

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 who has remained in restricted immigration detention for more than 54 months (four and a half years).

The first report 1001171 was tabled in Parliament on 12 February 2014, the second report 1001453 was tabled in Parliament on 22 October 2014 and the third report 1001817 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	1980
Ombudsman ID	1003356
Date of DIBP's reports	18 August 2015 and 17 February 2016
Total days in detention	1640 (at date of DIBP's latest report)

Recent detention history

Since the Ombudsman's previous report (1001817) Mr X has remained at Yongah Hill Immigration Detention Centre.

Recent visa applications/case progression

22 August 2014	The Department of Immigration and Border Protection (DIBP) advised that Mr X's case is affected by the Full Federal Court's (FFC) decision of 20 March 2013 ¹ and he will have his complementary protection claims reassessed as part of a new International Treaties Obligations Assessment (ITOA).
27 March 2015	DIBP commenced an ITOA to assess whether the circumstances of Mr X's case engage Australia's <i>non-refoulement</i> obligations. He subsequently attended an interview and provided further information in relation to the ITOA.
17 February 2016	DIBP advised that Mr X's ITOA has not been finalised yet because his case is affected by the judgment handed down on 2 September 2015 by the FFC ² which found that the ITOA process was procedurally unfair.
27 July 2016	The Minister appealed the FFC decision and the High Court found that the ITOA process was not procedurally unfair.

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

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

Health and welfare

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

11 October 2015

Transferred to hospital after complaining of chest pain and shortness of breath. Mr X was diagnosed with an upper respiratory tract infection and provided with treatment.

Ombudsman assessment/recommendation

Mr X has been found not to be owed protection under the Refugee Convention and the complementary protection criterion. Mr X's protection claims are being reassessed under an ITOA.

The Ombudsman notes that Mr X has remained in restricted immigration detention for more than four and a half years and further notes Mr X's previously reported mental health issues, including a significant history of self-harm and suicide attempts, which a psychiatrist attributed to his prolonged detention.

In light of this, the Ombudsman recommends that consideration be given to granting a Bridging visa to Mr X while he awaits finalisation of his immigration case.