



**Australian Government**  
**Immigration Assessment Authority**

**Decision and Reasons**

**Referred application**

---

LEBANON

IAA reference: IAA21/09505

LEBANON

IAA reference: IAA21/09506

LEBANON

IAA reference: IAA21/09508

LEBANON

IAA reference: IAA21/09507

Date and time of decision: 2 September 2021 16:27:00

C Wilson, Reviewer

**Decision**

---

The IAA affirms the decision not to grant the referred applicants protection visas.

*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 applicants are a family group from Lebanon comprising a father (applicant 1)<sup>1</sup>, mother (applicant 2)<sup>2</sup>, son (applicant 3)<sup>3</sup>, and another son born in Australia (applicant 4)<sup>4</sup>.

---

<sup>1</sup> IAA21/09505

<sup>2</sup> IAA21/09507

<sup>3</sup> IAA21/09506

The first three applicants arrived in Australia on [date] February 2013. The family applied for Safe Haven Enterprise Visas (SHEV) on 5 December 2016.

2. A delegate of the Minister for Immigration and Border Protection (the delegate) refused the application for applicant 1 on 28 July 2017, and refused the other family members' applications on 14 August 2017. The delegate had concerns with applicant 1's credibility because he had initially claimed to be from Syria. The delegate did not accept applicant 1 had been or would be persecuted or faced a real risk of harm in Lebanon because his family were affiliated with the Syrian Social National Party (SSNP). There were no protection claims raised for the other family members.
3. A reviewer of the IAA affirmed the delegate's decisions on 29 January 2018. The applicants sought judicial review. The IAA's decision was quashed [in] June 2021, and the applications remitted for reconsideration.

### Information before the IAA

4. I have had regard to the material given by the Secretary under s.473CB of the *Migration Act 1958* (the Act).
5. The applicants were assisted by [the representative] to provide written submissions, statements from applicants 1 and 2, new country information, and medical reports for applicants 1 and 3.
6. Applicant 1's statement contains a mix of comment on the delegate's decision, clarification of his claims, and new information. The submission accompanying the statement says the information within is not new because it is merely clarification or information concerning existing claims. I do not accept this submission. The statement contains information not previously known, such as how he obtained various identity documents, that the community of people from [Village 1] are part of the SSNP faction, and details not previously disclosed about an attack on his [shop]. All of this information pre-dates the delegate's decision and I do not accept it could not have been provided prior to the decision being made. It is however credible, as in capable of being believed, personal information that may have affected the consideration of his claims. As the information is about his core claims, and having regard to the long history of this application, I am satisfied there are exceptional circumstances to justify considering this new information.
7. The other new information now provided by applicant 1 concerns his health. In particular, that he suffers back pain from a work-related back injury, has developed asthma because of his work as [an occupation], suffers from stress, anxiety and depression, and is concerned about the COVID-19 pandemic in Lebanon. Applicant 1 expresses a fear of being unable to access adequate medical care because he says the public health system is in a terrible state in Lebanon, and the situation is worse due to COVID-19. The information regarding these health conditions and the pandemic could not have been provided to the delegate as it all post-dates the delegate's decision. The information is personal and credible, however it is not clear how it is relevant to the consideration of his claims to fear harm in Lebanon for reason of his association to the SSNP and sectarian and other violence in northern Lebanon. Whilst a medical report dated 5 March 2020 was provided to support the claimed back injury and that he was exhibiting signs of depression and anxiety, there is no medical evidence regarding the asthma. The medical report is now quite dated, being from 18 months ago, and there is no

