

## REPORT BY THE COMMONWEALTH AND IMMIGRATION OMBUDSMAN FOR TABLING IN PARLIAMENT

*Under s 486O of the Migration Act 1958*

This is the fifth s 486O report on Mr X and his family who have remained in immigration detention for more than 78 months (six and a half years). The previous reports are:

1380/13 tabled in Parliament on 4 December 2013

1001219 tabled in Parliament on 27 August 2014

1001871 tabled in Parliament on 3 June 2015

1002331 tabled in Parliament on 16 March 2016.

This report updates the material in those reports and should be read in conjunction with the previous reports.

<b>Name</b>	Mr X (and family)
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1978
<b>Total days in detention</b>	2368 (at date of DIBP's latest report)

### Family details

<b>Family members</b>	Ms Y (wife)	Miss Z (daughter)	Master P (son)
<b>Citizenship</b>	Country A	Country A, born in Australia	Country A, born in Australia
<b>Year of birth</b>	1980	2011	2012
<b>Total days in detention</b>	2368 (at date of DIBP's latest report)	2055 (at date of DIBP's latest report)	1396 (at date of DIBP's latest report)

<b>Ombudsman ID</b>	1000279-O
<b>Date of DIBP's reports</b>	16 March 2016 and 12 September 2016

### Recent detention history

Since the Ombudsman's previous report (1002331), Mr X and his family have remained in community detention.
--

### Recent visa applications/case progression

27 July 2016	The Minister appealed the Full Federal Court's decision of 2 September 2015 <sup>1</sup> and the High Court (HC) found that the International Treaties Obligations Assessment process was not procedurally unfair. <sup>2</sup>  The Department of Immigration and Border Protection (the department) advised that it is considering the implications of this judgment.
--------------	---

<sup>1</sup> *SZSSJ v Minister for Immigration and Border Protection* [2015] FCAFC 125.

<sup>2</sup> *Minister for Immigration and Border Protection & Anor v SZSSJ & Anor* [2016] HCA 29.

12 September 2016	The department advised that it is considering the resolution of Mr X and his family's case.
-------------------	---

### **Health and welfare**

International Health and Medical Services advised that Mr X and his family have not required treatment for any major physical or mental health issues.

### **Other matters**

Mr X's brother, Mr Q, resides with the family in community detention and is the subject of Ombudsman report 1002728.

### **Ombudsman assessment/recommendation**

Mr X and his family have been found not to be owed protection under the Refugee Convention and the complementary protection criterion. The family's case is affected by the HC judgment of 27 July 2016 and the department advised that it is considering the implications of this judgment.

The Ombudsman notes the Government's duty of care to immigration detainees and the serious risk that prolonged detention may hold. In the case of Mr X and his family, they have remained in immigration detention for more than six and a half years.

The Ombudsman notes that the department advised it is considering the resolution of the family's case and recommends that the Minister expedite a resolution.