



Australian Government

Immigration Assessment Authority

Decision and Reasons

Referred application

LEBANON

IAA reference: IAA21/09023

Date and time of decision: 12 May 2021 09:27:00

M Currie, Reviewer

Decision

The IAA affirms the decision not to grant the referred applicant a protection visa.

Any references appearing in square brackets indicate that information has been omitted from this decision pursuant to section 473EC(2) of the Migration Act 1958 and replaced with generic information which does not allow the identification of a referred applicant, or their relative or other dependant.

Background to the review

Visa application

1. The referred applicant (the applicant) claims to be a Syrian citizen of Arab ethnicity who adheres to the Sunni faith. He arrived in Australia in February 2013 and lodged an application for a Safe Haven Enterprise Visa (SHEV) in June 2017. In April 2021, a delegate of the Minister for Immigration decided under s.65 of the *Migration Act 1958* (the Act) to refuse the visa, after finding that the applicant was a Lebanese citizen, and that Australia did not owe protection obligations to him. On 15 April 2021, the applicant's matter was referred to the Immigration Assessment Authority (IAA).
2. This is a *de novo* decision. My task is to consider the applicant's claims for protection and the materials before me afresh. I am not bound by any earlier findings by the delegate.
3. The central issue addressed in this decision, is whether the provisions of s.91WA, which is concerned with the provision of 'bogus documents', have any application to this case. After considering all of the information before me, I have determined that s.91WA does apply to the applicant for the reasons explained below. In the circumstances, I have found it unnecessary to assess his substantive claims.

Information before the IAA

4. I have had regard to the material given by the Secretary under s.473CB of the Act.
5. On 6 May 2021, a migration agent sent an email to the IAA on behalf of the applicant. The email contained six attached documents: (a) a four page Submission to the IAA which contained citations to various country information reports; (b) a separate '*Explanation About New Information*' of three pages, which is said to provide reasons for the provision of the new information to the IAA; (c) a written Statement from the applicant dated 4 May 2021; (d) a 20 page country information report published by Refugees International dated 30 January 2020; (e) a five page report from the Immigration and Refugee Board of Canada (IRBC) dated 17 November 2009; and (f) a 27 page report published by Amnesty International on 1 October 1997. None of country information cited in the Submission to the IAA or provided separately was before the delegate. I observe that in the email to the IAA, the author indicated that assistance had been provided to the applicant "*on a one-off basis*" and that the migration agent who sent the email was not his legal representative.
6. The Submission to the IAA summarised the applicant's protection claims; addresses credibility concerns raised by the delegate and continues to assert that the applicant is Syrian, and that the delegate's findings in this regard rely on suppositions, not probative evidence, and are erroneous; argues that the applicant genuinely fears harm from Hezbollah in Lebanon; and finally, puts forward a request that the IAA interview the applicant. I note that the Submission cites (d) the report published Refugees International dated 30 January 2020; (e) the report from the IRBC dated 17 November 2009 and (f) report published by Amnesty International on 1 October 1997 which had been provided separately. The Submission also cited a second IRBC report dated 1 January 1990 which was not provided separately. These citations were to information not before the delegate, and so they are new information. To the extent that the Submission to the IAA is argument, I have considered it.

7. The 'Explanation About New Information' argues that information contained in the Statement to the IAA statement does not constitute 'new information', for the purposes of the Act or that, in the alternative, if the IAA does consider them to be new information (as I have done), then it is argued that:
- The new information passes s.473DD(a) since the applicant "*received limited legal assistance from Refugee Legal and attended the Protection Visa Interview without legal representative*"; his "*limited English*"; his "*lack of understanding of Australian migration law*"; the cited material is "*highly relevant and reliable*" and is from "*reputable sources*"; and that the delay in assessing the applicant's claims has led to "*serious hardship suffered in the meantime including ongoing uncertainty and poverty*". Furthermore, the information "*may make a material difference in the outcome of the IAA's decision, and not doing so may lead to the applicant being exposed to a real and substantial risk of serious human rights abuses in Syria*" and the "*nature of the IAA's extremely limited form of review, and serious procedural disadvantages affecting the applicant which collectively increase the risk of the IAA making a decision that is not fair or just*"
 - The information passes s.473DD(b)(i) in because it could not have been provided to the delegate before the s.65 decision was made since the applicants' "*limited English language skills, lack of understanding of Australian migration law and legal representation meant that it was not possible for the applicant to provide legal submissions containing the enclosed country information*" and the "*enclosed information directly responds to the issues raised in the decision, which could not have been raised without receiving and reviewing the decision*".
 - Furthermore, the information passes s.473DD(b)(ii) since it is credible personal information in the relevant sense, as "*the applicant has provided a credible and detailed account of his personal experiences in the form of a statement, which has been consistent throughout the entire application process*"; the information "*supports the applicant's claims of nationality that were erroneously dismissed by the delegate*"; the information "*supports the applicant's risk of harm in their home country by reinforcing and clarifying the applicant's claims*"; and that "*this information may have assisted the delegate in considering the applicants claims by clarifying the factual basis of the delegate's decisions by showing the applicant is a Syrian national and is at risk of persecution if returned*".
8. I have considered all the arguments said to justify the IAA considering the new information. At the outset, I take into account the following observations: a central premise of these arguments is the suggestion that this applicant has lacked legal representation, and that this, as well as his lack of knowledge about relevant Australian law, and his limited English are factors which should be considered in relation to s.473DD(a) and (b)(i). I do not accept this line of argument. I note that the same legal practice which provided the Submission and documents to the IAA had prepared and submitted to the Department on behalf of the applicant: his June 2017 SHEV Application; a 2018 Statutory Declaration; a 2019 Statutory Declaration; 2020 written Statement; and an April 2021 written statement¹. In the circumstances, although it has repeatedly stated that it was not providing ongoing assistance to the applicant, it is evident that the same legal practice which assisted the applicant with the materials presented to the IAA has been assisting him since at least June 2017, and was advising him throughout his visa application process. In these circumstances, this entire line of argument is, to my mind, unpersuasive. I am not persuaded that the assistance the applicant received was particularly limited, or that his visa assessment process was otherwise hampered

¹ Note: All of these documents were included in the review material provided to the IAA, and I have considered them.

for these reasons². Furthermore, I note that on his own evidence, this applicant speaks, reads and writes in English, and that substantial portions of his Protection Visa Interview were conducted in English. I am not persuaded that this applicant's primary visa assessment was hindered by his "limited English". I am not satisfied that any of these reasons canvassed in this paragraph amount to exceptional circumstances for the purposes of s.473DD(a) as was submitted, or that these factors prevented the applicant from submitting information to the Department before the s.65 decision was made.

