

To:

The Senate Legal and Constitutional References Committee  
re administration and operation of the Migration Act 1958

My submission is brief and is relation to the administration of the Migration Act by staff at the Australian Consulate-General, Saigon.

I am Australian born citizen. In approximately July 2002, I lodged an application in Saigon to sponsor my wife Tran Ngoc Nga to migrate to Australia. The 'decision maker' in Saigon rejected the application on eight grounds, including that my wife's son was not my dependent. I engaged a migration agent in Adelaide to assist me in lodging an appeal with the Immigration Review Tribunal in about January 2003. In March 2004 the Tribunal overturned all eight grounds for rejecting the sponsorship and referred the sponsorship back to Immigration for further processing. This further processing resulted in approval for migration being granted in two years and two weeks after the date of original lodgement.

I wish to raise my concerns with the Committee regarding the processing of my wife's sponsorship. The original decision maker was in error in her decision, as evidenced by the IRT reversing her decision. When the matter was referred back to Immigration, my wife and I had to submit a new application and a new set of documents, which put us to considerable and unnecessary effort. The processing of the applications stretched out for over two years, during which time my wife and I were required to lodge a huge amount of documents, and it got to the point where the Immigration staff in Saigon were asking for copies of documents which were already on file. During the period of processing, the Saigon staff continuously showed a lack of understanding or training by asking for documents which were not appropriate to the situation of my wife or myself, (see for example, attached emails - No2, No3). Whenever my wife and I supplied Vietnamese documents authorised by the local police, the staff contacted the local police station in Nha Trang to confirm they were original. After two years of this, the police asked us "Why are these people asking us so many questions?" Towards the end of processing, I recieved a letter sent to my wife and I at home in Nha Trang giving an incorrect visa status (fiancee visa and not spouse), and for the second time asking for documents which were already on file.

Overall, it appeared that the staff were either not trained properly, did not have local knowledge, did not take in to account whether what they were asking was appropriate, and did not consult the file to see what documents were there already. In this way, the processing of my application took an inordinate lenght of time.

Could the Committee please encourage Immigration: not require a new application/nomination when teh IRT overturns a decision of the 'decision officer'; not to employ local staff overseas; to ensure that staff are properly trained and process applications speedily; and take account of differing circumstances such as when both the sponsor and spouse are living overseas.

My wife and I moved to Australia on 26 February 2005.

Thank you for calling for submissions on Immigration matters. I apologise to the Committe if the subject matter above is not within the scope of their inquiry.

Ralph Schwer  
NOARLUNGA DOWNS SA

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Partner Team

Visa and Immigration Office

Australian Consulate-General

Saigon

Re: Tran Ngoc Nga

I refer to your correspondence dated 13 April 2004 regarding AoS Form 28A Discretionary Assurance of Support. In this letter you demand several documents, with the requirement that the application "will not be processed unless ALL supporting documentation is submitted..." [my emphasis]. May I point out that you have requested documents which are not appropriate to my situation.

You will note from my file that I am retired; that I am not employed; that my income comes from taxable superannuation and non-taxable Department of Veterans

Affairs special rate (TPI) benefit; and that I have been living in Vietnam for over two years.

During this time have been unable to lodge an income tax return in relation to my superannuation. I will continue to remain in Vietnam until my wife and stepson accompany me to Australia. I am therefore unable to supply:

2. Certified copyies of 'Notice of Assessment' issued by the Australian Tax Office for 2002 and 2003
3. Evidence of current employment
4. Two current pay slips.

I am indeed able to provide satisfactory evidence of income by way of statements from my superannuation fund and from the Department of Veterans Affairs, which provide my income. Would you kindly amend your demands, and notify me as soon as possible.

Please acknowledge receipt of this email forward your reply to me at both the email addresses below, as emails here in Vietnam often go astray. Thank you.

Yours faithfully

Ralph Schwer