

REPORT BY THE COMMONWEALTH AND IMMIGRATION OMBUDSMAN FOR TABLING IN PARLIAMENT

Under s 486O of the Migration Act 1958

This is the third s 486O report on Mr X and his family who have remained in immigration detention for more than 48 months (four years).

The first report 1001667 was tabled in Parliament on 29 October 2014 and the second report 1002152 was tabled in Parliament on 10 February 2016. This report updates the material in those reports and should be read in conjunction with the previous reports.

Name	Mr X (and family)
Citizenship	Country A
Year of birth	1983
Total days in detention	1458 (at date of DIBP's latest report)

Family details

Family members	Ms Y (wife)	Miss Z (daughter)	Miss Q (daughter)
Citizenship	Country A	Country A	Country A, born in Australia
Year of birth	1989	2010	2013
Total days in detention	1458 (at date of DIBP's latest report)		1106 (at date of DIBP's latest report)

Ombudsman ID	1001029-O
Date of DIBP's reports	22 December 2015 and 21 June 2016

Recent detention history

Since the Ombudsman's previous report (1002152), Mr X and his family have remained in community detention.

Recent visa applications/case progression

27 October 2015	The family's case was found not to meet the guidelines for referral to the Minister under s 195A of the <i>Migration Act 1958</i> .
21 December 2015	The Administrative Appeals Tribunal (AAT) ¹ affirmed the Department of Immigration and Border Protection's (DIBP) original decision to refuse Miss Q's Protection visa application.
22 December 2015	DIBP advised that Mr X, Ms Y and Miss Z's case was 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.

¹ On 1 July 2015 the Migration Review Tribunal and Refugee Review Tribunal were merged into the AAT.

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

13 April 2016	The Minister lifted the bars under ss 46A and 48B to allow Mr X, Ms Y and Miss Z to lodge a temporary visa application.
21 June 2016	DIBP advised it was yet to invite Mr X, Ms Y and Miss Z to apply for a temporary visa.
27 July 2016	The Minister appealed the FFC decision and the High Court (HC) found that the ITOA process was not procedurally unfair. ³ DIBP advised that it is considering the implications of this judgment.

Health and welfare

Mr X and Miss Q

International Health and Medical Services (IHMS) advised that Mr X and Miss Q have not required treatment for any major physical or mental health issues.

Ms Y

IHMS reported that Ms Y was treated for a range of physical health conditions including pregnancy and deep vein thrombosis.

IHMS advised that Ms Y was placed on a mental health care plan for the management of depression and attends regular psychological therapy sessions.

Miss Z

IHMS advised that Miss Z has not required treatment for any major physical or mental health issues. She continues to await an appointment for paediatric review of abnormal blood test results with no concerns reported.

Case status

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

Mr X, Ms Y and Miss Z's case is affected by the HC judgment of 27 July 2016 and DIBP has advised it is considering the implications of this judgment.

On 13 April 2016 the Minister lifted the bars under ss 46A and 48B to allow Mr X, Ms Y and Miss Z to lodge a temporary visa application. At the time of DIBP's review they were awaiting an invitation to apply for a temporary visa.

³ *Minister for Immigration and Border Protection & Anor v SZSSJ & Anor* [2016] HCA 29.