

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 restricted immigration detention for more than 54 months (four and a half years).

The first report 1001582 was tabled in Parliament on 29 October 2014, the second report 1002051 was tabled in Parliament on 27 May 2015 and the third report 1002601 was tabled in Parliament on 31 August 2016. 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	1976
Ombudsman ID	1000990-O
Date of DIBP's reports	30 May 2016 and 28 November 2016
Total days in detention	1640 (at date of DIBP's latest report)

Recent detention history

Since the Ombudsman's previous report (1002601), Mr X has remained at Perth Immigration Detention Centre.

Recent visa applications/case progression

30 May 2016	The Department of Immigration and Border Protection (the department) advised that Mr X's case was affected by the judgment handed down on 2 September 2015 by the Full Federal Court (FFC) ¹ which found that the International Treaties Obligations Assessment (ITOA) process was procedurally unfair.
27 July 2016	The Minister appealed the FFC decision and the High Court found that the ITOA process was not procedurally unfair. ² The department advised that it is considering the implications of this judgment.
12 August 2016	Mr X requested judicial review by the Federal Circuit Court (FCC) of an Administrative Appeals Tribunal decision of 12 April 2010 relating to the cancellation of his Spouse visa under s 501 of the <i>Migration Act 1958</i> . A hearing was scheduled for 7 December 2016.
28 November 2016	The department advised that Mr X's judicial review by the FCC of his negative ITOA was adjourned and relisted for a Directions hearing for a date after 22 January 2017.

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

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

Health and welfare

International Health and Medical Services (IHMS) advised that Mr X received treatment for ongoing back pain and was prescribed with anti-inflammatory medication and provided with a back brace. Additionally, he remains on a public waiting list for a dermatology appointment for removal of a cyst. IHMS further advised that Mr X attended routine mental health assessments and reported he was feeling anxious about his prolonged detention but declined counselling.

Other matters

30 May 2016	The department advised that Mr X was previously a person of interest in relation to criminal matters onshore.
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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.