



Australian Government

Immigration Assessment Authority

Decision and Reasons

Referred application

SRI LANKA
IAA reference: IAA19/06816

Date and time of decision: 9 August 2019 11:02:00
M Currie, Reviewer

Decision

The IAA remits the decision for reconsideration with the direction that:

the applicant is a member of the same family unit as another person mentioned in s.36(2)(a) and meets the criteria in s.36(2)(b) of the *Migration Act 1958*.

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 Sri Lankan citizen of Tamil ethnicity and an adherent of the Christian faith. He arrived in Australia in September 2013 and lodged an application for a Safe Haven Enterprise Visa (SHEV) in March 2017. In December 2017, a delegate of the Minister for Immigration and Border Protection found that Australia did not owe protection obligations to the Applicant and the applicant's matter was referred to the Immigration Assessment Authority (IAA).
2. The IAA affirmed the delegate's decision on 30 January 2018. However, this decision was later quashed by the Federal Court of Australia¹ after the Court concluded that because of prejudicial material contained within the referred material that was not identified as irrelevant; a fair-minded observer might reasonably apprehend that the IAA had not brought a fair, impartial and independent mind to the determination of the matter. The Court remitted the matter back to the IAA for reconsideration of the applicant's claims for protection. My task is to consider the applicant's claims for protection afresh. As this is *a de novo* decision, I am not bound by any earlier findings by the delegate, or the IAA.

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. In the material referred to the IAA was information about criminal charges which had been faced by the applicant in 2016, resulting in a criminal conviction and imprisonment. In January 2018, the applicant submitted to the IAA a hand written explanation of the events which led to his conviction, and shortly afterward, an accredited translation of his written account. The applicant's account was exculpatory and included a commitment not to commit further offences in Australia. I observe that the applicant had discussed the charges and his conviction during his 2017 Protection Visa Interview and the issue itself was well known to the delegate. The applicant has not founded any protection claims on these events. However, the written material submitted by the applicant to the IAA was not before the delegate, and though it merely expanded on his earlier account, the written explanation and the translation are new.
5. For the avoidance of any doubt, I conclude that none of the material which relates to charges faced by the applicant is relevant to my assessment of his claims for protection. As a consequence, I am not satisfied that the additional information is relevant for the purposes of s.473DC(1), or this review more broadly
6. In the s.65 decision, the delegate, having found that the applicant was not a refugee and was not owed protection obligations under the complimentary protection provisions of the Act, mentioned, but deemed it unnecessary to make findings about whether the applicant would meet s.36(1C)(b) and s.36(2C)(b) of the Act. For the sake of clarity, I note that while such considerations are of genuine relevance to a final determination of the applicant's eligibility for the visa, consideration of these sections of the Act is outside of my purview, and I have not considered them either.

¹ AZZ18 v Minister for Home Affairs [2019] FCA 844

7. On 29 January 2018, the applicant sent an email to the IAA which contained a photocopy of a newspaper article. The page is dated 30 November 2008. The article is not written in English and I am unable to read it, or identify its contents. In his Statutory Declaration which accompanied his visa application, the applicant makes reference to a news article about his missing [Relative A] and the circumstances of his death. It is not clear if this is the same article. In any case, the article provided to the IAA was not before the delegate; it is new information. The article was written almost a decade prior to its submission to the IAA. There is no information before me to explain why this information could not have been provided to the Minister prior to the date of the s.65 decision, or that it contains credible personal information which, had it been known, may have affected the consideration of the applicant's protection claims. In the circumstances, I am not satisfied that there are any exceptional circumstances to justify the consideration of this new information from the newspaper article.
8. The email of 29 January also contained a copy of a letter which had been sent to the applicant in March 2014. The letter outlined that some of personal information related to the applicant (name, dated of birth, nationality, gender and detention details) had been briefly made available on the Department's website (the data breach). The applicant was advised by the Department that the impact of the data breach would be assessed as part of the Department's normal processes and this issue was canvassed in the applicant's s.65 decision. As a consequence I do not consider that the Department's letter to be new information.
9. I note that during his May 2019 appeal to the Federal Court of Australia, the applicant was unrepresented by legal counsel. During the proceedings, he provided copies of a two letters to the presiding Judge. The first letter had been written by the applicant's wife and purported to offer some support for the applicant's claims for protection. The letter's contents are reproduced in the Court's decision² and are discussed at some length in that decision. The second letter was a formal notification from the Department to the applicant's wife that her application for a Protection Visa had been successful. A question arises as to the status of the letters for the purposes of my consideration of his claims. Neither the first nor the second letter was before the delegate and as a consequence, they must both be new information. On its face, the first letter was written by the applicant's wife in response to the delegate's finding that Australia did not owe protection obligations to the applicant and so, since it only came into existence after the delegate's decision, I conclude it could not have been provided to the Minister prior to the decision. The second letter appears to have been written prior to the s.65 decision, and it is credible personal information in the relevance sense and, as explained later in these reasons, may have affected the consideration of the applicant's claims. Section 473DD (b) is met for both letters. In light of this and in the circumstances where the Federal Court has already considered the content of both letters, and summarised their contents and implications in its judgment, I am also satisfied that there are exceptional circumstances to justify consideration of the letters and so s.473DD(a) is also met for both letters. As a consequence, I have considered them.
10. The new information before me from the court judgment implied that in May 2019, the applicant and his wife were still married and still considered themselves to be in an ongoing married relationship which, on its face, would meet the definition of a spousal relationship as defined s.5F of the Act. In such circumstances, the applicant might be a member of the same family unit as a person who has been granted a protection visa.

