



Australian Government

Immigration Assessment Authority

Decision and Reasons

Referred application

LEBANON

IAA reference: IAA22/10393

Date and time of decision: 19 January 2023 11:12:00

M Oakman, 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 Sunni Muslim from Lebanon. He arrived in Australia [in] June 2013 and lodged an application for a Safe Haven Enterprise visa (SHEV) (XE-790) on 22 September 2016. On 6 July 2017 a delegate of the Minister for Immigration (the delegate) refused to grant the visa.
2. On 23 April 2018 the IAA affirmed the delegate's decision not to grant the applicant a protection visa. The applicant sought judicial review of the IAA's decision with the then Federal Circuit Court which dismissed the application. On appeal, [in] June 2020 the Federal Court quashed the IAA's decision and remitted the matter to the IAA for the review to be determined according to law.
3. On 27 August 2020 the IAA affirmed the delegate's decision not to grant the applicant a protection visa. The applicant sought judicial review of the IAA's decision. [In] November 2022 the Federal Circuit and Family Court, by consent, following *AUS17 v MIBP* [2020] HCA 37, quashed the IAA's decision and remitted the matter to the IAA for the review to be determined according to law.

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). I note the referred material also included copies of the SHEV application and SHEV interview recording of the applicant's brother, 'M', which were considered, and referred to in the decision, by the delegate. The referred material also includes copies of the applicant's consular access form (dated 20 June 2013), detention notice (dated 25 August 2013) biographical details confirmation form (dated 30 August 2013) and data breach advice letter from the Department (dated 14 March 2014). The delegate makes no mention of these documents, and I am satisfied they were not before the delegate. The first three documents are administrative in nature and are not relevant to assessing the applicant's protection claims. The data breach letter is potentially relevant to the applicant's protection claims and I am satisfied there are exceptional circumstances to consider that new information.
5. On 1 August 2017 the IAA received an email from the applicant's former legal representatives containing submissions and further information. On 28 July 2020, 5 August 2020, and 28 November 2022 the IAA received emails from the applicant's current legal representatives containing submissions and/or further information. In the submissions of 28 November 2022, the applicant advises that these submissions supersede the submissions dated 28 July 2020 (but he otherwise relies on the earlier submissions and further information supplied). To the extent the submissions (noting the email of 5 August 2020 attached further information and no submissions) of 1 August 2017 and 28 November 2022 refer to information that was before the delegate, refer to case law and legislation, and contain argument, I consider this does not constitute new information and I have had regard to it.
6. The further information consists of:

Provided in 2017

- Statement from the applicant dated 1 August 2017. The statement provides a mix of information that was before the delegate and some new claims that were not before the delegate and are new information (*2017 statement new information*).
- The 2017 submissions refer to country information reports and media articles from various dates between 2007 and 2017. This country information was not before the delegate and is new information (*2017 new country information*).

Provided in 2020

- Statement from the applicant dated 27 July 2020. The statement refers to developments in Lebanon, and protection claims arising from those developments, that were not before the delegate and are new information (*2020 statement new information*).
- Copies of country information reports and media articles from 2019 and 2020. This country information was not before the delegate and is new information (*2020 new country information*).

Provided in 2022

- Further statement from the applicant dated 24 November 2022. The statement refers to developments in Lebanon, and protection claims arising from those developments, that were not before the delegate and are new information (*2022 statement new information*).
 - Copies of country information reports and media articles from 2019, 2021 and 2022. This country information was not before the delegate and is new information (*2022 new country information*).
7. The applicant's 2017 statement new information consists of new claims in relation to further incidents involving Hezbollah etc while he was in Lebanon, an attack on the applicant's brother 'A' in Lebanon and that Hezbollah continues to seek the applicant. The statement post-dates the delegate's decision. However, the new information it contains, with the exception of his claim that Hezbollah was still seeking him in Lebanon, relates to events that occurred prior to the decision. The delegate and the applicant discussed the applicant's protection claims at his SHEV interview, including adverse incidents in Lebanon prior to his departure, his family in Lebanon and the reasons for Hezbollah's continued interest in the applicant, and I am not satisfied that, other than for the claim that Hezbollah continues to seek him, that s.473DD(b)(i) is met. The delegate rejected some of the applicant's claims including that he would be of ongoing adverse interest to Hezbollah if returned to Lebanon, or that he would otherwise suffer serious harm if returned to Lebanon, which the applicant's claims address and I am satisfied that on its face it is credible personal information that may have affected consideration of the applicant's claims. I am satisfied that elements of s.473DD(b) are met and that there are exceptional circumstances to justify considering the 2017 statement new information.
 8. The 2017 new country information, all of which appears to have been publicly available at the relevant times, pre-dates the delegate's decision. The delegate considered a range of other country information in assessing the applicant's claims, including reports on the conditions in Lebanon and on Hezbollah up to 2017. With the exception of a passing reference to a named journalist victim of Hezbollah, the new country information is not personal information in the relevant sense. Looking at all the new country information I am not satisfied that it may have

affected consideration of the applicant's claims. The applicant has not satisfied me as to the matters in s.473DD(b)(i) or (ii) for this material. In addition, to the extent that information is relied upon to assess the future risk of harm, there is now much more recent information before me. I am also not satisfied that there are exceptional circumstances to justify considering the 2017 new country information.

