

REPORT FOR TABLING IN PARLIAMENT BY THE COMMONWEALTH AND IMMIGRATION OMBUDSMAN

Under s 486O of the Migration Act 1958

Personal identifier: 094/06

Principal facts

Personal details

1. The Department (DIMA) describes Mr X as a 47 year old male from North Korea. DIMA advises that he has the aliases of Mr A, Mr B and Mr C. Mr X told Ombudsman staff that his true name is Mr A, that he is a North Korean national, that he was born on 24 August 1963, and that he is 43 years old. His parents are deceased and he is an only child. He has no knowledge of other relatives in North Korea.

Detention history

2. In October 1997, Mr X arrived in Australia by plane, on a South Korean passport. In March 2004, he was referred to DIMA by police officers. DIMA identified him as an unlawful non-citizen, detaining him under section 189(1) of the *Migration Act 1958*. He was placed at Villawood Immigration Detention Centre (IDC).

Visa applications

3. Mr X entered Australia on a Tourist Visa (TV), the TV ceased and he applied for and was granted a Long Stay TV in the same month (October 1997); granted associated Bridging Visa (BV), ceased (October 1997); Long Stay TV ceased (April 1998); Mr X detained (March 2004); applied for Protection Visa (PV) in the name of Mr A and BV; BV refused (March 2006); PV refused (May 2006); RRT commenced review of PV decision (May 2006); RRT remitted application back to DIMA, BV application lodged and withdrawn (September 2006); review of PV application ongoing.

Current immigration status

4. Mr X is an unlawful non-citizen currently detained in Villawood IDC.

Removal details

5. DIMA states that Mr X refused to complete an application for a travel document for the Peoples Republic of China (PRC) (July 2004, February 2006). At interview with Ombudsman staff, Mr X stated that he had elected not to meet with PRC officials as he is not Chinese. DIMA advised that Mr X is unavailable for removal while his PV application is being reconsidered and his identity and nationality remain unknown.

Ombudsman consideration

6. The DIMA reports to the Ombudsman under s 486N, were dated 5 April 2006 and 21 September 2006.
7. Ombudsman staff interviewed Mr X at Villawood IDC on 27 April 2006, with the assistance of a Korean interpreter.

Key issues

Identity Issues

8. DIMA advised that Mr X's identity and nationality have not yet been positively established. In the initial s 486N report it is noted that DIMA had arranged for officials from the South Korean Consulate to interview Mr X in April 2004. The officials stated that they believed he is a national of the PRC and consequently confiscated his South Korean