9. The applicant's May 2021 written Statement is dated 4 May 2021. In it the applicant argues against the delegate's findings and provides new information. To some extent the written Statement is, in effect, a further submission or argument, and to that extent I have considered it. In the May written Statement the applicant asserts that he continues to rely on the claims and evidence he had advanced in earlier statements and Statutory Declarations he had provided to the Department and in his Protection Visa Interview. He continues to assert that he is a Syrian citizen, and that has never been naturalised in Lebanon, and that he does not have Lebanese citizenship and that he lived in Lebanon illegally. He reiterated his claim that the Syrian army, in conjunction with Hezbollah, was engaged in forcibly recruiting persons in the area where he lived in Lebanon, and that this led to his departure from that country. None of this is new information.
10. In the May 2021 written Statement, the applicant claimed that the reason his family had left Syria was because in Syria, his parents owned a kiosk, and had issues with members of the Syrian Army taking food and other items without payment. He says that as a consequence, his parents were frustrated how little income they were able to obtain from the kiosk. Due to their frustration, they decided to move the family to Lebanon. This explanation had not been provided earlier and is new information. Previously the applicant had asserted that he did not know why his parents had moved his family from Syria to Lebanon and that he was not interested. When the delegate asked the applicant about this issue during his May 2018 Protection Visa Interview, the applicant said he said that his father had had some unspecified problems in Lebanon, but he did not know the reason. Some three years passed between that interview and the date of the s.65 decision and it would seem from the applicant's explanation, all he had to do was ask his mother in order to learn the reason why his family had departed Lebanon. He has otherwise indicated he maintains regular contact with his family in Lebanon and has relied on their support during his Protection Visa Application. In the circumstances, I am not satisfied this explanation could not have been provided before the delegate made the s.65 decision and so s.473DD(b)(i) is not met for this information. Nevertheless, the explanation is credible personal information in the relevant sense and may have affected consideration of his claims for protection and so s.473DD(b)(ii) is met. Given the s.473DD(b)(ii) factors, and that the delegate had asked the applicant directly why his family had departed Lebanon, I am satisfied that there are exceptional circumstances to justify consideration of this explanation and I have considered it.
11. The three reports³ which have been submitted by the applicant to the IAA and which are also cited in the applicant's 2021 Submission to the IAA are also new information. According to the 'Explanation About Country Information' document, these reports are "highly relevant and reliable", from "reputable sources" and they "may make a material difference in the outcome of the IAA's decision" and not considering them "may lead to the applicant being exposed to a real and substantial risk of serious human rights abuses in Syria" and given the "nature of the

² Compare DBO19 v Minister for Immigration [2021] FCCA 795 at [48]-[50].

³ Documents: (d) The 20-page country information report published by Refugees International dated 30 January 2020; (e) The five-page report from the Immigration and Refugee Board of Canada (IRBC) dated 17 November 2009; and (f) the 27 page report published by Amnesty International on 1 October 1997

IAA's extremely limited form of review, and serious procedural disadvantages affecting the applicant which collectively increase the risk of the IAA making a decision that is not fair or just". Furthermore, the reports directly respond to "issues raised in the decision, which could not have been raised without receiving and reviewing the decision". Furthermore, the information "supports the applicant's claims of nationality that were erroneously dismissed by the delegate"; the information "supports the applicant's risk of harm" and that "this information may have assisted the delegate in considering the applicants claims by showing the applicant is a Syrian national and is at risk of persecution if returned". I have considered the reasons offered for the submission of these documents and their citation in the Submission to the IAA. I have reviewed the content of these documents.

- The 20-page country information report published by Refugees International (d) relates to conditions for Syrian refugees in Lebanon, though, the report focuses on refugees who have arrived since the commencement of the Syrian civil war, not those like the applicant and his family, who lived in Lebanon for decades. I have some concerns about the relevance of this report to the applicant and his claims, given it appears to relate to Syrians who travelled to Lebanon more recently than this applicant and his family. In any case, as explained earlier, I have not accepted the applicant's argument that his primary Protection Visa Application process was compromised by a lack of legal representation, and so I am not satisfied that a lack of representation, or limited English language skills, or a lack of knowledge about relevant Australian law prevented this document from being provided prior to the date of the s.65 decision; s.473DD(b)(i) is not met for this document. The report is general country information and does not contain credible personal information in the relevant sense and so s.473DD(b)(ii) is not met. As neither limb of s.473DD(b) is met for this document, it cannot pass the threshold for s.473DD and I must not consider it, or the citation to this report in the 2021 Submission to the IAA.
- The five-page report from the IRBC dated 17 November 2009 (e) is over a decade old. As explained earlier, I have not accepted the applicant's argument that his primary Protection Visa Application process was compromised by a lack of legal representation, and so I am not satisfied that a lack of representation, or limited English language skills, or a lack of knowledge about relevant Australian law prevented this document from being provided prior to the date of the s.65 decision; s.473DD(b)(i) is not met for this document. The IRBC report is general country information and it does not contain credible personal information that may have affected consideration of the applicant's claims, and so s.473DD(b)(ii) is also not met. As neither limb of s.473DD(b) is met for this document, it cannot pass the threshold for s.473DD and I must not consider it, or the citation to this report in the 2021 Submission to the IAA.
- The 27-page Amnesty International report (f) was published on 1 October 1997 and is more than two decades old. For reasons explained above, I am not satisfied that a lack of representation, or limited English language skills, or a lack of knowledge about relevant Australian law prevented this document from being provided prior to the date of the s.65 decision; s.473DD(b)(i) is not met for this document. The report does contain credible personal information; however, the information does not appear to relate to this applicant or his personal circumstances or claims. Furthermore, given the age of the document, this information is over two decades old, and the situation in Lebanon has shifted significantly since that time. In the circumstances, I am not satisfied that the information provided may have affected the consideration of the applicant's claims and so s.473DD(b)(ii) is also not met. As both limbs of s.473DD(b) are not met, I must not consider the Amnesty International Report or the citation to the report contained in the applicant's Submission to the IAA.