9. The applicant's 2020 statement new information and 2022 statement new information date from 27 July 2020 and 24 November 2022, respectively, and contain new claims in relation to his fear of harm based on the changing conditions in Lebanon and that Hezbollah continue to seek him. Their contents relate to matters that post-date the delegate's decision and I am satisfied s.473DD(b)(i) is met. The applicant claims to fear harm in relation to developing conditions in Lebanon since the delegate's decision and I am satisfied it is on its face credible personal information that may have affected consideration of the applicant's claims and is material to assessing his risk of harm if returned to Lebanon. I am satisfied that s.473DD(b) is met. I am also satisfied that there are exceptional circumstances to justify considering the 2020 statement new information and 2022 statement new information.
10. The 2020 new country information post-dates the delegate's decision and I am satisfied that s.473DD(b)(i) is met. The material concerns conditions, incidents, and developments in Lebanon in 2019 and 2020 and contains a mix of media articles and extracts from reports. Much of the material is general country information and is not credible personal information in the relevant sense. However, some of the media reports refer to named individuals and to that extent contain personal information. The information is more recent than the material considered by the delegate. Although I am considering even more recent information on country conditions in Lebanon provided by the applicant (in 2022) and material that I have obtained (see below), given the applicant's recent claims refer to the deterioration in Lebanon since 2019, the material dating from 2019 onwards serves to inform those claims. I am satisfied that s.473DD(b) is met and there are exceptional circumstances to justify considering the 2020 new country information.
11. The 2022 new country information post-dates the delegate's decision. I am satisfied that s.473DD(b)(i) is met. The material concerns conditions, incidents, and developments in Lebanon in 2021 and 2022, together with an article about Hezbollah from 2019, and contains a mix of media articles and reports from a range of sources. The reports, and a number of the media articles, are in the nature of general country information and are not credible personal information in the relevant sense. However, some of the media reports refer to named individuals and to that extent contain personal information. The information is more recent than the material considered by the delegate in 2017, some five and a half years ago, and therefore relevant to assessing the applicant's risk of harm in the reasonably foreseeable future. I am satisfied that elements of s.473DD(b) are met and that there are exceptional circumstances to justify considering the 2022 new country information.
12. I have also obtained eight country information reports on Lebanon which were not in the review material and are new information. These are a report of the Department of Foreign Affairs and Trade (DFAT) from March 2019 about country conditions in Lebanon; an Overseas Security Advisory Council (OSAC) report on security in Lebanon from April 2022; US Department of State (USDOS) reports about terrorism, human rights' practices, and religious freedom in Lebanon from December 2021, April 2022 and June 2022, respectively; a report from the United Nations Human Rights Council (UNHRC) on a visit by a Special Rapporteur from April 2022; UN Security Council (UNSC) semi-annual report on Lebanon and UNSC resolution 1559 from October 2022; and an Immigration and Refugee Board of Canada (IRBC)

report on Hezbollah from September 2022.¹ The country information the delegate considered in relation to conditions in Lebanon is now more than five years old. Most of these reports provide the latest version of reports considered by the delegate (DFAT, USDOS, UNSC and IRBC), provided in the new information from the applicant (OSAC), or provide a recent overview about conditions in Lebanon concerning poverty and human rights (UNHRC). I consider these agencies to be reliable and authoritative sources of country information. The DFAT report was prepared to assist in protection status determinations. As such, I am satisfied there are exceptional circumstances to justify considering this new country information.

13. In the applicant's statements, he asks that the IAA exercise its discretion to interview him for reasons of natural justice and, as there have been big changes in Lebanon, an interview is needed to properly assess that changed situation and the targeted and general risks that he faces if returned to Lebanon. The legislative framework governing the IAA provides for an exhaustive statement of the natural justice hearing rule. The IAA is required, subject to Part 7AA, to review a matter without accepting or requesting new information and without interviewing the applicant (s.473DB). The IAA can obtain new information from an applicant, including at an interview or by invitation, but can only consider that information in exceptional circumstances. The IAA is considering the submissions made by the applicant in 2017 and 2022, statements with new information made by the applicant in 2017, 2020 and 2022, as well as a range of new country information, including in relation to developments in Lebanon from 2019 onwards. It is not apparent why he could not provide any further or additional details that he believes support his protection claims in writing as part of the submissions ably made or the new information submitted. He had the benefit of legal representation when providing all the submissions and new information to the IAA. I have decided not to exercise my discretion to interview, or obtain further information from, the applicant.

Applicant's claims for protection

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

- He fears harm if returned to Lebanon because he is a Sunni Muslim; because of the sectarian wars in Syria; and because of Hezbollah, which exists in every part of Lebanon. The police and army don't dare to face Hezbollah and after the events at the hotel and the raid on the [shop], there is no guarantee that he will stay alive. He will face harm, including being mistreated and possibly killed, if returned because of being a Sunni Muslim, being against Hezbollah and because Hezbollah controls all the ports and the airport.
- He fears being targeted by the Hezbollah as he understands they are still searching for him. He fears being detained, interrogated, tortured, 'disappeared' and/or killed by Hezbollah or agents of Hezbollah if he were to return to Lebanon.

¹ DFAT, "Lebanon Country Information Report", 19 March 2019, 20190319100208; OSAC, "Lebanon Country Security Report", 21 January 2022, 20220804135424; USDOS, "Country Reports on Terrorism 2020", United States Department of State, 16 December 2021, 20211220094048; USDOS, "Country Reports on Human Rights Practices for 2021 – Lebanon", 12 April 2022, 20220414092033; USDOS, "2021 Report on International Religious Freedom: Lebanon", 2 June 2022, 20220603142406; UNSC, "Implementation of Security Council resolution 1559 (2004); Thirty-fifth semi-annual report of the Secretary-General [S/2022/749]", 11 October 2022, 20221102121119; UNHRC, "Visit to Lebanon. Report of the Special Rapporteur on extreme poverty and human rights, Olivier De Schutter", 11 April 2022, 20220512135540; and IRBC, "LBN201146.E - Lebanon: Hezbollah [Hizbollah, Hizbullah, Hizballah, the Party of God], including political participation and representation, military activities and areas under control; recruitment practices, including forced recruitment and consequences", 8 September 2022, 20221025111956.

- He will be considered a failed asylum seeker and will face harm due to that, if returned to Lebanon.
- The deterioration of country situation started in 2019 and continues. He fears, if returned to Lebanon, due to the escalation of violence, he will be vulnerable to targeted and random attacks. As a result of the escalation of violence and the collapse of the economy he will not be able to get job and therefore, he will face severe hardship threatening his survival, if returned.
- If returned to Lebanon now after such a long period away, he would be considered as an outsider. People may not be able to recognise him and as a result he would be considered as an outsider and would face severe discrimination, harassment, and intimidation.
- As he would return from a western country after a long time away, he will be identified as an outsider and will be perceived as a wealthy person and targeted and abducted in Lebanon to extort money. Australia is a western country and a wealthy developed country. He has stayed in Australia for a considerable period of time. People will perceive him as having earned lot of income and increased his wealth due to his stay in Australia. The risk of being targeted in such a way is increased by the dire economic situation throughout Lebanon and rising crime rates and lawlessness.
- There is further escalation of tension between Sunnis and Shiites. Due to escalation of violence targeting Sunnis, he fears if returned to Lebanon, he would face harm.
- He fears to return as he faced problems from Hezbollah in the past and not only is he still at risk because of that, but he is also at risk of new problems from Hezbollah and supporters. Previously Hezbollah was partly controlling Lebanon and they had lot of power but now they are controlling all of Lebanon. They are controlling the airport so anyone on their list when they reach the airport, they catch them straight away. Hezbollah are like a mafia, and they try to control the government. Plus, they are still searching for him from time to time, asking neighbours, asking people around where he is, has he come back and things like that. He will be detected and targeted by Hezbollah and supporters if returned to Lebanon.
- Hezbollah is growing in influence and historically hates Sunnis. As a result, he would face severe discrimination due to his Sunni religion if returned to Lebanon. Hezbollah controls the Health Minister and that poses a grave threat to people. There is a real possibility that Hezbollah can deny healthcare to people like him. Discrimination and political agendas inhibit access to health care in Lebanon.
- Due to escalation of health issues in the aftermath of COVID 19, the number of cases is steadily increasing in Lebanon. He fears due to his religious background and Hezbollah's influence, coupled with the lack of access to basic facilities, he will be denied medical facilities in Lebanon.
- ISIS have re-established their network in Lebanon in recent times. As a result of the growing influence of ISIS, he would be targeted either to extort money or on the basis of imputed political opinion. The situation Lebanon is terrible at the moment.

