

REPORT FOR TABLING IN PARLIAMENT BY THE COMMONWEALTH AND IMMIGRATION OMBUDSMAN

Under s 486O of the Migration Act 1958

Personal identifier: 064/06

Principal facts

Personal details

1. Mr X is a 46-year-old single male born in Turkey. He has lost his Turkish citizenship and, if he wanted to reapply for it, he would have to agree to undertake mandatory military service. Mr X states that he has no contact with his family in Turkey.

Detention history

2. On 25 June 2003 Mr X approached the Department (DIMA) seeking a Certificate of Evidence of Residence Status. As an unlawful non-citizen, he was detained under s 189 (1) of the *Migration Act 1958* and was taken to Villawood Immigration Detention Centre (IDC). On 25 July 2003 Mr X was transferred into police custody to face outstanding charges. He was re-detained under s 189 (1) on 23 January 2004 at Villawood IDC after completing a criminal sentence.

Visa applications

3. Mr X arrived in Australia on a student visa in October 1990. The student visa ceased and Mr X did not apply for another substantive visa. A Bridging Visa (BV) application was refused (July 2003), refusal affirmed by the Migration Review Tribunal (MRT) (July 2003). Mr X's request for Ministerial discretion under s 351 (July 2003) was deemed inappropriate to consider (August 2003). Mr X was granted a two day BV (January 2004), after release from prison and prior to detention at Villawood. A second BV application refused (February 2004), refusal affirmed by the MRT (March 2004).
4. DIMA advised that a submission was before the Minister to consider her detention intervention powers.

Current immigration status

5. Mr X is an unlawful non-citizen and is detained at Villawood IDC.

Removal details

6. Removal for Mr X has been complicated. DIMA advised that Mr X has not cooperated with removal and has refused to apply for travel documents. Turkish law allows him to re-apply for Turkish citizenship but Mr X has refused. DIMA advises that the Turkish Ambassador has stated that application for Turkish citizenship is voluntary and that all Turkish males are subject to military service.
7. Mr X has reported that he had lived in Malta and has family there but DIMA's attempts to establish whether Mr X has permanent residency rights in Malta have been unsuccessful.
8. DIMA planned to seek permission for the United Nations High Commissioner for Refugees (UNHCR) to intervene in Mr X's case. In November 2005 Mr X refused his permission, which is required to involve the UNHCR.