

REPORT FOR TABLING IN PARLIAMENT BY THE COMMONWEALTH AND IMMIGRATION OMBUDSMAN

Under s 486O of the Migration Act 1958

Personal identifier: 322/07

Case overview

1. Mr X is aged 49 and is a citizen of the People's Republic of China (PRC). He claims that his wife and children live in the PRC and that he has one brother in Australia who is an Australian citizen.
2. Mr X entered Australia in September 1996 on a Short Stay Tourist Visa. In January 1998 he applied for a Protection Visa (PV) and was granted a Bridging Visa (BV). In November 2004 Mr X was detained under s 189(1) of the *Migration Act 1958* as a BV over-stayer and was placed at Villawood Immigration Detention Centre.
3. The Department's (DIAC) decision to refuse Mr X's application for a PV in May 1998 was affirmed by the Refugee Review Tribunal in April 1999. He unsuccessfully sought judicial review at the Federal Magistrates Court and Full Federal Court. A request under s 48B resulted in the Minister allowing Mr X to lodge another PV application, and on 2 April 2007 Mr X was granted a Temporary Protection Visa (TPV) and released from detention.

Ombudsman consideration

4. DIAC's report to the Ombudsman under s 486N is dated 29 November 2006.
5. Ombudsman staff interviewed Mr X on 13 February 2007.


Key issues

Attitude to removal

6. At interview Mr X stated that he did not want to return to the PRC as he had been involved in pro-democracy protests and spent time in prison due to this 'underground activity'.

Ombudsman assessment/recommendation

7. The Ombudsman notes that Mr X is now the holder of a TPV and makes no recommendations in this report.


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Prof. John McMillan
Commonwealth and Immigration Ombudsman


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Date