² AZZ18 v Minister for Home Affairs [2019] FCA 844

11. In order to determine the exact status of the applicant and his wife, inquiries were made with the Department about type of visa the applicant's wife had been granted, and the status of their marriage. The Department confirmed that the applicant's wife had been granted a Safe Haven Protection Visa pursuant to the refugee criteria in 2017 and though some historic information held by the department suggested they had separated, the Department could not verify that this was the case and had no present information about their relationship.
12. On 23 July 2019, I interviewed the applicant about his visa application. At that interview, I asked the applicant about his family circumstances. He provided convincing responses which indicated that, despite their long separation due to his imprisonment and ongoing detention, both he and his wife were still together and, according to him, considered themselves to be in a genuine and ongoing relationship which would resume, should the applicant be released from immigration detention.
13. All of the information provided by the applicant and the Department about his marriage and his wife's visa status is new information. As the new information about his wife and family circumstances was offered in response to my requests or invitation, I am satisfied that there are exceptional circumstances to justify considering the new information. Furthermore, I am satisfied that it is credible personal information which may have affected the consideration of the applicant's claims for protection. As both limbs of s.473DD are met, I have considered this new information.
14. Noting departmental information suggesting separation, the applicant's wife (a third party to this application) was also invited to provide information to the IAA at interview. Like the applicant, his wife indicated that despite their long separation she also considered that the applicant was her husband, and that their relationship was genuine and ongoing. She indicated that if the applicant was released from immigration detention, she fully expected their life together to resume. These assertions by the applicant's wife are also new information. However, as the information was provided in response to the IAA invitation, I am satisfied that there are exceptional circumstances to justify considering it³, and I have done so.
15. Finally, I note that during his 2019 interview with the IAA, in addition to answering questions about his wife and relationship, the applicant took the opportunity to put forward a new protection claim; that when he worked as a fisherman in Sri Lanka, he had transported members of the Liberation Tigers of Tamil Elam (LTTE) he had routinely transported members of the LTTE around Sri Lanka on his boat. This claim is new information. Before the delegate, the applicant had claimed that while a fisherman he had been compelled to provide kerosene to the LTTE, but he had not previously made any claim to have transported members of the LTTE. The applicant claimed that he had feared to put forward this claim earlier, since he was afraid that a 2014 leak by the then Department of Immigration and Border Protection would mean his claims would become known in Sri Lanka. He also said he had not had an opportunity to put forward this claim earlier. I did not find either of these reasons to be persuasive. I note the applicant has had many years, and multiple opportunities to outline his case before multiple Australian agencies and courts and he had never previously made this claim. In this context, I note he did not mention this claim prior to the 2014 leak by the Department, even though he had the opportunity. I simply do not accept that this claim is credible personal information, or that it could not have been provided to the Minister prior to the s.65 decision.

³ Note: information provided by a third party is not required to pass the threshold of s.473DD(b)

