



Australian Government
Immigration Assessment Authority

Decision and Reasons

Referred application

LEBANON
IAA reference: IAA18/05882

Date and time of decision: 1 April 2019 15:10:00
D Power, 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 Shia Muslim from Lebanon. On 8 February 2017 he lodged an application for a Safe Haven Enterprise visa (SHEV).
2. On 25 October 2018, a delegate of the Minister for Immigration refused to grant the protection visa. The delegate was not satisfied that the applicant faced a real chance of harm due to his interfaith marriage with a Sunni woman, or that he would be targeted on that basis by any anti-government elements (including Hezbollah), or on account of his Shia religion. He also found that the applicant would not face a real chance or risk of harm as a returning asylum seeker or due to the general security situation in Lebanon.

Information before the IAA

3. I have had regard to the material given by the Secretary under s.473CB of the *Migration Act 1958* (the Act).
4. On 20 November 2018, the IAA received a submission from the applicant's migration agent which refutes a number of the delegate's findings and takes issue with the process. These matters may be regarded as argument rather than information to which I have had regard. The submission also reiterates a number of claims made to the delegate.
5. The applicant also referred to (and attached) a submission made to the delegate on 26 October 2018. It is however, new information. The applicant's interview took place on 12 October 2018. At that interview, the applicant's agent indicated his intention to lodge a written submission regarding the applicant's claims. The delegate indicated that he would give the agent 14 days to put in the submission. The agent duly lodged a submission on 26 October 2018. However, the delegate has already made a decision on 25 October 2018 to refuse to grant the applicant a protection visa. There is no doubt that the agent lodged a submission on 26 October 2018 as the covering email with the attached submission is included in the material sent through by the Department. Some administrative emails in connection with this matter were also provided by the agent with their 20 November 2018 submission to the IAA.
6. In their submission of 20 November 2018, the agent stated their contention that a 14 day deadline from the 12 October 2018 (the day of the interview) would mean the deadline for the submission to the delegate was 26 October 2018. The delegate finalised his decision on 25 October 2018 without further contact with the agent. I accept that it would have been reasonable to assume that the 14 day deadline for making a submission would be 14 days from the date of the interview – i.e. 26 October 2018. This is perhaps especially the case in a situation where the interview concluded late in the day. The delegate noted the finishing time of the interview on 12 October as 4.17 pm, virtually at the end of the working day. The delegate also specifically noted at the end of the interview that he was "not in any particular rush". The finalisation of the decision promptly on 25 October is therefore somewhat difficult to understand.
7. In these circumstances I am satisfied that the applicant could not have provided the information to the delegate before the decision was made and that there are exceptional circumstances that justify consideration of the submission of 26 October 2018.

8. The agent also made a submission to the IAA on 20 November 2018. Much of that submission is taken up with the deadline issue set out above. It also includes the 26 October 2018 submission to the delegate in its entirety. However, the agent also refers to an article from a website called terrorism-info.org which is put forward to illustrate Hezbollah's links to the government of Lebanon. This is new information. It is also put forward as illustrating that the applicant faces an increased risk of harm from Hezbollah due to his interfaith marriage. There is already information before me establishing Hezbollah's links to government. I note also that the article deals predominantly with the U.S. Government's decision to sanction Hezbollah over its ongoing involvement in the illicit drug trade. It is not clear how the article demonstrates that the applicant would be targeted, or face an increased risk of being targeted, by Hezbollah due to his interfaith marriage (or any other reason). It may be that the article is put forward as evidence that, if so motivated, Hezbollah could find and target an individual through their influence and government connections. However, the article does little to address the question as to whether Hezbollah would be motivated to find the applicant in the first place. Beyond asserting that the article "further supports a finding" that the applicant is at risk of harm from Hezbollah, the agent does not identify any specific part of this article or quote anything directly from the article to support their assertion that Hezbollah would have any interest in the applicant. The delegate also had information on Hezbollah from a number of reputable sources and I consider that this article adds little to the material before me. Given all of the above, I am not satisfied that there are exceptional circumstances that justify consideration of this information.

