

REPORT BY THE COMMONWEALTH AND IMMIGRATION OMBUDSMAN FOR TABLING IN PARLIAMENT

Under s 486O of the Migration Act 1958

This is the fourth s 486O report on Mr X who has remained in immigration detention for more than 54 months (four and a half years).

The first report 1001370 was tabled in Parliament on 28 May 2014, the second report 1001603 was tabled in Parliament on 13 May 2015 and the third report 1002674¹ has been sent to the Minister and is awaiting tabling in Parliament. This report updates the material in those reports and should be read in conjunction with the previous reports.

Name	Mr X
Citizenship	Country A
Year of birth	1985
Ombudsman ID	1002278-O
Date of DIBP's reports	3 December 2015 and 2 June 2016
Total days in detention	1640 (at date of DIBP's report)

Recent detention history

Since the Ombudsman's previous report (1002674), Mr X has remained at Yongah Hill Immigration Detention Centre.

Recent visa applications/case progression

17 August 2015	The Assistant Minister declined to intervene under s 417 of the <i>Migration Act 1958</i> .
3 December 2015	The Department of Immigration and Border Protection (DIBP) advised that Mr X's case is affected by the judgment handed down on 2 September 2015 by the Full Federal Court (FFC) ² which found that the International Treaties Obligations Assessment (ITOA) process was procedurally unfair.
21 March 2016	The Minister appealed the FFC decision.
13 April 2016	The Minister lifted the bars under ss 46A and 48B to allow Mr X to lodge a temporary visa application.
27 July 2016	The High Court found that the ITOA process was not procedurally unfair.

¹ Mr X was previously reported on with his father and brothers. His father was returned to Country A in August 2015 and his brothers remain in community detention.

² *SZSSJ v Minister for Immigration and Border Protection* [2015] FCAFC 125.

Health and welfare

International Health and Medical Services advised that Mr X has not required treatment for any major physical or mental health issues since its previous report to the Ombudsman.

Case status

Mr X has been found not to be owed protection under the Refugee Convention and the complementary protection criterion.

On 13 April 2016 the Minister lifted the bars under ss 46A and 48B to allow Mr X to lodge a temporary visa application. He is awaiting an invitation to apply for a temporary visa.