Applicant's claims for protection

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

- The applicant is a Sri Lankan citizen of Tamil ethnicity and an adherent of the Christian faith. He was born in [Town 1], in the Northern Province of Sri Lanka. As a child, the applicant and his family spent two periods living in refugee camps in India due the ongoing civil war in Sri Lanka. They returned from India in 1995.
- The applicant asserts that he was mistreated in Sri Lanka (see below), and during his time in Australia he has sought mental health counselling. He suffers from confusion and has difficulties remembering key details such as dates.
- The applicant worked as a fisherman in the [Town 1] area. Around 2005 or 2006, the applicant was taken before an official of the LTTE, and asked why he had declined to attend any LTTE meetings. He committed to attend the next meeting, which he did.
- In 2006, the applicant attended a demonstration in [Town 1] where LTTE flags were displayed. Sri Lankan authorities intervened and broke up the demonstration. Some attendees were rounded up and beaten. The applicant was not rounded up or beaten.
- After the demonstration, the LTTE placed the applicant, his [Relative B] and other fishermen into detention for [number] days. He was beaten and was threatened that if he failed to support the LTTE in the future, he would face harm.
- After their release, the applicant and his [Relative B] supplied Kerosene to the LTTE for some months.
- Around 2006 or 2007, while the applicant was returning home after a day's fishing, he was stopped by the Sri Lankan Army (SLA), tied up and beaten. The SLA examined his identity card, and he was released without charge.
- Fearing that he would face further difficulties with the authorities, the applicant and his [Relative B] stopped providing kerosene to the LTTE. He and his family moved house to an area which was controlled by the LTTE. Later this area came under the control of the Sri Lankan Government, and the applicant and his family were displaced.
- In 2008, the applicant's [Relative B] was abducted. He has not been seen since. The applicant believes the Sri Lankan authorities took his [Relative B] due to their provision of Kerosene to the LTTE.
- Later in 2008, the applicant's [Relative A] was also abducted and murdered. The applicant believes the Sri Lankan authorities murdered his [Relative A] because he had assisted the LTTE.
- The applicant became fearful for his safety and went into hiding at the homes of friends and relatives. He did not go out at night, or alone.
- One day while he was fishing, the applicant found a group of people in the water; they were attempting to travel from India to Sri Lanka. He provided them assistance. Around 10-15 days later, a white van came to his home looking for him. The applicant was scared and went to live with his [Relative C]. He departed Sri Lanka soon afterwards and travelled to India illegally in January 2009. In 2013, the applicant travelled from India to Australia.
- The applicant fears that if he returns to Sri Lanka he would be imputed as a supporter of the LTTE due to his Tamil ethnicity, and his provision of kerosene to the LTTE. He thinks that he will be tortured and killed by the Sri Lankan authorities.

- The applicant fears that the 2014 data breach by the Department will mean that the Sri Lankan authorities know about his claims for asylum in Australia. He believes that this information could be used to find him if he returns to Sri Lanka.

Factual findings

17. Since his arrival in this country, the applicant has put forward a consistent account of his identity. He has also provided a range of documents to support his identity claims. The applicant has established his identity to my satisfaction. I accept that he is a Sri Lankan citizen of Tamil ethnicity. I accept he is married. For the purposes of this decision, I find that Sri Lanka is his receiving country.
18. For the reasons outlined below, I am not required to address the applicant's particular claims for protection.

Member of same family unit

19. Under s.36(2)(b) or s.36(2)(c) of the Act, an applicant may meet the criteria for a protection visa if they are a member of the same family unit as a person who (i) is mentioned in s.36(2)(a) or (aa) and (ii) holds a protection visa of the same class as that applied for by the applicant. A person is a 'member of the same family unit' as another if either is a member of the family unit of the other or each is a member of the family unit of a third person: s.5(1). For the purpose of s.5(1), the expression 'member of the family unit' is defined in r.1.12 of the Migration Regulations 1994 to include 'Spouse'. A person is the spouse of another if they meet the definition in s.5F of the Act.
20. While some information from the Department suggested the applicant's relationship with his wife was not ongoing, in my view both the applicant and his wife provided compelling evidence that they consider that they are married, that their relationship is ongoing and that their life together would resume if he were released from immigration detention. On the evidence before me, I am satisfied the applicant is in a genuine and continuing married relationship to his wife, with whom he arrived in Australia and who has been granted a protection visa. They have a mutual commitment to a shared life as a married couple to the exclusion of all others. While the applicant has not lived with his wife for some years, this is due to his imprisonment and his subsequent period of involuntary immigration detention rather than any cessation of their relationship; they do not live separately and apart on a permanent basis and have clearly indicated their intention to cohabit in the future.
21. Though the applicant and his wife did not submit a joint protection visa application, I am satisfied, having particular regard to his wife's evidence to the IAA, that this was due to his imprisonment and no other reason. I am satisfied that the applicant and his wife are 'spouses' under s.5F of the Act. I am also satisfied that the grant of the visa is not prohibited by s.91WB of the Act since the applicant applied for his protection visa before his wife was granted a visa. The applicant and his wife plan to reunite if he is released from immigration detention.
22. I am satisfied that the applicant is a member of the same family unit as his wife. His wife is a person mentioned in s.36(2)(a) of the Act. The referred applicant meets both limbs of s.36(2)(b).

Decision

The IAA remits the decision for reconsideration with the direction that:

the applicant is a member of the same family unit as another person mentioned in s.36(2)(a) and meets the criteria in s.36(2)(b) of the Migration Act 1958.

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.