Factual findings

Receiving country

15. On the basis of the documents and oral evidence given by the applicant, I accept that the applicant is a national of Lebanon. I find that the applicant's receiving country is Lebanon.

Background

16. The applicant states that he was born in Akkar, in the North of Lebanon, in [year]. He lived there until 2008 when he moved to Beirut where he lived at three different addresses until 2013 and returned to his family village in Akkar shortly before his departure from Lebanon in 2013. He is married and has no children. He comes from a large family with [number] brothers and [number] sisters. [Number] of his brothers live in Australia, the rest of his family including his parents live in Lebanon. He has remained in contact with his family in Lebanon. He attended school in Lebanon from [year range] and then a technical institute from [year range] to learn [Discipline 1]. He did his national service from [year] to [year]. He has worked in Lebanon as a [Occupation 1] (2008-2012) and ran a family [shop] (2012 to 2013). He can speak, read, and write Arabic and English. He is Lebanese and a Sunni Muslim.

Problems in Lebanon and fears if returned

17. In summary, the applicant claims he left Lebanon because of the general security situation there and because he encountered sectarian issues including problems with Hezbollah when he was living and working in Beirut. Hezbollah attacked the [shop] he ran with his father and some of his brothers. Hezbollah continues to seek him after he left Lebanon. Conditions have deteriorated in Lebanon, particularly from 2019, and he would face harm for a range of reasons if returned.
18. The applicant claims that he had been working at a [hotel] in Beirut from 2009 when in 2012 Hezbollah, who didn't like Sunnis working there and were going through the hospitals and hotels, expelled him from his job. During the time he worked at the hotel, high ranking Hezbollah officials were working in the hotel, which was a decentralised Hezbollah office. The Hotel security were Hezbollah agents. They began to make inquiries into their lives, who they were and where they came from. He understood they were being investigated as a security issue. He was given money to leave.
19. The applicant says that at that time, he was in relationship with a Shia woman, and they were planning to get married. After they were to be married, they planned to live in her parents' house. Their house was in the same building as a Hezbollah headquarters. Members of Hezbollah approached his then fiancé's family and told them not to associate with him. This caused their relationship to end as they did not want to see him anymore.
20. He claims he used the money from the hotel to open a [shop] in a named location with his father and his brothers A and M in September 2012. The area was not specifically a Shia area, but it was under Hezbollah control, and sometimes they would come and take product without paying for it. He picked it as he thought it would be a good location for the business. Some months after it had opened, in 2013, they came and attacked the [shop]. The applicant, his brother A, and his father were in the shop. They shot at the shop. They also beat up his father. His brother A was wounded in the attack, but it was not clear how he was injured, but A did break his leg. The police were there but just stood and watched. At the end of the shop attack,

he was told by a large man with a large beard to come and see him in his office. The man was an overseer in the region. He asked and was allowed to lock up the product and he was then forced to go to the man's office, around 200m away. This man held his neck at one point and was highly aggressive and said the applicant needed to leave the region. Hezbollah thought they were running the shop in that area so they could spy on Hezbollah and discover their secrets. The person they were renting the shop from, and who turned out to be a Hezbollah member, took the applicant to his office the next day, assaulted him, took his phone and went through it, and questioned what he had been doing in the area. After the shop, he sought to get his pay out from the [hotel] for the time that he worked there. They acted like he was owed nothing and told him to leave.

21. The applicant believes he was imputed to be a spy for a number of reasons. He and his family were from Akkar which is mainly Sunnis and Future Movement members. Hezbollah had sought to recruit them to their group, and they resisted. He worked for a period within the [hotel] where Hezbollah had a decentralised office. He was planning to marry his then fiancé and he would have moved in with her family into a building that was one of the Beirut headquarters of Hezbollah.
22. The applicant says after the [shop] was shut, he tried to open a second store in Beirut in a named suburb in the Sunni region of Beirut. While trying to establish himself there, he was warned by many people that Sunnis did not want to him to open the store as it would attract Hezbollah attention and he was also told it was an exclusive area for Future Movement members only. He is in more danger than the average Sunni male because he does not have the protection of the Future Movement. Lebanon's cultural and political environment requires you to be affiliated with a political party. If you have no affiliation, then you are at significantly increased risk of experiencing threats and coercion from another party. He knows that there are many other Sunni males who have failed to receive protection and consequently fled because of the increased threats.
23. He says around two weeks later he returned to the north of Lebanon to his parents' house in Akkar. His family town is next to 'H', which is primarily a Shia township and is under the governance of Hezbollah. Around this time a car visited his parents' house in the family town. Each time the men asked to talk to the applicant. His parents understood they were Hezbollah agents as they drove a blacked-out jeep. His father also complained to the police because he was concerned the men were from the authorities. The police advised that they were not from their office but that he should comply with them. His father immediately understood they were Hezbollah intelligence agents. Around that time, the applicant stayed about a week in his uncle's house in a nearby named town. When his uncle discovered the situation in Beirut and that the applicant was being searched for, his uncle asked him not to stay because he was concerned it would cause problems for his children. He went into hiding for around a week near a named river, sleeping in his car and living away from the townships. The third time they visited seeking him, they said, "if we come another time and do not find [applicant's first name], he will be killed." They said they should consider themselves forgotten. After that his father took all the family from the house and hid them in two named locations. At the SHEV interview when asked why there would be an issue with Hezbollah if he returned, among other things, he said his cousin who was a Future Movement member had been kidnapped and assaulted.
24. The applicant claims that Hezbollah agents have continued to search for him and have been searching for him since he left Lebanon. After he left Lebanon his brother A was shot by what they understood were Hezbollah agents. A was working in Beirut. Someone called him asking to buy [product]. His brother was wrapping up the business and still had stock so agreed. He

met with people in a Sunni area, they took the product from him. They threatened A saying: "We will hold onto you until we find [applicant's first name]". A became scared and then turned and ran. They shot at A, wounding his leg. A left his car and his ID, but they didn't take the car. The applicant understands that these men were Hezbollah. The applicant does not know precisely why Hezbollah has operated in such a pattern. The applicant believes that they may perceive him to be a spy, but it is not entirely clear. He understands Hezbollah vigorously protect their privacy. Hezbollah are still asking neighbours, asking people around where he is, has he come back and things like that.

