

European Community Association Agreements Statistics for Bulgaria, Romania and Turkey 2005

28 February 2006

Introduction

The European Community Association Agreements (ECAA) with Bulgaria and Romania allow nationals of those countries to come to the United Kingdom to establish themselves in business. An applicant will have to show that he has the means under his control to set up a viable business that will support him and any dependants without recourse to other employment or public funds. In the UK the establishment rights within the Agreements are provided for in paragraphs 211 - 214 of the Immigration Rules (HC395, as amended). A business in this context means operating as a sole trader, joining a partnership or running a company registered in the UK. The business can be any size, but it must be full-time and the individual is prohibited from undertaking any work other than self-employment.

ECAA applicants must apply at the UK Embassies in Bulgaria and Romania before entering the country. Successful applicants are granted an initial 12 months leave and can subsequently apply for a further 3 years leave to remain (FLR) and, eventually, indefinite leave to remain (ILR) after they have completed 4 years and are still running a viable business. Applicants given leave in another immigration category are not permitted to switch into the ECAA category, unless in very rare circumstances they meet the "Clear and manifest test". This is a four point test to examine whether a person "clearly and manifestly" meets the substantive requirements of the ECAA, designed to inform decisions regarding proportionality.

The European Community Association Agreement with Turkey allows Turkish nationals to establish themselves in business. There are no specific paragraphs in the Immigration Rules which contain this provision, and applicants must apply under the ordinary rules relating to businesspersons, although, for all categories of in-country cases, that should be under the version of those rules that was in force in 1973, when the United Kingdom joined the then European Economic Community and became a party to the Agreement. The position for pre-entry applications is currently being determined by the courts. The Agreement, and subsequent Association Council Decision 1/80, also allows Turkish workers legally employed in the UK to stay in order to continue in legal employment after a minimum period of one year with a single employer. Rights progress after 3 years legal employment and after 4 years Turkish nationals are entitled to stay to work for *any* employer.

This is the first complete publication of statistics on ECAA applications. Data on Bulgaria and Romania, covering the period until the end of June 2005, was published on 23 August 2005. It was not possible at that time to publish data on Turkish ECAA applications, owing to the quality of the available statistical information. This publication includes data for decisions taken up until the end of December 2005 for Bulgaria, Romania and Turkey. The start date from which the information is given varies depending on the origin of the application and reflects the time from which it has been available. Some of the data in this publication overlaps with that covered in the previous publication, for comparative purposes.

The data in this publication is based on Management Information and is provisional and subject to change. There are data quality issues with some of the figures which mean they should be used with caution. The data are not National Statistics.

Background

Turkey signed an Association Agreement with the then European Economic Community in 1963 that included some access to the labour markets of EU Member States. An additional Protocol was signed in 1970. The Agreement prevents the United Kingdom from introducing new restrictions on the freedom of establishment (self-employment) for Turkish nationals. It does not provide for an automatic right of residence. The Agreement, and subsequent Association Council Decision 1/80, allows Turkish nationals who have entered in a capacity that allows them to work, to stay in order to continue in legal employment, subject to certain conditions being met.

EC Association Agreements with various Eastern/Central European and Baltic countries have been in place since 1994. The Agreements, which have been extended to all Member States of the EEA, provide for nationals of these Central and Eastern European (CEE) countries to

be treated on a par with EEA nationals for the purpose of establishing themselves in business in the Member States. Since EC accession on 1 May 2004 only the Agreements with Bulgaria and Romania continue to provide establishment rights.

On 30 March 2004, following press and media allegations about the handling of Bulgarian and Romanian ECAA applications, the consideration of all these cases was suspended on the instructions of the then Home Secretary, David Blunkett. A report of the investigation into these allegations made 15 recommendations on how the existing process could be improved. Although the allegations did not relate to Turkish applications, consideration of these was then also suspended because the last recommendation referred to Turkish cases. Following the implementation of these recommendations our Embassies in Sofia and Bucharest started to deal with ECAA applications again from 23 August 2004 (Bucharest) and 1 September 2004 (Sofia), and reconsideration of outstanding "switching" cases commenced on 1 October 2004. Consideration of further and indefinite leave to remain applications resumed in mid-February 2005. Turkish applications began to be re-considered from 9 May 2005. Revised case-work guidance was used for all cases considered after these dates.

