

**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 and his children who have remained in immigration detention for more than 66 months (five and a half years).

The first report 1580/13 was tabled in Parliament on 4 December 2013, the second report 1001411 was tabled in Parliament on 1 October 2014 and the third report 1002180 was tabled in Parliament on 24 February 2016. This report updates the material in those reports and should be read in conjunction with the previous reports.

Name	Mr X (and children)
Citizenship	Country A
Year of birth	1974

Family details

Family members	Master Y (son)	Miss Z (daughter)
Citizenship	Country A	Country A
Year of birth	2003	2006

Ombudsman ID	1000765-O
Date of DIBP's reports	6 January 2016 and 6 July 2016
Total days in detention	2004 (at date of DIBP's latest report)

Recent detention history

Since the Ombudsman's previous report (1002180), Mr X and his children have remained in community detention.
--

Recent visa applications/case progression

6 January 2016	The Department of Immigration and Border Protection (DIBP) advised that the family's case was affected by the Full Federal Court's (FFC) decision of 20 March 2013 ¹ and by the judgment handed down by the FFC on 2 September 2015 ² which found that the International Treaties Obligations Assessment (ITOA) process was procedurally unfair.
6 July 2016	DIBP advised that the family's case had been identified for assessment against the guidelines under s 195A of the <i>Migration Act 1958</i> for referral to the Minister for the possible grant of a Bridging visa.

¹ *Minister for Immigration and Citizenship v SZQRB* [2013] FCAFC 33.

² *SZSSJ v Minister for Immigration and Border Protection* [2015] FCAFC 125.

27 July 2016	The Minister appealed the FFC decision and the High Court (HC) found that the ITOA process was not procedurally unfair. ³ DIBP advised that it is considering the implications of this judgment.
--------------	--

Health and welfare

Mr X

International Health and Medical Services (IHMS) advised that Mr X was diagnosed with chronic obstructive pulmonary disease after lung function testing and was prescribed with medication. In March 2016 he collapsed after losing consciousness and attended an emergency department for treatment. He was referred for further testing and a neurology review and his conditions are monitored by a general practitioner.

Master Y and Miss Z

IHMS advised that Master Y and Miss Z have not required treatment for any major physical or mental health issues.

Case status

Mr X and his children have been found not to be owed protection under the Refugee Convention and the complementary protection criterion. Their case was affected by the HC judgment of 27 July 2016 and DIBP advised that it was considering the implications of this judgment.

³ *Minister for Immigration and Border Protection & Anor v SZSSJ & Anor* [2016] HCA 29.