653/98
G.B. v. Bulgaria, no. 42346/98**

The applicants were sentenced to capital punishment in 1990. They complain of the conditions of detention and the anxiety they were subjected to until the abolition of the death penalty in 1998.

– Article 3 of the Convention

Judgments of 11 March 2004 – violation.

(5) Gusinskiy v. Russia, no. 70276/01

The applicant complained under Article 5 of the Convention that his detention was effected in the absence of a reasonable suspicion of having committed an offence, did not comply with the domestic procedure and was ordered without regard to the provisions of an Amnesty Act. He also complained under Article 18 of the Convention that his detention represented an abuse of power. He claimed that by detaining him the authorities intended to force him to sell his media business on unfavourable terms and conditions.

– Articles 5 and 18 of the Convention

Judgment of 19 May 2004 – violation.

(6) Ždanoka v. Latvia, no. 58278/00

The case, which concerns the permanent ineligibility of the applicant for election, raises issues under Article 3 of Protocol No. 1, as well as Articles 10 and 11 of the Convention. Under the Soviet regime, the applicant was a member of the Communist Party of Latvia (PCL). In 1990,

elected to the Supreme Council (the legislative assembly at that time), the applicant became a member of the central Commission of control and audit of the party. In May 1990, Latvia restored its independence. According to the Government, in January and August 1991, the PCL participated in the organisation of two fruitless “coups d’Etat”. The applicant contested these facts. In September 1991, the Supreme Council ordered the dissolution of the PCL. In 1994 and 1995, Parliament adopted two laws excluding respectively from the municipal and legislative elections any person having “acted”, “militated” or “actively participated” in the PCL after 13 January 1991. In 1999, the competent jurisdictions noted the “active participation” of the applicant in the PCL after the above-mentioned date ; thus she lost her mandate of municipal councillor of Riga and became ineligible for election to the Parliament. In 2002, she tried to stand as a candidate to the legislative elections but was struck off the list.

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

Judgment of 17 June 2004 – violation. The case is at present pending before the Grand Chamber.

(7) San Leonard Band Club v. Malta, no. 77562/01
(draft judgment)

The case concerns the alleged lack of impartiality of the bench of the Court of Appeal which decided on the applicant company’s request for a retrial of the appeal proceedings on the basis of an alleged error of law.

– Article 6 § 1 of the Convention.

Judgment of 29 July 2004 – violation. The Court held that in the specific circumstances, Article 6 was applicable to the proceedings despite the resemblance to reopening proceedings, which normally fall outside the scope of Article 6. Furthermore, the Court held that since the trial judges in the proceedings were called upon to assess and determine whether their own previous application of the law had been adequate and sufficient, the applicant’s fears as to the lack of impartiality were justified.

(8) Blečić v. Croatia, no. 59532/00

The applicant lived in an apartment on which she had a so-called “specially protected tenancy”. The applicant was absent from the apartment for a prolonged period of time during the armed conflict in Croatia in 1991 and her specially protected tenancy was terminated. The applicant complained that the loss of the specially protected tenancy violated Article 8 of the Convention and Article 1 of Protocol No. 1 to the Convention.

– Articles 8 and 1 of Protocol No. 1 of the Convention

Judgment of 29 July 2004 – no violation. While accepting that the termination of the specially protected tenancy, and thus the possibility to

continue to live in the apartment concerned, constituted an interference under Article 8, the Court held that the interference was justified under Article 8 § 2. Without determining whether the specially protected tenancy could be considered to be a possession under Article 1 of Protocol No. 1, the Court found no violation of this provision. The case is at present pending before the Grand Chamber.

(9) Bartik v. Russia, no. 55565/00

The applicant's right to travel abroad (for any purpose) was forfeited for five years because he had had access to State secrets in the past. The restriction was imposed by operation of a general provision of Russian law prohibiting persons who have had access to classified information from leaving Russia. The applicant complained that he was prevented from visiting his elderly ailing father who was receiving treatment in Germany.

– Articles 2 § 2 of Protocol No. 4 of the Convention
Admissible (decision of 16 September 2004).

(10) Poleshchuk v. Russia, no. 60776/00

This application concerns the State's attempt to block its lodging with the Court, in that the prison administration stopped the applicant's letter to the Court.

– Article 34 of the Convention
Judgment of 7 October 2004 – violation.

(11) Farbtuhs v. Latvia, no. 4672/02

The applicant was convicted and sentenced for his participation in the repressions ordered by Stalin in 1940-41. He alleged that, considering his age (86 years old) and his bad health, his detention would be equivalent to inhuman and degrading treatments.

