

## 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 Ms X who has remained in immigration detention for more than 48 months (four years).

The first report 1001384 was tabled in Parliament on 9 July 2014 and the second report 1001637 was tabled in Parliament on 17 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
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1966
<b>Ombudsman ID</b>	1002734
<b>Date of DIBP's reports</b>	17 June 2015 and 19 December 2015
<b>Total days in detention</b>	1460 (at date of DIBP's latest report)

### Recent detention history

Since the Ombudsman's previous report (1001637), Ms X has remained in community detention.

### Recent visa applications/case progression

15 January 2015	The Department of Immigration and Border Protection (DIBP) commenced an International Treaties Obligations Assessment (ITOA) to assess whether the circumstances of Ms X's case engage Australia's <i>non-refoulement</i> obligations.
22 May 2015	DIBP invited Ms X to comment on information relevant to the ITOA. She provided a response on 11 June 2015.
19 December 2015	DIBP advised that Ms X's case is affected by the judgment handed down on 2 September 2015 by the Full Federal Court (FFC) <sup>1</sup> which found that the ITOA process was procedurally unfair.
21 March 2016	The Minister filed a notice in the High Court (HC) to appeal the FFC's decision.

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

## **Health and welfare**

International Health and Medical Services (IHMS) advised that a general practitioner (GP) has continued to monitor and treat Ms X for previously reported physical and mental health issues which include hypertension, depression and anxiety. She has also been treated for a knee injury which required specialist referral.

Since the Ombudsman's previous report, IHMS advised Ms X's mental health has deteriorated and she was diagnosed with an adjustment disorder with mixed anxiety and depressed mood symptoms. The GP advised one of her fears is being forcibly returned to Country A.

A psychiatrist also noted that Ms X may have post-traumatic stress disorder but was unable to confirm a diagnosis as Ms X was reportedly not cooperative. The psychiatrist prescribed antidepressant medication and recommended counselling.

## **Case status**

Ms X has been found not to be owed protection under the Refugee Convention and the complementary protection criterion. She is awaiting the outcome of an ITOA.

Ms 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. On 21 March 2016 the Minister filed a notice in the HC to appeal the FFC's decision.