Applicant's claims for protection

9. The applicant's claims can be summarised as follows:
- The applicant is Shia Muslim from [Location 1] in Lebanon.
 - He married a Sunni Muslim woman.
 - Though supported by their respective families, the applicant's interfaith marriage was opposed by their neighbours and others in the community.
 - The applicant and his wife were subject to abuse and name calling and they eventually decided to move to a different village to escape this unwanted attention.
 - Although the abuse stopped the applicant continued to fear harm from militia groups and religious extremists who he believes shared his neighbours' opposition to interfaith marriages.
 - The fact that he was a Shia in an area where Hezbollah were active led many people to suspect that he was a Hezbollah supporter.
 - Someone attempted to kidnap his brother. Kidnappings are an ongoing threat.
 - The applicant's car was stolen by a Sunni man and that this occurred because he is Shia.
 - If he returns to Lebanon he would be caught up in the fighting between Shia and Sunni and targeted because he is Shia.
 - He also fears harm from militia groups, political parties, community members, and religious extremists who do not approve of interfaith marriages.

Refugee assessment

10. 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

11. 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.
12. The applicant claims to be a Shia Muslim from Lebanon. He has presented a consistent account of his identity and claimed religion. He has provided original ID documents to the delegate in the form of a driver’s licence and national ID card from Lebanon. I accept that the applicant is a Shia Muslim and that Lebanon is his receiving country for the purposes of this assessment.
13. According to his SHEV application, the applicant and his wife moved to [Location 2] in 2009. They resided as a couple there for [a few] years prior to the applicant’s departure, their child was born and raised there, and the applicant’s wife and child have remained in [Location 2] since the applicant left [Lebanon]. I am satisfied that this is the area to which the applicant would return.

Marriage, religion, security

14. The applicant claimed that he faced opposition from his neighbours and community due to his marriage to a Sunni woman, and that he continues to fear harm from them. He further claimed that he will face harm on this account from Hezbollah, other non-state armed groups (NSAGs) and religious extremists if he returns to Lebanon.
15. Lebanon is a country of relative religious diversity, hosting significant populations of Muslims, Christians, and Druze, as well as smaller numbers of Jews, Baha’i and Hindus¹. Notably, there

¹ Department of Foreign Affairs and Trade (DFAT), "DFAT Country Information Report Lebanon", 23 October 2017, CISED50AD6014

are estimated to be roughly equal numbers of Sunni and Shia Muslims, with each estimated to comprise 27% of the population².

16. Perhaps as a result, DFAT assesses that for 'mainstream religious and social groups' the Lebanese political and legal system is generally free of religious discrimination³. The Lebanese Constitution guarantees freedom of religious practice and many religious groups (including both Sunni and Shia Muslims) are officially recognised⁴. DFAT assesses that Shia are unlikely to be targeted solely on the basis of their religion and that such attacks on Shia as do occur are political in nature and linked to the Syria conflict⁵. The applicant confirmed at interview that he had not been involved in any political activities, nor has he claimed to have had any involvement with the Syria conflict.
17. DFAT particularly notes Lebanon's tradition of religious pluralism and religious tolerance⁶. In particular, Lebanon "adopts a tolerant attitude towards conversion between the faiths" and interfaith marriages between Muslims and Christians are widespread⁷. DFAT also notes that interfaith marriages "can attract societal and official discrimination and, in some circumstances, violence"⁸. DFAT provides no further detail including the nature, frequency or circumstances of any discrimination or violence. The applicant has claimed that following their marriage, he and his wife were subject to verbal harassment and abuse. The applicant claimed that he and his wife encountered significant opposition from neighbours and the community in their respective home villages. This included incidents of verbal abuse, swearing and name-calling, although he does not indicate that they were ever subject to physical harm or violence against their person. However, the applicant also notes that he and his wife then decided to move to [Location 2], a town some distance from their respective villages and which had a mix of Sunni, Shia and Christian residents. The applicant confirmed that once they moved to [Location 2] the abuse and harassment ceased. The applicant stated that they did not face any hostility or violence in [Location 2], which was a predominantly Christian area.
18. Similarly, the applicant raised concerns in regard to Hezbollah, Sunni militants and other groups that he claimed are strongly opposed to interfaith unions. However, he was unable to put forward any specific incidents in which he or his partner were targeted or harmed on that basis. In the 26 October submission to the delegate, the agent raised an incident in which two men were arrested on shooting charges due to "an unspecified family dispute". There is no indication that the basis of the incident was an interfaith union. This is the only specific instance the agent has advanced in support of the contention that extremist groups target those in interfaith unions, and I consider that its relevance and probative value is exceedingly limited.
19. The US Department of State (USDOS), on the other hand, recounts a number of instances of interfaith dialogue in Lebanon and reports Muslim and Christian community leaders as underscoring the amicable nature of relationships among proponents of different faiths⁹. It raises no issues regarding interfaith marriages or instances of harm arising from them. The agent has also put forward country information from the Immigration and Refugee Board (IRB)

