

REPORT BY THE COMMONWEALTH AND IMMIGRATION OMBUDSMAN FOR TABLING IN PARLIAMENT

Under s 486O of the Migration Act 1958

This is the third s 486O report on Mr X and his family who have remained in immigration detention for more than 48 months (four years).

The first report 1001671 was tabled in Parliament on 29 October 2014 and the second report 1002161 was tabled in Parliament on 3 February 2016. This report updates the material in those reports and should be read in conjunction with the previous reports.

Name	Mr X (and family)
Citizenship	Country A
Year of birth	1984
Total days in detention	1459 (at date of DIBP's latest report)

Family details

Family members	Ms Y (wife)	Miss Z (daughter) ¹
Citizenship	Country A	Country A, born in Australia
Year of birth	1978	2013
Total days in detention	1459 (at date of DIBP's latest report)	1081 (at date of DIBP's latest report)

Ombudsman ID	1001033-O
Date of DIBP's reports	26 December 2015 and 30 June 2016

Recent detention history

Since the Ombudsman's previous report (1002161), Mr X and his family² have remained in community detention.

Recent visa applications/case progression

26 December 2015	The Department of Immigration and Border Protection (DIBP) advised that Mr X and his family's case was affected by the judgment handed down on 2 September 2015 by the Full Federal Court (FFC) ³ which found that the International Treaties Obligations Assessment (ITOA) process was procedurally unfair.
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¹ Miss Z was born in Australia in June 2013 and was subject to an individual report under s 486N. She was previously reported on in Ombudsman report 1002999 and is now included in her family's report.

² Miss P was born in Australia in June 2015 and has been in detention for less than two years. She is not subject to reporting under s 486N.

³ *SZSSJ v Minister for Immigration and Border Protection* [2015] FCAFC 125.

13 April 2016	The Minister lifted the bars under ss 46A and 48B of the <i>Migration Act 1958</i> to allow the family to lodge a temporary visa application.
27 July 2016	The Minister appealed the FFC decision and the High Court (HC) found that the ITOA process was not procedurally unfair. ⁴ DIBP advised that it is considering the implications of this judgment.

Health and welfare

Mr X

International Health and Medical Services (IHMS) advised that Mr X underwent surgery for the removal of a benign skin lesion in September 2015 with no further concerns reported.

Ms Y

IHMS advised that Ms Y has not required treatment for any major physical or mental health issues since its previous report to the Ombudsman.

Miss Z

IHMS advised that Miss Z has received treatment for skin concerns and was referred to a children's hospital in January 2016 for management of her condition.

Case status

Mr X and his family were detained on 28 June 2012 after arriving in Australia aboard Suspected Illegal Entry Vessel *Narko* and have been held in detention for over four years.

On 7 March 2013 Mr X and his family were found not to be owed protection under the Refugee Convention and the complementary protection criterion.

On 13 April 2016 the Minister lifted the bars under ss 46A and 48B to allow the family to lodge a temporary visa application. The family is awaiting an invitation to apply for a temporary visa.

The family's case is affected by the HC judgment of 27 July 2016 and DIBP advised that it is considering the implications of this judgment.

⁴ *Minister for Immigration and Border Protection & Anor v SZSSJ & Anor* [2016] HCA 29.