



Australian Government

Immigration Assessment Authority

Decision and Reasons

Referred application

LEBANON

IAA reference: IAA17/02911

Date and time of decision: 19 September 2017 13:40:00

Michael Brereton, 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 an 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 the Akkar district in the northern region of Lebanon. He departed Lebanon lawfully [in] April 2013 and travelled to [country 1]. He departed [country 1] by boat and arrived on Christmas Island [in] April 2013. He applied for a Safe Haven Enterprise Visa (SHEV) [in] November 2016. A delegate of the Minister for Immigration and Border Protection (the delegate) refused to grant the visa [in] June 2017.
2. The applicant claims to fear harm from extremist groups who have threatened and assaulted him because he will not join them.
3. The delegate did not accept the applicant's claims as genuine. The delegate considered country information in relation to the current conditions in Lebanon and was satisfied that the applicant was not a person in respect of whom Australia has protection obligations.

Information before the IAA

4. I have had regard to the material given by the Secretary under s.473CB of the *Migration Act 1958* (the Act).
5. The applicant's former legal adviser indicated that they would provide a submission to the IAA by 5 September 2017. No submission has been received and the legal adviser no longer acts for the applicant. No further information has been obtained or received.

Applicant's claims for protection

6. The applicant's claims can be summarised as follows:
 - He is a Sunni Muslim who was born in the Akkar district in the north of Lebanon. He lived at his parents' home until he left Lebanon in 2013. He is married with [children] and his wife and children usually reside with his parents, although sometimes they live with his wife's family.
 - In 1998, when he was [age], masked men threw him off a roof and he was badly injured. He thinks that this was due to the political situation in Lebanon.
 - He completed compulsory military service in [year].
 - [Number] of his siblings now live in Australia. He visited Australia on a [temporary visa] in [year] for about two or three months.
 - His father owns and operates a [shop] in Tripoli. The applicant worked in the shop until 2013. He lived in his village and travelled to Tripoli for work.
 - Between 2011 and 2013, he was stopped, harassed and assaulted at checkpoints by members of the Ba'athist Party.
 - In 2013, the violence in Tripoli got worse. He was working alone in the shop when members of a Salafist militia came and told him to join them. He refused to do so and they yelled at him. They came back a second time and threatened to kill him and kidnap his children.

- About a month later, men from Fatah al Islam came and told him to come with them and fight. He refused to join them and they assaulted him and stabbed him with a knife. A friend took him to hospital but he was assaulted by more armed groups on his way there.
- He did not go back to Tripoli and subsequently escaped from Lebanon.
- Since he came to Australia, his family has received threatening letters addressed to him. His family told him that the letters say that he will be killed when he returns to Lebanon.
- He is suffering from [several conditions].

Refugee assessment

7. 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

8. 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.
9. The applicant claims to be a Sunni Muslim from the Akkar district in the northern region of Lebanon. He has provided documentary evidence of his identity and former residence. On the basis of his evidence, I accept that the applicant is a Sunni Muslim from this part of Lebanon.
10. The applicant attended an interview with the delegate [in] February 2017 (the interview). The delegate raised a number of concerns in relation to discrepancies and inconsistencies between the applicant’s SHEV application and his responses at the interview. [In] March 2017, the applicant provided the delegate with a statutory declaration and [a medical] report. The report indicates that the applicant was referred [in] September 2015, and is dealing with [his conditions]. He is receiving counselling and medication for these conditions. The applicant reported that he is often distracted and tends to be forgetful. I accept that the applicant has a diagnosed psychological condition and have taken this into account.

