

REPORT BY THE COMMONWEALTH AND IMMIGRATION OMBUDSMAN FOR TABLING IN PARLIAMENT

Under s 486O of the Migration Act 1958

This is the fifth s 486O report on Mr X who has remained in restricted immigration detention more than 72 months (six years). The previous reports are:

1193/13 tabled in Parliament on 26 June 2013

1001084 tabled in Parliament on 18 June 2014

1001642 tabled in Parliament on 11 February 2015

1002120 tabled in Parliament on 10 February 2016

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	1988
Ombudsman ID	1000512-O
Date of DIBP's reports	17 December 2015 and 16 June 2016
Total days in detention	2186 (at date of DIBP's latest report)

Recent detention history

Since the Ombudsman's previous report (1002120), Mr X has remained at Yongah Hill Immigration Detention Centre.

Recent visa applications/case progression

2 July 2015	The Department of Immigration and Border Protection (DIBP) finalised the International Treaties Obligations Assessment (ITOA), determining Mr X's case did not engage Australia's <i>non-refoulement</i> obligations.
27 July 2015	Requested judicial review by the Federal Circuit Court. He was scheduled to attend a hearing on 20 June 2016.
31 July 2015	Found not to meet the guidelines for referral to the Minister under s 46A of the <i>Migration Act 1958</i> .
16 June 2016	DIBP advised that Mr X's hearing was vacated pending finalisation of the Minister's appeal to the High Court (HC) from the judgment handed down on 2 September 2015 by the FFC ¹ which found that the ITOA process was procedurally unfair.
27 July 2016	The High Court (HC) found that the ITOA process was not procedurally unfair. ² DIBP advised that it is considering the implications of this judgment.

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

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

Health and welfare

International Health and Medical Services (IHMS) advised that Mr X was monitored by the mental health team after refusing food and fluid between 6 August 2015 and 14 August 2015 and expressing thoughts of hopelessness. On 12 May 2016 IHMS advised that he declined to attend specialist counselling and is aware of the self-referral process.

IHMS further advised that Mr X received treatment for gastroenterological abnormalities and was referred for a colonoscopy. He continues to be monitored by the general practitioner.

Case status

Mr 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, Mr X was awaiting the outcome of judicial review.

In addition DIBP has advised that his case is affected by the HC judgment of 27 July 2016 and that it is considering the implications of this judgment.