

Refugee Review Tribunal

AUSTRALIA

RRT RESEARCH RESPONSE

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Country: Korea
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Title: China – Alien residence rights

This response was prepared by the Country Research Section of the Refugee Review Tribunal (RRT) after researching publicly accessible information currently available to the RRT within time constraints. This response is not, and does not purport to be, conclusive as to the merit of any particular claim to refugee status or asylum.

Questions

1. Is it possible that a North Korean national would have the right to reside in China? Are there any ways of ascertaining his legal status in China?

List of Sources Consulted

Internet Sources:

Google search engine
UNHCR *REFWORLD* UNHCR Refugee Information Online

Databases:

Public	<i>FACTIVA</i>	Reuters Business Briefing
DIMIA	<i>BACIS</i>	Country Information
	<i>REFINFO</i>	IRBDC Research Responses (Canada)
RRT	<i>ISYS</i>	RRT Country Research database, including Amnesty International, Human Rights Watch, US Department of State <i>Country Reports on Human Rights Practices</i> .
RRT Library	<i>FIRST</i>	RRT Library Catalogue

RESPONSE

1. Is it possible that a North Korean national would have the right to reside in China for 22 years? Are there any ways of ascertaining his legal status in China?

Nothing was found in the sources to indicate that a person who has resided illegally in China for 22 years would have rights to reside in China, unless he had been granted permanent residence at some time.

The Law Of The People's Republic Of China On Control Of The Entry And Exit Of Aliens

(1986¹ – Attachment 1) contains the following provisions on residence:

Article 7 When applying for various kinds of visas, aliens shall present valid passports and, if necessary, provide pertinent evidence.

Article 9 Aliens desiring to reside permanently in China shall, when applying for visas, present status-of-residence identification forms. Applicants may obtain such forms from public security organs at the place where they intend to reside.

Chapter III - Residence

Article 13 For residence in China, aliens must possess identification papers or residence certificates issued by the competent authorities of the Chinese Government. The term of validity of identification papers or residence certificates shall be determined according to the purposes of entry. Aliens residing in China shall submit their certificates to the local public security organs for examination within the prescribed period of time.

The *Regulations on Examination and Approval of Permanent Residence of Aliens in China* (Approved by the State Council on 13 December, 2003 and promulgated by virtue of Decree No.74 of the Ministry of Public Security and Ministry of Foreign Affairs on 15 August, 2004 – Attachment 2) note that non-citizen residents of China need a Certificate of Permanent Residence of Aliens:

Article 3. Certificate of Permanent Residence of Aliens is the legitimate identity card of aliens having obtained permanent residence in China and may be used independently.

Article 4. Aliens having obtained permanent residence in China enter and leave China on the strength of their valid passports and the Certificate of Permanent Residence of Aliens.

Article 6 of these regulations outlines the conditions for granting of permanent residence, none of which appear to apply to a person in the Applicant's position.

Article 39 of the *Rules for the Implementation of the Law of the People's Republic of China on Control of the Entry and Exit of Aliens* (1986 – Attachment 2) states that re-entry visas are available to holders of residence permits:

Holders of residence permits for aliens shall, before leaving the country, apply to the local public security organ in accordance with the pertinent stipulations in Article 5 and Article 6 of these Rules, for obtaining the re-entry visas if they wish, within the term of validity of their residence permits, to leave and then return to China.

Articles 3 and 4 of the *Rules for the Implementation of the Law of the People's Republic of China on Control of the Entry and Exit of Aliens* (1986 – Attachment 3) deal with types of visa). Article 3 states "Different categories of visa, such as diplomatic visa, courtesy visa, service visa, and ordinary visa, shall be issued to different aliens in accordance with the

¹ No more recent legislation was found and the Chinese embassy website <http://gr.china-embassy.org/eng/lsgw/lsgf/t146146.htm> indicated that this was still current when posted in 2004. This is still the most recent legislation posted on UNHCR's REFWORLD.

different capacities in which they visit China and also with the different categories of passport they hold.” Article 4 outlines the different visas and notes that, the letter "D" is marked on a visa issued to a person who comes for permanent residence in China.:

In accordance with aliens' reasons for coming to China, the ordinary visas to be issued to them shall be marked with the following Chinese pinyin letters:

(1) the letter "D" is marked on a visa issued to a person who comes for permanent residence in China;

These regulations also provide that people entering China who hold visas marked with "D", "Z" and "X" must go through the procedures for obtaining the residence permit for aliens or temporary residence permit for aliens (Art. 16). The term of validity of the residence permit for aliens may last from one year to five years, as shall be decided by the municipal or county public security bureau in accordance with reasons of aliens for staying in China. (Art.18) Aliens residing in China must, once a year, present their residence permit for aliens to the local public security bureau for examination. (Art. 24)

List of Attachments

1. Chinese Government 1986, *Law Of The People's Republic Of China On Control Of The Entry And Exit Of Aliens* (1986 current as at 3 August 2004)
2. Chinese Government 2004, *Regulations on Examination and Approval of Permanent Residence of Aliens in China* (Approved by the State Council on 13 December, 2003 and promulgated by virtue of Decree No.74 of the Ministry of Public Security and Ministry of Foreign Affairs on 15 August, 2004)
3. Chinese Government 1986, *Rules for the Implementation of the Law of the People's Republic of China on Control of the Entry and Exit of Aliens*, (Date of Entry into Force: December 1986) (UNHCR REFWORLD)