12. Finally, I turn to the remaining two citations from the applicant's 2021 Submission. These were both cited from another report by the IRBC that was published in 1990 (which unlike the other citations was not provided separately). I note that these citations relate to the presence of Syrian troops in Lebanon in 1990 and that the applicant's Submission to the IAA implies that the presence of Syrian troops in Lebanon in 1990 offers support for his claim to have been the subject of a forced recruitment attempt by the Syrian military in 2012. This, in my view, misrepresents the evidence. Unlike the earlier citations which I have dealt with in the preceding paragraph, these two citations do not comply with the IAA's *'Practice Direction for Applicants, Representatives and Authorised Recipients'*, which had been provided to the Applicant on 16 April 2021, and which states that *"If you provide or refer to new information such as country information reports or media articles, you must: attach a copy of that document, identify which parts of the document you rely on, and identify the source and date of the document"* and that *"Lists of publicly available documents or hyperlinks to publicly available documents are not acceptable"*. The applicant's Submission to the IAA was prepared by a qualified migration agent. In the circumstances, I decline to accept these citations. In any case, for reasons explained above, I am not satisfied that a lack of representation, limited English, or a lack of knowledge about relevant Australian law prevented this document from being provided prior to the date of the s.65 decision; s.473DD(b)(i) is not met for these citations. Furthermore, neither citation contains credible personal information in the relevant sense, and so s.473DD(b)(ii) is also not met for either of the citations to the 1990 IRBC report and as both limbs of s.473DD(b) are not met, I must not consider either citation.
13. I observe that the applicant's 2021 Submission to the IAA, and his May 2021 written Statement, both contain a request that he be invited to interview by the IAA. The applicant says he wants the opportunity to explain what he has said in his statement in person; and the submission is that he should be invited to an interview because the delegate's decision was largely based on adverse credibility findings with respect to the applicant's citizenship without probative evidence. I have considered these requests, however, I have taken into account the provisions of s.473BA which indicate that the IAA is required to pursue the objective of providing a mechanism of limited review that is efficient, quick, free of bias and that in general, the IAA does not hold hearings and is required to review decisions on the papers, except where there are exceptional circumstances. In this instance I note that this applicant has been engaged in the Protection Visa Application process since June 2017, a period of around four years, and during this time has had multiple opportunities to advance his claims, and to provide evidence in support of those claims including his 2017 SHEV Application, his 2018 Protection Visa Interview, his 2018 Statutory Declaration, his 2019 Statutory Declaration, his 2020 written Statement, an April 2021 written Statement to the department, a May 2021 written Statement to the IAA and his 2021 Submission to the IAA. I take into account that the Department expressed clear concerns about the applicant's central claims with him as early as May 2018, and that contrary to his assertions, he has received legal assistance throughout the period his Protection Visa Application has been under assessment. I am satisfied that this applicant has had multiple meaningful opportunities to advance his protection claims, and evidence in support of those claims. Considering all of the information before me and even noting his willingness to attend an interview, his desire to explain in person, and taking into account his arguments about the adverse credibility findings, I am not satisfied that any further interview is warranted by the circumstances of this case.
14. In a similar context, I note that the *'Explanation About New Information'*, contains a request that the applicant be advised if the IAA concludes that any material which has been provided to the IAA fails to pass the threshold of s.473DD and given opportunity to respond. I have found that (d) the 20-page country information report published by Refugees International; (e) the 2009 report from the IBRC (e); (f) 1997 Amnesty International report and the citations to the

1990 IRBC report have not met s.473DD. I have considered this request, however, given the applicant's various submissions and other documents have been prepared by qualified legal advisers who have knowledge of the s.473DD requirements, that the matters going s.473DD are already addressed in the *'Explanation About New Information'*, the long period during which the applicant's claims have been under consideration, and the provisions of s.473BA, I am satisfied that the applicant has had multiple real opportunities to put forward all relevant information.

Applicant's claims for protection

15. The applicant's claims can be summarised as follows:

- He is a Syrian citizen of Arab ethnicity who adheres to the Sunni faith. He was born in [year] in [Area 1], in Damascus where he lived with his family.
- When he was young, his father encountered unspecified difficulties with the Syrian regime. Around 1989, when the applicant was [age] years of age, his father departed Syria for Lebanon. The remainder of the family soon followed. Thereafter, the applicant and his family resided in the town of [Town 1], located in Northern Lebanon.
- The applicant and his siblings lived in Lebanon and attended school there. His father operated a [shop] in [Town 1]. After the applicant completed his schooling, around 1999/2000 he worked in his father's [shop]. Though they lived in Lebanon for decades, the family were not Lebanese citizens, and had no rights to residence in that country.
- After the civil war in Syria commenced, Syrian officials and military officers commenced a recruitment drive for the Syrian national Army. They sent representatives into Lebanon, to forcibly recruit Syrian nationals who resided there into the Syrian armed forces. Hezbollah, a Lebanese Shia militia allied to the Syrian Government, assisted Syrian officials to forcibly recruit Syrian nationals who resided in Lebanon.
- Around 2012, Syrian officials commenced visiting the applicant's home. As he was a Syrian national, they sought to recruit him into the Syrian armed forces for service in the civil war. These persons attended the applicant's home on a number of occasions in 2012 and 2013.
- Fortunately, the applicant was not at the family home during any of these visits. He had sought to hide from the recruitment officers at homes belonging to his sister, and various friends.
- Fearing that he would be forcibly recruited, the applicant decided to depart Lebanon. He made arrangements to travel to Australia and arrived in this country in February 2013.
- He fears to return to Lebanon, because he believes he would be forcibly recruited into the Syrian armed forces and forced to fight in the ongoing Syrian civil war.
- He fears to return to Syria, because he believes he would be killed in the fighting.
- He fears to return to Syria, due to his Sunni Religion his Sunni religion; and/or his membership of particular social group *'young able bodied men in Syria'*; and/or his political opinion of being a conscientious objector who would refuse to serve in any military.

