

**REPORT BY THE COMMONWEALTH AND
IMMIGRATION OMBUDSMAN FOR TABLING IN PARLIAMENT**

Under s 486O of the Migration Act 1958

This is the first s 486O report on Mr X who has remained in restricted immigration detention for more than 30 months (two and a half years).

Name	Mr X
Citizenship	Country A
Year of birth	1992
Ombudsman ID	1002219-O
Date of DIBP's reports	6 November 2015 and 6 May 2016
Total days in detention	912 (at date of DIBP's latest report)

Detention history

6 November 2013	Detained under s 189 of the <i>Migration Act 1958</i> after overstaying his visa. He was transferred to Brisbane Immigration Transit Accommodation.
7 November 2013	Transferred to Villawood Immigration Detention Centre (IDC).
24 December 2014	Transferred to Yongah Hill IDC.

Visa applications/case progression

3 October 2010	Mr X arrived in Australia on a Schools Sector visa valid until 15 March 2012. He remained unlawfully in the community until he was detained on 6 November 2013.
15 November 2013	Lodged a Bridging visa which was refused on 19 November 2013.
21 November 2013	Appealed to the Migration Review Tribunal (MRT).
28 November 2013	MRT affirmed original decision.
3 December 2013	Lodged a Protection visa application and an associated Bridging visa application. The Bridging visa application was declared invalid.
9 January 2014	Protection visa application refused.
13 January 2014	Appealed to the Refugee Review Tribunal (RRT).
19 February 2014	RRT affirmed original decision.
21 February 2014	Applied for ministerial intervention but his application was found not to meet the guidelines for referral to the former Minister under s 195A.
24 March 2014	Requested judicial review of the RRT decision by the Federal Circuit Court (FCC).
8 July 2014	FFC upheld decision.

14 July 2014	The Department of Immigration and Border Protection (DIBP) advised that Mr X's case is affected by the Full Federal Court's (FFC) decision of 20 March 2013 ¹ and he will have his complementary protection claims reassessed as part of a new International Treaties Obligations Assessment (ITOA).
8 August 2014	Requested judicial review by the Full Federal Court (FFC) of the FCC's decision to uphold the RRT's decision.
28 August 2014	Applied for a Bridging visa, which was refused.
2 September 2014	Appealed to the MRT.
10 September 2014	MRT affirmed Bridging visa refusal.
10 October 2014 – 11 January 2016	Lodged three Bridging visas applications during this period, all of which were refused.
17 November 2014	FFC upheld the FCC's decision.
14 January 2015	DIBP issued Mr X with a letter notifying him of the commencement of an International Treaties Obligations Assessment (ITOA) to assess whether the circumstances of his case engage Australia's <i>non-refoulement</i> obligations.
2 June 2015	DIBP finalised the ITOA, determining Mr X's case did not engage Australia's <i>non-refoulement</i> obligations.
26 June 2015	Requested judicial review at the FFC in relation to the ITOA decision.
6 November 2015	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 ITOA process was procedurally unfair.
21 March 2016	The Minister filed a notice in the High Court (HC) to appeal the FFC's decision.
6 May 2016	DIBP advised that Mr X's judicial review hearing before the FCC was adjourned pending the Minister's appeal in the HC.
27 July 2016	The HC found that the ITOA process was not procedurally unfair.

Other Legal Matters

4 May 2013	Mr X was charged with trespassing. On 21 May 2013 he was found guilty and fined with no conviction recorded.
------------	--

¹ *Minister for Immigration and Citizenship v SZQRB* [2013] FCAFC 33.

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

Health and Welfare

International Health and Medical Services (IHMS) reported that Mr X received treatment for a range of physical health issues including latent tuberculosis and syphilis which continue to be monitored.

IHMS reported that Mr X had received treatment and counselling for mental health issues including acute grief, lowered mood, anxiety, and suicidal ideation. He also received supportive counselling from an IHMS psychologist for a history of torture and trauma with associated post-traumatic stress disorder. IHMS advised that between 20 October 2015 and 30 March 2016 no mental health concerns had been reported and Mr X's mental health issues were considered resolved.

Detention incidents

25 January 2015	DIBP advised that Mr X was allegedly involved in an incident of minor assault while at Villawood IDC, which was referred to the Australian Federal Police (AFP). The AFP advised it would not be investigating the matter further and the incident was finalised.
-----------------	---

Case status

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