

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



THIRD SECTION

ANNUAL ACTIVITY REPORT 2004

January 2005

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## **I. INTRODUCTION**

In 2004, the Section held 37 Chamber sessions. Five oral hearings were held concerning 21 applications. The Section delivered 140 judgments, of which 131 concerned the merits and nine concerned the striking out of a case (eight of which following friendly settlement). The Section applied Article 29 § 3 of the Convention (combined examination of admissibility and merits) in 738 cases and 79 judgments were delivered under this procedure.

Of the cases examined by a Chamber

- (a) 189 applications were declared admissible;
- (b) 81 applications were declared inadmissible;
- (c) 142 applications were struck out of the list; and
- (d) 891 applications were communicated to the State concerned for observations of which 766 were communicated by the President.

In addition, the Section held 44 Committee sessions. 3,656 applications were declared inadmissible and 45 applications were struck out of the list. The total number of applications rejected by a Committee represented 94.32% of the inadmissibility and strike-out decisions taken by the Section during the year.

At the end of the year, 10,956 applications were pending before the Section.

## II. COMPOSITION OF THE SECTION

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

Georg **Ress** (German), *President*,  
Ireneu **Cabral Barreto** (Portuguese), *Vice-President*,  
Lucius **Cafilisch**<sup>1</sup> (Swiss),  
Pranas **Kūris**<sup>2</sup> (Lithuanian),  
Riza **Türmen** (Turkish),  
Boštjan **Zupančič** (Slovenian),  
John **Hedigan** (Irish),  
Margarita **Tsatsa-Nikolovska** (Former Yugoslav Republic of  
Macedonia),  
Hanne Sophie **Greve** (Norwegian),  
Kristaq **Traja** (Albanian),  
Alvina **Gyulumyan** (Armenian), *Judges*,  
Vincent **Berger**, *Registrar*,  
Mark **Villiger**, *Deputy Registrar*.

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

Boštjan **Zupančič** (Slovenian), *President*,  
John **Hedigan** (Irish), *Vice-President*,  
Lucius **Cafilisch**<sup>1</sup> (Swiss),  
Corneliu **Bîrsan** (Romanian),  
Margarita **Tsatsa-Nikolovska** (Former Yugoslav Republic of  
Macedonia),  
Vladimiro **Zagrebelsky** (Italian),  
Alvina **Gyulumyan** (Armenian),  
Renate **Jaeger** (German),  
Egbert **Myjer** (Netherlands),  
David Thór **Björgvinsson** (Icelandic), *Judges*,  
Vincent **Berger**, *Registrar*,  
Mark **Villiger**, *Deputy Registrar*.

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<sup>1</sup>. Judge elected in respect of Liechtenstein.

<sup>2</sup>. Until 30 April 2004.

### **III. HEARINGS**

Hearings were held in the following cases:

**(1) Doğan and others v. Turkey,  
nos. 8803-8811/02, 8813/02, 8815-8819/02**

The inhabitants were driven out of their villages in the south-east of the country in 1994, and were then refused permission to return to their homes.

– Articles 1, 6, 7, 8, 13, 14 and 18 of the Convention and Article 1 of Protocol No. 1

A hearing on the admissibility and merits was held on 12 February 2004. In a judgment of 29 June 2004 on the merits the Court held that there had been violations of Article 1 of Protocol No. 1 as well as of Articles 8 and 13 of the Convention, and it reserved the question of the application of Article 41 of the Convention.

**(2) Balliu v. Albania, no. 74727/01**

The applicant was convicted of murder and sentenced to life imprisonment. He complains about the unfairness of the proceedings, in particular as regards his insufficient representation by a lawyer.

– Article 6 §§ 1 and 3 (c) and (d) of the Convention

A hearing on the admissibility and merits was held on 27 May 2004. The application was declared admissible, without prejudging the merits of the case, on 30 September 2004. Judgment will be delivered at a later date.

**(3) Taşkin and others v. Turkey, no. 46117/99**

The case concerns complaints by residents in the area of a gold mine about the granting of a licence to exploit the mine using cyanide, and the non-compliance with a final court decision. The area is considered as an earthquake area and therefore the use and stocking of cyanide could be life-threatening for the residents.