25. The applicant says there has been an escalation of violence which threatens the rule of law and democracy in Lebanon, the deterioration of the situation in Lebanon started in 2019 and continues. It is the case throughout the country, including in Akkar. His family in Lebanon are struggling with many things, getting basic things like getting food and petrol. There are many gangs stopping people on the road to steal because the government is not controlling anything, and police are not there at all. With the escalation of violence and the collapse of the economy he will not be able to get job and therefore, he will face severe hardship and not be able to survive. He has been away for a long period and would be considered an outsider, facing discrimination, harassment, and intimidation. Because of his time away in a wealthy Western country he would also be perceived as a wealthy person and will be targeted and abducted in Lebanon to extort money. The risk of being targeted in such a way is increased by the dire economic situation throughout Lebanon and rising crime rates and lawlessness. There has also been a further escalation of tension between Sunnis and Shiite, with an escalation of violence targeting Sunnis. He has faced problems with Hezbollah in the past and now Hezbollah control all of Lebanon. They are controlling the airport so anyone on their list when they reach the airport, they catch them straight away. Hezbollah are like a mafia, and they try to control the government. Plus, they are still searching for him from time to time, He will be detected and targeted by Hezbollah and supporters if returned to Lebanon. Hezbollah control the Health Minister and historically hates Sunnis. Discrimination and political agendas inhibit access to health care in Lebanon. Due to the escalation of health issues in the aftermath of COVID 19, the number of cases is steadily increasing in Lebanon. He fears due to his religious background and Hezbollah's influence, coupled with the lack of access to basic facilities, he will be denied medical facilities in Lebanon. ISIS have re-established their network in Lebanon in recent times. As a result of the growing influence of ISIS, he would be targeted either to extort money or on the basis of imputed political opinion. The situation Lebanon is terrible at the moment.
26. The applicant fears he will be harmed if he returns to Lebanon (see Applicant's claims for protection above). He provided supporting material including identity documents and country information.
27. Country information from 2013 confirms that since 2011, the tensions and conflict in Syria increasingly affected Lebanon and the increasingly sectarian nature of the Syrian conflict placed pressure on existing sectarian divides in Lebanon, with most Sunnis supporting the opposition in Syria while most Shia supported the regime. Hezbollah was most prominent in parts of Lebanon with high concentrations of Shias: southern Lebanon, the southern suburbs of Beirut and in much of the Bekaa Valley. Hezbollah effectively controlled security across most of those areas. Sectarian violence was frequent in Beirut in mixed suburbs, demarcation areas and the southern suburbs during 2013.² Country information also confirms that Lebanon has experienced several crises from 2019, that has led to major economic and other problems in Lebanon.

² DFAT, "DFAT Thematic Information Report - Sectarian Violence in Lebanon", 18 December 2013, CIS26835

28. In assessing the applicant's evidence, I have taken into account the difficulties often faced by applicants for protection, particularly those for whom some period has passed since they departed their country of origin, including factors such as recall problems, misunderstandings in interpreted material, cultural communication issues, or a lack of cohesive narration due to experiencing trauma or the passage of time.
29. The applicant has provided a generally consistent address, education, employment, and family histories throughout the visa application process, and I accept those details, including that he and his family are Sunni Muslims from Akkar, as set out in his SHEV application and at the SHEV interview, except as discussed below.
30. The applicant has consistently claimed since his initial arrival interview with the Department in July 2013 that he left Lebanon because of the general security situation and in particular referred to an attack on his [shop] in Beirut in 2013 when, among other things, his father was bashed, the police did nothing and they were forced out of the shop, losing everything. His claims are not inconsistent with the country information discussed above about the sectarian situation in Lebanon in 2013, including sectarian violence occurring in Beirut. Given that consistency, and the prevailing conditions reported, I accept as credible that there was an attack on the applicant's [shop], which resulted in the closure and loss of the shop. However, I am not satisfied that his evidence about the incident and the surrounding circumstances is without some exaggeration or embellishment. Similarly, like the delegate, I have credibility concerns about the applicant's claims concerning the adverse interest Hezbollah had and continues to have in the applicant.
31. In particular, I do not consider credible the applicant's claims about the involvement of Hezbollah (or men he believes to be from Hezbollah) in his affairs which have substantially shifted over the course of his evidence to the Department and the IAA. In his arrival interview(s) he attributed a number of problems to sectarian issues and did not mention Hezbollah raiding the shop but referred to Shia men; and referred to losing the hotel job he held before opening his shop because another company took over. When asked at that interview about armed, political, or religious groups operating in the area, he referred to the Future Movement, Syrian Socialist Nationalist Party and groups from Syria operating around his family town. In his SHEV application he said he lost his hotel job due to sectarian reasons; said it was Hezbollah that raided the shop and when he went back to the family town there were armed militias threatening everyone due to their closeness to the Syrian border, although he did not mention any issues with Hezbollah in that context. At the SHEV interview he said he lost his job in the hotel because Hezbollah was going through the hospitals and hotels in the area expelling Sunnis; said he believed it was Hezbollah who raided the shop; then suggested Hezbollah may have thought he was a spy and gave details of the incident the day after the attack on the shop with his landlord, who was a Hezbollah member; and said after he left Beirut, Hezbollah sent men to his parents' home a number of times to ask about him, that they wanted him and they threatened to kill him; and mentioned his brother A had since had too many problems in Lebanon, like he could not go to Beirut. In his information to the IAA he mentioned a number of previously undisclosed links to Hezbollah including the family home of the Shia woman who he was previously engaged to, was in the same building as a Hezbollah headquarters and Hezbollah told her family not to associate with the applicant; the [hotel] where he worked from 2009 to 2012 was a decentralised Hezbollah office where high ranking officials worked and Hezbollah men did the security; that Hezbollah had tried to recruit them but they resisted; that a man involved in the attack on the shop was the Hezbollah overseer for the area, who assaulted him in his office afterwards; and that in an attack on A after the applicant left Lebanon, by what they understand to be Hezbollah agents, the attackers threatened A saying they will hold him until they find the applicant and A was shot while

getting away. I am aware of the limitations of arrival interviews, but it is surprising, given his later claims, that the applicant would only refer to Shia men and not Hezbollah as the shop attackers at that time and not refer to Hezbollah seeking him at his family home, and threatening to kill him, just before his departure. The applicant also said in his 2017 statement to the IAA that he was unrepresented when he prepared his SHEV application, which I accept, and was unaware that he needed to stipulate every detail of his claim in the paper application, and he was of the understanding that he would be able to fully articulate his claims at the interview. Even putting aside that the application form warns that a decision may be made on the basis of the written application, and indicates to attach additional details if insufficient space, I consider it significant that the applicant attributed his loss of the hotel job to sectarian reasons (Q.89) without naming Hezbollah. Similarly, I consider it significant that the applicant referred to armed militias in the area after he returned to Akkar (Q.93) but omitted to mention anyone coming to his family home to enquire about him or to threaten to kill him, whether in connection to the attack on the shop in Beirut or otherwise. Additionally, given the applicant was asked at the SHEV interview why Hezbollah would continue to be interested in him after all that time, I consider it significant that he failed at that time to mention the other subsequently claimed Hezbollah connections raised in his information to the IAA. Overall, in my view, these shifts in the applicant's evidence reflect poorly on his credibility.