This publication details those decisions made since the consideration of ECAA applications was re-started up until the end of December 2005.

Summary

- The data in this publication are based on provisional Management Information, and may be subject to change. The data are not National Statistics.
- Out of 6,815 applications for pre-entry ECAA, 5,345 from Bulgaria and 1,470 from Romania, 470 (9%) were granted for Bulgaria, and 430 (29%) for Romania.
- Out of 370 appeals of pre-entry ECAA decisions from Bulgaria and Romania, 35 (9%) were allowed.
- There were five applications for on-entry ECAA at ports in 2005.
- Out of 1,910 in-country applications to switch to ECAA from another entry category, 990 by Bulgarian nationals and 920 by Romanian nationals, five (fewer than 1%) were granted for both countries.
- Out of 2,680 in-country applications for further leave to remain under ECAA, 1,830 by Bulgarian nationals and 850 by Romanian nationals, 1,255 (69%) were granted for Bulgarians and 625 (74%) for Romanians.
- Out of 455 in-country applications for indefinite leave to remain under ECAA, 380 by Bulgarian nationals and 75 by Romanian nationals, 325 (86%) were granted for Bulgarians and 60 (80%) for Romanians.
- Out of 1,030 applications by Turkish nationals for leave to remain, further leave to remain, leave to enter and leave to switch into the Turkish ECAA employed category, 40 (4%) were granted.
- Out of five applications for indefinite leave to remain by Turkish nationals, none was granted.

Technical notes

- All figures (other than percentages) are rounded to the nearest 5.
- Because of rounding, totals may not sum.
- Symbols used
 - nil
 - † negligible (i.e. two or less)
 - * not applicable.
- Q3 2004 relates only to September 2004, except for pre-entry cases considered in Romania, where there is some data for August 2004. Care should be taken when comparing this with subsequent quarters.

1. Pre-Entry ECAA Applications in Bulgaria

Chart 1: Total Number of Pre-entry ECAA Bulgarian applications considered by quarter from September 2004 to December 2005¹

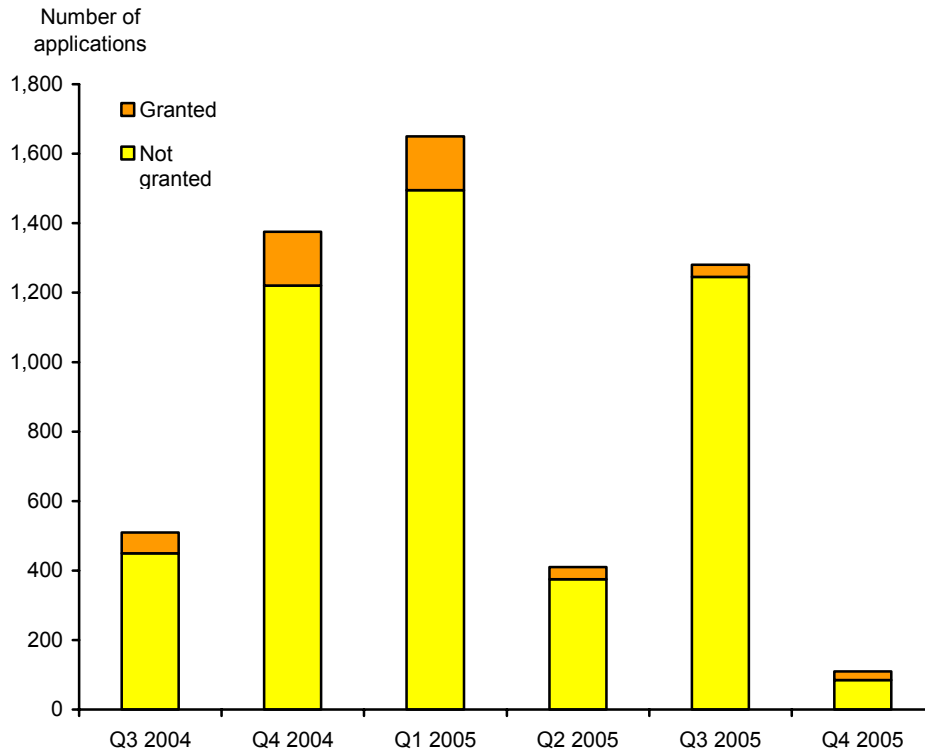


Table 1: Total Number of Pre-entry ECAA Bulgarian applications considered by quarter from September 2004 to December 2005¹