– Article 3 of the Convention
Judgment of 2 December 2004 – violation

(12) Sejdovic v. Italy, no. 56581/00

The case concerns the impossibility for the applicant, judged *in absentia* and never officially informed about the proceedings against him, to obtain the reopening of his trial.

– Article 6 § 1 of the Convention
Judgment of 10 November 2004 – violation. In its operational part the Court obliged the respondent State to guarantee, by appropriate means, that the applicant could obtain a new trial.

(13) Prokopovich v. Russia, no. 58255/00

The application concerns the applicant's eviction from the council flat occupied by her and her now deceased male partner for years. The applicant submitted that she had moved into her partner's flat as a member of his family. They had jointly furnished the flat, purchased household goods together and shared maintenance expenses. She had therefore been entitled to succeed to the tenancy under Articles 53 and 54 of the RSFSR Housing Code. She contended that the domestic courts had wrongly rejected the statements by six witnesses on her behalf who had confirmed that she and her late partner had lived together as husband and wife. The applicant maintained that police officers had evicted her by force, without a court order, in breach of Article 90 of the RSFSR Housing Code.

– Article 8 of the Convention
Judgment 18 November 2004 – violation.

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) Bitiyeva and others v. Russia, nos. 57953/00 and 37392/03

The cases concern actions of the Russian military and law-enforcement bodies in Chechnya.

– Articles 2, 3, 5, 13 and 34 of the Convention
The cases are pending.

(2) Ryabikin v. Russia, no. 8320/04

The case concerns the applicant's detention in Russia with a view to extradition to Turkmenistan.

– Articles 3 and 5 of the Convention
The case is pending.

(3) Chidobe v. Italy, no. 30978/04

The case concerns the possible expulsion of a Nigerian national to Nigeria.

– Article 8 of the Convention
Struck off. Matter resolved.

(4) Halko v. Croatia, no. 30365/04

The case concerns the imminent extradition to Georgia of a Czech national who is currently detained in Croatia.

- Articles 3, 6 §§ 1 and 2 of the Convention

The case is pending.

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

(1) Rokhlina v. Russia, no. 54071/00

The applicant is an accused in a criminal case. She was first charged in 1998 and released pending trial after almost two years in custody. The criminal proceedings against her are still pending.

– Articles 5 § 3 and 6 of the Convention

Admissible (decision of 9 September 2004).

(2) 49 Chechen cases v. Russia

The cases concern actions of the Russian military in Chechnya.

– Articles 2, 3, 5, 6, 8, 13 and 14 of the Convention and Article 1 of Protocol No. 1

The cases are pending.

(3) Bitiyeva and others v. Russia, nos. 57953/00 and 37392/03

See p. 11 above

(4) Kunqurova v. Azerbaijan, no. 5117/03

The applicant was convicted and sentenced for beating her neighbour and threatening her with a knife. Before conviction, she was subjected to a 10-day administrative arrest for failure to obey the police. However, upon the expiry of the 10-day arrest and until the trial, she continued to be kept in custody without being informed of the reasons for her detention. Furthermore, the applicant was allegedly subjected to ill-treatment when held in custody and, subsequently, in prison.

– Articles 3, 5 §§ 1 and 2, 6 §§ 1 and 3 of the Convention

The case is pending.

(5) Tais v. France, no. 39922/03

The case concerns the death of the applicants' son while he was placed in a cell to sober up in a central police station in Arcachon.

– Articles 2, 3 and 8 of the Convention

The case is pending.

(6) Lebedev v. Russia, no. 4493/04

The case concerns the unfolding trial of a top manager of Yukos, a large Russian oil company. The applicant makes a number of complaints in respect of his detention on remand, his trial and the authorities' predatory stance towards Yukos.

– Articles 3, 5 and 7 of the Convention

The case is pending.

(7) Ryabikin v. Russia, no. 8320/04

See p. 11 above

(8) Chidobe v. Italy, no. 30978/04

See p. 11 above

(9) Halko v. Croatia, no. 30365/04

See p. 12 above

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

No leave to submit third-party comments was given by the President pursuant to Rule 61 § 3 of the Rules of Court.