– Articles 6 § 1 and 8 of the Convention

A hearing on the merits was held on 3 June 2004. In a judgment delivered on 10 November 2004 the Court found a violation of Articles 6 § 1 and 8.

**(4) Xenides-Arestis v. Turkey, no. 46347/99**

The case concerns Greek-Cypriot property in the northern part of Cyprus, the applicant being denied access to her property.

– Article 1 of Protocol No. 1, Articles 8 and 14 the Convention  
(*Loizidou*-type case – judgment of 18 December 1996).

A hearing on admissibility was held on 2 September 2004.

**(5) Von Maltzan and others v. Germany, no. 71916/01  
Von Zitzewitz and others v. Germany, no. 71917/01  
Man Ferrostaal and Töpfer Stiftung v. Germany, no. 10260/02**

The applications concern issues of compensation to persons whose property was confiscated between 1945 and 1949 in the then Soviet Zone of occupation, and after 1949 in the German Democratic Republic.

– Article 1 of Protocol No. 1, Articles 6 § 1 and 14 of the Convention

A hearing on admissibility and merits was held on 29 January 2004. The case has been relinquished to Grand Chamber (see below).

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

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

**(1) Man Ferrostaal and Töpfer Stiftung v. Germany, no. 10260/02  
Von Zitzewitz and others v. Germany, no. 71917/01  
Von Maltzan and others v. Germany, no. 71916/01**

(See above.)

**(2) Roche v. the United Kingdom, no. 32555/96**

The case concerns a former soldier who participated in experimental tests of mustard and nerve gas in 1962/1963 and alleges that the military authorities refuse to furnish him with contemporaneous records about the experiments.

– Articles 6 § 1 and 8 of the Convention

The case was declared admissible on 23 May 2002.

**V. OTHER CASES OF INTEREST**

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

**(1) Sürmeli v. Germany, no. 75529/01**

The case concerns the length of civil proceedings and the effectiveness of an appeal to the Federal Constitutional Court complaining about the delay.

– Articles 6 § 1 and 13 of the Convention

The case was declared admissible on 29 April 2004 and on 14 October 2004 the Chamber expressed its intention to relinquish the case to the Grand Chamber.

**(2) Von Hannover v. Germany, no. 59320/00**

The case relates to the publication by magazines of photographs taken by paparazzi without the knowledge of the applicant, the eldest daughter of Prince Rainier III of Monaco, showing her everyday life (in restaurants, with her family, etc). According to the case-law of the Federal Court of Justice and the Federal Constitutional Court, a person qualified as an undeniable “public figure” should, when in an isolated place, profit from protection of their private life

– Article 8 of the Convention

Judgment of 24 June 2004 – violation.

**(3) Santoro v. Italy, no. 36681/97**

The case concerns the undue prolongation of a measure of special supervision by the police imposed on the applicant due to a mistake made by the national courts in interpreting the legal provisions and the subsequent undue prolongation of the applicant’s disenfranchisement (loss of electoral rights).

– Article 2 of Protocol No. 4 and Article 3 of Protocol No. 1

Judgment of 1 July 2004 – violation.

**(4) Garimpo v. Portugal, no. 66752/01**

The case concerns the length of criminal proceedings with regard to an intervening party (*assistente*).

– Article 6 § 1 of the Convention

Inadmissible (decision of 10 June 2004).

- (5) **Eren v. Turkey, no. 8062/04**  
**Kucuk v. Turkey, no. 21784/04**  
**Eglimez v. Turkey, no. 21798/04**  
**Hun v. Turkey, no. 5142/04**

The case concerns the imprisonment of applicants who allegedly suffer from the *Wernicke-Korsakoff* syndrome.

- Articles 3 and 5 of the Convention  
Admissible (decision of 2 September 2004).

- (6) **Çiftci v. Turkey, no. 71860/01**

The case concerns the refusal of the national authorities to grant permission to the applicant to allow him to register his son for a course teaching the Koran.

