



Australian Government

Immigration Assessment Authority

Decision and Reasons

Referred application

LEBANON
IAA reference: IAA17/03102

Date and time of decision: 23 April 2018 11:11:00
Rebecca Mikhail, 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 citizen of Lebanon. On 22 September 2016 he lodged an application for a Safe Haven Enterprise Visa (application for protection). On 6 July 2017 a delegate of the Minister for Immigration and Border Protection (the delegate) refused the grant of the visa.

Information before the IAA

2. I have had regard to the material given by the Secretary under s.473CB of the *Migration Act 1958* (the Act).
3. On 1 August 2017 the IAA received a submission and a new statement by the applicant.
4. The submission, in part, refers to evidence that was before the delegate and aspects of the protection visa interview and the delegate's decision. I do not consider the above to be new information and have had regard to it.
5. The submission also refers to country information that was not before the delegate and which I consider to be new information. It refers to a number of reports about Hezbollah's recruitment and counterintelligence practices which were published prior to the delegate's decision. It submits that this information only became available recently as the applicant was unrepresented and lacked the capacity to clarify his claim. I accept that the applicant was unrepresented before the delegate but the applicant has claimed in his application for protection that he speaks and reads English and spoke in English during his protection visa interview. He has also received an education and completed higher [studies]. Although unrepresented I am not satisfied he was not aware or lacked the capacity to provide country information in support of his claims and have taken this into account when determining whether there are exceptional circumstances to justify considering the new information.
6. The submission claims that Hezbollah has from time to time been involved in aggressive recruitment practices and refers to an excerpt of a report by the Immigration and Refugee Board of Canada in support of the applicant's claim that he was pressured to leave the Beirut region by Hezbollah or to join them. However I note that one source in that report states that it would be a rare occurrence for Hezbollah to forcefully recruit someone, but it is possible for someone to be pressured to do things that they would prefer not doing and another source refers to persons fearing Hezbollah because of their differing obedience to the group but these people usually leave Hezbollah zones to other regions. Another source in the report claims that, if persons fearing Hezbollah are Lebanese, they do not face harassment once they are out of Hezbollah-controlled regions. Having considered the information in the excerpt, I am not satisfied the information supports the applicant's claim of being pressured to either join Hezbollah or leave the Beirut region and, in fact, the above information contradicts the applicant's claim that Hezbollah have continued to pursue him after he left Beirut. For these reasons, I am not satisfied there are exceptional circumstances to justify considering this information.
7. The submission also refers to excerpts from a number of other reports which claim that Hezbollah has a highly refined counterintelligence department which supports the applicant's claim that he has become a person of interest to them and will be subject to threats and

coercion where ever he travels in Lebanon. The submission further claimed that it is not in dispute that Hezbollah has the capacity and intelligence structure to locate wanted persons of interest within Lebanon and referred to a citation by the delegate of a report to this effect. Given this issue is not in dispute and there was country information in support of this already before the delegate, I am not satisfied there are exceptional circumstances to justify considering further country information sources that support this claim.

