



Australian Government

Migration Review Tribunal • Refugee Review Tribunal

Mr Alistair Sands
Secretary
Australian Senate Select Committee
on Ministerial Discretion in Migration Matters
Parliament House
Canberra
ACT 2600

Dear Mr Sands

I refer to Ms Peta Leemen's email note dated 25 September 2003 and wish to provide, as set out below, additional information, material and corrections to the Committee flowing from evidence given, requests for information and questions taken on notice at our appearance before the Committee on 22 September 2003.

I have forwarded separately by facsimile today corrections on a few pages of the transcript of proceedings.

Correction of evidence concerning issue of MSI 386

Re evidence of Mr Karas on page 4: Advice to RRT members regarding the replacement of MSI 225 with new MSI 386 was provided to members by email advice on 17 September 2003 by a senior legal officer of the RRT.

Request for information on qualifications of members of the MRT and RRT

Request on page 6: A summary of qualifications of Members of the tribunals is at Attachment A.

Request for information on number of submissions to the RRT by the Secretary of DIMIA

Request for information on page 7: A list of submissions by the Secretary is contained in Attachment B, which is available to Members on the RRT's intranet.

Correction of evidence concerning number of RRT section 417 referrals

Re evidence of Mr Karas on pages 7: the number of section 417 referrals recorded by the RRT for the period 1999/2000 to 2002/2003 is 929. The figure of 1010 provided earlier to the Committee erroneously included section 417 referrals made during the first quarter of 2003/2004.

Request for information on cross-checking by the RRT of DIMIA-supplied Ministerial intervention case lists

Request on page 9: the only document located is Attachment C which includes a list of RRT cases matched up in March 2001 with a DIMIA-supplied section 417 case list.

Request for information concerning section 417 RRT referrals by Members and country

Request on page 13: a list of section 417 referrals by RRT Members and a list of section 417 referrals by country are at Attachments D and E respectively.

If the tribunals can be of any further assistance to the Committee, please let me know.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Steve Karas', with a stylized, flowing script.

Steve Karas
Principal Member

15 October 2003

MRT and RRT Membership Summary and Qualifications

1 September 2003

Membership Numbers

	Principal Member	Deputy Principal Member	Senior Members	Full-Time Members	Part-Time Members	Total Members
MRT	1	0	4	9	54	68
RRT	1	1	4	33	42	81
Total	2	1	8	42	96	149

Note: Total number of members includes 4 persons who are members of both Tribunals (ie. Mr. S. Karas, Ms. W. Boddison, Ms. N. Ford, Mr. M. Griffin)

Qualifications

	LLB	BA	Masters	PHD	Other Qualification	Total
MRT	49	37	29 (including 19 law)	3	40	158
RRT	46	61	35 (including 12 law)	7	40	189
Total	95	98	64 (including 31 law)	10	80	347

GENERIC SUBMISSIONS RECEIVED FROM SECRETARY DIMIA PURSUANT TO s423(2) OF *MIGRATION ACT 1958*

The relevance of the submissions to a particular review will depend upon the facts/issues of the review and the continuing relevance of the submission given its age and developments in the country situation and the law. The weight to be attached to the contents of a submission is a matter for the presiding member to determine in the context of the review.

COUNTRY SPECIFIC SUBMISSIONS

Afghanistan

Country Information and Legal Issues of Relevance to Current Refugee Assessments in relation to Afghanistan - July 2002

Comprises country information relating to the situation following the fall of the Taliban (DFAT, UNHCR, IOM, UNAMA); and analysis of legal issues including "real chance", relocation, credibility assessment. See RRT Afghanistan Resource Guide (June 2003) for further updated country information; and the RRT Guide to Refugee Law for analysis of those legal issues

China

Membership of the Falun Gong Movement and Unregistered Children Issues - 28 February 2001

Comprises argument based on country information (DFAT, 1999, 2000) on the authorities attitude to followers of Falun Gong, the position of leaders, and limitation on behaviour; and legal argument on credibility factors and discretion/persecution. Also contains argument based on country information (DFAT 2000) relating to unregistered children.

See RRT Falun Gong Resource Guide (November 2002) for further updated country information; and the RRT Guide to Refugee Law for analysis of the relevant legal issues.