- Articles 9 and 14 of the Convention  
Inadmissible (decision of 17 June 2004).

- (7) **Riha v. France, no. 71443/01**

The case concerns the fact that the Criminal Division of the Court of Cassation quashed and annulled in part a judgment in which a court of appeal had disqualified the applicant from carrying on his occupation for a period longer than the statutory maximum, but then decided not to remit the case and itself decided what the length of the disqualification period should be.

- Article 6 § 1 of the Convention  
Inadmissible (decision of 24 June 2004).

- (8) **Fener Rum Erkek Lisesi v. Turkey, no. 34478/97**

The case concerns the domestic courts' decision to cancel a title deed for property which was attributed to a minority religious foundation on the ground of discrimination with respect to other foundations.

- Articles 14 of the Convention and Article 1 of Protocol No. 1  
Admissible (decision of 8 July 2004).

**(9) Delbos and others v. France, no. 60819/00**

The case concerns the judgment against companies which manufactured and distributed cigarettes in France where they, in accordance with directive no. 89/622/CEE of the Council of European Communities of 13 November 1989, carried the obligatory inscription “Seriously Harms Your Health” on the packet but where this inscription was preceded by the mention “According to Law No. 91-32”

- Article 7 of the Convention  
Inadmissible (decision of 16 September 2004).

**(10) K.D. and V.B. v. Turkey, no. 34503/97**

The applicants complain that they were not heard by an independent and impartial tribunal, that they were not allowed to form a trade union and to conclude a collective agreement. They furthermore complain that they were submitted to different treatment with regard to the enjoyment of their right to freedom of association

- Articles 6 and 11 and Article 14 in conjunction with Article 11 of the Convention  
Admissible (decision of 23 September 2004).

**(11) Jalloh v. Germany, no. 54810/00**

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

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

**(12) Mascolo v. Italy, no. 68792/01**

The case is a pilot case relating to the eviction of tenants in which the Government raised the question of the Pinto Act.

- Article 1 of Protocol No. 1 and Article 6 § 1 of the Convention  
Judgment of 6 December 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) 27 applications v. Turkey**

In 27 applications concerning imprisonment of applicants suffering from the *Wernicke-Korsakoff* syndrome interim measures were granted.

– Articles 3 and 5 of the Convention

Four cases have been declared admissible and the other ones are pending.

**(2) Ahmed Said v. the Netherlands, no. 43482/04**

The case concerns the planned deportation to northern Somalia of a Somalian national (Darod clan), whose asylum requests were refused.

– Articles 3, 8, and 13 of the Convention

The case is pending.

**(3) Dragan and others v. Germany, no. 33743/03**

The case concerned the planned deportation of stateless persons of Romanian origin to Romania.

– Articles 3 and 8 of the Convention

Inadmissible (decision of 7 October 2004).

(b) Requests for priority pursuant to Rule 41 of the Rules of Court were granted in 391 cases.

**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 to the Government of the Republic of Cyprus in 8 cases against Turkey and to the Government of Georgia in one case against Russia.

**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 2004</b>	
Merits	131
Striking out	1
Friendly settlement	8
Just satisfaction	0
Revision	0
<b>Total</b>	<b>140</b>

<b>Chamber decisions adopted in 2004</b>	
Applications declared admissible	189
Applications declared inadmissible	81
Applications struck out of the list	142
<b>Total</b>	<b>412</b>

<b>Committee decisions adopted in 2004</b>	
Applications declared inadmissible	3656
Applications struck out of the list	45
<b>Total</b>	<b>3701</b>

<b>Applications communicated in 2004</b>	
<b>Total</b>	<b>891</b>

<b>Total cases finalised in 2004</b> (judgments*, inadmissibility and strike-out decisions)	<b>4064</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					Comittees	
	Judgments	Admissible	Inadmissible	Struck out	Communicated	Inadmissible	Struck out
January	26	8	5	12	15	145	4
February	7	18	6	1	9	207	2
March	1	11	3	8	37	191	0
April	15	14	2	6	100	225	2
May	9	16	3	62	41	227	1
June	8	29	11	5	189	359	4
July	17	11	9	0	68	267	3
August	0	0	0	0	24	247	3
September	1	46	10	20	312	233	4
October	31	17	6	22	49	959	14
November	14	7	14	1	30	371	5
December	11	12	12	5	17	225	3
<b>Total</b>	<b>140</b>	<b>189</b>	<b>81</b>	<b>142</b>	<b>891</b>	<b>3656</b>	<b>45</b>