² DFAT, "DFAT Country Information Report Lebanon", 23 October 2017, CISED50AD6014

³ Ibid

⁴ Ibid

⁵ Ibid

⁶ Ibid

⁷ Ibid

⁸ Ibid

⁹ US Department of State, "International Religious Freedom Report for 2017 – Lebanon", 29 May 2018, OGD95BE927609

of Canada on interfaith marriages¹⁰. The IRB report confirms that in some instances interfaith unions are regarded unfavourably. It quotes an expert as saying that such couples may pay “social penalties” and may run the risk of “being rejected by their original families”¹¹. The applicant has already confirmed that the families of both he and his spouse supported their union so I do not consider that they run a real risk of being rejected by their families. The material from the IRB does not suggest that such couples are subject to violence or serious harm. It notes more than one source as saying that interfaith unions are increasingly common. It also quotes an expert as saying that such a union could be viable if the couple moved away from their original community¹². There is no suggestion in the IRB response that such unions are targeted by non-state armed groups (NSAGs) or extremists of any kind or that those in interfaith unions experience episodes of violence.

20. The applicant quotes from the UNHRC Special Rapporteur as noting concerns that mounting tensions in the region between Sunni and Shia may impact those communities in Lebanon. However, this is a general statement about the state of Sunni-Shia relations, and made some time ago. I note that the report came out in November 2015 and the available country evidence does support the view that the concerns expressed in the report about a potential deterioration in Sunni-Shia relations in Lebanon have come to pass. On the contrary, the May 2018 USDOS report confirms the health of interfaith dialogue and co-operation in the country¹³. Notably, even the UNHCR report has some positive things to say about interfaith marriages and religious tolerance generally. In part, the report states that “Mixed marriages between Christians and Muslims, or between those from different Christian denominations or schools of Islam, are widespread in Lebanon, resulting in religious pluralism within family life”¹⁴. The report goes on to state that “Religious persecution is unknown in the country”¹⁵.
21. Despite purporting to fear harm Sunni and Shia NSAGs and extremists, when pressed the applicant did not recount a single instance where he (or his wife) had personally come to the attention of extremist or militia elements. In regard to “pro Hezbollah” persons in the village where the applicant grew up, the attention from them did not rise above unwelcome comments or verbal abuse. While this would certainly have been unpleasant, and I accept that this took place, the applicant subsequently moved to a Christian majority area where he concedes the unwelcome attention ceased. There is no suggestion that they experienced any sort of violent attack. The applicant claimed that his wife has suffered personal attacks and been stigmatised due to her marriage to the applicant. This claim runs to just a single line in his SHEV statement. He did not develop this at interview or articulate a single instance where such stigmatisation occurred, nor was this issue dealt with in the 25 October submission to the delegate or in a subsequent submission to the IAA. I do not accept that the applicant’s wife has faced such stigmatisation or otherwise faced any ongoing issues due to their interfaith union.
22. I note DFAT’s remarks regarding that “in some circumstances” those in interfaith unions may experience violence. However, the preponderance of the available country information, including detailed responses on the topic from sources that I regard as highly reputable, does not indicate that the possibility of violence against such unions is anything other than remote.