11. The applicant's principal claim relates to harassment, threats and assaults by two Sunni extremist groups while he was working in his father's shop in Tripoli. The groups are described as a Salafi militia, and Fatah al Islam (FI). In his statement in his SHEV application, he said that in 2013, the Salafi militia came to the shop and told him to join them in the war. He refused to do so and they threatened him but went away. They came back a second time and asked him to join but again he refused. They threatened to kill him and kidnap his children. About a month later, the FI people came to the shop and told him that he had to go and fight. When he refused, the FI began to hit him and they stabbed him with a knife. They said next time they would kill him. A friend came and took him to the hospital, although they were stopped by another group on the way and the applicant was punched again. After he left hospital he went to his village and did not return to the shop but his father continues to operate it intermittently.
12. The applicant's SHEV application includes a statement from a friend who said that he found the applicant bleeding in the shop and took him to the hospital. This statement does not give the date or any details about the incident and does not refer to being stopped and assaulted on the way to the hospital. The application also contains a letter from the mayor of his village which states that the applicant has "some problems with a local organisation/group and they want to harm him should he return to Lebanon." This document does not indicate the source of the information or whether the mayor is personally aware of the applicant or his circumstances.
13. At the interview, the applicant said that it was the FI who came to the shop first and that he was stabbed on two occasions. The delegate said that this was different to his statement, at which point the applicant said that he was stabbed once, but they also held a knife to his neck. He said that he did not remember who came to the shop first. The delegate then asked about other incidents the applicant claimed had happened in 2011-2013, but the applicant said that there were no incidents. The delegate asked about the Ba'ath Party and the applicant said that they were the ones who threw him off the roof in 1998, but he had no problems with them since then. The delegate told the applicant that his statement claimed that the Ba'athists had stopped and assaulted him in 2011 -2013 and the applicant said that the Ba'athists were everywhere and harassed people. The delegate asked if the Ba'athists had harassed or harmed him since 1998 and the applicant said no.
14. The delegate asked the applicant whether he had received any threats since he left Lebanon. He said he had not been contacted by any of the extremists and had not received threats. The delegate referred to the claims in the SHEV statement and the applicant then said that his father had found a letter in the shop but couldn't read, so he did not know what it said. The applicant thought it might have been a threat. The delegate told the applicant that his statement said that his family had told him the content of threatening letters. The applicant then said that his family had told him there were letters threatening his life, and that his wife had received threatening telephone calls. I note that up to this point, he had not referred to any threatening telephone calls. The delegate asked about these calls and the applicant said that he had left his mobile telephone with his wife and she had received threatening calls on this. He did not know how the extremist groups had got his number but it might have been because he had a business.
15. The delegate expressed doubts about the inconsistencies and explanations, then invited the applicant to speak with his lawyer and respond. When the interview resumed, the lawyer and interpreter said that the applicant had claimed that his statement had not been read back to him in full when he made it. He claimed that it was only read back in pieces and he was confused. The lawyer said that they would investigate this claim with the person who assisted

to prepare the statement, and would then provide a response on this point. Although the applicant later provided the statutory declaration and psychological report referred to above, there has been no response or further submissions on the interpretation. I take into account that the person who assisted with the statement signed a statutory declaration that they had faithfully interpreted the contents of the applicant's statement, and that they understood the ramifications of making a false statement in a statutory declaration. In the absence of any further evidence, I do not accept the applicant's assertion that his statement was not read back to him and I do not accept this explanation for the inconsistencies in his evidence at the interview.

16. The applicant also claims that he has problems with his memory and was stressed and upset during the interview. I take into account that he was represented by an experienced migration lawyer at the interview and did not at any time prior to being confronted with the inconsistencies indicate that he was distressed or upset. I do not consider it plausible that the applicant would forget or confuse such significant details as assaults at checkpoints or his family receiving threatening letters and telephone calls.
17. The applicant told the delegate that many people were recruited into the extremist organisations during 2013, and that the Salafist and FI groups who came to him had offered him money to join. However, while I note that the applicant undertook compulsory military training, he claims that his duties were all within the barracks, working in the kitchen and cleaning or standing guard at the gate house. He has no other profile, skills or background that would identify him as a potential recruit for extremist or militia organisations, or explain why these groups would visit him on multiple occasions, using inducements, threats and violence to try and force him into joining them. I do not consider it plausible that a person with the applicant's profile would attract this level of interest in a climate where other, willing volunteers were waiting.
18. I have considered the evidence surrounding the stabbing incident. The applicant has not provided any medical reports, photographs of injuries, police reports or other corroborating information. He told the delegate that he did not report the incident to the police. He has provided a statement from a friend but as noted above, this statement does not contain any detail of the incident other than to say the applicant was found bleeding in the shop and said that he had been stabbed. I consider it implausible that if the applicant had been attacked and stabbed by extremists, he would not have reported the matter to the police. I also consider it implausible that he would not have medical reports or other evidence of his attendance at the hospital. However, even if he was stabbed as he has claimed, for the reasons I have given above I do not accept that this incident is related to or was carried out by any extremist or militia organisation that was attempting to forcefully recruit him.
19. Having regard to all of this, while I am prepared to accept that the applicant was the victim of a stabbing incident in 2013, I am not satisfied that this incident was linked to the Ba'ath, Salafi or FI groups, that any of these groups was trying to forcibly recruit him or that he or his family have been threatened by any of these groups. I do not accept the applicant's claims of harassment, threats or violence at the hands of the Ba'ath, Salafist or FI groups.
20. Although I do not accept the applicant's claims in relation to the Ba'ath, Salafist or FI groups, I have considered the general situation in Lebanon. The Australian Department of Foreign Affairs (DFAT) has assessed that Sunni Muslims in most areas of Lebanon, including Beirut and most of Tripoli, face a low risk of violence or harm unless they are actively involved in fighting. DFAT has acknowledged that security in the border regions such as Akkar is more complicated and there have been instances of violence including cross-border violence resulting from the