### **APPENDIX 3**

<b>Applications pending on 31 December 2004</b>	
<b>Total applications not yet examined</b>	<b>9 179</b>
<b>Adjourned/Communicated for information</b>	<b>2</b>
<b>Communicated/Adjourned</b>	<b>50</b>
<b>Communicated for observations</b>	<b>1489</b>
<b>Admissible</b>	<b>179</b>
<b>Judgments not yet final</b>	<b>57</b>
<b>TOTAL APPLICATIONS PENDING</b>	<b>10 956</b>

## APPENDIX 4

Chart 1: Judgments delivered in 2004

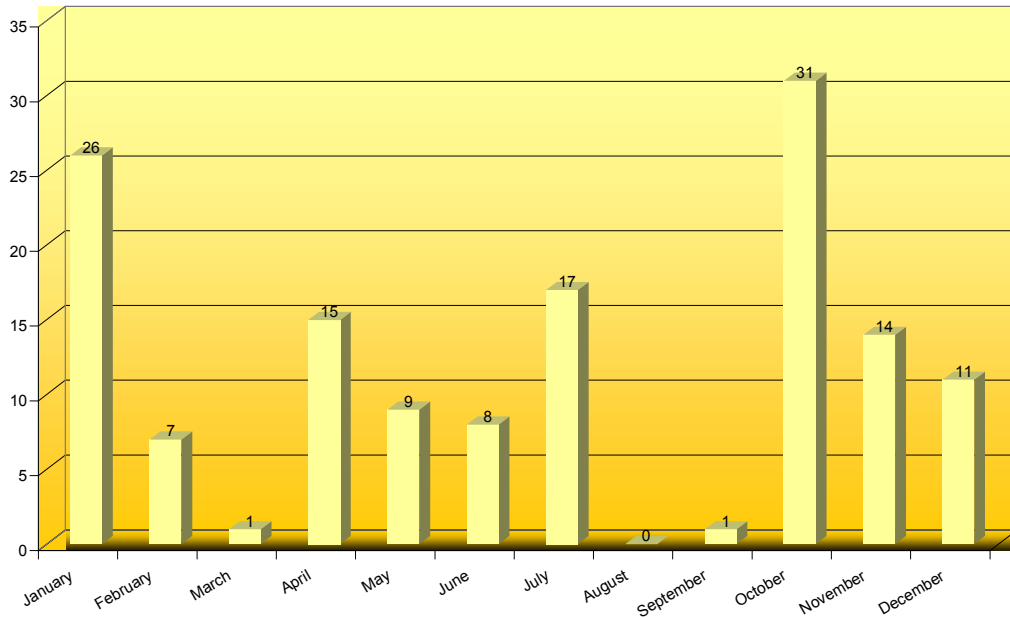
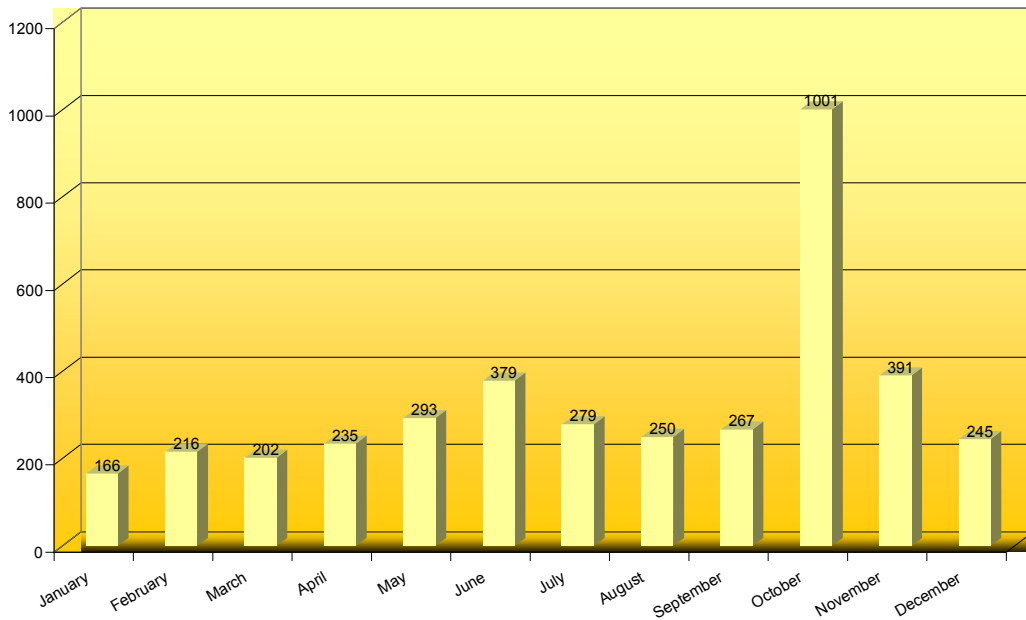
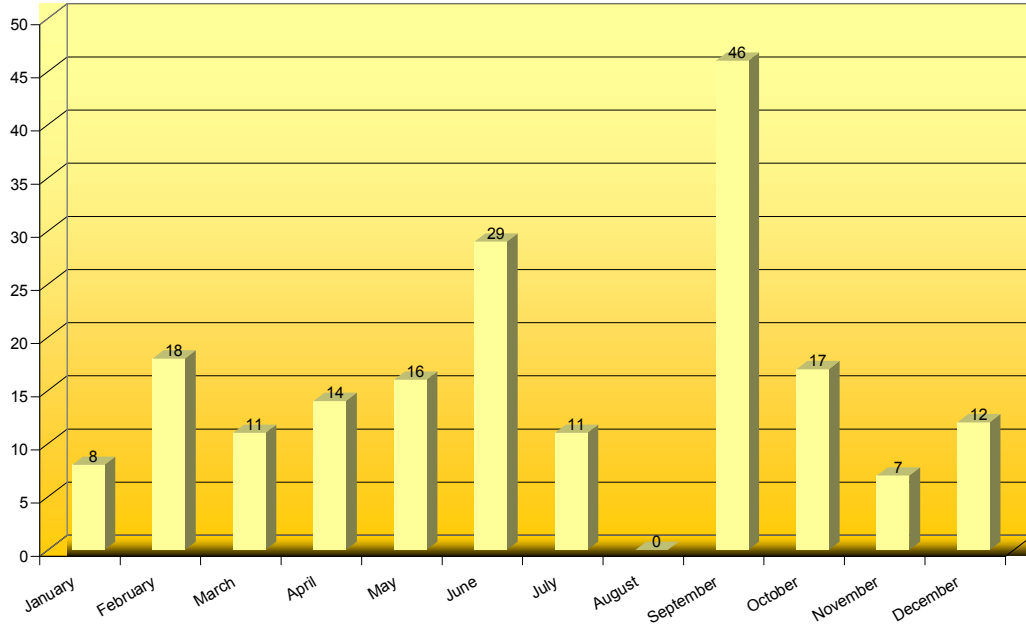


