

ASSESSMENT BY THE COMMONWEALTH OMBUDSMAN FOR TABLING IN PARLIAMENT

Under s 486O of the Migration Act 1958

This is the sixth s 486O assessment on Mr X who has remained in immigration detention for more than 72 months (six years). The previous assessment 1000875-O was tabled in Parliament on 1 March 2017. This assessment provides an update and should be read in conjunction with the previous assessments.

Name	Mr X
Citizenship	Country A
Year of birth	1966
Ombudsman ID	1000875-O1
Date of DIBP's reports	23 January 2017 and 24 July 2017
Total days in detention	2,186 (at date of DIBP's latest report)

Recent detention history

Since the Ombudsman's previous assessment, Mr X has remained at Yongah Hill Immigration Detention Centre.

Recent visa applications/case progression

7 October 2016	The Administrative Appeals Tribunal (AAT) invited Mr X to comment on a potential course of action under its consideration, whereby the Department of Foreign Affairs and Trade could contact the Country A authorities and seek assurance that the death penalty will not apply in his case. On 11 October 2016 Mr X provided a response.
23 January 2017	Mr X remains the subject of an Interpol Red Notice in relation to fraud related offences allegedly committed in Country A.
22 March 2017	AAT affirmed the refusal of Mr X's Protection visa application.
26 April 2017	Applied to the Federal Circuit Court (FCC) for judicial review. Mr X was scheduled to attend a final hearing on 22 September 2017.

Health and welfare

International Health and Medical Services advised that Mr X did not receive treatment for any major physical or mental health issues during this assessment period.

Information provided by Mr X

During an interview with Ombudsman staff on 23 May 2017 Mr X advised that he arrived in Australia on a tourist visa. He said that he did not want to return to Country A because he believed he would be killed by the government and would return voluntarily if it was safe. He claimed that his case appeared to be on hold because the Australian government believes that there is only a chance that he would be killed if he was returned to Country A.

Mr X advised that he was scheduled to attend the FCC in July 2017 to receive a hearing date. He said that he previously received legal assistance but did not currently have a lawyer or migration agent. He advised that the detention centre had attempted to engage Legal Aid on his behalf but they were told that there was not adequate funding for his case. He reported that he usually spoke to his case manager every month, but they have not spoken recently and he does not believe his case manager understands his case.

Mr X reported that his physical and mental health is good, however he is frustrated about his ongoing detention. He expressed concern that he is not allowed to leave the detention centre to attend excursions to church, but he is visited by a priest every week. He said that he regularly talks to his son and daughter and is worried that he may be separated from them if he is returned to Country A.

Case status

Mr X has been found not to be owed protection under the Refugee Convention and the complementary protection criterion and has remained in an immigration detention facility for more than six years.

On 22 March 2017 the AAT affirmed the refusal of Mr X's Protection visa application. At the time of the Department of Immigration and Border Protection's latest report Mr X was awaiting the outcome of judicial review.