8. The submission also refers to country information reports from 2007 and 2014 about increasing sectarian tensions in Lebanon between Sunnis and Shiites which it submits is central to the applicant's claim that, as a Sunni Muslim, he will be subjected to increased attention from Hezbollah who are Shiite. However, the delegate had before him a variety of reports published in 2015 and 2016 from a number of sources on sectarian tensions in Lebanon and these reports provide a more recent analysis and update on this subject. I am not satisfied there are exceptional circumstances to justify considering the reports cited in the submission that were published in 2007 and 2014.
9. The submission also refers to reports by Human Rights Watch and the Akarama Foundation to the United Nations Committee against Torture, about the use of torture in Lebanon by security and military personnel and that Hezbollah performs law enforcement duties without legal oversight increasing the risk of torture. There is already similar information before the delegate about the use of torture in Lebanon by the authorities and the role of Hezbollah and its practices in Lebanon and for these reasons I am not satisfied there are exceptional circumstances to justify considering these additional reports.
10. Also provided to the IAA was a new statement by the applicant. In part, it refers to aspects of the delegate's decision and claims already raised, and that arose on the material, before the delegate which I do not consider to be new information. The submission claims that this information only became available recently as the applicant was unrepresented and lacked the capacity to clarify his claims but I do not accept this as a reasonable explanation for why these new claims had not been raised before the delegate. I have listened to the recording of the applicant's protection visa interview and I am satisfied he was given the opportunity, and was able, to present his claims for protection and the absence of legal representation did not impede his ability to do so.
11. The applicant claims that he has been imputed to be a spy because Hezbollah sought to recruit them to their group and they resisted. Although the applicant's brother, [Brother 1], previously raised this claim before the delegate, that Hezbollah had sought to recruit them, the applicant did not previously give such evidence and for this reason I consider this claim by the applicant to be new information. In the circumstances I do not consider this evidence to be credible. I am not satisfied there are exceptional circumstances to justify considering this new claim.
12. In his new statement, the applicant newly claims that the security forces for the [workplace] he was previously working at were Hezbollah agents and he believes he has been imputed to be a spy for this reason. They began to make inquiries into his life, who he was and where he came from and he understood they were being investigated as a security issue. He also claims he was planning to marry his then Shia fiancé and would have moved in with her family into a building he understands to be one of the Beirut headquarters of Hezbollah and believes he has been imputed to be a spy for this reason also. Members of Hezbollah approached his fiancée's family and told them not to associate with him which caused their relationship to end. Although the applicant previously claimed before the delegate during his protection visa interview that Hezbollah had started to infiltrate [the workplaces] and he was given money to leave his job in the [workplace] because he was Sunni, he did not previously claim that he was being

investigated or imputed to be a spy for this reason. I note this new claim is also inconsistent with information he gave during his arrival interview that he left his job in the [workplace] because it was bought by another company and he was retrenched. He also did not raise any claims during his protection visa interview in respect of his fiancé and I note that during his arrival interview he expressed concern for his “wife” as her parents did not approve of him because he was Sunni and feared they may hurt her but did not refer to the fact that she was Shia or had any connection to Hezbollah. No corroborating information has been provided to indicate that the [workplace] he worked in was in an area controlled by Hezbollah or otherwise infiltrated by Hezbollah, and the fact that he has not previously raised this claim casts real doubt on its genuineness. I am not satisfied there are exceptional circumstances to justify considering this new claim.

13. In his new statement, the applicant notes that the delegate did not accept that [Brother 2] was wounded in the attack on their shop because of differing accounts between his evidence and that of [Brother 1]. In his new statement, he clarifies that his brother, [Brother 2], was wounded in the attack on their shop. He claims it is not clear how he was injured but he broke his leg and he claims there was quite a bit of blood. The applicant and [Brother 1] have previously provided different accounts of what happened to [Brother 2] during the attack on their shop during their protection visa interviews. Although [Brother 1] claimed that [Brother 2] had been shot during the attack, the applicant denied that [Brother 2] had been shot. I accept that the applicant is responding to adverse findings in the delegate’s decision and I am satisfied the delegate did not address this inconsistency with the applicant and [Brother 1] during their protection visa interviews in order for them to provide a response. However, the applicant did not previously mention that [Brother 2] was injured in the manner he now states and I find it very difficult to believe that he does not know how [Brother 2] broke his leg during the incident, during which he claims he was present. I am not satisfied this new information is credible. I am not satisfied there are exceptional circumstances to justify considering this new claim.
14. The applicant claims that, after the shop attack, he was told by a large man with a large beard to come and see him in his office and he understands this man was an overseer in the region. He and his men forced the applicant to follow him to his office which was around 200m away. This man held him by his neck at one point and was highly aggressive and said he needed to leave the region. During his protection visa interview, the applicant referred to an incident, after the attack, with the shop owner who he claimed was a member of Hezbollah but the incident he described is different to the above claim and for this this reason I do not accept that this is the same incident and I am satisfied the above claim is new information. The applicant did not raise it earlier in his own protection visa interview, despite its apparent seriousness. The claim lacks credibility. I am not satisfied there are exceptional circumstances to justify considering this new claim.
15. After the shop in Beirut was shut, the applicant claims he tried to open a second store in the Beirut suburb [in] the Sunni region of Beirut. He was warned by many people that Sunnis did not want to have him open the store as it would attract Hezbollah attention and for this reason he was left without protection from the Sunni political groups and he was told that it was an exclusive area for Future Movement members only. Although the applicant did claim during his arrival interview that he attempted to open another [shop] after the attack on his first shop, I find the above details he has provided about this to be new information. During that interview he merely stated that the new business failed and did not work but did not provide the reasons he has now claimed. The new claims are also inconsistent with information the applicant provided during his protection visa interview where he claimed that, after the attack on his shop, he moved to the north straight away. Despite the relevance of this claim to the applicant’s claims, he did not refer to this during his protection visa interview despite having the

