

REPORT BY THE COMMONWEALTH AND IMMIGRATION OMBUDSMAN FOR TABLING IN PARLIAMENT

Under s 486O of the Migration Act 1958

This is the second s 486O report on Mr X and his family who have remained in immigration detention for more than 42 months (three and a half years).

The first report 1002645 was tabled in Parliament on 14 October 2015. This report updates the material in that report and should be read in conjunction with the previous report.

Name	Mr X (and family)
Citizenship	Stateless (claimed), born in Country A
Year of birth	1982
Total days in detention	1276 (at date of DIBP's latest report)

Family details

Family members	Ms Y (wife)	Miss Z (daughter) ¹
Citizenship	Stateless (claimed), born in Country B of Ethnicity C	Stateless (claimed), born in Country B of Ethnicity C
Year of birth	1988	2004
Total days in detention	1276 (at date of DIBP's latest report)	1276 (at date of DIBP's latest report)

Family members	Master P (son)	Miss Q ² (daughter)
Citizenship	Stateless (claimed), born in Country B of Ethnicity C	Stateless (claimed), born in Australia of Ethnicity C
Year of birth	2009	2013
Total days in detention	1276 (at date of DIBP's latest report)	Not provided

Family member	Mr R ³ (brother)
Citizenship	Stateless (claimed), born in Country A
Year of birth	1992
Total days in detention	1094 (at date of DIBP's first report)

¹ The Ombudsman's first report on Miss Z (1002645) recorded that she was Mr Xs' sister-in-law based on The Department of Immigration and Border Protection (DIBP)'s advice in the family's 24-month and 30-month reviews. The family's 36-month review subsequently advised that Miss Z is Mr X's daughter.

² Miss Q was born in Australia in June 2013 and was subject to an individual report under s 486N. She was previously reported on in Ombudsman report 1003490 and is now included in her family's report.

³ Mr R was included in Mr X's family's 36-month review but was not included in the family's 42-month review. His individual 42-month review is the subject of Ombudsman report 1002364-O.

Ombudsman ID	1003503
Date of DIBP's reports	12 October 2015 and 11 April 2016

Detention history

13 October 2012	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 470 <i>Zeitz</i> . They were transferred to an Alternative Place of Detention (APOD), Christmas Island. ⁴
22 October 2012	Transferred to Christmas Island Immigration Detention Centre.
29 October 2012	Transferred to Christmas Island APOD.
15 December 2012	Transferred to Darwin Airport Lodge APOD.
31 January 2013	Transferred to community detention.

Recent visa applications/case progression

29 January 2013	The former Minister agreed to intervene under s 197AB to allow Mr X and his family to reside in community detention.
6 September 2013	Lodged a Protection visa application which was deemed invalid.
13 March 2014	DIBP notified Mr X of the unintentional release of personal information ⁵ and advised that the privacy breach would be taken into account when considering the family's protection claims.
30 June 2015	The Minister lifted the bar under s 46A to allow Mr X, Ms Y and their children to lodge a temporary visa application.
21 August 2015	Mr X lodged a Safe Haven Enterprise visa (SHEV) application for his family which did not include Mr R.
29 September 2015	The Minister lifted the bar under s 46A to allow Mr R to lodge a temporary visa application.
12 October 2015	DIBP advised that Mr X and Mr R were persons of interest in relation to alleged people smuggling activities.
21 October 2015	Found not to meet the guidelines for referral to the Minister under s 195A for consideration of the grant of a Bridging visa.
8 March 2016	Mr X was notified that his family is eligible to receive the Primary Application Information Service (PAIS) to assist them with lodging a new temporary visa application or providing supporting information for their existing application. On 14 March 2016 the family accepted the PAIS offer and were assigned a provider.

⁴ DIBP did not provide a full detention history for Mr X and his family in their 24-month and 30-month reviews.

⁵ In a media release dated 19 February 2014 the former Minister advised that an immigration detention statistics report was released on DIBP's website on 11 February 2014 which inadvertently disclosed detainees' personal information. The documents were removed from the website as soon as DIBP became aware of the breach from the media. The Minister acknowledged this was a serious breach of privacy by DIBP.

Health and welfare

Mr X, Ms Y, Mr R and Miss Q

International Health and Medical Services (IHMS) advised that Mr X, Ms Y, Mr R and Miss Q have not required treatment for any major physical or mental health issues since its previous report to the Ombudsman.

Miss Z

IHMS advised that Miss Z continued to be monitored by a paediatrician for significant speech delay.

Master P

IHMS advised that Master P was diagnosed with attention deficit hyperactivity disorder and dyslexia and was referred to a paediatrician.

Case status

Mr X and his family were detained on 13 October 2012 after arriving in Australia aboard SIEV *Zeitz* and have been held in detention for over three and a half years.

On 30 June 2015 the Minister lifted the bar under s 46A to allow Mr X, Ms Y and their children to apply for a temporary visa and on 21 August 2015 the family lodged a SHEV application. On 14 March 2016 Mr X and his family accepted the PAIS assistance and were assigned a provider to assist with their visa application.

On 29 September 2015 the Minister lifted the bar under s 46A to allow Mr R to apply for a temporary visa.