---

<sup>4</sup> IAA21/09508

current medical report regarding his back condition or the effect of the recommended treatment, including surgery, or whether he still suffers from asthma, stress, anxiety or depression. It is submitted there are exceptional circumstances to justify considering this information because the applicants have limited English skills, the information may make a material difference to the outcome and not considering it may expose the applicant to a real and substantial risk of serious human rights abuse, and that the nature of the limited form of review increases the risk that the IAA's decision will be not fair or just. These submissions appear generic and do not engage with the new medical information. I do not accept the argument that limited English skills amount to an exceptional circumstance, in a situation where the applicants were assisted by a migration agent during their application who was fluent in Arabic and English. There is no new country information provided on the current or projected impact of the pandemic in Lebanon or its effect on the medical system. There is no explanation of how the pandemic is relevant to the protection claims.. Applicant 1 has not explained how his alleged medical conditions are relevant to the refugee assessment or how medical conditions or how possible difficulties in accessing medical care amount to significant harm for the complementary protection criterion. His medical condition may be relevant to a consideration of the reasonableness of relocation, but I have not needed to consider relocation in this decision. On the limited and outdated medical information, lack of country information, and lack of explanation for its relevance to his claims, notwithstanding that s.473DD(b)(i) is met, I am not satisfied there are exceptional circumstances to justify considering the new information about applicant 1's health contained in his statement and in the medical report or claims about the COVID-19 pandemic.

8. Applicant 2's statement contains information that she is making protection claims for the first time. The new claims are similar to claims expressed by applicant 1 regarding his fears for his family, and is therefore information that was before the delegate. I consider applicant 2's claims arise out of information already before me, and do not amount to new information.
9. New information was provided in the form of a medical report dated 10 May 2018 concerning applicant 3. The report is from a speech pathologist after a referral for a language assessment. The assessment indicates he had severe receptive and expressive language difficulties, and consequently attended school based speech pathology sessions during 2015 and 2016. The report doesn't state the outcome of those sessions or the severity of his condition at the date it was written. I accept this report could not have been provided to the delegate as it postdates their decision. However I do not accept medical information regarding applicant 3's condition could not have been provided. The information is credible and personal, and may have affected the consideration of the claims. The submission states there are exceptional circumstances to justify considering this new information because the applicants have limited English skills, the information was not put to the delegate as they could not do so without assistance, the information may make a material difference to the outcome and not considering it may expose the applicant to a real and substantial risk of serious human rights abuse, and that the nature of the limited form of review increases the risk that the IAA's decision will be not fair or just. I do not accept this submission, noting that the applicants had assistance from a registered migration agent fluent in Arabic and English, and I do not accept they could not have provided medical evidence regarding applicant 3 if it was relevant. It is not clear from the submission how not considering this information could expose applicant 3 or any of the applicants to human rights abuses in Lebanon. I do not accept the submission not considering this report would increase the risk of an unfair or unjust decision. I accept applicant 3 has suffered a speech impairment. However this report adds no real new information on the cause of that impairment, how severe it is in 2021, whether any current or future treatment is required, or how it impacts his ability to speak Arabic. In all the circumstances, particularly having regard to the age of the report and its

limited evidentiary value, I am not satisfied there are exceptional circumstances to justify considering this new information.