Identity documents – bogus or destroyed documents

16. As mentioned above, a threshold issue in this case is whether the applicant is prevented from being granted a protection visa because of the operation of s.91WA of the Act. Section 65(1) relevantly provides that the Minister, after considering a valid visa application, is to grant the visa if satisfied specified matters are met, including that the grant of the visa is not prevented by s.91WA (bogus documents), or if not so satisfied is to refuse to grant the visa. Section 91WA(1) requires the Minister to refuse to grant a protection visa to an applicant if the applicant provides a 'bogus document' (defined in s.5(1)) as evidence of their identity, nationality or citizenship. However, that requirement will not apply if the Minister is satisfied that the applicant has a reasonable explanation for providing the bogus document, and either provides relevant documentary evidence or has taken reasonable steps to provide such evidence.

Factual findings

17. As part of his SHEV Application the applicant provided a copy of a document he described as a Syrian Birth Certificate (aa) in order to establish his identity as a Syrian national which he says was issued to him in 2012. He has provided an accredited translation for the document. The translation indicated that the document was an extract from the Syrian Civil Registry and had been issued on 17 June 2012.
18. This document was subjected to analysis by the Department's Document Examination Unit (DEU). A document Examination Report prepared by DEU Document examiner dated 4 June 2018 found that in the opinion of the examiner, the extracted Syrian Birth Certificate from the Syrian Civil Registry (aa) provided as part of the applicant's SHEV Application was a counterfeit document.
19. In 2019, the applicant provided a Statutory Declaration to the Department dated 21 January 2019. Attached to the 2019 written Statement were what the applicant stated were three further identity documents. In the 2019 written Statement these were described as:
 - An electronic extract from the Syrian Civil Register of the applicant's family record (bb).
 - An electronic extract from the Syrian Civil Register of the applicant's individual record (cc).
 - A certified copy of the applicant's Syrian National Identify Card (dd).
20. The applicant's Syrian National Identity Card was later provided to the Department and was subsequently examined by the DEU. A document Examination Report prepared by a DEU Document examiner dated 27 August 2020 found that in the opinion of the examiner, the Syrian National Identity Card provided to the Department was a counterfeit document.
21. Section 5(1) of the Act defines a bogus document as a document which the Minister reasonably suspects: (a) purports to have been, but was not, issued in respect of the person; or (b) is counterfeit or has been altered by a person who does not have authority to do so; or (c) was obtained because of a false or misleading statement, whether or not made knowingly.
22. The extracted Syrian Birth Certificate from the Civil Registry (aa) and the Syrian National Identity Card (dd) which were provided by the applicant as evidence of his nationality have been determined by a document examiner to be counterfeit. In submissions made to the Department and the IAA, the applicant has questioned the determinations of the document

examiner, and continues to assert that all his documents are genuine, though I note that in this 2021 written statement to the Department he admits he is “*not an expert*” and that he “*would not know how to tell a quality counterfeit document from an original*”. I have considered the applicant’s explanations that his documents are genuine, but for the reasons outlined below, I do not accept that they are and I prefer the findings of the qualified DEU examiner. I accept the DEU examiner’s finding that these documents are counterfeit. Having accepted that both documents are counterfeit, I conclude that both documents are bogus documents as defined under s.5(1)(b) of the Act.

Application of s.91WA to this case

23. Having found that this applicant has provided two bogus documents to the Department as evidence of his identity and nationality, the question before me is twofold: whether or not I accept that the applicant’s explanation for the provision of the Syrian Birth Certificate (aa) and the Syrian National Identity Card (dd) is reasonable; and if I do accept that he has a reasonable explanation, whether he has provided documentary evidence of his identity, nationality or citizenship or taken reasonable steps to provide such evidence.
24. In considering whether the applicant’s explanation is reasonable, I have examined his comments in relation to these documents over the period his Protection Visa Application has been under consideration.
25. In the applicant’s June 2017 SHEV Application, and in the Statement of Claims which accompanied the application, no specific explanation for his submission of either document was provided. However:
 - The SHEV Application itself did contain a brief reference to the applicant’s extracted Syrian Birth Certificate (*Question 97 – Documents*) and the Statement of Claims stated that “*I kept my Syrian Birth Certificate with me and I provide a copy*”.
 - Neither the applicant’s SHEV Application nor his accompanying Statement of Claims contains any reference to the Syrian National Identity Card. This is unsurprising, as the card was not submitted to the department at this time.
26. In the applicant’s May 2018 Protection Visa Interview:
 - In regard to the extracted Syrian Birth certificate the applicant stated that he had obtained the document in 2012, with assistance from the Syrian [Government official 1] of [Area 1] who was said to be a friend of his father. He said that the [Government official 1] of [Area 1] regularly travelled between Syria and Lebanon. He said that during one of the [Government official 1]’s visits to Lebanon, the applicant requested that he provide him with a Syrian Birth Certificate which he did.
 - The Syrian National Identity Card was not addressed during this interview, as it had not been provided to the Department at this time.
 - It is relevant to note that in the Protection Visa Interview the question of the applicant’s identity and nationality was squarely raised by the interviewing officer and the applicant was asked to provide further documentary support for his identity claims. During the interview, the applicant indicated that he was willing for the Department to make inquiries about his identity and nationality in Lebanon.
 - During the interview, when the question of identity documents was raised by the interviewing officer, the applicant indicated that outside of the major cities of Lebanon,

law enforcement was weak, and that people were not asked to show identity documents and there was no need to have them. He said it was not hard to enrol in Lebanese schools without identity documents even for Syrians, and that once he had obtained entry to one school, it was easy to obtain entry to others. He said his father was able to operate his business in Lebanon without papers and that his father did not pay taxes.