opportunity to do so. In the circumstances I do consider the new information is credible. I am not satisfied there are exceptional circumstances to justify considering this information.

16. The applicant claims that, "After the shop", he sought to get his payout from the [workplace] for his time that he worked there and they acted like he was owed nothing and told him to leave. It is not clear why he would seek to get his payout from the [workplace] after the incident that occurred at the shop in 2013 when he claimed he left his job at the [workplace] in 2012. This new claim also appears inconsistent with his claim, raised during his protection visa interview, that he was given money from the [workplace] when he left and he used this money to open the first [shop] in 2012. I am not satisfied this information could not have been provided earlier and, given the inconsistencies between this new claim and the applicant's evidence before the delegate, I am also not satisfied this claim is credible. I am not satisfied there are exceptional circumstances to justify considering this information.
17. The applicant claims that he is in more danger than the average Sunni male because he does not have the protection of the Future Party as Lebanon's cultural and political environment requires you to be affiliated with a political party and, if you do not, you are at a significantly increased risk of experiencing threats and coercion from another party. The applicant provided no country information in support of this assertion and the country information before me does not support this claim. The applicant did not previously raise this claim and I do not accept his assertion that his lack of legal representation hindered his ability to articulate his fears. I am not satisfied there are exceptional circumstances to justify considering this new claim.
18. The applicant claims that, two weeks later, he returned to the original family town, [Town 1], next to [a town] which is a primarily Shia township under the governance of Hezbollah. Around this time Hezbollah visited his parents' house in [Town 1] and each time the men asked to talk to him. His father complained to the police because he was concerned they were authorities and the police advised him they were not from the office but that he should comply with him and his father immediately understood they were Hezbollah agents. Around that time, he stayed about a week at his uncle's house in a nearby town called [Town 2] but when his uncle discovered his situation in Beirut he asked him not to stay because he was concerned it would cause problems with children. He went into hiding for around a week near the river [and] was sleeping in his car and living away from the townships. After receiving another threat from these men, his father took all the family from the house and hid them in [Town 2] and [Town 3]. Hezbollah agents have continued to search for him and have been searching for him since they left Lebanon. Although the applicant previously claimed before the delegate that the people who attacked the shop sent people to his family home in Akkar to ask about him within two weeks of the incident and threatened that if they find him they will kill him, the applicant has previously claimed that the family comes from the town of [Town 4] and has not previously referred to "[Town 1]" and there is no information before me to indicate they are the same place and for this reason I consider this aspect of these claims to be new information. The applicant also did not previously claim that his father had complained to the police who indicated that they should comply with these people or that the applicant hid in several areas prior to departing Lebanon. I am not satisfied this information could not have been provided earlier. I am also not satisfied the claim is believable as the applicant has been inconsistent in relation to the name of his home village in Akkar and I have given consideration to his claim that his family have remained in their home village which does not suggest they are in fear of their lives. I am also not satisfied the applicant has a profile such that Hezbollah would have continued to search for him in his home area and since he left Lebanon. I am not satisfied there are exceptional circumstances justify considering this new information.