10. The new country information provided by the applicants includes the Department of Foreign Affairs and Trade (DFAT) Country Information Report Lebanon dated 19 March 2019, a Human Rights Watch submission to the Committee on the Elimination of Discrimination Against Women (CEDAW) in Lebanon dated 4 November 2020, and a Arab News article 'Syrian elections cause tension and violence in Lebanon' dated 20 May 2021. This new information is not personal credible information, but it all postdates the delegate's decision and for this reason I am satisfied s.473DD(b) is met. Although the DFAT report is a little dated, it replaces the earlier 2016 DFAT report relied on by the delegate and is the most up to date assessment by DFAT of the conditions in Lebanon. In circumstances where it is now more than 4 years since the delegate's decision and the country information relied on by the delegate is therefore dated, I am satisfied there are exceptional circumstances to justify considering this new information.
11. Applicants 1 and 2 submit the IAA needs to consider exercising its discretionary power under s.473DC(3) to invite them to give oral evidence at an interview, particularly because of the new claims by applicants 2, 3, and 4. Part 7AA of the Act provides for a limited form of review on the papers. Except in limited circumstances the IAA must conduct a review on the papers without interviewing the person. I may exercise a discretion under s.473DC to invite a person to give new information at an interview, or in writing, however there is no obligation to do so. Applicants 1 and 2 say this wish to explain their statements in person at an interview, but do not indicate there is any further new information to put at an interview. They submit they should be interviewed because applicants 2, 3, and 4 are now making claims. I have found the new claims are not new information, but arise from the claims put forward by applicant 1 in the SHEV application. Applicant 2 was not interviewed by the delegate, but she did not make any protection claims in the application and accordingly was not invited to an interview. Nor did she request an interview. At the interview with applicant 1 the delegate raised this issue and asked if applicant 2 had claims to make. Applicant 1 confirmed his wife was only applying as a member of his family unit. The applicants have been represented by migration agents throughout the SHEV application. There is no suggestion of misconduct on the agent's behalf, or the delegate, that led to applicant 2 not having an opportunity to put forward protection claims, request an interview or provide evidence if she wanted to. I consider the applicants were given a reasonable opportunity to put forward all their claims and evidence to the delegate. Applicant 2 has now provided a short statement, and I have accepted and considered in this decision the information contained in that statement. Taking into account the limited form of review provided for by Part 7AA of the Act, lack of information of any improper conduct by the previous migration agent or delegate, and the lack of indication of any further information applicants 1 and 2 wish to provide by interview, I have decided not to exercise the discretion under s.473DC(3) to invite applicants 1 and 2 to an interview.

### **Applicants' claims for protection**

---

12. When the SHEV application was lodge, only applicant 1 made protection claims with the other applicants relying on the family unit criteria. On review, claims have now been raised for the other applicants as well as relying on the family unit criteria.
13. Applicant 1's claims can be summarised as follows:

- He is a Sunni Muslim from Tripoli, Northern Lebanon.
- His family were well known for being members of the SSNP, including two uncles who were of high importance in the SSNP. One uncle was killed in 1982 and the other left Lebanon for [Country 1].
- Because of his family he was imputed with membership of the SSNP. He was harassed at school for this reason and had to leave school at the end of year [number]. He finished his education at a [college].
- He lived in [Country 1] with an uncle and aunt from 2003 to 2006, because life was hard in Lebanon and the political situation was worsening.
- He returned to Lebanon in 2006 to see if things were better. He got married and had a son in 2008. When Lebanon became unstable he returned again to [Country 1] from 2008 to 2010. His wife and son stayed with her parents.
- In May 2008 there was unrest between Hezbollah and the Future Movement. On [date] May the SSNP offices were attacked, and SSNP members and imputed supporters were widely attacked across north Lebanon. He had to move to his uncles' house for safety, as they knew his address.
- In 2010 a notice was left at the house stating they knew his association with the SSNP and his family was at risk. At times his door was beaten down to scare the family into leaving. His house was shot at around 20 times. His house was targeted in a mortar strike in front of his building, which caused his young son to suffer shock that caused speech delays.
- He was attacked multiple times because of his political views. He tried to deny he was a member of the SSNP but he was suspected to be an intelligence officer and informer to the Syrian regime.
- He opened a [shop] in 2011 in the conflict ridden El Tabbaneh area. He was told to close the shop, and when he did not the shop was attacked. He sold the business and opened another shop in 2012. However, the violence continued and he felt intimidated into closing that shop too.
- He could not longer obtain a visa for [Country 1] so decided to come to Australia where he had some family members.
- Lebanon continues to be unstable and volatile. The SSNP has again been under severe attacks. Armed conflict in Tripoli in the areas of Jabal Mohsen and El Tabbaneh is affecting the whole of North Lebanon. If he returns he will be targeted and likely killed because of his imputed political opinion as an SSNP member. He fears his wife and children will also be harmed because of his family's association with the SSNP.

14. Applicant 2's claims can be summarised as follows:

- She fears harm if she is returned to Lebanon because of her membership of the particular social group 'family members of an SSNP supporter'.
- She fears harm as a woman alone in Lebanon, if her husband is killed, and because of her membership of the particular social group 'women in Lebanon'.