| Pre-entry applications | Number of applications | | | | | | Total | % of Total considered |
|--------------------------------|------------------------|--------------|--------------|------------|--------------|------------|--------------|-----------------------|
| | Q3 2004 | Q4 2004 | Q1 2005 | Q2 2005 | Q3 2005 | Q4 2005 | | |
| Granted | 60 | 155 | 155 | 35 | 35 | 25 | 470 | 9% |
| Refused | 410 | 1,065 | 1,035 | 350 | 1,205 | 85 | 4,155 | 78% |
| Withdrawn by applicant | 40 | 155 | 460 | 25 | 40 | † | 720 | 13% |
| Total considered | 515 | 1,375 | 1,650 | 410 | 1,285 | 115 | 5,345 | 100% |
| Appeals submitted ² | 40 | 325 | 305 | 60 | 20 | 30 | 770 | |
| New applications ³ | 20 | 455 | 115 | 85 | 60 | 50 | 785 | |

¹ Q3 2004 is for September only.

² Appeals submitted in one quarter may be heard in a later quarter.

³ New applications received but not necessarily considered in the same quarter.

2. Pre-entry ECAA Applications in Romania

Chart 2: Total Number of Pre-entry ECAA Romanian applications considered by quarter from August 2004 to December 2005⁴

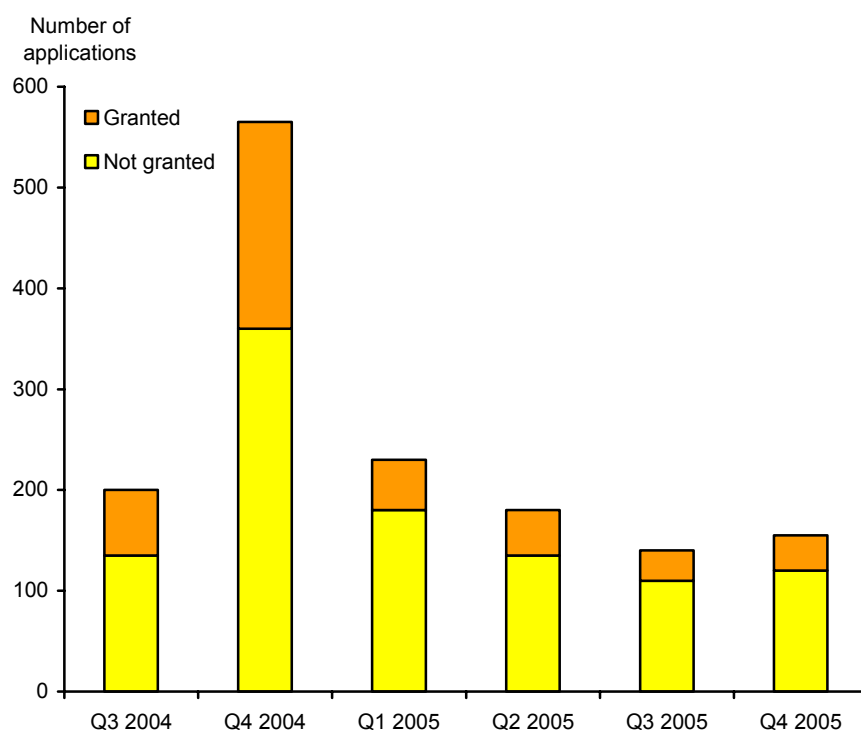


Table 2: Total Number of Pre-entry ECAA Romanian applications considered by quarter from August 2004 to December 2005⁴

| Pre-entry applications | Number of applications | | | | | | Total | % of Total considered |
|--------------------------------|------------------------|------------|------------|------------|------------|------------|--------------|-----------------------|
| | Q3 2004 | Q4 2004 | Q1 2005 | Q2 2005 | Q3 2005 | Q4 2005 | | |
| Granted | 65 | 205 | 50 | 45 | 30 | 35 | 430 | 29% |
| Refused | 130 | 335 | 165 | 135 | 110 | 120 | 995 | 68% |
| Withdrawn by applicant | 5 | 25 | 15 | † | † | † | 45 | 3% |
| Total considered | 200 | 565 | 230 | 180 | 140 | 160 | 1,470 | 100% |
| Appeals submitted ⁵ | 5 | 55 | 30 | 10 | 5 | 15 | 115 | |
| New applications ⁶ | 10 | 130 | 210 | 165 | 115 | 115 | 745 | |

⁴ Q3 2004 is for August and September only.

