

**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 who remained in restricted immigration detention for more than 24 months (two years).

Name	Ms X
Citizenship	Country A
Year of birth	1965
Ombudsman ID	1002290-O
Date of DIBP's report	14 January 2016
Total days in detention	730 (at date of DIBP's report)

Detention history

14 January 2014	Detained under s 189(1) of the <i>Migration Act 1958</i> after living unlawfully in the community. She was transferred to Villawood Immigration Detention Centre.
8 April 2014	Transferred to Wickham Point Alternative Place of Detention.
9 June 2016	Granted a Bridging visa and released from detention.

Visa applications/case progression

14 December 2007	Arrived in Australia on a Tourist visa valid until 19 December 2007.
19 December 2007	Departed Australia.
5 November 2009	Arrived in Australia on a Business (Short Stay) visa valid until 5 February 2010.
5 February 2010	Ms X remained unlawfully in the community following the expiry of her Business (Short Stay) visa.
2 November 2011	Located by authorities and detained under s 189(1). On the same day she was granted a Bridging visa on departure grounds valid until 4 November 2011.
4 November 2011	Bridging visa expired and Ms X remained unlawfully in the community.
14 January 2014	Located by authorities and re-detained under s 189(1).
21 January 2014	Lodged a Bridging visa application.
23 January 2014	Bridging visa application refused. On the same day Ms X lodged a Protection visa application which triggered an associated Bridging visa application.
24 January 2014	Appealed Bridging visa refusal to the Merit Review Tribunal (MRT). The Department of Immigration and Border Protection (DIBP) advised that her associated Bridging visa application was invalid.
5 February 2014	MRT affirmed original decision. On the same day Ms X attended an interview in relation to her Protection visa application.

6 March 2014	Protection visa application refused.
8 March 2014	Appealed to the Refugee Review Tribunal (RRT).
12 March 2014	DIBP notified Ms X of the unintentional release of personal information. ¹
28 April 2014	RRT affirmed original decision.
8 May 2014	Found not to meet the guidelines for referral to the former Minister under s 417.
13 May 2014	Requested judicial review by the Federal Circuit Court (FCC).
14 July 2014	DIBP invited Ms X to comment the privacy breach. Ms X provided a response on 31 August 2014.
7 November 2014	FCC dismissed Ms X's application for judicial review.
14 January 2015	DIBP notified Ms X of the commencement of an International Treaties Obligations Assessment (ITOA) to assess whether the circumstances of her case engage Australia's <i>non-refoulement</i> obligations. Ms X provided a response on 28 January 2015.
19 February 2015	DIBP invited Ms X to comment on country and other information relevant to the ITOA. DIBP advised that Ms X did not provide a response.
17 March 2015	DIBP finalised the ITOA, determining Ms X's case did not engage Australia's <i>non-refoulement</i> obligations.
24 March 2015	Requested judicial review by the FCC.
5 May 2015	Lodged a Bridging visa application.
7 May 2015	Bridging visa application refused. On the same day Ms X appealed to the MRT.
14 May 2015	MRT affirmed original decision.
14 January 2016	DIBP advised that Ms X's case is affected by the judgment handed down on 2 September 2015 by the Full Federal Court (FFC) ² which found that the ITOA process was procedurally unfair.
21 March 2016	The Minister filed a notice in the High Court (HC) to appeal the FFC's decision.
9 June 2016	Granted a Bridging visa.

Health and welfare

International Health and Medical Services advised that Ms X received treatment for physical health issues including a thyroid condition which required specialist referral for treatment and review.	
3 April 2014	A DIBP Incident Report recorded that Ms X refused food and fluid as a form of protest.

¹ 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.

² *SZSSJ v Minister for Immigration and Border Protection* [2015] FCAFC 125.

Information provided by Ms X

During an interview with Ombudsman staff on 21 April 2016 Ms X said she was awaiting confirmation of a hearing date at the FCC and did not know when her case would be progressed. She struggles to understand documents as she speaks little English and relies on friends and her case manager for translations and explanations.

Ms X said she experiences insomnia, dizziness, memory concerns and physical weakness due to the stress of being in restricted detention.

Case status

Ms X had been found not to be owed protection under the Refugee Convention and the complementary protection criterion. She is awaiting the outcome of judicial review.

Ms X was granted a Bridging visa on 9 June 2016 and released from immigration detention.

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 a notice in the HC to appeal the FFC's decision.