Chart 2: Inadmissibility and strike-out decisions adopted in 2004



*Annual Report 2004: Third Section*

**Chart 3: Admissibility decisions adopted in 2004**



**Chart 4: Applications communicated in 2004**

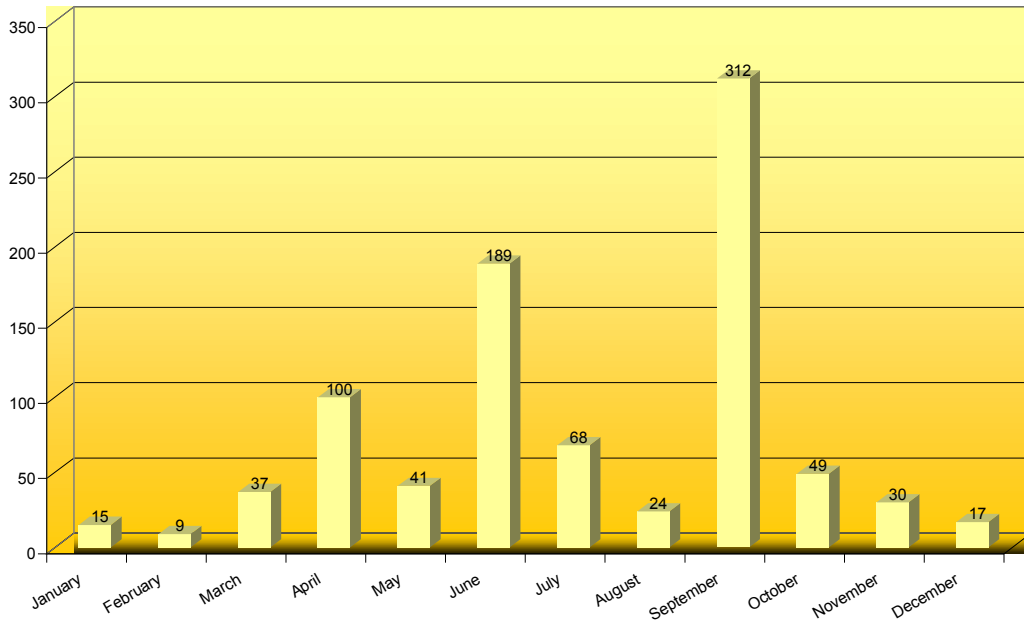


Chart 5: Applications pending on 31 December 2004 by year of lodging

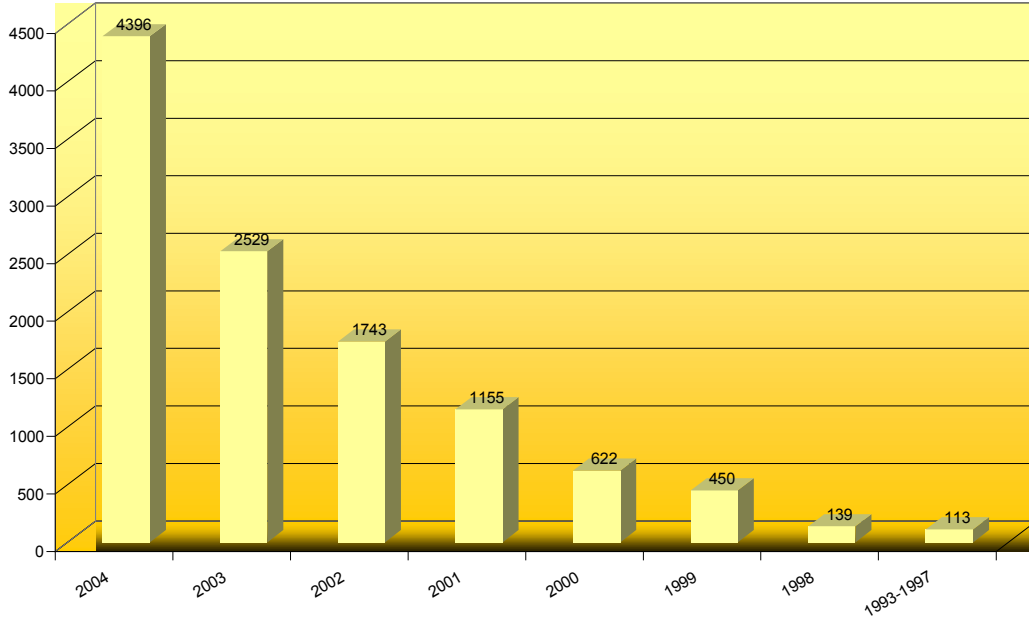


Chart 6: Applications pending on 31 December 2004 by State