¹⁰ Immigration and Refugee Board of Canada, “Lebanon: Treatment by society of couples who enter into an interreligious marriage, including when a Muslim woman marries a non-Muslim man; the possibility of resettling in a predominantly Christian region”, 27 March 2015, OGFDFC61A75

¹¹ Ibid

¹² Ibid

¹³ US Department of State, “International Religious Freedom Report for 2017 – Lebanon”, 29 May 2018, OGD95BE927609

¹⁴ UN Human Rights Council, “Report of the Special Rapporteur on freedom of religion or belief on his mission to Lebanon”, 30 November 2015, CISEC96CF14677

¹⁵ Ibid

Indeed, the information noted above demonstrates that interfaith unions are relatively widespread and generally accepted. I note also that both families support the applicant's interfaith union. The applicant resided in [Location 2] (and worked in Beirut) for some years without any incidents stemming from their interfaith union, and the applicant has not detailed any specific incidents relating to their interfaith union in the almost six years since he departed Lebanon.

23. I accept the applicant experienced some verbal abuse as a consequence of his marriage and that the couple decided to move elsewhere. The applicant confirmed that although the verbal abuse was unpleasant and they were made to feel unwelcome, the couple did not receive any specific threats. In response to a question from the delegate, the applicant also clarified that nothing occurred beyond unpleasant comments and being made to feel unwelcome. In any case, I consider that this was an isolated issue for the couple. They did move subsequently and his wife and child continue to reside in [Location 2] some years after his departure and without any apparent issues stemming from the interfaith marriage. After that initial move, the applicant did not report receiving any adverse attention due to his interfaith marriage. I consider that if returned to Lebanon to reunite with his family in [Location 2] to be with his family the applicant would not face a real chance of any harm on account of the marriage. Furthermore, even if they were to return to his original village, I am not satisfied that at its highest, the applicant would experience any more than some unwelcome comments. I am not satisfied that this amounts to serious harm, or that there is otherwise a real risk of him (and his family) suffering serious harm.
24. The applicant also claimed that because he is a Shia he was targeted a number of times because people assumed he either supported or actively worked for Hezbollah. He also raised several times the overall security environment in Lebanon.
25. The delegate asked the applicant directly about any adverse attention from Hezbollah. The applicant gave a very general response about Hezbollah's domination of Shia areas, including the applicant's home village. Those who were pro-Hezbollah in the area would harass him. The delegate asked what form the harassment took (other than unpleasant comments). The applicant stated that he always had a feeling that he was unwelcome in the area, which was the motivation to move away. As set out above, the applicant confirmed that once they had moved away the adverse attention ceased.
26. Similarly, the applicant said he fears harm from Sunni militias and extremists that he claimed opposed his interfaith marriage. However, when the delegate asked if he had been directly targeted, the applicant confirmed that he had not personally faced any issues. He indicated that one time he was leaving work to return home but there was fighting in the area between Hezbollah and the Future Movement and that this was very dangerous. However, the applicant stated that this was sometime around 2005, after Rafic Hariri had been assassinated. He does not indicate that he was personally targeted or harmed as a result of this incident. The applicant also indicates that the road where Rafic Hariri was assassinated in 2005 was also part of the applicant's route home. If so, the assassination of the Prime Minister at that same location would certainly have been disconcerting. Again, though, the applicant does not indicate that he was ever personally targeted, had any connection or was ever imputed to have any connection to the assassination incident, or faced any ongoing issue as a result of the incident.
27. The applicant also indicated that he was questioned in connection with the [of] [Mr A], [an official]. He further claimed that he was questioned regarding the death because he was seen as a supporter of Hezbollah. This is not mentioned in his written application. In any case, the

applicant confirmed previously that he had never been arrested. He also stated that [Mr A] was assassinated very close to where his sister worked. He did not indicate that he was mistreated during the questioning in connection with the death of [Mr A], nor does he indicate that there was any subsequent interest in him by the police. If indeed he was questioned in connection with [Mr A]'s death there is nothing in the applicant's account to indicate that this was anything but a routine interview with someone who was sometimes present in the area where the assassination took place.

