

ASSESSMENT BY THE COMMONWEALTH OMBUDSMAN FOR TABLING IN PARLIAMENT

Under s 486O of the Migration Act 1958

This is the first s 486O assessment on Mr X who has remained in immigration detention for more than 30 months (two and a half years).

Name	Mr X
Citizenship	Country A
Year of birth	1991
Ombudsman ID	1002499-O
Date of DIBP's reviews	7 September 2016 and 8 March 2017
Total days in detention	912 (at date of DIBP's latest review)

Detention history

8 September 2014	Detained under s 189(1) of the <i>Migration Act 1958</i> as his visa had ceased. He was transferred to Facility B.
15 September 2014 – 1 October 2015	Transferred three times between various immigration detention facilities.
February 2017	Transferred to Facility C.

Visa applications/case progression

28 August 2014	Arrived in Australia on a Special Purpose visa (SPV) and was exempted from s 166 immigration clearance provisions as he was a member of foreign naval forces.
7 September 2014	Reported by the navy of Country A as being a possible deserter as it was believed he had jumped overboard and swam to shore from his ship while it was at an Australian seaport.
8 September 2014	SPV ceased and he became an unlawful citizen. He was located on the same day and detained under s 189(1).
11 October 2014	Lodged a Protection visa application.
24 October 2014 – 20 December 2016	Lodged three bridging visa applications, all of which were refused.
4 December 2014	Protection visa application refused.
12 December 2014	Applied to the Refugee Review Tribunal (RRT) for merits review.
30 April 2015	RRT affirmed original decision.
29 May 2015	Applied to the Federal Circuit Court (FCC) for judicial review.
24 June 2015	Proceedings were adjourned with judgment reserved.
13 February 2017	The Minister declined to intervene under s 195A to grant a bridging visa.

Health and welfare

International Health and Medical Services (IHMS) advised that in February 2015 Mr X presented with mild depressive symptoms including low mood, insomnia and nightmares. He was referred to a psychologist and attended regular sessions until April 2015 when his mental health was reported to have improved.

Information provided by Mr X

During an interview with Ombudsman staff at Facility C in June 2017 Mr X advised that he had been waiting two years for an outcome in the FCC proceedings. He stated that he was under pressure from his case manager to go home.

Mr X reported that there were good and bad aspects to detention; however, conditions had become much stricter. For example detainees were now handcuffed to go to medical appointments. He said that it used not to feel like detention but things had changed recently.

Mr X said his physical health was satisfactory but his mental health was deteriorating and he felt frustrated and hopeless. He found his situation to be very difficult and he worried a great deal about the future. He said that while IHMS tried to help him, it was not possible to be happy in detention. He had asked to be allowed to go on excursions outside the detention facility five months ago but had not received an answer. He sometimes participated in activities.

He advised that he did not have family or friends who visited him, but he would sometimes see humanitarian groups.

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 an immigration detention facility for more than two and half years. At the time of the Department of Immigration and Border Protection's latest review Mr X was awaiting the outcome of judicial review.