

**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 Ms X who has remained in restricted immigration detention for more than 30 months (two and a half years).

<b>Name</b>	Ms X
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1988
<b>Ombudsman ID</b>	1002313-O
<b>Date of DIBP's reports</b>	13 February 2016 and 13 August 2016
<b>Total days in detention</b>	912 (at date of DIBP's latest report)

**Detention history**

13 February 2014	Detained under s 189(1) of the <i>Migration Act 1958</i> after living unlawfully in the community. She was transferred to Perth Immigration Detention Centre.
18 April 2014	Transferred to Wickham Point Alternative Place of Detention.
4 May 2016	Transferred to Melbourne Immigration Transit Accommodation.

**Visa applications/case progression**

<p>Ms X arrived in Australia on 10 July 2007 on a Higher Education Sector visa valid until 30 March 2011. Her visa was automatically cancelled under s 137J on 25 August 2009 due to noncompliance, however the cancellation was set aside by the Migration Review Tribunal (MRT) on 24 March 2010.</p> <p>Following the expiry of her Higher Education Sector visa, Ms X was granted multiple Bridging visas to regularise her immigration status, the most recent visa expired on 27 January 2014.</p> <p>Ms X was granted a Removal Pending Bridging visa on 28 January 2014, however she did not voluntarily depart Australia as scheduled on 10 February 2014.</p>	
27 May 2011	Lodged a Protection visa application.
2 July 2013	Protection visa application refused.
1 August 2013	Appealed to the Refugee Review Tribunal (RRT).
17 December 2013	RRT affirmed original decision.
3 January 2014	Found not to meet the guidelines for referral to the Minister under s 417.
13 February 2014	Ms X was located and detained under s 189(1).
17 February 2014	Lodged a Bridging visa application. On 19 February 2014 the application was refused.
21 February 2014	Appealed to the MRT.

27 February 2014	MRT affirmed original decision.
31 March 2014	Requested judicial review by the Federal Circuit Court (FCC).
15 September 2014	FCC judgement was reserved.

### **Health and welfare**

International Health and Medical Services (IHMS) advised that Ms X disclosed a history of torture and trauma and attended counselling on a regular basis. In February 2015 the IHMS mental health team reported that Ms X had no mental health concerns or risk factors. Ms X discontinued counselling in August 2015 and reported that she tends to isolate herself from other detainees to avoid negativity.

### **Ombudsman assessment**

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

On 31 March 2014 Ms X requested judicial review by the FCC and at the time of the Department of Immigration and Border Protection's latest review, Ms X continued to await the outcome.

The Ombudsman notes that Ms X has been awaiting the outcome of judicial review for more than two years. The Ombudsman makes no recommendations in this report.