⁵ Appeals submitted in one quarter may be heard in a later quarter.

⁶ New applications received but not necessarily considered in the same quarter.

Table 3: Appeals of Pre-entry ECAA decisions from Bulgaria and Romania heard by quarter from September 2004 to December 2005⁷

| Pre-entry appeals | Number of appeals | | | | | | Total | % of Total appeals |
|------------------------|-------------------|----------|-----------|-----------|-----------|------------|------------|--------------------|
| | Q3 2004 | Q4 2004 | Q1 2005 | Q2 2005 | Q3 2005 | Q4 2005 | | |
| Allowed | - | - | 5 | 10 | 5 | 15 | 35 | 9% |
| Withdrawn By Appellant | - | † | 5 | 5 | 5 | 5 | 15 | 4% |
| Dismissed | - | 5 | 30 | 75 | 70 | 140 | 315 | 85% |
| Total | - | 5 | 40 | 85 | 80 | 160 | 370 | 100% |

3. On-entry applications for Bulgaria, Romania and Turkey

Table 4: Applications under ECAA received at port (Bulgaria, Romania and Turkey) from January 2005 to December 2005^{8 9}

| On-entry applications | Number of applications | | | |
|-----------------------------|------------------------|----------|----------|----------|
| | Bulgaria | Romania | Turkey | Total |
| Granted leave to enter | † | † | - | † |
| Refused leave to enter | - | † | † | † |
| Granted temporary admission | * | * | † | † |
| Refused temporary admission | * | * | - | - |
| Total | † | † | † | 5 |

⁷ Q3 2004 is for September only.

⁸ This does not include Turkish port asylum cases which have subsequently become subject to an ECAA application. These are included in the in-country figures.

⁹ This does not include passengers with an entry clearance granted under an ECAA who were subject to further examination at port and subsequently allowed to proceed.

4. In-country applications considered for Bulgaria, Romania and Turkey¹⁰

General information

- The total number of ECAA applications, from all three nationalities and all applicable categories, outstanding as at 31 December 2005, was 10,645. Figures for the component parts of this total are given in the following pages.
- The average waiting time for all ECAA applications decided in 2005 from the Date of Application¹¹ to the Date of Decision¹² was 270 calendar days.
- The ECAA Team in Sheffield is currently working on ECAA applications lodged in February 2004 for Turkish ECAA applications, October 2004 for Bulgarian and Romanian further leave to remain applications and November 2004 for Bulgarian and Romanian indefinite leave to remain applications.¹³
- In May 2005, when consideration of Turkish cases was resumed, the backlog of Turkish applications was approximately 2,700.¹⁴
- For reasons of fairness, and pending allocation of additional resources, case-workers have been working through the cases in the various categories in strict order of date of application, unless operational reasons or exceptional circumstances necessitate more urgent consideration. Where there is hard evidence of an urgent need to travel, for example for verifiable compassionate reasons relating to birth, death, marriage or terminal illness, IND is prepared to consider prioritising applications, on a case by case basis. Applicants will be required to provide evidence of the compassionate reasons for their request. There can be no guarantee that all such cases will be given priority treatment.
- Following recent allocation of additional resources to ECAA work the decision has been taken that newly trained case-workers will deal with applications received after 12 January 2005, the date from which the new application forms appeared on the IND website. Cases received prior to that date, where the necessary interim pre-consideration work has been undertaken, will continue to be dealt with by the original ECAA team. This will allow for streamlining of the training for new case-workers who can then concentrate on robust consideration of applications submitted on the new application forms, which will maximise impact on the backlog. Further resource increases are planned to clear the remaining pre-12th January cases, with the overall ECAA resource aiming to reduce the backlogs to frictional levels by the end of 2006.
- Page 3 indicates the months when the various categories of cases began to be considered again. When the tables indicate cases considered before these dates, most of those cases were travel concession applications. A smaller number will have been withdrawn cases or, in the case of Table 11, the Turkish ECAA employed category.

¹⁰ The data quoted in this section of the report includes a number of short-term grants to enable applicants to travel whilst the backlog of cases was being processed. This facility has now been withdrawn.

