

REPORT FOR TABLING IN PARLIAMENT BY THE COMMONWEALTH AND IMMIGRATION OMBUDSMAN

Under s 486O of the Migration Act 1958

Personal identifier: 258/07

Case overview

1. Ms X is aged 37 and claims she is a citizen of the Democratic People's Republic of Korea (DPRK). Ms X claims her parents, two sisters and former husband live in the DPRK. Ms X lives with her partner Mr Y (who is the subject of Report 259/07) and their children, Ms Z aged four, and Master A aged two. At interview Ms X was pregnant with her third child and due to give birth in April 2007.
2. Master A was born in January 2005 while Ms X was detained at Villawood Immigration Detention Centre (IDC). The Ombudsman has received an independent s 486N report regarding Master A as he has also now been detained for over two years, however for the ease of reporting he is included in this report with his mother and sister.
3. Ms X arrived in Australia in February 2001 on a false South Korean passport in the name of Ms B. In February 2004 she voluntarily approached a police station and declared that she was an unlawful non-citizen. Ms X and her daughter were detained under s 189(1) of the *Migration Act 1958* and placed at Villawood IDC. The family were transferred into Community Detention in July 2005.
4. The Department's (DIAC) decision to refuse Ms X's application for a Protection Visa in June 2005 (with her two children as dependent applicants) was affirmed by the Refugee Review Tribunal (RRT) in August 2005. She sought judicial review at the Federal Magistrates Court (FMC) and the matter was remitted to the RRT and Ms X, Ms Z and Master A were subsequently granted Temporary Protection Visa's (TPV) on 20 February 2007 and released from detention.

Ombudsman consideration

5. The DIAC reports to the Ombudsman under s 486N are dated 10 March 2006, 4 September 2006 and 7 March 2007.
6. Ombudsman staff interviewed Ms X on 28 September 2006.

Ombudsman assessment/recommendation

7. The Ombudsman notes that Ms X and her children are now the holders of TPVs and makes no recommendations in this report.



Prof. John McMillan
Commonwealth and Immigration Ombudsman

2 November 2007
Date