32. There are a number of other issues with the applicant's evidence:

- I do not consider it credible that, if Hezbollah suspected the applicant, or any of his family, was a spy, that they would not have taken further action against the applicant and his family in the attack on the shop or during the incident immediately following the shop attack when he claims he was forced to go to the overseer's nearby office. Country information indicates that Hezbollah maintained an extensive security apparatus, its reach extended across Lebanon, and it operated its own informal legal system and prisons.³ I also do not consider it credible that, if the attackers were from Hezbollah, he was forced to the overseer's office and he was of such personal adverse interest to Hezbollah, he was not detained but allowed to go with a warning to leave the region.
- The applicant claims that Hezbollah has a significant presence and level of control at the airport. Country information supports that Hezbollah has, and had at the relevant time, substantial control over security at the airport.⁴ I do not consider it credible that, if the applicant was of sufficient adverse interest for Hezbollah men to enquire about him at his parent's home after he left Beirut and before he left Lebanon, and then from time to time over the next nine or so years to date, as well as attempting to hold his brother A until they could get the applicant, the applicant would have been able to successfully exit Lebanon through the airport in May 2013 using his own passport.
- I do not consider it credible that A was able to escape an attack from Hezbollah agents who were armed and also shot A while he was fleeing. I do not consider it credible that, if Hezbollah continued to hold an adverse interest in the applicant after the attack on the shop and had tried on a number of occasions since the applicant left Lebanon to get A, including shootings, that A would otherwise be able to avoid Hezbollah by, in effect,

³ DFAT, "DFAT Country Information Report - Lebanon", 18 December 2015, CISEC96CF14155.

⁴ LBN105332.E - Lebanon: Recruitment practices of Hezbollah, including forced recruitment, such as Shi'ite youth; consequences for those that refuse to join; availability of state protection; regions controlled by Hezbollah, including ability to locate a person wanted by the group who returns to Lebanon; presence of Hezbollah spies or informers in areas outside the organization's control; whether Lebanese Shi'ite students returning from international study are considered spies upon returning to the country (2013-October 2015), 29 October 2015, Canadian IRB: Immigration and Refugee Board of Canada, OGFDFC61A73; and DFAT, "DFAT Country Information Report - Lebanon", 18 December 2015, CISEC96CF14155.

keeping a low profile and not going out much or to Beirut. Similarly, I do not consider it credible that, if the applicant was of ongoing adverse interest, and notwithstanding his evidence that Hezbollah was mainly trying to attack the sons because they were younger, Hezbollah would not have taken some other direct action against the rest of the applicant's family in Akkar, other than making enquiries.

- I have considered the SHEV application and SHEV interview recording from the applicant's brother M. The applicant's evidence about events in Lebanon before he left and problems A has faced, are generally corroborated by M's evidence. However, that does not otherwise remove the concerns I have identified above in relation to the applicant's own evidence.
33. Overall, I am not satisfied that the applicant has provided a completely truthful account of events in Lebanon prior to or since his departure, including the level of adverse interest Hezbollah had or has in the applicant and/or his family.
34. I am prepared to accept that the applicant had to leave his hotel job in about September 2012 and received money to do so; he used that money to set up a [shop] with his father and his brothers A and M in Beirut; sometime in early 2013 the [shop] was attacked, his father was bashed, they were forced to close, losing the shop and its contents; the attack on the shop was by Shia men; that the attack on the shop was in the context of the sectarian violence occurring in Beirut at the time; the applicant returned to his family town in Akkar one or two weeks after the attack on the shop; that the applicant had concerns about the general security situation in Akkar, including the presence of armed militias and their proximity to the Syrian border; and he left Lebanon in May 2013. I am not satisfied that the applicant has any other links to, or interactions with, Hezbollah whether from his hotel work, his engagement, Hezbollah trying to recruit them, the shop landlord, a local Hezbollah overseer, or otherwise; that the applicant or his family were suspected by Hezbollah of being spies; that Hezbollah or any other armed group or person enquired about or made threats against the applicant when he returned to Akkar in 2013; that Hezbollah or any other armed group or person has made enquiries about the applicant since he departed Lebanon; and that the applicant's family in Lebanon, including A, have been attacked by or otherwise subject to any adverse interest from Hezbollah or any other armed group or person since the attack on the shop and the applicant's departure from Lebanon. Similarly, I am not satisfied that, even if it occurred, the applicant's cousin's kidnapping and assault was by Hezbollah or otherwise connected with the applicant. I am also not satisfied that the applicant was of any specific adverse interest, individually or because of his family or activities in Beirut, to Hezbollah, other armed groups or persons at the time, or since, he left Lebanon in May 2013.

Returning Asylum Seeker

35. The applicant left Lebanon using his own passport in May 2013 to travel to [Country 1] by plane, and then he went to [Country 2]. He subsequently left [Country 2] to travel to Australia in a boat organised by smugglers. His passport was taken by the smugglers. I find that, if he were to return to Lebanon, he may be considered a returned asylum seeker.
36. The applicant lived in Lebanon in the family town in Akkar in the north of Lebanon until 2008 and he returned to the family town shortly before he left Lebanon in 2013. His parents and some of his siblings continue to live in the family town in Akkar. The applicant has remained in contact with his family in Lebanon. Given those circumstances, if he returns to Lebanon, I am satisfied that he is very likely to return to the family town in Akkar.

Refugee assessment

37. 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

38. 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.

39. As discussed above, I am not satisfied that the applicant was of any specific adverse interest to Hezbollah, other armed groups or persons at the time, or since, he left Lebanon in May 2013. The applicant has not engaged in any activities in Australia to bring himself to their adverse attention. It follows that I am also not satisfied that the applicant will be of any specific or personal adverse interest to Hezbollah or any other armed group or person, if returned to Lebanon, now or in the reasonably foreseeable future.

