

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 who has remained in restricted immigration detention for more than 36 months (three years).

The first report 1001923 was tabled in Parliament on 17 June 2015. This report updates the material in that report and should be read in conjunction with the previous report.

Name	Mr X
Citizenship	Country A
Year of birth	1985
Ombudsman ID	1002394
Date of DIBP's reports	13 April 2015 and 2 October 2015
Total days in detention	1,094 (at date of DIBP's latest report)

Recent detention history

Since the Ombudsman's previous report (1001923), Mr X has remained at Villawood Immigration Detention Centre.

Recent visa applications/case progression

September 2014	The Department of Immigration and Border Protection (DIBP) commenced an International Treaties Obligation Assessment (ITOA).
15 October 2014	Mr X provided information for the ITOA.
29 October 2014	The Full Federal Court (FFC) allowed Mr X's appeal and remitted the matter to the Federal Circuit Court (FCC) for reconsideration.
23 December 2014	DIBP wrote to Mr X and invited him to comment on the ITOA.
23 January 2015	Mr X responded to DIBP.
28 April 2015	FCC dismissed his appeal.
29 April 2015	Appealed FCC decision to the FFC.
2 September 2015	DIBP advised that Mr X's case is affected by the judgment handed down by the FFC ¹ which found that the ITOA process was procedurally unfair. DIBP further advised that it is in the process of seeking legal advice in relation to the judgment.

Health and welfare

27 July 2015	Presented to the general practitioner with knee pain. Mr X has a history of knee issues. An x-ray identified no abnormalities.
28 August 2015	He was referred for physiotherapy and prescribed with medication for his knee pain.

¹ SZSSJ v Minister for Immigration and Border Protection [2015] FCAFC 125

10 September 2015	International Health and Medical Services advised that no significant mental health concerns were raised in relation to Mr X since its last report to the Ombudsman.
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Case status

Mr X has been found not to be owed protection under the Refugee Convention and the complementary protection criterion.

Mr X's case is affected by the FFC's judgment of 2 September 2015, which found that the ITOA process undertaken by DIBP was procedurally unfair. DIBP advised that it is seeking legal advice in relation to the judgment.