

**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 and his daughter who have remained in immigration detention for more than 54 months (four and a half years).

The first report 1001336 was tabled in Parliament on 19 March 2014, the second report 1001551 was tabled in Parliament on 3 December 2014 and the third report 1002018 was tabled in Parliament on 3 February 2016. This report updates the material in those reports and should be read in conjunction with the previous reports.

Name	Mr X (and daughter)
Citizenship	Country A
Year of birth	1981

Family details

Family members	Miss Y (daughter)
Citizenship	Country A
Year of birth	2006

Ombudsman ID	1000903-O
Date of DIBP's reports	15 November 2015 and 12 May 2016
Total days in detention	1640 (at date of DIBP's latest report)

Recent detention history

Since the Ombudsman's previous report (1002018), Mr X and his daughter have remained in community detention.

Recent visa applications/case progression

3 July 2015	The Department of Immigration and Border Protection (DIBP) finalised the International Treaties Obligations Assessments (ITOA), determining Mr X's case did not engage Australia's <i>non-refoulement</i> obligations.
15 November 2015	DIBP advised that Mr X has been identified as a person of interest to DIBP in relation to alleged criminal matters whilst onshore.
12 May 2016	DIBP advised that Mr X's case was 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 *SZSSJ v Minister for Immigration and Border Protection* [2015] FCAFC 125.

13 April 2016	The Minister lifted the bars under ss 46A and 48B of the <i>Migration Act 1958</i> to allow Mr X and his daughter to lodge a temporary visa application.
21 April 2016	DIBP invited Mr X and his daughter to lodge a temporary visa application.
27 July 2016	The Minister appealed the FFC decision and the High Court found that the ITOA process was not procedurally unfair. ² DIBP advised that it is considering the implications of this judgment.

Health and welfare

Mr X and Miss Y

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

Case status

Mr X and his daughter were detained on 15 November 2011 after arriving in Australia aboard Suspected Illegal Entry Vessel *Siroset* and have been held in detention for over four and a half years.

On 13 April 2016 the Minister lifted the bars under ss 46A and 48B to allow Mr X to apply for a temporary visa and on 21 April 2016 DIBP invited Mr X and his daughter to apply.

² *Minister for Immigration and Border Protection & Anor v SZSSJ & Anor* [2016] HCA 29.