

REPORT BY THE COMMONWEALTH AND IMMIGRATION OMBUDSMAN FOR TABLING IN PARLIAMENT

Under s 486O of the Migration Act 1958

This is the third s 486O report on Mr X who has remained in restricted immigration detention for more than 48 months (four years).

The first report 1001530 was tabled in Parliament on 1 October 2014 and the second report 1001989 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.

Name	Mr X
Citizenship	Country A
Year of birth	1992
Ombudsman ID	1002491
Date of DIBP's reports	11 May 2015, 4 November 2015 and 4 May 2016
Total days in detention	1458 (at date of DIBP's latest report)

Recent detention history

Since the Ombudsman's previous report (1001989), Mr X has remained at Wickham Point Alternative Place of Detention.

Recent visa applications/case progression

16 January 2015	The Department of Immigration and Border Protection (DIBP) commenced an International Treaties Obligations Assessment (ITOA) to assess whether the circumstances of Mr X's case engage Australia's <i>non-refoulement</i> obligations.
12 March 2015	DIBP finalised the ITOA, determining Mr X's case did not engage Australia's <i>non-refoulement</i> obligations.
11 May 2015	DIBP advised that Mr X is on a removal pathway. However, there are barriers to his involuntary removal including in-country identity checks which have been protracted following security issues in the relevant province in Country A. DIBP advised that on completion of the identity checks arrangements will be made to remove Mr X. He has been provided with information about the International Organization of Migration should he wish to depart Australia voluntarily.
4 November 2015	Mr X's case is affected by the judgment handed down on 2 September 2015 by the Full Federal Court (FFC) ¹ which found that the ITOA process was procedurally unfair.
1 March 2016	Mr X made claims to be Mr Y, a citizen from Country B. He provided DIBP with identification documentation to support his claimed identity.

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

21 March 2016	The Minister filed a notice in the High Court (HC) to appeal the FFC's decision of 2 September 2015.
1 April 2016	Mr X signed a Request for Removal from Australia form. On the same day he lodged an application for a Country B passport.
13 April 2016	The Minister lifted the bar under s 46A to allow Mr X to lodge a temporary visa application.

Health and welfare

International Health and Medical Services advised that Mr X has not required treatment for any major physical or mental health issues since its previous report to the Ombudsman.

Case status

Mr X was detained on 7 May 2012 after arriving in Australia aboard Suspected Illegal Entry Vessel *Ebor* and has been held in restricted detention for over four years.

On 13 April 2016 the Minister lifted the bar under s 46A to allow Mr X to apply for a temporary visa. At the time of DIBP's review, Mr X was awaiting an invitation to apply.

Mr X's case is also affected by the FFC's judgment of 2 September 2015, which found that the ITOA process undertaken by DIBP was procedurally unfair. On 21 March 2016 the Minister filed a notice in the HC to appeal the FFC's decision.