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

Judgments delivered in 2004	
Merits	156
Striking out	3
Friendly settlement	33
Just satisfaction	6
Revision	0
Total	198

Chamber decisions adopted in 2004	
Applications declared admissible	262
Applications declared inadmissible	122
Applications struck out of the list	85
Total	469

Committee decisions adopted in 2004	
Applications declared inadmissible	6034
Applications struck out of the list	68
Total	6102

Applications communicated in 2004	
Total	647

Total cases finalised in 2004 (judgments*, inadmissibility and strike-out decisions)	6501
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*Not including judgments on just satisfaction and revision but including^{A9} judgments which are not yet final. Some judgments dealt with a number of joined applications

APPENDIX 2

	Chambers					Comittees	
	Judgments	Admissible	Inadmissible	Struck out	Communicated	Inadmissible	Struck out
January	10	31	10	6	33	345	1
February	9	6	19	2	78	509	5
March	18	35	12	11	59	581	11
April	15	26	7	3	36	526	6
May	17	28	14	8	64	548	9
June	8	32	12	10	57	607	4
July	39	4	4	1	20	304	3
August	0	0	0	0	0	0	0
September	13	49	15	21	138	630	16
October	25	17	15	10	72	905	8
November	21	11	4	7	41	668	2
December	23	23	10	6	49	411	3
Total	198	262	122	85	647	6034	68

APPENDIX 3

Applications pending on 31 December 2004	
Total applications not yet examined	11 276
Adjourned/Communicated for information	3
Communicated/Adjourned	0
Communicated for observations	647
Admissible	262
Judgments not yet final	178
TOTAL APPLICATIONS PENDING	12 366

APPENDIX 4

Chart 1 : Judgments delivered in 2004

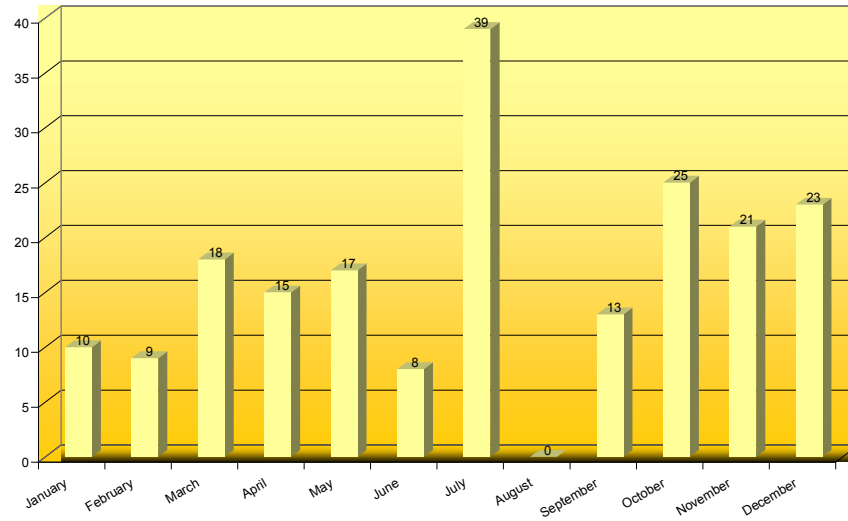
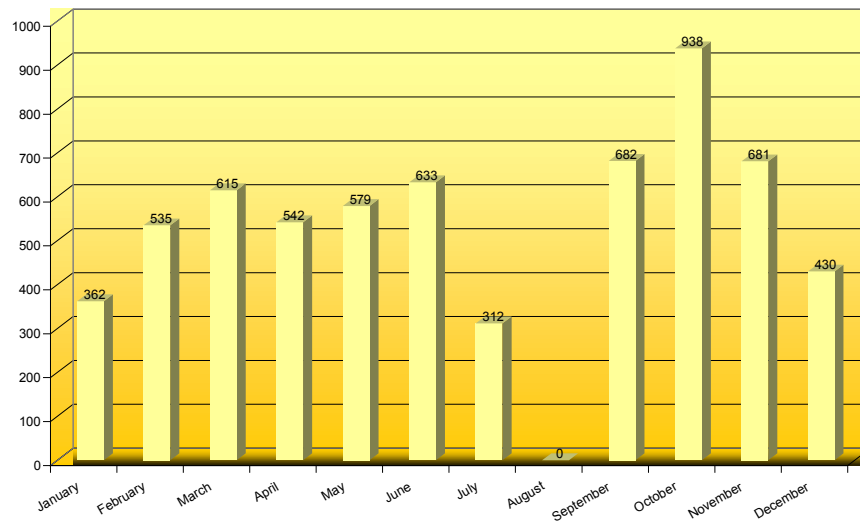


Chart 2 : Inadmissibility and strike-out decisions adopted in 2004



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Chart 3 : Admissibility decisions adopted in 2004

