

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

The first report 1002084 was tabled in Parliament on 3 June 2015. This report updates the material in that report and should be read in conjunction with the previous report.

Name	Ms X
Citizenship	Country A
Year of birth	1980
Ombudsman ID	1002675
Date of DIBP's reports	12 June 2015 and 3 December 2015
Total days in detention	1094 (at date of DIBP's latest report)

Recent detention history

Since the Ombudsman's previous report (1002084), Ms X and her husband, Mr Y, remained at Villawood Immigration Detention Centre. Mr Y is the subject of Ombudsman report 1002374.	
11 May 2015	Ms X and her husband were transferred to Melbourne Immigration Transit Accommodation.
8 March 2016	Ms X and her son ¹ were granted Bridging visas and released from detention.

Recent visa applications/case progression

9 April 2015	The Department of Immigration and Border Protection (DIBP) finalised the International Treaties Obligations Assessment (ITOA) in relation to the unintentional release of personal information, ² determining Ms X's case did not engage Australia's <i>non-refoulement</i> obligations.
22 April 2015	Found not to meet the guidelines for referral to the Minister under s 48A of the <i>Migration Act 1958</i> .
24 April 2015	Requested judicial review by the Federal Circuit Court.
22 June 2015	Found not to meet the guidelines for referral to the Minister under s 195A.

¹ Master P was born in Australia in July 2015 and has been in detention for less than two years. He is not subject to reporting under s 486N.

² In a media release dated 19 February 2014 the former Minister advised that an immigration detention statistics report was released on DIBP's website on 11 February 2014 which inadvertently disclosed detainees' personal information. The documents were removed from the website as soon as DIBP became aware of the breach from the media. The Minister acknowledged this was a serious breach of privacy by DIBP.

9 September 2015	Ms X's case was referred on a ministerial submission for consideration under s 195A for the grant of a Bridging visa.
18 September 2015	Ms X's requested her ministerial intervention submission under s 195A be withdrawn or delayed as she was concerned about being released into the community with little support to care for her son. Ms X's request under s 195A was withdrawn that day.
19 November 2015	Ms X's case was referred on a ministerial submission for consideration under s 197AB for the grant of a community detention placement.
3 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) ³ which found that the International Treaties Obligations Assessment (ITOA) process was procedurally unfair. On 21 March 2016 the Minister filed an application in the High Court (HC) for special leave to appeal the FFC's decision.
8 March 2016	Ms X and her son were granted Bridging visas.

Health and welfare

3 April 2014	A DIBP Incident Report recorded that Ms X refused food and fluid.
January 2015	International Health and Medical Services advised that it provided Ms X with counselling.
9 July 2015	Ms X gave birth to her son without complication.

Case status

Ms X has been found not to be owed protection under the Refugee Convention and the complementary protection criterion. At the time of DIBP's latest review, Ms X was awaiting the outcome of judicial review.

Ms 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 an application in the HC for special leave to appeal the FFC's decision.

Ms X and her son were granted Bridging visas on 8 March 2016 and released from immigration detention.

³ *SZSSJ v Minister for Immigration and Border Protection* [2015] FCAFC 125.