

## ASSESSMENT BY THE COMMONWEALTH OMBUDSMAN FOR TABLING IN PARLIAMENT

*Under s 486O of the Migration Act 1958*

This is the sixth s 486O assessment on Ms X who has remained in immigration detention more than 84 months (seven years). The previous assessment 1000516-O was tabled in Parliament on 20 October 2016. This assessment provides an update and should be read in conjunction with the previous assessment.

<b>Name</b>	Ms X
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1974
<b>Ombudsman ID</b>	1000516-O1
<b>Date of DIBP's reports</b>	15 December 2016 and 15 June 2017
<b>Total days in detention</b>	2,550 (at date of DIBP's latest report)

### Recent detention history

Since the Ombudsman's previous assessment (1000516-O), Ms X has remained at Facility B.
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### Recent visa applications/case progression

27 July 2016	The Minister appealed the Full Federal Court decision and the High Court found that the International Treaties Obligations Assessment (ITOA) process was not procedurally unfair. <sup>1</sup>
15 December 2016	The Department of Immigration and Border Protection (the department) advised that as Ms X has ongoing matters before the department, the Minister was not inclined to consider her case under ss 195A or 197AB of the <i>Migration Act 1958</i> at that time.
24 March 2017	The Federal Circuit Court heard Ms X's application for judicial review of her negative ITOA outcome and reserved judgment.

### Health and welfare

International Health and Medical Services (IHMS) advised that Ms X was closely monitored by Serco officers after she threatened to self-harm on 12 August 2016. She was reviewed by the mental health team and disclosed that she did not intend to self-harm but was experiencing stress related to her prolonged detention.	
6 January 2017	An Incident Report recorded that Ms X threatened self-harm when she was advised that she was on a removal pathway.

<sup>1</sup> *Minister for Immigration and Border Protection v SZSSJ* [2016] HCA 29.

### **Information provided by Ms X**

During an interview with Ombudsman staff at Facility B in September 2017 Ms X advised that she attended court more than five months ago and her case appeared to be on hold while she awaits the outcome. She reported that her case manager said she would be granted a bridging visa, but that had not occurred and she does not know why.

Ms X advised that she was receiving support from a lawyer and refugee advocacy organisations and the Red Cross had written to the Minister requesting a bridging visa for her. She stated that she does not understand why she has not been released as she is not a criminal and has behaved well in detention.

Ms X said that her mental health fluctuates and she feels tired and stressed after being in detention for more than seven years. She advised that she does not find IHMS mental health support to be helpful, but that she goes to the gym to relieve stress and receives weekly visits from friends and community support groups.

### **Ombudsman assessment/recommendation**

Ms X has been found not to be owed protection under the Refugee Convention and the complementary protection criterion and has been held in an immigration detention facility for more than seven years. At the time of the department's latest report Ms X was awaiting the outcome of judicial review.

The Ombudsman notes with concern the government's duty of care to detainees and the serious risk to physical and mental health prolonged immigration detention may pose.

In light of the significant length of time Ms X has remained in an immigration detention facility and the absence of any behavioural or security concerns, the Ombudsman recommends that Ms X be considered under s 195A for the grant of a bridging visa.