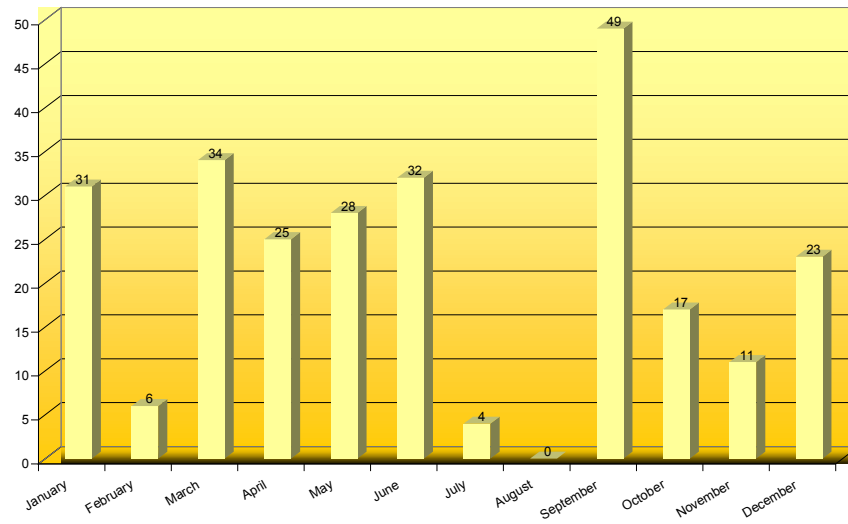
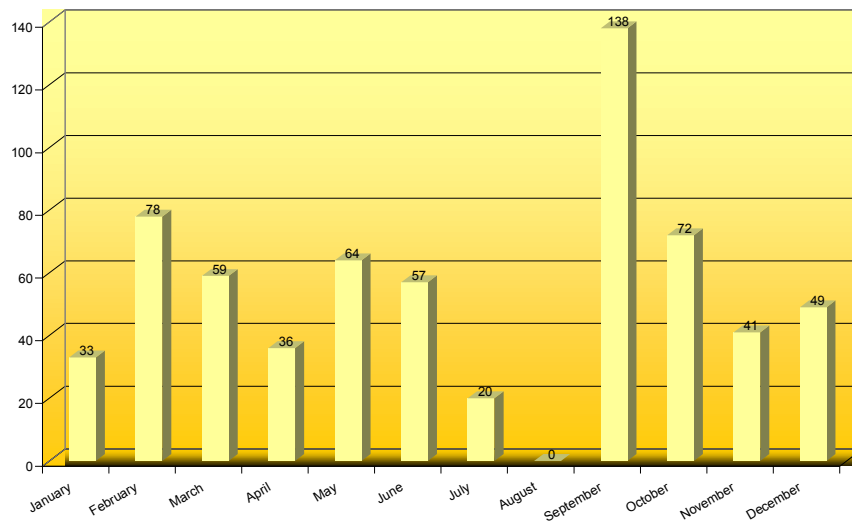


Chart 4 : Applications communicated in 2004



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Chart 5 : Applications pending on 31 December 2004 by year of lodging

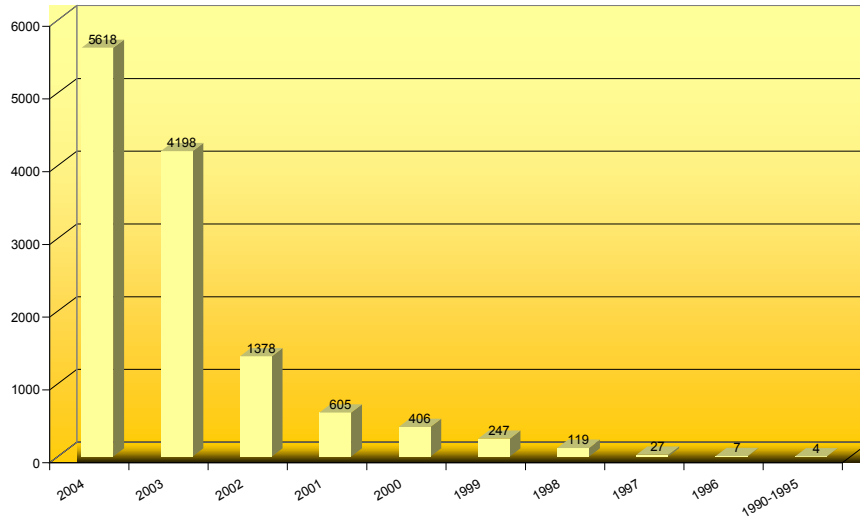


Chart 6 : Applications pending on 31 December 2004 by State

