

REPORT FOR TABLING IN PARLIAMENT BY THE COMMONWEALTH AND IMMIGRATION OMBUDSMAN

Under s 486O of the Migration Act 1958

Personal identifier: 093/06

Principal facts

Personal details

1. Mr X is aged 25 and is a citizen of Albania. His parents and two sisters reside in Albania and he is in contact with them. He is married to Ms Y, an Australian citizen.

Detention history

2. Mr X travelled to Australia by plane on 1 March 2004 using a false Greek passport. The Department (DIMA) identified Mr X at the airport as an unlawful non-citizen, cancelled his visa and detained him under section 189(1) of the *Migration Act 1958* at the Maribyrnong Immigration Detention Centre (IDC). He was transferred to Baxter Immigration Detention Facility (IDF) in the same month.

Visa applications

3. Mr X entered Australia on a tourist visa, which was cancelled (March 2004); applied for and was refused a Protection Visa (PV) (March 2004); the Refugee Review Tribunal (RRT) affirmed the refusal (May 2004); applied to Federal Magistrates Court seeking judicial review of RRT decision (June 2004); application dismissed (October 2004); application for an extension of time to appeal to the Full Federal Court (FFC) (May 2005); FFC application dismissed (July 2005).
4. A s 417 submission lodged for the possible consideration by the Minister of her detention intervention powers (September 2004); submission declined (April 2005); s 417 and s 48B submissions lodged (October 2005); submissions declined and new s 417 submission lodged (December 2005); submission declined (February 2006); s 417 submission lodged (April 06) and was combined with internal s 195A DIMA detention intervention submission, sent to Minister (September 2006); combined submission is ongoing.

Current immigration status

5. Mr X is an unlawful non-citizen and is currently detained at Baxter IDF.

Removal details

6. DIMA advised that Mr X has been uncooperative with attempts to provide documentation regarding his identity and has not participated in facilitating his removal to Albania. At interview with Ombudsman staff Mr X said that he provided DIMA with his birth certificate in 2005 and it was subsequently misplaced. He then had his family send a copy over from Albania and gave it to DIMA in early 2006. He claimed that he gave DIMA the contact details of his family several months ago. DIMA advised in October 2006 that it was satisfied that his probable identity is Mr X.
7. Mr X stated that he would cooperate further with removal attempts if released from detention on a Removal Pending Bridging Visa and that he is open to being removed to a third country if Australia is unwilling to accept him.
8. DIMA advised that Mr X's removal have been deferred pending the outcome of the Ministerial intervention request.