

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

Name	Mr X
Citizenship	Country A
Year of birth	1964
Ombudsman ID	1002291-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. He was transferred to Villawood Immigration Detention Centre (IDC).
14 April 2014	Transferred to Yongah Hill IDC.
24 March 2015	Transferred to Wickham Point Alternative Place of Detention.

Visa applications/case progression

2 February 2000	Arrived in Australia on an Electronic Travel Authority visa valid until 26 April 2000.
19 April 2000	Lodged a Tourist visa application and was granted a Bridging visa.
26 April 2000	Granted a Tourist visa.
1 November 2000	Tourist visa expired and Mr X remained in the community as an unlawful non-citizen.
14 January 2014	Located by the Department of Immigration and Border Protection (DIBP) and detained under s 189(1). On the same day Mr X lodged a Bridging visa application.
17 January 2014	Lodged a Protection visa application.
21 January 2014	Bridging visa application refused.
13 February 2014	Protection visa application refused.
21 February 2014	Appealed to the Refugee Review Tribunal (RRT).
9 April 2014	RRT affirmed original decision.
11 April 2014	Found not to meet the guidelines for referral to the former Minister under s 417.
3 June 2014	Requested judicial review by the Federal Circuit Court (FCC).
3 July 2014	Mr X withdrew his application for judicial review.

14 July 2014	DIBP invited Mr X to comment on the unintentional release of personal information. ¹
23 August 2014 and 3 December 2014	Mr X provided information in relation to the privacy breach.
15 January 2015	DIBP notified Mr X of the commencement of an International Treaties Obligations Assessment (ITOA) to assess whether the circumstances of his case engage Australia's <i>non-refoulement</i> obligations.
21 January 2015	Mr X provided a response in relation to the ITOA.
31 July 2015	DIBP invited Mr X to comment on country and other information relevant to the ITOA. DIBP advised that he did not provide a response.
19 August 2015	DIBP finalised the ITOA, determining Mr X's case did not engage Australia's <i>non-refoulement</i> obligations.
28 August 2015	Requested judicial review by the FCC.
14 January 2016	DIBP advised that Mr 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.

Health and welfare

International Health and Medical Services advised that Mr X has been treated for a range of ongoing physical health issues including shoulder and knee pain. He is monitored by a general practitioner and has been prescribed with pain relief medication and attended physiotherapy.

Case status

Mr X has been found not to be owed protection under the Refugee Convention and the complementary protection criterion. He is awaiting the outcome of judicial review.

Mr 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.

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.