27. In October 2018, the Department sent a letter to the applicant which raised doubts about the genuineness of the applicant's extracted Syrian Birth Certificate (aa) and noted that the document had been found to be counterfeit by a document examiner. The applicant was invited to comment. In correspondence sent to the department since that time, the applicant has put forward various explanations.
28. In a Statutory Declaration dated 23 October 2018 which was provided in response to correspondence from the Department, the applicant stated that he believed that the Syrian Birth Certificate (document (aa)) was genuine and that he had no reason to believe it was counterfeit. He indicated that in "*November or December*" of 2012 he had sought assistance from a person called [Mr A], who he described as a "*member of the Syrian Government who can assist with getting Syrian documents for Syrians living in Lebanon*". He said his family had obtained similar documents from [Mr A] in the past. He said he believed that [Mr A] had returned to Syria and verified the applicant's name on the Syrian Civil Register and obtained the Syrian Birth Certificate (referred to as an '*Extract of Individual Civil Register*' in the Statutory Declaration). He said he paid [Mr A] \$20 for administrative costs associated with providing the Syrian Birth Certificate. He said these events were not unusual in Lebanon, since documents like this expired every six months and so he and his family had to obtain a new document regularly. He said that he and his family had used identity documents obtained in this way throughout the time they had lived in Lebanon. He said that Syrians in Lebanon require identity documents to "*register in schools, attend hospitals and access other community services in Lebanon*".
29. In a Further Statutory Declaration dated 21 January 2019, the applicant provided the three further documents mentioned earlier (the electronic extract from the Syrian Civil Register of the applicant's family record (bb); the electronic extract from the Syrian Civil Register of the applicant's individual record (cc) and the certified copy of the applicant's Syrian National Identity Card (dd)). The Statutory Declaration indicated the documents had been obtained for him by his family in Lebanon. In the Statutory Declaration the applicant asserted that his father had actually obtained the Syrian Identity Card (dd) for him in 2009 but had failed to give it to him at that time. According the 2019 Statutory Declaration, these documents were provided to confirm the applicant was a Syrian citizen and was not a citizen of any other country. The 2019 declaration also indicated that the applicant continued to rely on his earlier Statutory Declarations and the information he had provided at his Protection Visa Interview.
30. On 24 February 2021 the Department sent a further letter to the applicant under s.57 of the Act which again indicated that the extracted Syrian Birth Certificate was counterfeit. This letter also indicated that the Syrian National Identity Card had also been found to be counterfeit. In the letter, the applicant was invited to provide comments.
31. In a written statement dated 6 April 2021, responding to that letter, the applicant continued to assert that all the information he had "*provided previously to [the Department] has been given in good faith and is true and correct to the best of my knowledge and belief*" and in this context he referred to his 2018 Statutory Declaration and his 2019 Statutory Declaration. In the 2021 written statement, the applicant continued to assert that all the documents he had provided were genuine and that his previous Statutory Declarations were correct. He denied

the documents were counterfeit and questioned the validity of the Document Examination Reports. He indicated that he had attempted to obtain other documents, including his Lebanese school reports, but had been unable to do so. He said that his father's recent death had prevented him from seeking to obtain further documents, but that in light of the Departmental correspondence, he would make further attempts to obtain relevant documents with assistance from other family members. He continued to assert he was a refugee. To date, no further documents have been provided.

32. There are some problems in the applicant's evidence about his identity documents.
- I note for example that in his 2018 Statutory Declaration, the applicant indicated he approached [Mr A] to obtain the document in "*November or December*" of 2012, but the translation of the document provided by the applicant indicates it was issued in June 2012, around six months earlier.
 - At interview in 2018, the applicant described the person who provided the document as the [Government official 1] of [Area 1], Damascus, the area his family originated from in Syria; he said the [Government official 1] was a personal friend of his father. However, in his 2018 Statutory Declaration, he said the person he obtained the document from was named [Mr A], and that he did not know his last name. He went on to indicate that [Mr A] was a Syrian Government official whose "*full time job is providing original documents*" to Syrians living in Lebanon.
 - During his Protection Visa Interview, the applicant clearly indicated that in Lebanon, Syrians like him did not need to use identity documents since outside of major cities laws in that country are weakly enforced. He said that he and his family did not need any identity documents during their daily life, and that he did not need them to attend school, he said that nobody carried identity documents. However, in his 2018 Statutory Declaration he made claims that were nearly the complete opposite: he said that Syrians residing in Lebanon did require identity documents and he and his family regularly obtained updated Syrian identity documents and that such documents were required to attend schools, hospitals and other community services.
 - The electronic extract from the Syrian Civil Register of the applicant's Individual Record (cc), which the applicant had provided to the Department in January 2019 and which he says had been procured and provided by his family, contained a series of wet stamps on the reverse side, which indicates that it had been endorsed by the Consulate General of the Syrian Arab Republic in Istanbul on [date] November 2018. The applicant says that his family obtained these documents from [Mr A], the same person who he says provided the other documents which have been identified as bogus, but from his own evidence, [Mr A] was in Lebanon, not Turkey. The applicant has elsewhere indicated that his father was responsible for obtaining and providing him with these Identity documents, and so this would seem to suggest that the applicant's father was in Istanbul in November 2018, not in Lebanon as the applicant has asserted throughout his time in Australia. The electronic extract from the Syrian Civil Register of the applicant's Family Record (bb) also appears to contain duplicate stamps from the Consulate Affairs in Istanbul. According to time stamps on both of these documents, both had been obtained around a month earlier in a different location. But if the documents were obtained genuinely in a different location, why they were stamped and endorsed in Turkey is unexplained. I give these documents no weight as evidence of Syrian nationality for this applicant.
33. In the s.65 decision, the delegate found that difficulties in obtaining Syrian documents due to the ongoing Civil war could account for some of these problems, but I do not find such an explanation to be persuasive. To my mind, the factors I have identified all seem to cast

serious doubt on the applicant's claims about how and why he obtained the identity documents he has provided. Furthermore, the documents indicate that the applicant's account about his family is not accurate, and that at least one family member, probably his father, has been in Istanbul. In this context I note the applicant's 2021 written statement indicates that no member of the applicant's family has Syrian travel documents.

34. I also found several of the explanations this applicant provided at interview about key events from his life omitted credible detail, even after the interviewing officer asked the applicant to provide specifics; other claims have shifted since they were first articulated. The applicant's verbal account of his life was, to my mind, unpersuasive. For example:

- He stated his parents departed Syria around 1989, because his father had some problems, but he did not know what these problems were and had never asked about them, because he was not interested. He could not even provide a brief explanation for why his family had departed Syria. Now, some three years after his Protection Visa Interview, the applicant says that he recently learnt that both of his parents had problems due to a Kiosk they operated in Syria, and that this is the reason they departed.
- He stated that Syrian officials could roam and recruit in Lebanon at will, and that several people he knew had been recruited in this way, but the applicant did not provide further details.
- His account of being personally targeted for recruitment was particularly unconvincing and lacked any specific detail such as when these events occurred, or how he had come to be targeted, or why his brother (also a Syrian male of military age) had not been targeted, or what the recruiting officers said, or how they knew where he lived or any other relevant factor.