19. The applicant further claims that, after they left Lebanon, his brother [Brother 2] was shot by Hezbollah agents when he was working in Beirut. Someone had called him asking to buy [items] and he met these people in the Sunni area and they threatened him saying, "We will hold you until we find [the applicant]". [Brother 2] became scared and turned and ran but they shot him in his leg. There is no further information about when exactly this incident occurred and it was not raised by the applicant or [Brother 1] when they were asked if [Brother 2] had faced any further problems during their respective protection visa interviews. I am not satisfied this information could not have been provided earlier. I am not satisfied this information is credible. I am not satisfied there are exceptional circumstances justify considering this new information.
20. The submission also states that the applicant requests a 'second interview'. The legislative framework governing the IAA provides for an exhaustive statement of the natural justice hearing rule. Pursuant to s.473DB(1) of the Act the IAA must review a fast track reviewable decision referred to it under s.473CA by considering the review material provided to the IAA under s.473CB without accepting or requesting new information and without interviewing the referred applicant. If the IAA decides to accept new information, it can only consider that information in exceptional circumstances. Although the applicant was previously unrepresented, I am satisfied the applicant has had an opportunity to present his claims orally at the protection visa interview and do not accept the submission that he lacked the capacity to clarify his claims during that interview. I am also satisfied he has had an opportunity to provide his response to the delegate's decision to the IAA. I am not satisfied in the circumstances of this application an interview is required or necessary.

Applicant's claims for protection

21. The applicant's claims can be summarised as follows:
 - He was born on [date] in [Town 4], Akkar Province and is a citizen of Lebanon and is a Sunni Muslim.
 - He moved to Beirut in 2008 where he worked in two different [workplaces] as [Occupation 1].
 - In 2012 he was expelled from the last [workplace] because he is Sunni.
 - He then started his own [shop] in September 2012 with his family which was on [a] road in Beirut.
 - Hezbollah found out they were Sunni and started to create problems for them. They raided his shop and shot at the shop and hit his father and took all their goods. They told them not to come back to that area. They called the police who only watched what happened and did nothing.
 - The day after the attack, the applicant went to see the landlord of the [shop]. The landlord, who he claims is a member of Hezbollah, slapped the applicant in the face and accused him of opening the shop to spy on Hezbollah.
 - He and his family then went back to their birth village but there were militias with weapons threatening everyone because they are next to the Syrian border. After returning to Akkar, some unidentified people, whom the applicant suspects to have been from Hezbollah, came to his family home looking for him.
 - In May 2013, the applicant left Lebanon legally by plane from Beirut International Airport.

Factual findings

22. The applicant has provided a copy of his Lebanese passport which he claimed the people smuggler took from him. He has provided copies of other identity documents from Lebanon but which have not been translated. Nonetheless, the copy of his passport confirms his claimed identity. I accept the applicant was born in [Town 4] in Akkar province and is a citizen of Lebanon and a Sunni Muslim. I am satisfied Lebanon is the receiving country for the purpose of this assessment.
23. In his application for protection, the applicant claimed that he was expelled from the last job he held in a [workplace] for sectarian reasons. During the protection visa interview he claimed that Hezbollah had started to infiltrate [workplaces] and companies and he was pressured to leave because he is Sunni and they gave him money to leave which he used to open the [shop]. However, I note this is inconsistent with information he provided in his arrival interview held on 4 July 2013 where he claimed that another company took over the [workplace] he was working in and he was retrenched which causes me to doubt the credibility of this claim.
24. In his application for protection, the applicant claimed that, after leaving the [workplace], he started his own [shop] [in] Beirut. For sectarian reasons, Hezbollah raided the shop, shot at them, hit everyone, including himself, and took all their goods whilst the police watched. They were told not to come back to that area again. During the protection visa interview he claimed he did not know the attackers but thinks they were protected from Hezbollah. Hezbollah discovered they were Sunni and believed that Sunnis in their area are from the Sunni Future Movement party and they suspected him of spying on them. He also explained that the area in South Beirut where they had their shop was not really a Shia area but they had power there and sometimes they would just take your product without paying just to encourage you to leave. [The Applicant] also claimed that, the day after the attack, the landlord of his shop took him to his office whose office was close to the shop and slapped him and asked him what he was doing there and later claimed that the shop owner was a member of Hezbollah and took his phone and went through it to find information. [The Applicant] also claimed that after the attack he moved to the north and that the attackers sent people to his family home in Akkar within two weeks of the incident looking for him and threatening his family.
25. Included in the review material was the recording of the protection visa interview held with the applicant's brother, [Brother 1], who was also raised claims for protection in regards to the attack on their shop and travelled with the applicant to Australia.
26. There are a number of inconsistencies between the evidence of the applicant and [Brother 1] which I do not consider to be minor and which have also caused me to doubt the credibility of their claims. During his protection visa interview, [Brother 1] claimed that the family had been pressured to join Hezbollah and that is how they found out they were Sunni and had demanded money from his brothers and that they have continued to pursue [Brother 2], not because they had a shop in their area, but because they did not want to support Hezbollah. However, the applicant has not raised any of these claims before the delegate or even in his arrival interview but rather claimed that he was being targeted as they assume he is a spy because he is a Sunni who opened up a business in their area. Furthermore, during his protection visa interview, [Brother 1] claimed he was not at the shop during the attack, however, the applicant initially claimed that [Brother 1] was there. When this inconsistency was raised by the delegate, the applicant changed his evidence and explained that the applicant was there when the trouble first started. Also, [Brother 1] claimed that [Brother 2] was shot during the attack but the applicant denied this in his protection visa interview and also referred to him receiving a laceration on his face during his arrival interview. [Brother 1] claimed that, after the attack, his