15. Applicant 3 and 4's claims can be summarised as follows:

- They are boys age [age] and [age].
- Applicant 3 suffers a speech disorder.

- They fear harm if they are returned to Lebanon because of their membership of the particular social group ‘family members of an SSNP supporter’.

## Refugee assessment

---

16. Section 5H(1) of the Act provides that a person is a refugee if, in a case where the person has a nationality, he or she 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 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.

### Well-founded fear of persecution

17. Under s.5J of the Act ‘well-founded fear of persecution’ involves a number of components which include that:
- the person fears persecution and there is a real chance that the person would be persecuted
  - the real chance of persecution relates to all areas of the receiving country
  - the persecution involves serious harm and systematic and discriminatory conduct
  - the essential and significant reason (or reasons) for the persecution is race, religion, nationality, membership of a particular social group or political opinion
  - the person does not have a well-founded fear of persecution if effective protection measures are available to the person, and
  - the person does not have a well-founded fear of persecution if they could take reasonable steps to modify their behaviour, other than certain types of modification.
18. The first three applicants have provided various forms of identification to the Department that support their claim to be Lebanese citizens. I accept they are from Lebanon and that Lebanon is their receiving country.
19. Applicant 1’s identity documents variously describe him as being born and resident in [Suburb 1], a suburb of Tripoli, and [Village 1], a village about [number] km outside of Tripoli. Applicant 1 says his family are originally from [Village 1] and maintained houses in both [Suburb 1] and [Village 1]. He claims he was born in [Suburb 1], but his birth certificate lists his birthplace as [Village 1] because that is where his family registration is. He says he similarly registered his son, applicant 3, as being born in [Village 1] even though he was in fact born in [another] town outside of Tripoli. I accept the applicant’s explanation that his family had homes in both [Suburb 1] and [Village 1] and he has lived in both locations. Applicant 2 claimed to have lived all her life in Lebanon in [Suburb 1]. I consider that on return to Lebanon applicant 1 would take his family back to greater Tripoli where he had previously lived, including the suburb [Suburb 1] and [Village 1] [number]km outside of Tripoli.
20. Applicant 1 claims he was targeted in Lebanon because his family were SSNP supporters. He admits he was never actually a member of the SSNP, but says he attended some meetings, had some interest and belief in their ideals, and supported them because his family did. He

claims his family name is strongly associated with the SSNP and people generally from the [Village 1] community are known to be SSNP supporters. He claims to have suffered physical harm, harassment and discrimination because of this family background.