35. Overall, I did not find the applicant's verbal account persuasive or convincing. There are further problems in accepting the applicant's claims about his identity and nationality. In a letter from the Department to the applicant dated 3 April 2020, provided under s.57 of the Act, further questions were put to the applicant about the status of his family, specifically his sister, who he had asserted resided in Lebanon throughout his Protection Visa Application. The letter indicated that a person with whom the applicant maintained links on [social media], and who had the same name as his sister, appeared to be a citizen of [Country 1], had been granted a [Country 1] Passport in 2016, and had apparently visited Melbourne Australia in early 2019, in company with her son, who was presumed to be the applicant's nephew. The [Country 1] Passport indicated that the person presumed to be his sister had been born in Lebanon in [year], not in [year], as the applicant had asserted in his SHEV Application. The letter indicated that these factors suggested the applicant had not provided an honest accounting of his family, or their life or of his own birth.

36. In an undated written statement provided to the Department on 8 June 2020 in response to the s.57 letter, the applicant denied that the person who travelled to Australia was his sister and though he admitted he knew this person and maintained a [social media] link to her and that she had the same name as his sister, he said she was in fact a distant paternal relation who he had met in Lebanon. He also denied that her son was his nephew. Attached to the written statement, he provided a photo to the Department which he said showed members of his immediate family, including himself as a teenager, and his sister. He said the photograph of his sister showed she had red hair, unlike the woman who was his friend on [social media]. I am unable to determine if the person in the photograph who is said to be the applicant, is the same person who appears in other photos of the applicant which are before me. I am unable to determine if the person in the family photograph said to be the applicant's sister is her since

I have no other photo of his sister. I give the photograph no weight as evidence of the applicant's claims.

37. Country information before me indicates that in Syria, birth and death certificates are stamped by a local council and registered at one of their civil registry offices. The registry maintains electronic copies of such documents. A birth certificate costs around \$70, usually with an additional commission paid to the agent handling the documents, not \$20 as asserted by the applicant.
38. Furthermore, in 1994, the then President, Prime Minister and Minister of Interior signed a decree which granted Lebanese citizenship to more than 150,000 persons⁴. This decree has been described as a political act, aiming to raise the number of Sunnis within the Lebanese community⁵. Around 42% of those who obtained citizenship in this way were Syrian citizens, who were residing in Lebanon⁶. Furthermore, a report written in 2009 indicates that in Lebanon a foreigner who has lived in Lebanon for five years without interruption may request citizenship⁷.
39. The Country information before me contains no support the applicant's claim that he was a target for forced recruitment in the Syrian civil war by Syrian officials and military officers who roamed Lebanon at will, or with assistance from Hezbollah. I am not persuaded that any such event occurred, or that he was ever the subject of recruitment efforts.
40. It is apparent from the applicant's claims and his submissions and his Protection Visa Application that he maintains regular contact with his family in Lebanon and that they have assisted him throughout his visa application. Given their assistance, I am also concerned by the total absence of any documentation from this applicant relating to his time in Lebanon. To date the applicant has not supplied such documents. This is despite asserting in his 2018 Statutory Declaration he would provide copies of identity documents for his family and attempt to obtain evidence of his father's Syrian citizenship, and his statement in his earlier May 2018 Protection Visa Interview in which he indicated he would obtain documents from schools he had attended in Lebanon. In his most recent correspondence to the Department, the applicant stated that issues related to COVID-19 had prevented him from providing school documents, but this seems doubtful, since as I have already indicated, he had stated he would obtain the documents in May 2018, several years prior to the worldwide outbreak of COVID-19. Even if the applicant's history was as claimed, it would seem highly doubtful that he and his family could reside in Lebanon for over two decades and during that period attend schools, travel internationally, operate a business and engage in all of the other aspects of daily life, without accumulating some documentary evidence.
41. As a final observation I note that on one version of the applicant's own account, in Lebanon his family have to obtain updated Syrian identity documents every six months. Given his regular contact with his family in Lebanon and their assistance to him with his application, it is, in my view, inexplicable that copies of these documents could not have been provided to the applicant in the three years since his Protection Visa Interview, when he said he would attempt

⁴ Frontiers Ruwad Association, 'Invisible Citizens: Humiliation and a life in the shadows. A legal and policy study of statelessness in Lebanon', 1 January 2011, CISD9559B1257; Country of Origin Information Services Section (COISS), 'The 1994 Naturalisation Decree', 24 November 2011, 20210225113801

⁵ Country of Origin Information Services Section (COISS), 'The 1994 Naturalisation Decree', 24 November 2011, 20210225113801

⁶ Country of Origin Information Services Section (COISS), 'The 1994 Naturalisation Decree', 24 November 2011, 20210225113801

⁷ Country of Origin Information Services Section (COISS), 'The 1994 Naturalisation Decree', 24 November 2011, 20210225113801

to obtain them. Between his Protection Visa Interview, when he made this claim, and the April 2021 s.65 decision, each of his family members in Lebanon would have had to obtain, at a minimum, five new Syrian identity documents. In this context I note that the applicant's family had provided him with other documents during this period and that the applicant's May 2021 written Statement clearly indicates he is still in contact with his family. The applicant's failure to provide any such corroborative evidence is, in my view, telling. To my mind, it casts significant doubts on the applicant's claims about his family's Syrian origin and upon his overall truthfulness.

42. I have carefully considered this applicant, his claims and evidence and the country information before me. I have taken in to account the criticisms of the s.65 decision in the applicant's Submission to the IAA where it is argued that the delegates finding do not rely on probative evidence. I have taken into account the various explanations offered by the applicant, and the delegate's finding that during the civil war, obtaining documents from Syria would be difficult. Overall, I am not satisfied this applicant has been entirely forthcoming about his life prior to coming to Australia; I am not satisfied this applicant has been an honest and credible witness, and I have outlined many problems with his evidence above. While individually, each of the issues I have raised with the applicant's account may not be significant, in my view, the cumulative effect of all of these problems is to cast real doubt on the applicant's claims, and his credibility. Like the delegate, I am not satisfied that this applicant, or his family, originated in Syria, or that they were ever Syrian citizens. The weight of evidence before me indicates that this applicant is a citizen of Lebanon and I conclude that he is. Having found that the applicant is a citizen of Lebanon and was never a Syrian citizen, I am not satisfied that he has a reasonable explanation for providing two counterfeit documents relating to Syrian citizenship.
43. Having made that finding, it is unnecessary to consider whether he has taken reasonable steps to provide documentary evidence of his identity, nationality or citizenship.
44. Section 91WA applies to the applicant. Therefore, the grant of the visa is prevented by that section.

