

## 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 Ms X and her sister who have remained in immigration detention for more than 60 months (four and a half years).

The first report 1000978 was tabled in Parliament on 11 December 2013, the second report 1001475 was tabled in Parliament on 29 October 2014 and the third report 1001878 was tabled in Parliament on 3 June 2015. This report updates the material in those reports and should be read in conjunction with the previous reports.

<b>Name</b>	Ms X (and sister)
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1992

### Family details

<b>Family members</b>	Miss Y (sister)
<b>Citizenship</b>	Country A
<b>Year of birth</b>	2011

<b>Ombudsman ID</b>	1002339
<b>Date of DIBP's reports</b>	16 March 2015, 18 September 2015 and 15 March 2016
<b>Total days in detention</b>	1823 (at date of DIBP's latest report)

### Recent detention history

Since the Ombudsman's previous report (1001878), Ms X and her sister have remained in community detention.

### Recent visa applications/case progression

4 May 2015	The Federal Circuit Court (FCC) dismissed the application for judicial review.
25 May 2015	Requested judicial review of the negative FCC decision by the Federal Court (FC). The matter was heard and the court adjourned on 25 August 2015.
18 September 2015	The Department of Immigration and Border Protection (DIBP) advised that Ms X and her sister'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.
16 February 2016	FC dismissed the application for judicial review.
21 March 2016	The Minister appealed the FFC decision.

<sup>1</sup> SZSSJ v Minister for Immigration and Border Protection [2015] FCAFC 125.

27 July 2016	The High Court found that the ITOA process was not procedurally unfair.
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### Health and welfare

*Ms X*

International Health and Medical Services (IHMS) advised that Ms X was referred to a dermatologist and gynaecologist for treatment after presenting with a skin condition.	
February 2016	Ms X gave birth to her daughter <sup>2</sup> without complication.

*Miss Y*

IHMS advised that Miss Y was reviewed by an ear, nose and throat specialist after receiving ongoing treatment for a perforated ear drum. She has been placed on a hospital waiting list for a surgical procedure and continues to be monitored by the general practitioner.
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### Other matters

Ms X advised that her daughter's father is Mr Z who is the subject of Ombudsman report 1001477. DIBP advised that Mr Z and Ms X married on 18 January 2016.
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### Case status

Ms X and her sister have been found not to be owed protection under the Refugee Convention and the complementary protection criterion. They are awaiting the outcome of judicial review.
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<sup>2</sup> Miss Q was born in Australia in February 2016. She has been in detention for less than two years and is not subject to reporting under s 486N.