28. The applicant also claimed that on two separate occasions, in 2006 and 2011 or 2012, he was caught in the crossfire between warring militia groups. On both occasions the applicant managed to survive unharmed. He does not claim that he was specifically targeted on either occasion. The applicant also claimed that his brother-in-law was the target of an attempted kidnapping just before the applicant departed Lebanon. The delegate asked about the motivation for the kidnapping. The applicant acknowledged that he did not know who the kidnapers were or whether the motivation was sectarian or criminal in nature. The brother managed to escape from his kidnapers. The applicant did not claim that there were any further kidnap attempts on his brother-in-law or that he was himself ever subject to any kidnap attempt.
29. The incidents raised by the applicant above are not insignificant. Given the uncertain security situation in Lebanon at the time, I am prepared to accept that they occurred. However, the applicant has not indicated or put forward any evidence to suggest that he was personally targeted during these incidents, either due to his religion or for any other reason. More importantly, there have been significant improvements in the security situation since the time that the applicant departed Lebanon. DFAT notes that since late 2013, incidents of violence influenced by longstanding sectarian tensions have decreased¹⁶. The applicant particularly referred to fighting near his place of work between the Future Movement and Hezbollah. However, DFAT notes that the implementation of security plans in various areas by the Lebanese Armed Forces, and discussions between the Sunni-based Future Movement and Hezbollah, have all contributed to greater stability and security. Despite the ongoing impact of the Syrian conflict, DFAT's overall assessment of the security situation in Lebanon is that it remains largely stable but unpredictable. Insurgent activity remains an issue in some areas although local authorities largely contain these groups.
30. The agent has included information from The Atlantic and Human Rights Watch in regard to the prevalence of kidnappings in Lebanon. However, both these sources date from 2013. They are almost six years old¹⁷. More importantly, they pre-date the drop in sectarian tensions and the implementation of various security plans in late 2013 (as set out above) that significantly improved the overall security environment. The articles are useful as a historical background to the kidnapping threat in Lebanon but I do not consider that these articles are still relevant to, or indicative of, the current security environment there. I do note the recent information from DFAT indicating that Shias have been kidnapped, particularly in the Beka'a governorate¹⁸. However, DFAT also notes that this is an area that has a strong association with the illicit drug trade. The applicant has never claimed to have any involvement with criminal activities of this kind or to have been outspoken on the subject of drugs. The alleged kidnapping incident with his brother happened almost six years ago and there has been no recurrence. The applicant himself has never been subject to a kidnapping attempt, nor is the applicant's home town of [Location 2] in the Beka'a governorate. The applicant resided and worked in Lebanon for a

¹⁶ DFAT, "DFAT Country Information Report Lebanon", 23 October 2017, CISED50AD6014

¹⁷ Human Rights Watch, "Lebanon: Tit-for-Tat Border Kidnappings", 2 May 2013; Sulome Anderson, "The Syrian War is creating a massive kidnapping crisis in Lebanon", 6 September 2013, The Atlantic Online

¹⁸ DFAT, "DFAT Country Information Report Lebanon", 23 October 2017, CISED50AD6014

considerable period without suffering harm as a result of the general security situation or for any other reason. The delegate asked the applicant at one point why he had not travelled with his family to Australia if he was concerned about their safety. The applicant replied that he was unwilling to subject his family to the risks of the hazardous boat journey to Australia. This is a reasonable response as far as it goes. However, the applicant has not indicated that his family has since been subject to any harm, whether on account of their religion, interfaith marriage, kidnapping attempts or for any other reason during the [years] he has been away.