Decision

The IAA affirms the decision not to grant the referred applicant a protection visa.

Applicable law

Migration Act 1958

5 (1) Interpretation

In this Act, unless the contrary intention appears:

...

bogus document, in relation to a person, means a document that the Minister reasonably suspects is a document that:

- (a) purports to have been, but was not, issued in respect of the person; or
- (b) is counterfeit or has been altered by a person who does not have authority to do so; or
- (c) was obtained because of a false or misleading statement, whether or not made knowingly

...

cruel or inhuman treatment or punishment means an act or omission by which:

- (a) severe pain or suffering, whether physical or mental, is intentionally inflicted on a person; or
- (b) pain or suffering, whether physical or mental, is intentionally inflicted on a person so long as, in all the circumstances, the act or omission could reasonably be regarded as cruel or inhuman in nature;

but does not include an act or omission:

- (c) that is not inconsistent with Article 7 of the Covenant; or
- (d) arising only from, inherent in or incidental to, lawful sanctions that are not inconsistent with the Articles of the Covenant.

...

degrading treatment or punishment means an act or omission that causes, and is intended to cause, extreme humiliation which is unreasonable, but does not include an act or omission:

- (a) that is not inconsistent with Article 7 of the Covenant; or
- (b) that causes, and is intended to cause, extreme humiliation arising only from, inherent in or incidental to, lawful sanctions that are not inconsistent with the Articles of the Covenant.

...

receiving country, in relation to a non-citizen, means:

- (a) a country of which the non-citizen is a national, to be determined solely by reference to the law of the relevant country; or
- (b) if the non-citizen has no country of nationality—a country of his or her former habitual residence, regardless of whether it would be possible to return the non-citizen to the country.

...

torture means an act or omission by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person:

- (a) for the purpose of obtaining from the person or from a third person information or a confession; or
- (b) for the purpose of punishing the person for an act which that person or a third person has committed or is suspected of having committed; or
- (c) for the purpose of intimidating or coercing the person or a third person; or
- (d) for a purpose related to a purpose mentioned in paragraph (a), (b) or (c); or
- (e) for any reason based on discrimination that is inconsistent with the Articles of the Covenant;

but does not include an act or omission arising only from, inherent in or incidental to, lawful sanctions that are not inconsistent with the Articles of the Covenant.

...

5H Meaning of refugee

(1) For the purposes of the application of this Act and the regulations to a particular person in Australia, the person is a refugee if the person:

- (a) in a case where the person has a nationality—is outside the country of his or her nationality and, owing to a well-founded fear of persecution, is unable or unwilling to avail himself or herself of the protection of that country; or
- (b) in a case where the person does not have a nationality—is outside the country of his or her former habitual residence and owing to a well-founded fear of persecution, is unable or unwilling to return to it.

Note: For the meaning of *well-founded fear of persecution*, see section 5J.

...

5J Meaning of well-founded fear of persecution

- (1) For the purposes of the application of this Act and the regulations to a particular person, the person has a well-founded fear of persecution if:
 - (a) the person fears being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion; and
 - (b) there is a real chance that, if the person returned to the receiving country, the person would be persecuted for one or more of the reasons mentioned in paragraph (a); and
 - (c) the real chance of persecution relates to all areas of a receiving country.

Note: For membership of a particular social group, see sections 5K and 5L.
- (2) A person does not have a well-founded fear of persecution if effective protection measures are available to the person in a receiving country.

Note: For effective protection measures, see section 5LA.
- (3) A person does not have a well-founded fear of persecution if the person could take reasonable steps to modify his or her behaviour so as to avoid a real chance of persecution in a receiving country, other than a modification that would:
 - (a) conflict with a characteristic that is fundamental to the person's identity or conscience; or
 - (b) conceal an innate or immutable characteristic of the person; or
 - (c) without limiting paragraph (a) or (b), require the person to do any of the following:
 - (i) alter his or her religious beliefs, including by renouncing a religious conversion, or conceal his or her true religious beliefs, or cease to be involved in the practice of his or her faith;
 - (ii) conceal his or her true race, ethnicity, nationality or country of origin;
 - (iii) alter his or her political beliefs or conceal his or her true political beliefs;
 - (iv) conceal a physical, psychological or intellectual disability;
 - (v) enter into or remain in a marriage to which that person is opposed, or accept the forced marriage of a child;
 - (vi) alter his or her sexual orientation or gender identity or conceal his or her true sexual orientation, gender identity or intersex status.
- (4) If a person fears persecution for one or more of the reasons mentioned in paragraph (1)(a):
 - (a) that reason must be the essential and significant reason, or those reasons must be the essential and significant reasons, for the persecution; and
 - (b) the persecution must involve serious harm to the person; and
 - (c) the persecution must involve systematic and discriminatory conduct.
- (5) Without limiting what is serious harm for the purposes of paragraph (4)(b), the following are instances of **serious harm** for the purposes of that paragraph:
 - (a) a threat to the person's life or liberty;
 - (b) significant physical harassment of the person;
 - (c) significant physical ill-treatment of the person;
 - (d) significant economic hardship that threatens the person's capacity to subsist;
 - (e) denial of access to basic services, where the denial threatens the person's capacity to subsist;
 - (f) denial of capacity to earn a livelihood of any kind, where the denial threatens the person's capacity to subsist.
- (6) In determining whether the person has a **well-founded fear of persecution** for one or more of the reasons mentioned in paragraph (1)(a), any conduct engaged in by the person in Australia is to be disregarded unless the person satisfies the Minister that the person engaged in the conduct otherwise than for the purpose of strengthening the person's claim to be a refugee.