family moved to an area between Tripoli and Akkar to stay with family, however, the applicant claimed they did not have any family around Tripoli when asked by the delegate. [Brother 1] claimed that these agents clashed with [Brother 2] a further five times after the attack on the shop and described a number of these incidents during his protection visa interview. However when the delegate asked the applicant if [Brother 2] had experienced any problems since the attack on their shop, he gave a relatively vague response said he had experienced many problems and cannot go to Beirut and is very careful but is okay and did not refer to the specific incidents raised by [Brother 1].

27. I also found the evidence in respect of what has happened to the family members since the applicant left Lebanon to be difficult to believe. When the delegate asked [Brother 1] if his father had experienced any issues after the attack on their shop, he claimed they are mainly trying to attack the sons because they are younger compared to his father and his father does not show up and appear in front of these groups most of the time. I found this explanation to be vague and unconvincing and inconsistent with their claim that his father was assaulted during the attack on the shop.
28. I also note that the applicant's evidence has been internally inconsistent with respect to when the attack on his shop occurred. He claimed, in his application for protection, that he opened the shop in 2012 and during his arrival interview he claimed the attack on the shop occurred in March/April 2013 but during his protection visa interview he claimed the attack occurred several months after they opened the shop which would have been in 2012.
29. I also find the applicant's claims, and that of [Brother 1], unsupported by the country information before me. Country information before me confirms that Hezbollah is prominent in the southern suburb of Beirut and controls security in the area and in a report by the Australian Department of Foreign Affairs and Trade (DFAT), it indicated that violence has been frequent in the area in 2013 including car bombs, a rocket attack and an attack on the Iranian Embassy, however, Sunni extremist groups are generally blamed for the attacks in this area and victims have been overwhelmingly Shias. It assessed that low-profile Sunnis and low-profile supporters of the Future Movement would not normally be targeted by Hezbollah.¹ There is a 2015 report before me indicating that Hezbollah has been recruiting young Sunnis from the Bekaa valley to join their "Resistance Brigades" with offers of money, weapons and power but the report indicates the Resistance Brigades are present in the Bekaa Valley and south Lebanon and does not refer to them being present in Beirut.² According to another reliable report, forcing individuals to join Hezbollah is not part of the organisation's recruitment strategy and they use a system of "enticements". Although the same report does refer to "anecdotal evidence" that Hezbollah "has started forcibly recruiting since it has become more involved in the Syrian conflict" it notes this occurs mainly in rural areas such as southern Lebanon and the Bekaa valley.³ In his application for protection, the applicant claimed that Hezbollah controls the airport. Country information before me confirms his claim that Hezbollah controls security at the Beirut-Rafic Hariri international airport,⁴ yet the applicant has claimed, which I accept, that