East Timor

Applications in relation to East Timor - 3 April 2002

Comprises DFAT cable (18.01.02) directed to the period immediately preceding independence; a historical overview encompassing citizenship, refugees/returnees, and country conditions. Some aspects may be of continuing relevance but see RRT East Timor Resource Guide (Oct 2002) and RRT Index of Responses (July 2003) for updated country information

Indonesia

The Effectiveness of the Protection Provided by the Indonesian Government for Ethnic Chinese Indonesian Applicants - 24 June 1998

Comprises legal argument on concept of "state protection" and country information relating to the 1998 unrest in Indonesia (DFAT). Submission now significantly dated and unlikely to be of relevance. Note that legal discussion of "presumption of protection of the state of nationality" is dated and does not reflect subsequent developments. See Chapter 8 of RRT Guide to Refugee Law.

Iraq

Illegal Departure, Voluntary Return and Imputed Political Opinion in relation to Iraq - 1 May 2002

Contains country information and arguments relating to the impact of illegal departure from Iraq; the access to documents enabling return to Iraq; sanctions upon return; and submissions on legal issues relating to unwillingness to return and onus/burden of proof. Country Information relates to

the situation under the pre May 2003 Iraqi regime. The legal arguments concern issues that are not period specific.

Guidelines for Processing of Protection Visa Applications in light of Armed Conflict in Iraq - 28 April 2003

Concerns applications from Iraqi asylum seekers. It does not contain specific country information but argues in light of international armed conflict in Iraq, decisions in cases dependent upon country information should be deferred until the country situation has settled and reliable country information is available.

ISSUE SPECIFIC SUBMISSIONS

Language analysis

Weighing of Language Analysis and other Expert Evidence including benefit of the doubt/credibility issues - 26 November 2001

This submission is relevant to cases where nationality and identity fraud are in issue. It comprises information about language analysis providers engaged by DIMIA as well as arguments as the reliability of language analyses and the weight that DIMIA would like decision makers to accord. The submission is not restricted to cases involving a specific country group or a specific time period, but may be relevant in any cases where a language analysis forms part of the evidence before the Tribunal.

Further Protection Visa applications

Guidelines on Making Protection Obligation Assessments in relation to Applications for Protection by TPV holders - 1 May 2003

This submission is relevant to applications from an applicant who has previously been granted a temporary protection visa and has applied for a further protection visa. This issue, and a discussion of the matters and opinions in the submission is addressed in Legal Issues Paper 33.

Attachment D: Referrals by Member*

Member	1999/00	2000/01	2001/02	2002/03	Total
Bagaric	0	0	0	22	22
Barron	0	0	1	0	1
Berkley	0	2	1	0	3
Blount	23	10	8	9	50
Boddison	3	4	2	10	19
Boland	6	5	3	8	22
Boyd	1	2	3	20	26
Brewer	2	3	6	56	67
Burgess	0	0	1	0	1
Cheetham	0	1	3	2	6
Connolly	0	0	0	7	7
Cristoffanini	1	0	1	0	2
Duckmanton	0	0	0	1	1
Fairbank	1	1	0	1	3
Ford	0	2	0	12	14
Fordham	0	0	2	1	3
Gacs	0	2	6	2	10
Gentile	2	3	1	38	44
Gibson	0	0	1	0	1
Gould	2	2	7	34	45
Gowans	0	0	1	0	1
Grotte	2	0	1	10	13
Gutman	3	1	1	0	5
Haigh	5	0	0	0	5
Hamilton	0	1	4	22	27
Hardy	3	0	0	23	26
Hartman	0	1	0	0	1
Herron	2	0	0	0	2
Holmes	3	5	14	37	59
Inder	0	0	1	1	2
Jacovides	2	0	0	1	3
Jensen	6	6	0	0	12
Karas	0	0	0	2	2
Keher	1	0	4	2	7
Kelleghan	1	0	1	4	6
Kissane	4	1	2	4	11
Klintworth	4	0	0	0	4
Layton	5	2	2	0	9
Lee	0	0	3	1	4
Leehy	2	1	1	5	9
Lynch	0	3	1	0	4
Mathlin	0	3	1	2	6
Matthews	0	0	0	25	25
McIllhatton	1	0	0	5	6
McIntosh	6	2	1	2	11

