

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 66 months (five and a half years).

The first report 1505/13 was tabled in Parliament on 13 November 2013, the second report 1001252 was tabled in Parliament on 27 August 2014 and the third report 1001922 was tabled in Parliament on 17 June 2015. 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	1985
Ombudsman ID	1002392
Date of DIBP's reports	9 April 2015, 5 October 2015 and 4 April 2016
Total days in detention	2004 (at date of DIBP's latest report)

Recent detention history

Since the Ombudsman's previous report (1001922), Mr X has remained in community detention.

Recent visa applications/case progression

20 January 2015	Mr X provided a response in relation to the International Treaties Obligations Assessment (ITOA).
12 March 2015	The Department of Immigration and Border Protection (DIBP) invited Mr X to provide further information in relation to the ITOA.
2 April 2015	Mr X's migration agent requested an extension of time for Mr X to respond to the ITOA and also requested Mr X be interviewed to discuss his protection claims.
9 April 2015	DIBP advised that it had granted Mr X a number of extensions to provide further information for the ITOA.
7 August 2015	DIBP requested Mr X to respond to its letter of 12 March 2015 or to provide evidence of his current state of health and treatment within 14 days.
1 September 2015	DIBP advised it had not received a response from Mr X and again invited him to comment on country information relevant to the ITOA. DIBP further advised that because of Mr X's health concerns, it had proposed not to invite him to an interview to discuss his protection claims.

5 October 2015	DIBP advised that Mr X's case is 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.
21 March 2016	The Minister filed an application in the High Court (HC) for special leave to appeal the FFC's decision.

Health and welfare

22 October 2014 – 1 May 2015	International Health and Medical Services (IHMS) reported that Mr X required regular treatment by a psychiatrist for depression, anxiety, self-harming episodes and a developmental impairment. IHMS advised that he required several psychiatric inpatient admissions (no dates provided). Mr X also attended specialist counselling and a general practitioner (GP) monitored his condition.
22 October 2014 – ongoing	Mr X continued to be prescribed with pain relief medication for ongoing arm pain while he awaits surgery to be scheduled.
1 May 2015	IHMS advised that Mr X suffered from a chronic blood condition which was managed by a GP. No concerns had been raised.
2 May 2015 – 9 September 2015	IHMS reported that Mr X continued to attend psychiatry and psychology consultations and was reviewed by the GP.
10 September 2015 – 22 February 2016	Mr X's mental health deteriorated and he experienced chronic auditory hallucinations. His medication was increased and he required involuntary psychiatric admission for anxiety and post-traumatic stress disorder. Following this admission, in November 2015 his medications were changed and no other paranoia was noted. He continued to see a psychiatrist, psychologist and GP.

Case status

Mr X has been found not to be owed protection under the Refugee Convention and the complementary protection criterion. DIBP advised that Mr X's protection claims were assessed under the non-statutory refugee status assessment process that existed at the time of his assessment.

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 an application in the HC for special leave to appeal the FFC's decision.

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