40. DFAT reported in 2019 that relations between religious groups in Lebanon were generally peaceful and largely amicable, people generally practised their religion freely, and there was no religious persecution in the country. Lebanon successfully kept society united across religious boundaries, built resilience in the face of religious extremism and that Lebanese of all religious backgrounds were committed to defending the country’s diversity in religions and beliefs. Sunni is one of the recognised religions in Lebanon and most Sunnis are concentrated in west Beirut, and the governorates of North Lebanon (which includes Akkar) and South Lebanon. DFAT assessed members of recognised religious groups did not face any official discrimination based on religion but may face some low level of societal discrimination if living in a particular geographic area where they form a minority. DFAT did not suggest that Hezbollah targeted Sunnis per se, and indicated that it allowed non-Shia religious adherents to worship freely in areas it controlled.⁵ More recent reporting from the USDOS does not suggest that DFAT’s conclusions in this regard are unsound, including the report noting that in a December 2021 various Lebanese religious leaders met with the UN Secretary-General and released a statement confirming their commitment to openness, tolerance, and coexistence,

⁵ DFAT, “Lebanon Country Information Report”, 19 March 2019, 20190319100208.

values that are at the core of faith, and especially during the country's ongoing, compounding crises.⁶ There have been some sectarian clashes noted in the USDOS report and other country information, including Shia demonstrations after reported anti-Shia comments posted by a Sunni on social media to a clash between Sunni tribesman and Hezbollah at a Hezbollah funeral.⁷ However, these incidents are few and sporadic, and do not suggest either that the earlier conclusions by DFAT are now wrong, that there has been any significant shift in relation to the underlying position of general religious tolerance in Lebanon, particularly for ordinary Lebanese on a day-to-day basis, or that ordinary Sunnis are now targeted by, or otherwise at risk from, Hezbollah.

41. DFAT indicated⁸ in its 2019 report that Lebanon faced a range of security challenges including external threats relating to neighbouring Syria and tensions between Hezbollah and Israel, politically motivated violence due to civil unrest and occasional incidents of communal violence. The early stages of the war in Syria increased tensions between Sunnis and Alawites in the neighbouring areas of Al-Tabbaneh and Jabal Mohsen of Tripoli. In those clashes over 200 people were killed. However, the Lebanese authorities implemented a security plan in Tripoli in April 2015 that re-established the presence of the Lebanese Army in the area, and which succeeded in significantly reducing the number of serious incidences of communal violence. DFAT reported that violent incidents, such as car bombs, suicide bombs, improvised explosive devices, rocket attacks and kidnappings, related to the war in Syria had occurred across Lebanon in the preceding years, including a number of bomb blasts in Beirut between 2012 and 2016, two suicide bombings in South Beirut in November 2015 that killed at least 43 and injured more than 200, and a suicide bombing in Tripoli in January 2015 that killed at least nine people. DFAT assessed that the Lebanese authorities were committed to preventing violence between religious communities. DFAT also stated there had been clashes between Lebanese security forces and Islamic State militants in the Bekaa valley region; and DFAT understood security operations had reduced the threat Islamic State posed but that 'lone wolf' attacks could not be ruled out at that time. The applicant provided a range of country information about various security incidents in Lebanon from 2019 to 2022.⁹ This includes a September 2022 gunfight in Akkar that left three dead; and several Islamic State incidents, whether attacks or foiled attempts, or the arrest of ISIS members involved in earlier attacks or attempted attacks, together with an article indicating the deepening economic and political crises have assisted in Islamic States recruitment efforts among young, poor Sunnis in Lebanon as well as the likely presence of sleeper cells in Lebanon including in Tripoli and Akkar regions. General conditions in Lebanon have suffered following the Beirut port blast and its associated, and ongoing, economic and political crises, leading to an increase in crime, as well as some expressing concern about the potential for the security situation to deteriorate including in relation to terrorism.¹⁰

⁶ USDOS, "2021 Report on International Religious Freedom: Lebanon", 2 June 2022, 20220603142406.

⁷ See "Night of violence in Lebanon sparked by video of Sunni resident slamming Shi'ites", Haaretz.com, 18 December 2019; and USDOS, "2021 Report on International Religious Freedom: Lebanon", 2 June 2022, 20220603142406.

⁸ DFAT, "Lebanon Country Information Report", 19 March 2019, 20190319100208.

⁹ See "The Islamic State is Capitalising on Lebanon's Economic Collapse", foreignpolicy.com, 21 February 2022; "ISIS terrorist who tried to blow up places of worship in Akkar arrested in Lebanon", syriacpress.com, 3 November 2021; "Three killed during gunfight in Akkar", L'Orient Today, 14 September 2022; "Lebanon arrests 4 IS members", Xinhuanet, 4 February 2022; "Former ISIS element targets Lebanon's Tripoli", almashareq.com, 5 June 2019; and "Four killed in 'lone wolf' gun attack by former Isis member in Lebanon", The Independent, 4 June 2019. .

¹⁰ Including "'Dangerous' Lebanon crisis evokes start of civil war, defense minister says", The Telegraph, 14 November 2019; "Lebanese face off at civil war flashpoints as tensions rise", Aljazeera, 27 November 2019; "Hizbollah leader warns of civil war after days of Lebanon protests", The Telegraph, 25 October 2019; "Hezbollah Warns of Chaos, Civil War in Lebanon", Reuters, 25 October 2019; extract from Human Rights Watch, "World Report 2020 – Lebanon"; extract from UK Government Travel Advice, 27 July 2020; extract from UK Government Travel Advice, 20 November 2022; "COAR Conflict