31. I note that the applicant claimed in his written statement that his car was stolen after he came to Australia. The applicant stated his belief that the car was stolen because the man was a Sunni and the applicant is a Shia. The applicant did not provide any evidence or further detail in support of this belief, or an explanation as to how he knew the man's motivation for stealing the car. He claimed that his wife saw the man again and that when confronted, the man admitted stealing the car, but the police still did nothing. However, this incident happened more than five years ago and the applicant did not indicate that there have been any further issues. Even if such an event occurred, it appears to have been an isolated incident. I am also not satisfied that the motivation for theft had anything to do with the applicant's religion.
32. The applicant also mentioned that people at his workplace had imputed him to be a supporter of Hezbollah because he was Shia and that his wife was similarly believed to be a supporter of Sunni militants due to her religion. The applicant was not able to give any details as to why people would believe this. The applicant's statements that he will be targeted by Sunni and Shia extremists because of his interfaith marriage are somewhat at odds with his claim to have been imputed as a supporter of those same militant groups by his work colleagues, some of whom must have been aware of his marriage to a Sunni woman. Even if they were unaware of his interfaith marriage, the country information does not support the view that people are suspected of supporting militants simply on the basis of their faith. Sunni and Shia Muslims make up more than half the Lebanese population (around 27% of the population each¹⁹). The information already set out above paints a consistent picture of interfaith dialogue and tolerance. I do not consider that this information is consistent with a claim that people are harassed or imputed to support extremists simply on the basis of their faith. The applicant indicated that he came from an ordinary family that were not especially conservative. The applicant also stated that he was not politically active, never arrested or indeed participated in any activity that would lead anyone to reasonably suspect he supported extremists or armed groups. The applicant's SHEV application indicates that he worked [for the same employer] for [number] years prior to his departure. He did not indicate that he sought (or even considered) other work, despite the claimed harassment. The claim to have been harassed at his workplace as an imputed Hezbollah supporter is only covered briefly in his written application and the applicant barely expanded on the claim at interview, despite a number of opportunities from the delegate. Given all of the above, I am not prepared to accept that he was imputed as a Hezbollah supporter at his workplace or treated adversely due to his religion.
33. The applicant also clearly indicated that he had not been targeted or physically harmed by violence or due to the general security situation even prior to his departure from Lebanon in 2013. Since that time, the overall security situation has seen significant improvement. The country information indicates that there are some ongoing security issues in Lebanon, but having regard to that information and the applicant's particular circumstances I am not satisfied that the chance of harm to the applicant in this case is anything other than remote.

¹⁹ DFAT, "DFAT Country Information Report Lebanon", 23 October 2017, CISED50AD6014

34. I am not satisfied that the applicant faces a real chance of any harm because of his Shia religion or interfaith union, on the basis that he would be imputed to be a supporter of Hezbollah, or due to the general security situation in Lebanon.

Returning Asylum Seeker

35. I accept that is possible if the applicant is returned to Lebanon he may be considered a returning asylum seeker.

36. Lebanon has a long history of migration and there is a sizeable Lebanese diaspora overseas, many of whom return to Lebanon frequently for personal or business reasons²⁰. DFAT states that overall it is not aware of any evidence suggesting an asylum seeker returning to Lebanon would be distinguishable from the broader community or susceptible to any form of discrimination or violence based on having sought asylum abroad²¹.

37. The country information cited above indicates that many citizens return to Lebanon from western countries without incident. The information does not support a finding that the applicant would attract adverse attention from either the authorities or non-state actors within Lebanon on that account. The applicant is a Lebanese citizen and the information before does not indicate that he would face any barriers repatriating back to Lebanon or accessing either his home area or Beirut.

38. DFAT notes that Lebanese citizens who have sought protection elsewhere have not committed a crime by doing so, and that Lebanese authorities would only meet an individual on return who had committed a crime while abroad of sufficient severity for authorities to request an accompanied transfer²². There is nothing before me to suggest that the applicant has committed a serious crime (or any type of offence) in Australia or would face scrutiny on that account, nor has the applicant made such a claim. The applicant confirmed at interview that he had never been arrested in Lebanon, let alone charged with an offence.

39. The agent contends that the applicant would somehow be stopped at the airport and questioned by Hezbollah. DFAT does note that Hezbollah exerts "substantial control over Beirut's Rafic Hariri International Airport"²³. However, DFAT also notes that Hezbollah are unlikely to target an individual unless they represented a direct threat to its authority. As set out above, there is no evidence that the applicant was directly threatened by or ever came to the attention of Hezbollah on any account while in Lebanon. DFAT does not suggest that Hezbollah (a Shia Islamist group²⁴) use their control of the airport to target Shia, other religions or otherwise pursue a policy of sectarian discrimination. The applicant has not explained how Hezbollah present at the airport would know that he had entered into an interfaith marriage. In any case, the available country information does not support the view that Hezbollah target those in interfaith unions on arrival to Lebanon (or at any other time).