¹¹ The Date of Application is taken from the postmark on the application received from the applicant.

¹² The Date of Decision is the date when an application is considered and decided by IND. This may not be the same date as when the application is returned to the applicant, as there is normally a short period when the UK Residence Permit is applied to the passport(s) and then submitted to Royal Mail for postal delivery.

¹³ These dates are based upon applications that have yet to be given consideration.

¹⁴ This represents a manual count of applications present within the ECAA team in Sheffield in May 2005, some of which had not been entered onto the IND case-work database. When these cases were entered, the Date of Application was prior to January 2005. The difference between this backlog figure and that at 31 December 2005 is explained by these cases, in addition to the 84 recorded (see Table 11).

In-Country Applications by Bulgarian nationals

Table 5: In-Country Applications by Bulgarian nationals to switch into ECAA by quarter from September 2004 to December 2005

| In-country applications | Number of applications | | | | | | Total | % of applications |
|-------------------------|------------------------|------------|------------|-----------|-----------|-----------|------------|-------------------|
| | Q3 2004 | Q4 2004 | Q1 2005 | Q2 2005 | Q3 2005 | Q4 2005 | | |
| Granted | - | - | † | † | † | † | 5 | 0.5% |
| Refused | † | 610 | 175 | 50 | 50 | 25 | 910 | 92% |
| Withdrawn by applicant | 10 | 30 | 10 | 5 | 5 | 5 | 65 | 7% |
| Other ¹⁵ | † | - | 5 | † | - | - | 10 | 1% |
| Total | 15 | 640 | 195 | 55 | 55 | 30 | 990 | 100% |

The number of applications awaiting consideration as at 31 December 2005 was 15.
The number of new applications since 1 September 2004 is 370.

Table 6: In-Country Applications by Bulgarian nationals for further leave to remain under ECAA by quarter from September 2004 to December 2005

| In-country applications | Number of applications | | | | | | Total | % of applications |
|-------------------------|------------------------|------------|------------|------------|------------|------------|--------------|-------------------|
| | Q3 2004 | Q4 2004 | Q1 2005 | Q2 2005 | Q3 2005 | Q4 2005 | | |
| Granted | † | 55 | 110 | 410 | 340 | 335 | 1,255 | 69% |
| Refused | - | 5 | 5 | 45 | 30 | 5 | 85 | 5% |
| Withdrawn by applicant | 15 | 60 | 60 | 90 | 160 | 90 | 480 | 26% |
| Other ¹⁵ | - | - | 5 | 5 | - | † | 10 | 0.5% |
| Total | 15 | 125 | 180 | 545 | 530 | 430 | 1,830 | 100% |

The number of applications awaiting consideration as at 31 December 2005 was 3,550.
The number of new applications since 1 September 2004 is 2,365.

Table 7: In-Country Applications by Bulgarian nationals for indefinite leave to remain under ECAA by quarter from September 2004 to December 2005

| In-country applications | Number of applications | | | | | | Total | % of applications |
|-------------------------|------------------------|-----------|-----------|-----------|-----------|------------|------------|-------------------|
| | Q3 2004 | Q4 2004 | Q1 2005 | Q2 2005 | Q3 2005 | Q4 2005 | | |
| Granted | † | 10 | 20 | 55 | 50 | 185 | 325 | 86% |
| Refused | - | - | - | † | † | † | 5 | 1% |
| Withdrawn by applicant | † | 10 | 5 | † | 15 | 15 | 50 | 13% |
| Other ¹⁵ | - | † | - | - | - | † | † | 0.5% |
| Total | 5 | 20 | 25 | 60 | 65 | 200 | 380 | 100% |

The number of applications awaiting consideration as at 31 December 2005 was 1,800.
The number of new applications since 1 September 2004 is 240.

¹⁵ For this and all other in-country categories, this refers to situations such as rejections, voids and decisions withdrawn by the Home Office.

