

**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 immigration detention for more than 72 months (six years).

The first report 1447/13 was tabled in Parliament on 13 November 2013, the second report 1001189 was tabled in Parliament on 9 July 2014 and the third report 1001828 was tabled in Parliament on 12 August 2015. This report updates the material in those reports and should be read in conjunction with the previous reports.

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| Name | Mr X |
| Citizenship | Country A |
| Year of birth | 1985 |
| Ombudsman ID | 1003364 |
| Date of DIBP's reports | 25 August 2015, 24 February 2016 and 24 August 2016 |
| Total days in detention | 2186 (at date of DIBP's latest report) |

Recent detention history

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| Since the Ombudsman's previous report (1001828), Mr X has remained in community detention. |
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Recent visa applications/case progression

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| 15 July 2015 | The Department of Immigration and Border Protection (DIBP) finalised an International Treaties Obligations Assessment (ITOA) determining that Mr X's case did not engage Australia's <i>non-refoulement</i> obligations. |
| 17 August 2015 | Mr X's request for intervention under s 46A of the <i>Migration Act 1958</i> , lodged on 23 January 2013, was declined following completion of an ITOA. |
| 1 September 2015 | Mr X requested ministerial intervention under s 46A because his circumstances had changed, as he is now in a relationship with an Australian citizen. |
| 24 February 2016 | DIBP advised that Mr X has been identified as a person of interest in relation to his identity. |
| 24 August 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. The Minister appealed the FFC decision and on 27 July 2016 the High Court (HC) found that the ITOA process was not procedurally unfair. ² DIBP further advised that it is considering the resolution of Mr X's immigration status. |

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) reported that Mr X continued to be monitored and treated for hypogonadism and asthma. He also continued to experience chronic back and neck pain. X-rays of his spine in March 2015 and February 2016 identified no abnormalities and he was referred for physiotherapy. His condition continues to be managed by a general practitioner and he is prescribed with pain relief medication to take as required.

Case status

Mr X has been found not to be owed protection under the Refugee Convention and the complementary protection criterion. DIBP advised that it is considering the resolution of Mr X's immigration status.