

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 13 February 2006

IMMIGRATION AND MULTICULTURAL AFFAIRS PORTFOLIO

(56) Output 1.3: Enforcement of Immigration Law

Senator Nettle asked:

The Department attempted the deportation of Mr Beyazkilinc to Turkey until stopped by a court injunction indicated that there was a 'buffer zone' of 140 seats booked on the airline. The Department issued a media release on 19 January that said:

“The allocation of a block of unsold seats by the airline to facilitate the removal of Mr Beyazkilinc was a decision of the carrier and did not incur any expenditure by the Australian Government.”

- 1) What carrier offered the seats as a “buffer zone”?
- 2) Was this offer put in writing?
- 3) Are such offers a regular occurrence?
- 4) Why did the Department persist in the deportation until the court intervention, given the psychiatric assessment by Dr Jureidini concluded that Mr Beyazkilinc was not fit for travel?
- 5) Has DIMA deported other detainees deemed 'not fit for travel'? If so, how many and when?

Answer:

(1) The Department considers it inappropriate to provide the name of the carrier in a public forum as to do so may affect them commercially.

(2) No.

(3) No.

(4) While Dr Jureidini provided an opinion on this case, the Department obtained advice from other suitably qualified psychiatrists involved in treating Mr Beyazkilinc, indicating that Mr Beyazkilinc was fit to travel. One of these psychiatrists subsequently gave evidence in the Federal Court that, in his clinical opinion, Mr Beyazkilinc was fit to travel.

The Federal Court (Mansfield J) noted that the Department had been conscientious in planning Mr Beyazkilinc's removal and was not critical of the Department's actions. Dr Jureidini's advice was relevant not because it undermined the assessment that he was fit to travel, but because it gave rise to an untested legal argument as to whether removal should be considered practicable if the act of removal would have an adverse impact on the person's mental health. (The Migration Act requires the removal of detainees to be effected “as soon as practicable” in certain circumstances.)

(5) The Department does not remove or deport non-citizens from Australia until they have been assessed as “fit for travel” by suitably qualified medical staff.