42. The applicant comes from a town in Akkar where his parents have a home and some of his siblings also live and as discussed above, I am satisfied that the applicant is very likely to return to this area of Lebanon. The applicant is Sunni. Akkar is a Sunni majority area and the applicant's evidence confirmed the family village was Sunni, albeit there is a nearby Shia town. Aside from that in connection with the claimed Hezbollah links, the applicant does not claim that his parents and siblings who remain in the family town have suffered any harassment, discrimination, or other harm as Sunnis since he left Lebanon.
43. The applicant has expressed general concerns about security in Lebanon including in Akkar. However, other than his claims about A which I am not satisfied occurred, he has not claimed that his parents and siblings who remained in the family town have suffered any attacks, security incidents, or any other harm due to the general security situation in the area, either since his departure in 2013 or with the impact of the major crises in Lebanon since 2019. Although crime levels have increased, including in Akkar, country information suggests local attempts to address the issue have also been introduced.¹¹ Similar to security issues in general, the applicant has not claimed that his parents and siblings who remained in the family town have suffered any incidents of, or harm due to, crime. Additionally, the country information discussed above indicates that, notwithstanding the impact of events since 2019 and variously expressed concerns that the security situation may worsen as a result, serious violence has significantly reduced in Lebanon since about 2014, and such incidents that continue to occur are generally isolated ones, including very occasional 'lone wolf' attacks or attempted attacks by Islamic State.
44. I am satisfied from the country information discussed above that the security situation in Lebanon became generally stable within a few years of the applicant leaving Lebanon, and although serious violence can still occur from time to time, it is largely confined to isolated incidents. Sunnis in areas with a concentration of Sunnis, such as Akkar and his family town, are not at a real risk of harm from official or societal discrimination. I am not satisfied on the evidence before me that the applicant would face a real chance of harm from general or targeted violence, the increase in general crime levels, or discrimination as a Sunni. I am also not satisfied that as a result of the growing influence of Islamic State he would be targeted either to extort money or on the basis of any imputed political opinion. Given the country information about current country conditions and the applicant's own profile and personal and family history, I am not satisfied that there is a real chance of harm to the applicant due to the general security situation, including the presence of armed groups in the area including Islamic State, and the rise in crime levels, as a Sunni, if he returned to Lebanon, now or in the reasonably foreseeable future.
45. The applicant has also made claims based upon the current economic situation in Lebanon. Recent country information indicates that Lebanon is currently in economic crisis and people face extensive power cuts and necessities such as fuel, bread and medicine have become unaffordable to many. GDP has plunged from \$55 billion in 2018 to an estimated \$20.5 billion in 2021. Over 80% of the population is living in poverty, the currency has lost 95% of its value, prices have risen by 200%, with nine out of ten people are finding it difficult to get by on their

Analysis: Lebanon National-Level", reliefweb.int, November 2021; "Lebanese security forces warn of rise in kidnappings for ransom", Arabnews, 28 April 2022; "Extortion, kidnappings on rise in crisis-hit Lebanon", Arabnews, 12 January 2022; UNHRC, "Visit to Lebanon. Report of the Special Rapporteur on extreme poverty and human rights, Olivier De Schutter", 11 April 2022, 20220512135540; UNSC, "Implementation of Security Council resolution 1559 (2004); Thirty-fifth semi-annual report of the Secretary-General [S/2022/749]", 11 October 2022, 20221102121119; extract from OSAC, "Lebanon 2020 Crime & Safety Report", 5 July 2020; and OSAC, "Lebanon Country Security Report", 21 January 2022, 2022080413542.

¹¹ "We do the police's job': Protecting Lebanon's most lawless towns", Aljazeera, 19 December 2021; and "COAR Conflict Analysis: Lebanon National-Level", reliefweb.int, November 2021.

income.¹² The UN Special Rapporteur has identified those most impacted by the crisis as women; children; Syrian and Palestinian refugees; migrant workers; and people with a disability.¹³

46. I accept that if the applicant returns to Lebanon, he will very likely be impacted by these difficult economic conditions. I also accept his claim that his family in Lebanon are struggling with many things, including getting basic things like food and petrol. The applicant will very likely be returning to his family town in Akkar, where his parents have their home and where some of his siblings still live. Akkar, and his family town, are a Sunni majority area. The applicant has some employment experience, mainly as a [Occupation 1], and is trained in [Discipline 1]. In addition to Lebanese Arabic, he speaks, reads and writes English. He has shown himself to be resilient and resourceful by adapting to life in Australia. While I accept that he may face hardship and that obtaining employment may be very difficult, I am not satisfied on the evidence that the situation is such or that his prospects are so limited that there is a real chance that he would be denied the capacity to earn a livelihood of any kind or experience hardship to an extent that would threaten his capacity to subsist or otherwise lead to serious harm. Further, the country information indicates that the economic conditions in Lebanon impact the population and country generally. I am not satisfied that the difficulties or hardship the applicant may face because of the economic situation in Lebanon would amount to persecution for any s.5J reason under the Act.
47. DFAT reported in 2019 that health outcomes in Lebanon compared favourably with other countries in the region and with middle-income countries in other regions; and the health system was highly diverse with a mix of public and private payers and providers, although dominated in terms of service provision. The standard of public health care in Lebanon is widely considered to be very poor. The mass influx of Syrian refugees since 2011 placed considerable strain on the health care system, particularly in the north. Like general health care, mental health services have been predominantly provided by the private sector.¹⁴ Since that report by DFAT, reports indicate that Lebanon's health care system has been overwhelmed by multiple crises, including the Beirut blast, economic crisis, as well as Covid-19.¹⁵
48. Although the applicant has not referred to suffering from any health conditions which require regular or ongoing treatment, I accept that it is possible the applicant may require some medical treatment and care from time to time in the reasonably foreseeable future. Based on the country information, I accept that there will be challenges for the applicant in accessing medical treatment and health care due to resourcing and capacity issues, which has been exacerbated by the impact of recent major crises. However, the reports before me do not identify that Sunnis face discrimination (with the possible exceptions of those persons who may be stateless, suffering from HIV/AIDS or members of the LGBTI community)¹⁶ in relation to

¹² "Lebanon's Crisis: Great Denial in the Deliberate Depression", World Bank, 25 January 2022; "Factbox: Just how bad is Lebanon's economic crisis?" Reuters, 14 September 2022; "COAR Conflict Analysis: Lebanon National-Level", reliefweb.int, November 2021; UNHRC, "Visit to Lebanon. Report of the Special Rapporteur on extreme poverty and human rights, Olivier De Schutter", 11 April 2022, 20220512135540; and UNSC, "Implementation of Security Council resolution 1559 (2004); Thirty-fifth semi-annual report of the Secretary-General [S/2022/749]", 11 October 2022, 20221102121119.

¹³ UNHRC, "Visit to Lebanon. Report of the Special Rapporteur on extreme poverty and human rights, Olivier De Schutter", 11 April 2022, 20220512135540.

¹⁴ DFAT, "Lebanon Country Information Report", 19 March 2019, 20190319100208.

¹⁵ "Lebanon in mourning after deadly Beirut blast", The Guardian, 5 August 2019; "Latest in a series of crises: Lebanon grapples with COVID-19", cruxnow.com, 11 March 2020; "COAR Conflict Analysis: Lebanon National-Level", reliefweb.int, November 2021; and UNHRC, "Visit to Lebanon. Report of the Special Rapporteur on extreme poverty and human rights, Olivier De Schutter", 11 April 2022, 20220512135540.

