

REPORT BY THE COMMONWEALTH AND IMMIGRATION OMBUDSMAN FOR TABLING IN PARLIAMENT

Under s 486O of the Migration Act 1958

This is the second s 486O report on Mr X who has remained in restricted immigration detention for more than 42 months (three and a half years).

The first report 1001806 was tabled in Parliament on 27 May 2015. This report updates the material in that report and should be read in conjunction with the previous report.

Name	Mr X
Citizenship	Country A
Year of birth	1978
Ombudsman ID	1003200
Date of DIBP's reports	17 August 2015 and 6 February 2016
Total days in detention	1,276 (at date of DIBP's latest report)

Recent detention history

Since the Ombudsman's previous report (1001806), Mr X has remained at Facility B.

Recent visa applications/case progression

6 November 2014	Bridging visa application refused.
4 December 2014	Requested judicial review by the Federal Court (FC).
9 February 2015	The Department of Immigration and Border Protection (DIBP) invited Mr X to comment on information relevant to an International Treaties Obligations Assessment (ITOA).
23 February 2015	Mr X provided a response.
24 February 2015	Mr X withdrew his application for an injunction to prevent his removal from Australia.
27 February 2015	DIBP invited Mr X to comment on further information relevant to the ITOA.
13 March 2015	Mr X provided a response.
15 April 2015	DIBP finalised the ITOA, determining his case did not engage Australia's <i>non-refoulement</i> obligations.
20 May 2015	Mr X requested judicial review of the negative ITOA decision by the Federal Circuit Court (FCC).
19 August 2015	Found not to meet the guidelines for referral to the Minister under s 195A.
1 September 2015	The FC dismissed Mr X's application for judicial review of his Bridging visa refusal.
17 September 2015	Appealed to the Full Federal Court (FFC).
16 November 2015	The FFC dismissed the appeal.

25 November 2015 and 30 December 2015	Mr X lodged Bridging visa applications.
27 November 2015 and 4 January 2016	DIBP notified Mr X that the Bridging visa applications were invalid under s 501.
3 February 2016	The FCC adjourned Mr X's proceedings relating to the negative ITOA pending determination of the Minister's application for special leave to appeal the FCC's decision of 2 September 2015. ¹

Health and welfare

19 March 2015 – 14 May 2015	International Health and Medical Services (IHMS) advised that Mr X attended eight physiotherapy appointments for his previously sprained ankle.
17 April 2015	Referred for an x-ray after reporting ongoing pain in his elbow. The x-ray revealed a structural abnormality and Mr X was advised to take pain relief medication as required.
May 2015 – ongoing	Mr X saw the mental health team and was noted to be suffering from detention fatigue, stressed about the possibility of removal to Country A and concerned about the wellbeing of his sister. He was diagnosed with depressed mood and referred for specialist counselling.
2 June 2015 – 23 June 2015	Attended four specialist counselling sessions.
23 July 2015	Presented with a history of weight loss, chest discomfort, night sweats and headaches. He was referred for a chest x-ray.
12 August 2015 – 13 August 2015	Mr X attended an emergency department for investigation of his ongoing chest pain. Tests identified minor abnormalities in his heart and ruled out tuberculosis. He was diagnosed with pericarditis and received treatment.
20 August 2015 – 14 October 2015	Mr X reported ongoing issues with reflux and bloating and was referred for an endoscopy and computed tomography scan, which identified no abnormalities. IHMS advised that Mr X is prescribed with medication and his condition is well controlled.
25 August 2015 and 27 October 2015	Attended consultations at a chest clinic. IHMS advised that at his last appointment Mr X's symptoms were noted to have improved and he was discharged from the service.

¹ SZSSJ v Minister for Immigration and Border Protection [2015] FCAFC 125.

Information provided by Mr X

Mr X contacted the Ombudsman's office on 24 June 2015 following the tabling of Ombudsman report 1001806. He advised he was dissatisfied with an incident that allegedly occurred on 31 January 2014 because the Ombudsman's report advised that no further information was provided on the matter. Mr X explained that after he had provided his version of events to detention centre staff no further action was taken and the incident was closed.

During a telephone conversation with Ombudsman staff on 2 March 2016 Mr X advised that he considered himself to be rehabilitated. However, he felt that his mental health had suffered from having spent over 11 years in prison and immigration detention. He felt stressed and agitated all the time, had sleeping difficulties and was withdrawing from social interactions, preferring to spend his time alone.

Mr X advised that IHMS had prescribed him with antidepressants. He experiences intermittent chest pains and has long-term problems with his knees and back.

Case status

Mr X has been found not to be owed protection under the Refugee Convention and the complementary protection criterion. He is awaiting the outcome of judicial review.