Member	1999/00	2000/01	2001/02	2002/03	Total
Mediansky	0	0	0	3	3
Mojsin	0	0	1	1	2
Moller	0	0	0	30	30
Molony	2	0	0	0	2
Morris	0	0	0	4	4
Nicholl	2	1	2	2	7
Nicholls	0	0	0	10	10
Northwood	0	1	0	9	10
O'Brien	2	3	2	5	12
O'Connell	0	0	1	10	11
Perton	0	2	0	0	2
Rosser	2	5	3	8	18
Roushan	0	0	0	5	5
Russell	1	0	1	2	4
Short	1	1	0	2	4
Smidt	1	0	0	0	1
Thomson	0	4	4	0	8
Vrachnas	17	6	5	37	65
White	0	0	0	3	3
Whitlam	0	0	1	0	1
Wilson	0	0	0	4	4
Witton	7	3	12	24	46
Wood	6	9	9	32	56
Zelinka	5	1	4	4	14
Total	137	99	129	564	929

* Variations in the rate of recommendations for referrals to DIMIA by individual Tribunal members of cases occur for a number of reasons, including the different country specialisations of Members, the differing total number of cases which they determine given their status as either full-time or part-time Members, and the country situation itself.

Attachment E: Referrals by Country

Country of Citizenship	1999/00	2000/01	2001/02	2002/03	Total
Afghanistan	1	2	20	9	32
Albania	1	1	2	2	6
Algeria	2	0	1	0	3
Angola	0	0	0	3	3
Armenia	0	2	0	1	3
Azerbaijan	1	0	1	0	2
Bahrain	0	0	1	0	1
Bangladesh	1	1	2	3	7
Bosnia & Herz	1	0	0	3	4
Burma	2	2	0	3	7
Cambodia	3	0	0	3	6
Canada	0	0	0	1	1
Chile	0	2	2	1	5
China (PRC)	6	4	7	5	22
Colombia	5	2	2	5	14
Congo Dem Rep	0	0	1	3	4
Congo Brazza	0	0	1	0	1
Croatia	0	0	1	2	3
Cuba	0	0	1	0	1
East Timor	0	0	1	344	345
Ecuador	3	0	0	0	3
Egypt	1	2	1	4	8
El Salvador	0	0	0	1	1
Eritrea	1	0	0	1	2
Estonia	0	1	1	0	2
Ethiopia	0	0	0	1	1
Fiji	5	7	8	32	52
FYROM	0	0	2	5	7
Ghana	0	1	3	2	6
Guinea	1	0	0	0	1
India	4	3	4	4	15
Indonesia	26	21	9	10	66
Iran	1	4	4	6	15
Iraq	1	1	1	1	4
Israel	1	3	1	2	7
Italy	0	0	1	0	1
Jordan	1	0	0	2	3
Kenya	0	0	1	2	3
Laos	1	0	0	2	3
Latvia	2	0	0	2	4
Lebanon	2	2	1	12	17
Macao	1	0	0	0	1
Malaysia	2	1	1	1	5
Moldova	0	1	0	0	1
Mongolia	0	0	0	1	1

Attachment E (Continued)

Country of Citizenship (cont)	1999/00	2000/01	2001/02	2002/03	Total
Morocco	1	0	0	0	1
Mozambique	1	0	0	0	1
Nepal	0	0	1	2	3
Nigeria	0	0	2	0	2
Pakistan	0	1	0	4	5
Palestine	0	2	0	0	2
Papua Niugini	0	0	0	1	1
Peru	1	1	1	2	5
Philippines	5	2	2	6	15
Poland	3	0	0	0	3
Portugal	1	0	0	2	3
Romania	1	0	0	1	2
Russian Fed	1	2	2	2	7
Rwanda	0	0	0	1	1
Senegal	0	0	0	1	1
Sierra Leone	0	0	1	1	2
Somalia	3	3	0	0	6
South Africa	1	2	0	3	6
South Korea	5	0	2	4	11
Spain	0	0	0	1	1
Sri Lanka	26	11	10	15	62
Stateless	0	0	0	1	1
Syria	0	1	1	1	3
Tanzania	0	0	1	0	1
Thailand	1	1	1	2	5
Tonga	1	0	0	7	8
Turkey	2	2	0	4	8
Ukraine	2	0	4	5	11
United Kingdom	1	0	0	0	1
Uruguay	0	0	0	1	1
Vietnam	3	2	5	3	13
Western Samoa	0	1	0	1	2
Yugoslavia	0	1	10	1	12
Yugo Fed Rep	2	4	4	6	16
Zambia	0	0	0	2	2
Zimbabwe	0	0	1	5	6
Total	137	99	129	564	929