

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

*Under s 486O of the Migration Act 1958*

This is the second s 486O assessment on Mr X who has remained in restricted immigration detention for more than 36 months (three years).

The first assessment 1002300-O was tabled in Parliament on 14 September 2016. This assessment provides an update and should be read in conjunction with the previous assessment.

<b>Name</b>	Mr X
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1973
<b>Ombudsman ID</b>	1002300-O1
<b>Date of DIBP's reviews</b>	23 July 2016 and 23 January 2017
<b>Total days in detention</b>	1,096 (at date of DIBP's latest review)

**Recent detention history**

Since the Ombudsman's previous assessment (1002300-O), Mr X remained at Yongah Hill Immigration Detention Centre (IDC).	
16 November 2016	Transferred to Christmas Island IDC.
May 2017	Transferred to Yongah Hill IDC.

**Recent visa applications/case progression**

27 July 2016	The Minister appealed the Full Federal Court decision <sup>1</sup> in relation to the International Treaties Obligations Assessment (ITOA) process and the High Court found that the ITOA process was not procedurally unfair. <sup>2</sup>  The Department of Immigration and Border Protection (the department) advised that it is considering the implications of this judgment.
27 October 2016	Mr X's judicial review application with the Federal Circuit Court of the department's negative ITOA was relisted for hearing on a date to be fixed after 22 January 2017.

**Health and welfare**

International Health and Medical Services advised that Mr X has not required treatment for any major physical or mental health issues.
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<sup>1</sup> *SZSSJ v Minister for Immigration and Border Protection* [2015] FCAFC 125.

<sup>2</sup> *Minister for Immigration and Border Protection & Anor v SZSSJ & Anor* [2016] HCA 29.

**Information provided by Mr X**

During an interview with Ombudsman staff at Yongah Hill IDC on 25 May 2017 Mr X advised that he was concerned about being returned to Country A as he was worried that he would be arrested on criminal charges. He left Country A, travelled to Country B, and then came to Australia. He stated that his partner lives in Country B and he would rather return to Country B than Country A. He advised that he has no family in Country A and is only in contact with his partner. He calls her about three times a week. He further claimed that he was unable to receive any legal assistance and found the judicial and immigration process very confusing.

**Case status**

Mr X has been found not to be owed protection under the Refugee Convention and the complementary protection criterion and has been held in restricted detention for more than three years. At the time of the department's latest review Mr X was awaiting the outcome of judicial review.