5K Membership of a particular social group consisting of family

For the purposes of the application of this Act and the regulations to a particular person (the **first person**), in determining whether the first person has a well-founded fear of persecution for the reason of membership of a particular social group that consists of the first person's family:

- (a) disregard any fear of persecution, or any persecution, that any other member or former member (whether alive or dead) of the family has ever experienced, where the reason for the fear or persecution is not a reason mentioned in paragraph 5J(1)(a); and
- (b) disregard any fear of persecution, or any persecution, that:
 - (i) the first person has ever experienced; or

- (ii) any other member or former member (whether alive or dead) of the family has ever experienced;

where it is reasonable to conclude that the fear or persecution would not exist if it were assumed that the fear or persecution mentioned in paragraph (a) had never existed.

Note: Section 5G may be relevant for determining family relationships for the purposes of this section.

5L Membership of a particular social group other than family

For the purposes of the application of this Act and the regulations to a particular person, the person is to be treated as a member of a particular social group (other than the person's family) if:

- (a) a characteristic is shared by each member of the group; and
- (b) the person shares, or is perceived as sharing, the characteristic; and
- (c) any of the following apply:
 - (i) the characteristic is an innate or immutable characteristic;
 - (ii) the characteristic is so fundamental to a member's identity or conscience, the member should not be forced to renounce it;
 - (iii) the characteristic distinguishes the group from society; and
- (d) the characteristic is not a fear of persecution.

5LA Effective protection measures

- (1) For the purposes of the application of this Act and the regulations to a particular person, effective protection measures are available to the person in a receiving country if:
 - (a) protection against persecution could be provided to the person by:
 - (i) the relevant State; or
 - (ii) a party or organisation, including an international organisation, that controls the relevant State or a substantial part of the territory of the relevant State; and
 - (b) the relevant State, party or organisation mentioned in paragraph (a) is willing and able to offer such protection.
- (2) A relevant State, party or organisation mentioned in paragraph (1)(a) is taken to be able to offer protection against persecution to a person if:
 - (a) the person can access the protection; and
 - (b) the protection is durable; and
 - (c) in the case of protection provided by the relevant State—the protection consists of an appropriate criminal law, a reasonably effective police force and an impartial judicial system.

...

36 Protection visas – criteria provided for by this Act

...

- (2) A criterion for a protection visa is that the applicant for the visa is:
 - (a) a non-citizen in Australia in respect of whom the Minister is satisfied Australia has protection obligations because the person is a refugee; or
 - (aa) a non-citizen in Australia (other than a non-citizen mentioned in paragraph (a)) in respect of whom the Minister is satisfied Australia has protection obligations because the Minister has substantial grounds for believing that, as a necessary and foreseeable consequence of the non-citizen being removed from Australia to a receiving country, there is a real risk that the non-citizen will suffer significant harm; or
 - (b) a non-citizen in Australia who is a member of the same family unit as a non-citizen who:
 - (i) is mentioned in paragraph (a); and
 - (ii) holds a protection visa of the same class as that applied for by the applicant; or
 - (c) a non-citizen in Australia who is a member of the same family unit as a non-citizen who:
 - (i) is mentioned in paragraph (aa); and
 - (ii) holds a protection visa of the same class as that applied for by the applicant.
- (2A) A non-citizen will suffer **significant harm** if:
 - (a) the non-citizen will be arbitrarily deprived of his or her life; or
 - (b) the death penalty will be carried out on the non-citizen; or
 - (c) the non-citizen will be subjected to torture; or
 - (d) the non-citizen will be subjected to cruel or inhuman treatment or punishment; or
 - (e) the non-citizen will be subjected to degrading treatment or punishment.

- (2B) However, there is taken not to be a real risk that a non-citizen will suffer significant harm in a country if the Minister is satisfied that:
- (a) it would be reasonable for the non-citizen to relocate to an area of the country where there would not be a real risk that the non-citizen will suffer significant harm; or
 - (b) the non-citizen could obtain, from an authority of the country, protection such that there would not be a real risk that the non-citizen will suffer significant harm; or
 - (c) the real risk is one faced by the population of the country generally and is not faced by the non-citizen personally.

...

Protection obligations

- (3) Australia is taken not to have protection obligations in respect of a non-citizen who has not taken all possible steps to avail himself or herself of a right to enter and reside in, whether temporarily or permanently and however that right arose or is expressed, any country apart from Australia, including countries of which the non-citizen is a national.
- (4) However, subsection (3) does not apply in relation to a country in respect of which:
- (a) the non-citizen has a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion; or
 - (b) the Minister has substantial grounds for believing that, as a necessary and foreseeable consequence of the non-citizen availing himself or herself of a right mentioned in subsection (3), there would be a real risk that the non-citizen will suffer significant harm in relation to the country.
- (5) Subsection (3) does not apply in relation to a country if the non-citizen has a well-founded fear that:
- (a) the country will return the non-citizen to another country; and
 - (b) the non-citizen will be persecuted in that other country for reasons of race, religion, nationality, membership of a particular social group or political opinion.
- (5A) Also, subsection (3) does not apply in relation to a country if:
- (a) the non-citizen has a well-founded fear that the country will return the non-citizen to another country; and
 - (b) the Minister has substantial grounds for believing that, as a necessary and foreseeable consequence of the non-citizen availing himself or herself of a right mentioned in subsection (3), there would be a real risk that the non-citizen will suffer significant harm in relation to the other country.

Determining nationality

- (6) For the purposes of subsection (3), the question of whether a non-citizen is a national of a particular country must be determined solely by reference to the law of that country.
- (7) Subsection (6) does not, by implication, affect the interpretation of any other provision of this Act.

91WA Providing bogus documents or destroying identity documents

- (1) The Minister must refuse to grant a protection visa to an applicant for a protection visa if:
- (a) the applicant provides a bogus document as evidence of the applicant's identity, nationality or citizenship; or
 - (b) the Minister is satisfied that the applicant:
 - (i) has destroyed or disposed of documentary evidence of the applicant's identity, nationality or citizenship; or
 - (ii) has caused such documentary evidence to be destroyed or disposed of.
- (2) Subsection (1) does not apply if the Minister is satisfied that the applicant:
- (a) has a reasonable explanation for providing the bogus document or for the destruction or disposal of the documentary evidence; and
 - (b) either:
 - (i) provides documentary evidence of his or her identity, nationality or citizenship; or
 - (ii) has taken reasonable steps to provide such evidence.
- (3) For the purposes of this section, a person provides a document if the person provides, gives or presents the document or causes the document to be provided, given or presented.

...