

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	1966
Ombudsman ID	1002676
Date of DIBP's report	23 June 2015
Total days in detention	749 (at date of DIBP's report)

Detention history

5 May 1990	Arrived in Australia on a Visitor visa.
5 June 1990	Visitor visa expired and Mr X became unlawful in the community.
22 February 1996	Detained under s 189(1) of the <i>Migration Act 1958</i> and transferred to Villawood Immigration Detention Centre (IDC).
15 August 1997	Departed Australia.
14 May 1998	Arrived in Australia on a Tourist visa using a Country A passport in the name of Mr Y.
23 May 1998	Tourist visa expired and Mr X became unlawful in the community.
4 June 2013	He was detained under s 189(1) and transferred to Villawood IDC.

Visa applications/case progression

18 June 2013	Lodged an application for a Protection visa in the name of Mr Y and an associated Bridging visa.
20 June 2013	The Department of Immigration and Border Protection (DIBP) refused his application for a Bridging visa.
24 June 2013	Appealed to the Migration Review Tribunal (MRT).
2 July 2013	MRT affirmed DIBP's decision.
9 September 2013	DIBP refused his application for a Protection visa.
17 September 2013	Sought review of DIBP's decision to the Refugee Review Tribunal (RRT).
19 September 2013	Lodged an application for a Bridging visa.
23 September 2013	Bridging visa refused.
21 January 2014	RRT affirmed DIBP's Protection visa refusal decision.
22 January 2014	DIBP considered Mr X's case for referral to the former Minister under s 417 and determined that his case did not meet the guidelines.

12 February 2014	Sought review of the RRT's decision to the Federal Circuit Court (FCC).
30 May 2014	FCC dismissed Mr X's application.
11 July 2014	Mr X sought ministerial intervention under s 417.
30 July 2014	His ministerial intervention request was sent on a schedule to the Assistant Minister.
4 August 2014	The Assistant Minister declined to consider his request.
12 August 2014	Lodged an application for an extension of time to the Federal Court (FC) for leave to appeal the FCC's decision.
18 August 2014	Lodged an application for a Bridging visa.
20 August 2014	Bridging visa refused.
22 August 2014	Sought review of Bridging visa refusal decision to the MRT.
2 September 2014	MRT affirmed the Bridging visa refusal.
24 September 2014	Mr X was issued with a letter inviting him to comment on the unintentional release of personal information through DIBP's website. ¹
2 October 2014	He provided his response and DIBP advised it was assessing whether he had raised further protection claims.
23 January 2015	FC dismissed Mr X's application.
18 February 2015	DIBP notified Mr X that it had commenced an International Treaties Obligations Assessment (ITOA).
13 April 2015	DIBP concluded that the circumstances of his case do not engage Australia's <i>non-refoulement</i> obligations and the ITOA was finalised.
15 April 2015	Sought review of the ITOA decision to the FCC. This matter was ongoing at the time of DIBP's report.

Health and welfare

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

Other matters

Mr X last entered Australia using a passport in the name of Mr Y. During an interview with DIBP he claimed to be Mr X and his case was referred to the Identity Verification Team (IVT) for investigation. On 14 January 2014 the IVT confirmed that he was Mr X.

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.

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.