In-Country Applications by Romanian nationals

Table 8: In-Country Applications by Romanian nationals to switch into ECAA by quarter from September 2004 to December 2005

| In-country applications | Number of applications | | | | | | Total | % of applications |
|-------------------------|------------------------|------------|------------|-----------|-----------|-----------|------------|-------------------|
| | Q3 2004 | Q4 2004 | Q1 2005 | Q2 2005 | Q3 2005 | Q4 2005 | | |
| Granted | - | - | † | - | 5 | † | 5 | 0.5% |
| Refused | † | 600 | 150 | 30 | 50 | 20 | 850 | 92% |
| Withdrawn by applicant | 10 | 20 | 10 | 5 | 5 | 5 | 50 | 5% |
| Other | - | 5 | † | 5 | † | † | 10 | 1% |
| Total | 10 | 620 | 160 | 40 | 60 | 25 | 920 | 100% |

The number of applications awaiting consideration as at 31 December 2005 was 25.
The number of new applications since 1 September 2004 is 355.

Table 9: In-Country Applications by Romanian nationals for further leave to remain under ECAA by quarter from September 2004 to December 2005

| In-country applications | Number of applications | | | | | | Total | % of applications |
|-------------------------|------------------------|-----------|-----------|------------|------------|------------|------------|-------------------|
| | Q3 2004 | Q4 2004 | Q1 2005 | Q2 2005 | Q3 2005 | Q4 2005 | | |
| Granted | - | 25 | 45 | 195 | 175 | 185 | 625 | 74% |
| Refused | - | † | 5 | 15 | 25 | 5 | 50 | 6% |
| Withdrawn by applicant | 5 | 30 | 15 | 35 | 55 | 25 | 165 | 19% |
| Other | - | † | 5 | - | † | † | 10 | 1% |
| Total | 5 | 60 | 65 | 245 | 255 | 220 | 850 | 100% |

The number of applications awaiting consideration as at 31 December 2005 was 1,785.
The number of new applications since 1 September 2004 is 985.

Table 10: In-Country Applications by Romanian nationals for indefinite leave to remain under ECAA by quarter from September 2004 to December 2005

| In-country applications | Number of applications | | | | | | Total | % of applications |
|-------------------------|------------------------|----------|----------|----------|-----------|-----------|-----------|-------------------|
| | Q3 2004 | Q4 2004 | Q1 2005 | Q2 2005 | Q3 2005 | Q4 2005 | | |
| Granted | - | - | 5 | 5 | 5 | 45 | 60 | 80% |
| Refused | - | - | - | - | † | - | † | 1% |
| Withdrawn by applicant | † | † | - | † | 5 | 5 | 10 | 13% |
| Other | - | - | † | † | - | † | 5 | 7% |
| Total | † | † | 5 | 5 | 10 | 45 | 75 | 100% |

The number of applications awaiting consideration as at 31 December 2005 was 460.
The number of new applications since 1 September 2004 is 30.

In-Country application by Turkish nationals

Table 11: In-Country Applications by Turkish nationals for leave to enter, leave to remain and further leave to remain under the self-employment provisions of the ECAA, and for leave to switch into the employed category under ECAA¹⁶ by quarter from January to December 2005

| Number of applications | | | | | | |
|-------------------------|-----------|------------|------------|------------|--------------|-------------------|
| In-Country applications | Q1 2005 | Q2 2005 | Q3 2005 | Q4 2005 | Total | % of applications |
| Granted | 10 | 10 | 10 | 10 | 40 | 4% |
| Refused | 5 | 50 | 320 | 320 | 695 | 67% |
| Withdrawn by applicant | 25 | 50 | 90 | 90 | 255 | 25% |
| Other | 5 | 10 | 15 | 5 | 35 | 3% |
| Total | 45 | 125 | 435 | 425 | 1,030 | 100% |

The number of applications awaiting consideration as at 31 December 2005 was 3,010. The number of new applications since 1 January 2005 is 85.

Table 12: In-Country Applications by Turkish nationals for indefinite leave to remain under ECAA by quarter from January to December 2005

| Number of applications | | | | | |
|-------------------------|---------|---------|---------|----------|-------------------------------|
| In-Country applications | Q1 2005 | Q2 2005 | Q3 2005 | Q4 2005 | Total In-country applications |
| Granted | - | - | - | - | - |
| Refused | - | - | - | † | † |
| Withdrawn by applicant | - | - | - | † | † |
| Other | - | - | - | † | † |
| Total | - | - | - | 5 | 5 |

The number of applications awaiting consideration as at 31 December 2005 was 5. The number of new applications since 1 September 2004 is †.

¹⁶ Owing to data quality issues, it is not possible to separate these four categories.