40. I am not satisfied that the applicant faces a real chance of any harm as a returning asylum seeker.

²⁰ DFAT, "DFAT Country Information Report Lebanon", 23 October 2017, CISED50AD6014

²¹ Ibid

²² Ibid

²³ Ibid

²⁴ US Congressional Research, "Lebanon Report 19 June 2018", 19 June 2018, CIS7B839418836

Capacity to subsist

41. The applicant also claimed that he would be unable to subsist and take care of himself and his family if returned to Lebanon.
42. The applicant's fears about his capacity to subsist are not mentioned in his written claims. Further, the applicant did not raise this claim himself at interview. The applicant only made reference to any employment issues when the delegate raised statements the applicant made in his entry interview that Syrian took jobs in Lebanon, especially the [previous employment the applicant had]. However, when pressed by the delegate to explain how he remained in employment, the applicant stated that he worked very hard and worked additional hours for free. He does not indicate that he was ever unable to work and his SHEV application shows continuous employment in Lebanon since leaving school.
43. In the 26 October 2018 submission to the delegate, the agent points to information from US Congressional Research Service pointing to a slowdown in the Lebanese economy. It is true that the significant growth recorded prior to the Syrian conflict has since slowed to around 1% or 2% growth²⁵. Nonetheless, the economy is still growing rather than contracting. Foreign investment in Lebanon, which had been significantly affected by the conflict, rebounded to \$2.5 billion USD in 2016²⁶. Parliament voted to pass a stated budget in October 2017, for the first time since 2005²⁷. The Central Bank has more than \$43 billion USD in foreign reserves and has managed to keep the Lebanese pound stable²⁸. A Capital Investment plan mooted at a significant international donor conference in April 2018 yielded more than \$11 billion USD in mostly 'soft' loans (loans offered on lenient terms), with pledges from key institutions such as the World Bank and European Investment Bank, as well as countries such as France, the United States, and Saudi Arabia²⁹. Lebanon was also discovered to have significant untapped oil and gas resources³⁰. A 2018 report by a leading Lebanese bank estimated that this could generate \$200 billion in revenues, greatly reducing the debt to GDP ratio that has previously hampered economic growth³¹.
44. There are reasons, then, to be cautiously optimistic about the Lebanese economy. I also consider that the applicant is well placed to find work on return to Lebanon. The applicant has extensive experience [in two occupations]. He worked continuously in Lebanon since leaving school. The applicant is still relatively young and in apparent good health. He speaks, reads and writes both [another language] and Arabic, to which he has added some facility in English since arriving in Australia. In addition to his own skills [in two occupations], the applicant's wife has work experience as [an occupation]. The applicant has not indicated that his wife and child back in Lebanon have had any issues supporting themselves or that he has felt it necessary to remit money home to support them. I note also that the applicant did not raise any concerns about his capacity to support himself in his written application or at interview, until directly prompted by the delegate. Given the above, I am not satisfied that the applicant would face barriers finding employment such or that his capacity to subsist would be at all threatened.
45. I am not satisfied that the applicant faces a real chance of any harm on this basis.

²⁵ US Congressional Research, "Lebanon Report 19 June 2018", 19 June 2018, CIS7B839418836

²⁶ Ibid

²⁷ Ibid

²⁸ Ibid

²⁹ Ibid

³⁰ Ibid

³¹ Ibid

Refugee: conclusion

46. 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

47. 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

48. 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.

49. I accept the applicant has in the past experienced some unwanted comments or verbal abuse about his interfaith marriage in his home village but not elsewhere. For the reasons given earlier, I am not satisfied he faces a real risk of any harm if he returns to his family in [Location 2]. I do have some doubts that even if he returned to his home village, his marriage would continue to be an issue given the passage of time. Nevertheless, even if this is the case am not satisfied that there is a real risk he would experience anything more than some verbal comments or abuse, and I am not satisfied this amounts to significant harm in the sense described in s.36(2A) and s.5 of the Act. I am not satisfied he faces a real risk of significant harm on account of his interfaith marriage.

50. I have otherwise concluded that the applicant has never been targeted by Hezbollah, or any other insurgent or NSAG in Lebanon, nor that he faces a real chance of harm on that basis, his Shia religion, the overall security environment, his status as a returning asylum seeker, or because of the economic environment in Lebanon. Based on the same information, and for the reasons set out above, I find that the applicant does not have a real risk of suffering significant harm in Lebanon.

Complementary protection: conclusion

51. 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.

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.