

**REPORT BY THE COMMONWEALTH AND
IMMIGRATION OMBUDSMAN FOR TABLING IN PARLIAMENT**

Under s 486O of the Migration Act 1958

This is the first s 486O report on Ms X and her daughter who have remained in immigration detention for more than 24 months (two years).

Name	Ms X (and daughter)
Citizenship	Country A
Year of birth	1988

Family details

Family members	Miss Y (daughter)
Citizenship	Country A
Year of birth	2009

Ombudsman ID	1002347-O
Date of DIBP's report	22 March 2016
Total days in detention	731 (at date of DIBP's report)

Detention history

22 March 2014	Detained under s 189(1) of the <i>Migration Act 1958</i> after being refused immigration clearance at Melbourne Airport. They were transferred to Melbourne Immigration Transit Accommodation.
11 August 2014	Transferred to community detention.

Visa applications/case progression

<p>Ms X first arrived in Australia in June 2009 on a Vocational Educational and Training Sector (VETS) visa. She resided lawfully in the community and was granted four further VETS visas, the last of which ceased on 12 May 2015.</p> <p>Ms X gave birth to her daughter Miss Y in Australia in November 2009, and Miss Y was included as a dependant on Ms X's subsequent VETS visas.</p> <p>Ms X and her daughter left Australia for short periods on several occasions between 2010 and 2014.</p>	
22 March 2014	Ms X and daughter returned to Australia and were refused immigration clearance pursuant to s 172 due to non-compliance with visa conditions.
23 March 2014	Ms X and daughter were 'screened out' of the protection process and were scheduled for removal from Australia.

25 March 2014	The Federal Circuit Court (FCC) notified the Department of Immigration and Border Protection (DIBP) of an impending application on behalf of Ms X and daughter for an injunction to prevent their removal from Australia. Their removal was consequently aborted.
27 March 2014	Lodged a Protection visa application with an associated Bridging visa application.
28 March 2014	Associated Bridging visa application deemed invalid.
8 May 2014	Protection visa application refused.
13 May 2014	Appealed to the Refugee Review Tribunal (RRT).
1 June 2014	RRT affirmed original decision.
8 July 2014	Requested judicial review by the FCC.
17 July 2015	Found not to meet the guidelines for referral to the Minister under s 195A.
25 July 2014	The former Minister agreed to intervene under s 197AB to allow Ms X and her daughter to reside in community detention.
8 December 2015	FCC affirmed original decision.
21 December 2015	Appealed to the Full Federal Court. A hearing was scheduled for 2 May 2016.

Health and welfare

Ms X

International Health and Medical Services (IHMS) advised that Ms X disclosed a history of torture and trauma and claimed to have been the victim of domestic violence by her husband, from whom she is now separated. She was provided with support and encouraged to attend mental health sessions as needed.

Miss Y

IHMS advised that Miss Y has not required treatment for any major physical or mental health issues.

Case status

Ms X and her daughter have been found not to be owed protection under the Refugee Convention and the complementary protection criterion. At the time of DIBP's review Ms X and her daughter were awaiting the outcome of judicial review.