21. The SSNP is one of the oldest political parties in Lebanon, founded in 1932. The SSNP advocates the establishment of a 'Greater Syria' encompassing Lebanon, Cyprus, Jordan, Palestine and Syria. Since its inception the SSNP has fiercely opposed the Lebanese government, and has been involved in numerous security incidents, including a failed coup in 1961 leading to the party being banned in Lebanon and Syria. More recent incidents include the SSNP fighting alongside Hezbollah during the 2006 war with Israel, and during armed unrest in western Beirut in May 2008 SSNP members took to the streets and reportedly committed atrocities.<sup>5</sup>
22. Applicant 1 claims his family name is strongly associated with the SSNP. The delegate searched country information on the applicant's family name, but found no reports suggesting they were well-known as SSNP members or supporters. Applicant 1 has not provided any reports or other evidence to support this claim. There is no evidence of his uncle's death in 1982, which he alleged occurred because of his SSNP membership. He has not provided any evidence from the uncle who allegedly fled Lebanon because of his connection to the SSNP, nor provided any date when this is said to have occurred. Applicant 1 claims he suffered harassment and attacks because of his family's association with the SSNP, but has not provided any information that his father or brother suffered similar mistreatment. At the SHEV interview he said his brother lives [overseas], but his father still lived in Lebanon. Apart from the allegation that his uncle's death in 1982 was because of an association with the SSNP, there is no information that any other members of the family suffered harm since that time.
23. In his written application applicant 1 says the harm he suffered including being harassed at school, receiving a threatening note at home in 2010, a mortar strike in the street opposite his house, being attacked multiple times, his house being shot at 20 times, and his two [businesses] being targeted such that he was intimidated into closing them. At his SHEV interview in 2017 he was unable to say who it was that targeted him at home or in his shop. He claimed he was suspected to be an intelligence officer and informer to the Syrian regime, but could not give any information on who thought this or why. Despite claiming in his written application that he was attacked multiple times, he did not give any examples of when this occurred, apart from men allegedly coming to his [shop].
24. I consider applicant 1's failure to raise his claims against Lebanon on arrival in Australia suggests he was not targeted or harmed in Lebanon. Both applicants 1 and 2 claimed to have come to Australia from Syria. Applicant 1 claimed to have been born in Syria and to be a Syrian citizen, whilst applicant 2 claimed to have moved there from Lebanon when they married in 2007. Applicant 1 conceded in a follow-up identity interview on 22 October 2013 that this was a fabrication, and that they were both citizens of Lebanon. This concession was only made after a number of inconsistencies were put to him. Applicant 1 says he pretended to be Syrian, and obtained a fake Syrian identity documents in [Country 2], because people smugglers told him Australia was only accepting Syrian refugees and that as Lebanese citizens they would be sent back to Lebanon. I consider it is plausible someone in [Country 2] gave them the idea of pretending to be Syrian. However I do not accept he maintained the fake identity after his arrival because he believed Lebanese citizens were being returned to Lebanon. The Arrival Interview did not occur until 2 weeks after their arrival in Australia. It

---

<sup>5</sup> DFAT, report LBN38204, 11 March 2011.

should have been evident to him during even that brief time in Australia that asylum seekers from countries other than Syria were not being returned. Applicant 1 was not an unsophisticated traveller. He had applied for visas and travelled internationally a number of times to [Country 1] and [Country 3]. He had family in Australia and spent 4 months in [Country 2] preparing to travel to Australia. He could have made enquiries to verify the information if a smuggler told them Lebanese citizens were being returned. I consider the willingness to mislead the Department about something as fundamental as his citizenship affects his credibility generally.

25. Applicant 1 claims to have suffered violent intimidation at his place of work, gunshots and mortar attacks on his house, and a threatening note at his house. I consider something of this would have been raised in his Arrival Interview, even if he changed the country where it allegedly occurred. The applicants claim applicant 3 suffered severe injury to his speech development caused by a mortar attack near their house, but this incident was not raised at the Arrival Interview. I consider if such a serious incident occurred, targeting him or his family, that applicant 1 would have raised it. Whilst I acknowledge an applicant is not expected to make protection claims at an arrival interview, I consider the failure to raise any incidents of harm suggests nothing had occurred personally to him. Whilst it is plausible the family witnessed violence in Lebanon, no medical evidence has been provided to show a connection between that and applicant 3's speech difficulties.
26. Applicant 1 left Lebanon numerous times, to travel to [Country 1] but also [Country 3], yet voluntarily returned. I consider his travel history is inconsistent with claims to have been personally targeted and fearing harm in Lebanon. Applicant 1 says people left a note at his house and shot at his house, but he always evaded them by staying at an uncle's, or his wife's parents. I consider this explanation unlikely, both that he would have returned to his house if it was regularly shot at, or that if he was being targeted in this way that those targeting him would not have looked for him at his uncle's, at his work, or at his in-laws.
27. Applicant 1's evidence regarding his [shop] businesses have been inconsistent. In his SHEV application he claimed to have worked at [shops] in 2012, one in March 2012 and the other from April to November 2012. However his statement of claims refers to only one [shop], opened in 2011, that he ran for 3 months before being forced to close. He also states that shop was attacked several times. At the SHEV interview applicant 1 said he owned two [shops], one for three and a half months in 2010 and another in 2012. He said the first one was caught up in the conflict between the Alawite and Sunni groups and someone came to the shop telling his to close. The second time they came on motorbikes and came into his shop, breaking things. He was scared by this incident and so closed the shop and opened a new shop in another area. He does not mention being physically attacked in the shop in either his SHEV application or SHEV interview.
28. In his written statement to the IAA applicant 1 says he was threatened to close the first [shop], and when he did not armed men came the following day and damaged the shop. They came on motorbikes and carried machine guns. They shot into his shop window before entering the shop where they hit and kicked him on the ground. Although they had machine guns he was able to run away. He sold off the equipment in that shop, and opened another one a street away from the Al-Tabbaneh district. He did not want to move far because he did not want to lose his customer base. Whenever there was conflict in the Al-Tabbaneh and Jabal Mohsen areas, his was caught in the middle and harassed. He was also intimidated into closing that shop.