conflict in Syria. However, DFAT assesses that overall, Sunni communities in regions such as Akkar face a low risk of violence or being caught up in cross-border attacks. While this risk may increase if a community is perceived to be anti-Syrian, the applicant has not made any claims or provided any evidence that his village has such a profile. DFAT has also acknowledged that civilians may be caught up in sectarian and extremist violence but the incidence of such violence has decreased since 2013.¹

21. The applicant has not claimed that he or any member of his family has been involved in any violence or incidents in Akkar. When the delegate asked him about the situation in his village now he said that it was quiet and calm during the day but was not safe at night. He has not claimed to have been involved, or that there was any family involvement in any sectarian or other extremist groups. He has undertaken compulsory military service but he has not claimed to have been involved in any fighting or operations against sectarian or extremist groups. As noted above, DFAT assesses that Sunni Muslims face a low risk of violence in Akkar. I take into account that this DFAT report is dated 2015, but there is no information before me that indicates that the situation has deteriorated for Sunni Muslims since this report was issued. While I accept that the applicant was stabbed whilst in Tripoli, I have not accepted the applicant's claim that this was related to extremist violence. While it is possible that the applicant may be caught up in generalised violence in any area of Lebanon should he return, I find that, even taking account of the previous stabbing, this is no more than a remote possibility in the current climate. I am also satisfied that as a Sunni Muslim in Lebanon, the applicant faces no more than a remote chance of being harmed in sectarian or extremist violence unless he is actively involved in the conflict. He has not claimed that he has been involved in the conflict in the past or that he intends to do so now. I find that the applicant will not face a real chance of harm due to his ethnicity, religion or from any sectarian or generalised violence, should he return to Lebanon.

Refugee: conclusion

22. 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

23. 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

24. 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

¹ Department of Foreign Affairs and Trade (DFAT), "DFAT Country Information Report - Lebanon", 18 December 2015, CISEC96CF1415, at pp 11-12.

- the person will be subjected to cruel or inhuman treatment or punishment, or
- the person will be subjected to degrading treatment or punishment.

25. I have found that the applicant does not face a real chance of harm arising from extremist violence or the general situation in Lebanon. As 'real chance' and 'real risk' have been found to equate to the same threshold,² and as I have found that the applicant does not face harm for these reasons, I am satisfied that the applicant does not face a real risk of significant harm for these reasons.

26. I have accepted that the applicant suffers [a condition], is undergoing counselling and is on medication. According to DFAT, Lebanon has adequate health facilities, although there is widespread reliance on private health facilities and a substantial proportion of the population remains uninsured. Although there are public health facilities, which are concentrated in urban areas, these have been described as weak.³ While I accept that Lebanese health facilities may not offer the same coverage as those available in Australia, there is no other information before me that indicates that the applicant will be denied access to facilities or treatment that are available to Lebanese citizens. I am not satisfied that he will face a real risk of significant harm arising from his mental health.

Complementary protection: conclusion

27. 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.

² MIAC v SZQRB (2013) 210 FCR 505.

³ DFAT, "DFAT Country Information Report - Lebanon", 18 December 2015, CISEC96CF1415, at p 6.

Applicable law

Migration Act 1958

5 (1) Interpretation

...

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.