

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

*Under s 486O of the Migration Act 1958*

This is the fourth s 486O report on Mr X who has remained in immigration detention for more than 66 months (five and a half years).

The first report 1561/13 was tabled in Parliament on 4 December 2013, the second report 1001392 was tabled in Parliament on 24 September 2014 and the third report 1002115 was tabled in Parliament on 14 October 2015. This report updates the material in those reports and should be read in conjunction with the previous reports.

<b>Name</b>	Mr X
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1983
<b>Ombudsman ID</b>	1000758-O
<b>Date of DIBP's reports</b>	17 December 2015 and 15 June 2016
<b>Total days in detention</b>	2004 (at date of DIBP's latest report)

### Recent detention history

Since the Ombudsman's previous report (1002115), Mr X has remained in community detention.

### Recent visa applications/case progression

17 December 2015	The Department of Immigration and Border Protection (DIBP) advised that Mr X's case was affected by the judgment handed down on 2 September 2015 by the Full Federal Court (FFC) <sup>1</sup> which found that the International Treaties Obligations Assessment (ITOA) process was procedurally unfair.
13 April 2016	The Minister lifted the bars under ss 46A and 48B of the <i>Migration Act 1958</i> to allow Mr X to lodge a temporary visa application.
22 April 2016	DIBP invited Mr X to apply for a temporary visa.
19 May 2016	Mr X was notified that he was eligible to receive the Primary Application Information Service (PAIS) to assist him with lodging a temporary visa application.
27 July 2016	The Minister appealed the FFC's decision and the High Court found that the ITOA process was not procedurally unfair. <sup>2</sup> DIBP advised that it is considering the implications of this judgment.

<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.

**Health and welfare**

International Health and Medical Services (IHMS) reported that Mr X continued to be monitored and treated for depression, anxiety and chronic insomnia. His mental health was exacerbated following concerns related to the possibility of a new housemate. The general practitioner recommended that Mr X continue to live alone because of his mental health concerns.

DIBP Incident reports recorded that Mr X underwent scans after ongoing headaches.

**Case status**

Mr X has been held in detention for over five and a half years. He has been found not to be owed protection under the Refugee Convention and complementary protection criterion.

On 13 April 2016 the Minister lifted the bars under ss 46A and 48B to allow Mr X to apply for a temporary visa and on 19 May 2016 Mr X was offered PAIS assistance. At the time of DIBP's review Mr X had not accepted the PAIS assistance.