29. I acknowledge applicant 1 has been roughly consistent in referring to two [shops], one in the Al-Tabbaneh area and a second in another suburb, but the inconsistent claims about when and how long he had these shops for is concerning. His description of the attack on his shop by men wielding machine guns was disclosed until his recent statement to the IAA. He does not explain why he would not have included the details of such a violent attack in his written application, SHEV interview, or on arrival in Australia at the Arrival Interview. His description of the shop being shot up by machine gun fire, and him being kicked whilst lying on the ground, yet then somehow getting up and running away, seems unlikely. But if something of this level of violence occurred to him, I do not accept he would not have spoken of it earlier. Applicant 1 speaks of the violence in the Al-Tabbaneh district and his business getting caught up in that. There has been sectarian violence in the adjoining neighbourhoods of Jabal Mohsen (predominantly Alawite) and Bab al-Tabbaneh (predominantly Sunni) in Tripoli. Tensions between these groups escalated in the early stages of the conflict in Syria, with Alawites generally supportive of the Syrian regime and Sunnis generally opposed. Violent clashes led to over 200 deaths, with significant incidents including car bombs targeting Sunnis in August 2013 and the bombing of a café targeting Alawites in January 2015. However, the security plan instituted by the Lebanese authorities to quell this violence in April 2015 has significantly reduced the communal violence in these Tripoli neighbourhoods, and I am not aware of further significant incidents of violence since then.<sup>6</sup>
30. I consider it is plausible applicant 1's [shops] suffered damage, even intimidation by members of the Alawite or Sunni groups clashing in that area at that time. I do not accept however that he was personally targeted for the reasons he claims, that is, being considered a member of the SSNP, pro-Syrian or a Syrian spy. I note he says he opened the second [shop] near the first because of his customer base, but I do not accept if he had been personally targeted with such violence in the first [shop] that he would open a second one only a street away. I accept he may have owned or worked in [shops] in or near the Al-Tabbaneh district, and to have witnessed or been caught up in violence occurring in that area. However, I consider his claims to have been targeted at these businesses because he was considered to be a member of the SSNP or pro-Syrian generally are an embellishment.
31. For all these reasons, I do not accept applicant 1 or his family were personally targeted by unknown groups in Tripoli because of an imputed association with the SSNP or any other reason. I find applicant 1 has embellished the level of harm and harassment he claims to have suffered at work and at home in Lebanon.
32. For the purpose of this assessment, notwithstanding my concerns about applicant 1's credibility and lack of evidence, I will accept his family have been known to support the SSNP because some family members were involved in the SSNP or because he came for a village ([Village 1]) where members of the community agreed with or supported the SSNP. The delegate was unable to find country information to suggest SSNP supporters were being targeted for harm in northern Lebanon. This was raised with the applicants, but no country information supporting the claim that SSNP members or imputed members are targeted was provided by the applicants. There is nothing in the 2019 DFAT report on Lebanon to suggest SSNP members or supporters are targeted. The only evidence the applicants have provided is a recent report from the Arab News dated 20 May 2021 concerned with attacks on Syrian expatriates and refugees in Lebanon. The Syrians were reportedly beaten by angry Lebanese as the Syrians headed to their embassy to vote in Syrian elections. The report says members of the Lebanese Forces party went to the coastal highway connecting northern Lebanon with

---

<sup>6</sup> DFAT, Country Information Report Lebanon, 18 December 2015; DFAT, Country Information Report Lebanon, 19 March 2019.