¹⁶ USDOS, "Country Reports on Human Rights Practices for 2021 – Lebanon", 12 April 2022, 20220414092033.

accessing the medical treatment, care and services that are available in Lebanon. Nor do the reports suggest there is a real chance the applicant would be denied access to medical treatment, care and services by Hezbollah. Hezbollah exercises a high degree of influence in the health system, and other government services, in Lebanon.¹⁷ The applicant is not a person of personal or specific adverse interest to Hezbollah. And despite the applicant's expressed concerns, I am not satisfied that any challenges or difficulties the applicants may face accessing medical/health treatment, care and services would involve systematic and discriminatory conduct for one or more of the reasons mentioned in s.5J(1)(a) of the Act.

49. I accept that if the applicant returned to Lebanon, he may be identified a returned/failed asylum seeker from Australia.
50. The applicant also fears he may face harm as he would be viewed or perceived as an outsider and/or wealthy due to the long period he has spent in Australia, a wealthy, western country. DFAT reported that Lebanon has a long history of emigration and return; the Lebanese diaspora is one of the largest worldwide, estimated to be between 8 and 14 million; many expatriate Lebanese maintain close family or business relationships within Lebanon and return to the country frequently, entering and exiting without difficulty.¹⁸ Nor does any of the country information provided by the applicant suggest that returnees from Western countries are perceived as wealthy or targeted as a result.¹⁹ Given that information, including the frequent return of Lebanese expatriates without difficulty, I do not consider the applicant's fears that he may be viewed as an outsider or be perceived as wealthy, and targeted for harm as a result, to be well founded.
51. DFAT understands it is not a crime for Lebanese citizens to seek asylum abroad and that no significant stigma attaches to failed asylum seekers, nor is there any evidence to suggest they are subject to any particular official or societal discrimination. DFAT does not indicate that returnees from Western countries are targeted by militant groups or anyone else. DFAT states that a failed asylum seeker would only come to the attention of the authorities if they had an existing stop order against them or they had committed a crime abroad of sufficient gravity for authorities to request an accompanied transfer.²⁰ The applicant is not such a person. None of the other country information before me indicates that the major crises since 2019, or with the general increase in crime since then, have altered this position, or as discussed above, that returnees from abroad in Lebanon have now been targeted in general. Some of the applicant's personal details were published in the data breach, but the applicant makes no protection claims in this regard. I am not satisfied the release of some of the applicant's personal details in the data breach in any way alters his profile, or otherwise places him at risk, in Lebanon. The country information also indicates that Hezbollah exercises substantial control over the airport. The applicant left Lebanon using his own passport and, on my findings, he is not of adverse

¹⁷ "Hezbollah's control of Lebanon's health ministry poses a grave danger", Alarabiya.net, 11 February 2019; "How Hezbollah holds sway over the Lebanese state", Chatham House, 30 June 2021; "US concern over Hezbollah's growing role in Lebanon", Reuters, 20 February 2019; USDOS, "Country Reports on Terrorism 2020", 16 December 2021, 20211220094048; ; and IRBC, "LBN201146.E - Lebanon: Hezbollah [Hizbollah, Hizbullah, Hizballah, the Party of God], including political participation and representation, military activities and areas under control; recruitment practices, including forced recruitment and consequences", 8 September 2022, 20221025111956.

¹⁸ DFAT, "Lebanon Country Information Report", 19 March 2019, 20190319100208.

¹⁹ The applicant's information to the IAA includes the article "Man released in Baalbeck more than a year after being kidnapped", L'Orient Today, 25 September 2022, on the kidnapping of a wealthy businessman identified as being from the 'Lebanese diaspora'. That article describes the victim as being wealthy, but it does not suggest that the incident was part of some pattern of targeting of diaspora members or returnees. Similarly, the article "Lebanese security forces warn of rise in kidnappings for ransom", Arabnews, 28 April 2022, suggests that those targeted by a kidnapping gang included people who were interested in emigrating. One victim had recently returned from working in Africa however he came to the gang's attention when making enquiries for a visa to the USA.

²⁰ DFAT, "Lebanon Country Information Report", 19 March 2019, 20190319100208.

interest to Hezbollah. I am not satisfied that the Lebanese authorities, Hezbollah, other militants, or anyone else will have any adverse interest in the applicant, or that he faces a real chance of harm, at the airport or on his return home to Akkar, if returned to Lebanon.

52. I am not satisfied that the applicant faces a real chance of harm as a failed asylum seeker who has spent more than nine years in Australia, a wealthy western country, now or in the reasonably foreseeable future.
53. Considering the applicant's circumstances and profile as a whole and in the context of the country conditions in Lebanon, I am not satisfied that the applicant faces a real chance of persecution now or in the reasonably foreseeable future. The applicant does not have a well-founded fear of persecution within the meaning of s.5J.

Refugee: conclusion

54. The applicant does not meet the requirements of the definition of refugee in s.5H(1). The applicant does not meet s.36(2)(a).

Complementary protection assessment

55. 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

56. 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.
57. 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.
58. I accept that medical resources are stretched in Lebanon and that the applicant may face some difficulty if accessing medical treatment in Lebanon if it is required. However, I am satisfied based on the country information that any difficulties the applicant may have in accessing any medical treatment does not amount to significant harm. This is due to a lack of institutional capacity and availability of resources rather than an intentional infliction by the Lebanese government or any other group or person to cause extreme humiliation or mental or physical pain or suffering that could reasonably be regarded as cruel or inhuman in nature, or severe pain or suffering. It does not amount to torture or an arbitrary deprivation of life or the death

penalty. I am not satisfied the applicant faces that any difficulties in accessing treatment amounts to significant harm as defined in ss.36(2A) and 5 of the Act.

59. The country information indicates that the conditions and hardship currently being felt across Lebanon arise from the economic crisis impacting the country, rather than an act or omission intended to cause pain or suffering that could reasonably be regarded as cruel or inhuman, severe pain or suffering or extreme humiliation as required by the relevant definitions of significant harm. I am not satisfied on the evidence that any difficulties or hardship the applicant may experience due to these conditions amounts to torture, cruel or inhuman treatment or punishment or degrading treatment or punishment within the meaning of the Act. I am not satisfied that there is a real risk of the applicant being arbitrarily deprived of his life or the death penalty being carried out

60. I have found that the applicant does not otherwise face a real chance of harm in relation to his claims or profile. As 'real risk' and 'real chance' involve the application of the same standard,²¹ he also does not face a real risk of any harm in Lebanon. I am not satisfied that the applicant faces a real risk of significant harm in Lebanon.

Complementary protection: conclusion

61. 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 applicant will suffer significant harm. The applicant does not meet s.36(2)(aa).

Decision

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

²¹ *MIAC v SZQRB* (2013) 210 FCR 505.

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.