Beirut to block cars carrying pictures of Assad, Syrian flags, or banners of the SSNP. The Lebanese Forces party members smashed car windows and assaulted their occupants. The report indicates there is some anger and violence directed at Syrians in Lebanon, but the applicants are not Syrians. I acknowledge cars merely carrying the SSNP flag were targeted on that one occasion, but applicant 1 has never claimed to carry an SSNP flag or otherwise be active in the party. This report does not indicate there is any targeting of ordinary Lebanese who might be imputed with an association with the SSNP because their family supported them. There are no other reports before me of SSNP members or supporters or their family members being targeted in northern Lebanon.

33. Applicant 1 says he no longer accepts the world view of the SSNP and there is nothing to indicate he would not associate himself with the SSNP on return to Lebanon. For reasons given above, I do not accept he was personally targeted by anyone in the past because he was imputed to be an SSNP supporter for reason of his family or coming from [Village 1]. There is no evidence anyone in his family has been harmed since his uncle's alleged death in 1982 as an active SSNP member. Even in the remote chance the applicant is imputed to support the SSNP because of his family or home village, the country information before me does not indicate he would face a real chance of harm for this reason. I consider the chance of applicant facing harm for reason of being an imputed SSNP supporter, or being from [Village 1], or his membership of his family as alleged well-known SSNP supporters is farfetched, and too remote to amount to a real chance. It follows I find applicants 2, 3 and 4 do not face a real chance of harm for being members of applicant 1's family or members of the particular social group 'family members of an SSNP supporter'.
34. Applicant 2 claims to fear harm as a woman in Lebanon, particularly if her husband is killed and she is widowed. I consider her fear of her husband's death is speculative, and for reasons given above I do not accept applicant 1 faces a real chance of such serious harm for reason of his alleged imputed association with the SSNP. DFAT reports that under the Constitution all Lebanese are equal before the law. Lebanon has taken steps in recent years to improve its institutional and policy framework aimed at accelerating the elimination of discrimination against women and promoting gender equality. By regional standards, the Lebanese framework is considered progressive in relation to employment for women. There are no laws prohibiting women from participating in the political process, however in practice significant cultural barriers limit this. DFAT assesses women in Lebanon can face a moderate risk of societal discrimination, particularly for women from rural and socially conservative communities.<sup>7</sup>
35. Applicant 2 has not identified any harm, discrimination or harassment she suffered in the past for reason of being a woman in Lebanon. It is submitted she will be restricted in her participation in the workforce, but applicant 2 has never worked, either in Lebanon or Australia. She completed a course [in] Lebanon, but appears never to have worked once married. Whilst she may have felt unable to work in Lebanon for cultural reasons or barriers to obtaining work, she has also not worked in the last 8 years in Australia. In such circumstances I consider she will continue in Lebanon as she has in Australia, as the homemaker in the family. A recent Human Rights Watch report to CEDAW<sup>8</sup> highlighted the inequalities in the Personal Status Laws in relation to divorce, property rights and care of children, inadequate protection of victims of family violence and sexual assault, and the vulnerability of women in criminal detention, LGBT people and sex workers to sexual assault and mistreatment. Applicant 2 is not a member of any of these groups, nor is there any

---

<sup>7</sup> DFAT, Country Information Report Lebanon, 19 March 2019

<sup>8</sup> 4 November 2020.

suggestion she is vulnerable to family violence or relationship breakdown. As a married woman living in the city of Tripoli I find she does not face a real chance of harm for reason of being a woman in Lebanon.

### **Refugee: conclusion**

36. The applicants do not meet the requirements of the definition of refugee in s.5H(1). The applicants do not meet s.36(2)(a).

### **Complementary protection assessment**

---

37. Under s.36(2)(aa) of the Act, a criterion for a protection visa is that the applicant is a non-citizen in Australia (other than a person who is a refugee) in respect of whom the Minister (or Reviewer) is satisfied Australia has protection obligations because there are substantial grounds for believing that, as a necessary and foreseeable consequence of the person being removed from Australia to a receiving country, there is a real risk that the person will suffer significant harm.

### **Real risk of significant harm**

38. Under s.36(2A), a person will suffer 'significant harm' if:
- the person will be arbitrarily deprived of his or her life
  - the death penalty will be carried out on the person
  - the person will be subjected to torture
  - the person will be subjected to cruel or inhuman treatment or punishment, or
  - the person will be subjected to degrading treatment or punishment.
39. The expressions 'torture', 'cruel or inhuman treatment or punishment' and 'degrading treatment or punishment' are in turn defined in s.5(1) of the Act.
40. Applicant 3 is said to have a speech disorder for which he has received treatment in Australia. It is not clear whether he has ongoing treatment needs. I accept the level of medical care in Lebanon may not be what he has received in Australia, noting information from DFAT that the standard of public health care in Lebanon is very poor.<sup>9</sup> However, there is nothing to indicate treatment would be withheld with an intention to subject the applicants to torture, cruel or inhuman treatment or punishment, or degrading treatment or punishment. I do not accept any difficulty accessing treatment in Lebanon amounts to significant harm, as defined in the Act.
41. Applicant 1 states his son's speech impediment would make life difficult for him in Lebanon, particularly as his Arabic language skills are poor, and that he would face discrimination and mocking causing significant mental suffering. No current medical evidence was provided to support this assertion, nor country information to support the assertion that someone with a speech disorder in Lebanon would face a risk of mocking and discrimination. It is plausible a speech impediment may impact education and career opportunities, but I am not satisfied on

---

<sup>9</sup> DFAT, Country Information Report Lebanon, 19 March 2019.

the information before me that this or any mocking applicant 3 may experience would amount to significant harm as defined in the Act. That is, I do not accept he would be arbitrarily deprived of life, subjected to torture, cruel or inhuman treatment or punishment, or degrading treatment or punishment, because of his speech impediment.

42. I have found the applicants do not face a real chance of harm because applicant 1 may have been imputed with an association to the SSNP, his family may have been associated with the SSNP, or membership of the particular social groups 'family members of an SSNP supporter' or 'women in Lebanon'. Real chance and real risk has been found to equate to the same threshold. For the same reasons given above, I find the applicants do not face a real risk of significant harm for any of the reasons claimed.

#### **Complementary protection: conclusion**

43. There are not substantial grounds for believing that, as a necessary and foreseeable consequence of being returned from Australia to a receiving country, there is a real risk that the applicants will suffer significant harm. The applicants do not meet s.36(2)(aa).

#### **Member of same family unit**

---

44. Under s.36(2)(b) or s.36(2)(c) of the Act, an applicant may meet the criteria for a protection visa if they are a member of the same family unit as a person who (i) is mentioned in s.36(2)(a) or (aa) and (ii) holds a protection visa of the same class as that applied for by the applicant. A person is a 'member of the same family unit' as another if either is a member of the family unit of the other or each is a member of the family unit of a third person: s.5(1). For the purpose of s.5(1), the expression 'member of the family unit' is defined in r.1.12 of the Migration Regulations 1994 to include spouse, parents and children.
45. I accept applicants 2, 3 and 4 are members of the family unit of applicant 1, being his dependent spouse and dependent children age under 18.
46. As none of the applicants meets the definition of refugee or the complementary protection criterion, it follows that they also do not meet the family unit criterion in either s.36(2)(b) or s.36(2)(c).

#### **Decision**

---

The IAA affirms the decision not to grant the referred applicants protection visas.

## 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.