¹ Australian Department of Foreign Affairs and Trade (DFAT), "DFAT Thematic Information Report - Sectarian Violence in Lebanon", 18 December 2013, CIS26835

² "Hezbollah's recruiting of Sunnis in the Bekaa", Now, 18 September 2015, CXBD6A0DE13858

³ Immigration and Refugee Board of Canada, "LBN105332.E - Lebanon: Recruitment practices of Hezbollah, including forced recruitment, such as Shi'ite youth; consequences for those that refuse to join; availability of state protection; regions controlled by Hezbollah, including ability to locate a pe", 29 October 2015, OGFDFC61A73

⁴ Immigration and Refugee Board of Canada, "LBN105332.E - Lebanon: Recruitment practices of Hezbollah, including forced recruitment, such as Shi'ite youth; consequences for those that refuse to join; availability of state protection; regions controlled by Hezbollah, including ability to locate a pe", 29 October 2015, OGFDFC61A73; DFAT, "DFAT Country Information report - Lebanon", 18 December 2015, CISEC96CF14155

he departed Lebanon legally through this airport and has not claimed to have come to the adverse attention of Hezbollah on departure.

30. On the evidence before me, I do not accept the applicant lost his last job in a [workplace] in Beirut because Hezbollah had infiltrated the [workplace] and because he is Sunni. I accept the applicant opened a [shop] [in] the southern suburbs of Beirut in 2012 but I do not accept they were pressured to join Hezbollah or that they were threatened or money was demanded from them by any person or group and that their shop attacked. I do not accept the applicant or his family members have ever come to the adverse attention of Hezbollah or its agents or any other group for any reason.
31. The applicant claimed during his protection visa interview that [a relative] was kidnapped and assaulted and that he was a member of the Future Movement party but provided no further detail about this and this claim was not raised by [Brother 1]. Given this and given my overall concerns with his credibility, I do not accept this claim.
32. In his arrival interview the applicant claimed he was concerned for his wife as he is Sunni and her parents did not approve of that and he feared her family may hurt her. The applicant has not repeated this claim in his current application for protection where he indicated that he married a [woman of another ethnicity] in 2016 who was currently residing in [another country]. Given this, and in the absence of any further evidence in respect of this claim, I do not accept the claims he raised in his arrival interview about his wife in Lebanon and I am not even satisfied he has remained married to this women. I have not considered this claim further.
33. The applicant has claimed that his remaining immediate family in Lebanon are residing in [Town 4] and, although the applicant has spent periods working in Tripoli and Beirut, given his family remains in [Town 4] and he spent the majority of his life there, I am satisfied that if he returns to Lebanon, he will return to [Town 4].

Refugee assessment

34. 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

35. 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.
36. I have not accepted that the applicant's family were asked to join Hezbollah or to fight in Syria or that his family was threatened and asked for money by any person or group and their [shop] in Beirut were targeted and attacked or that the applicant was pressured to leave his job in a [workplace] because he is Sunni. I have not accepted that the applicant or any of his family members have ever come to the adverse attention of Hezbollah or their agents or any other group for any reason. I am not satisfied he has a well-founded fear of persecution in Lebanon for these reasons or because of his association with this brother, [Brother 1].
37. I have found that if the applicant were to return to Lebanon, he will return to [Town 4] where his family currently resides.
38. According to a 2015 report by DFAT, since 2011, tensions and conflict in Syria have increasingly affected Lebanon, and the activities in Lebanon of mainly Sunni-linked extremist groups such as Daesh and Jabhat al-Nusra (al-Nusra) have added another layer of complexity to instability within Lebanon. In this report, it assessed that Lebanon is broadly stable, but the security situation is fragile and could deteriorate with little notice. Since its previous reports published in 2013 and 2014, incidents of violence influenced by long-standing sectarian tensions have decreased, ostensibly in response to successful interventions by the Lebanese authorities and cooperation between traditionally opposing actors (including Hezbollah, which has played some role in safeguarding domestic security in parts of the country). Security plans implemented in a number of locations by the Lebanese Armed Forces (LAF) and a formal dialogue between the Shi'a Hezbollah and Sunni-dominated Future Movement have contributed to a more stable security situation. However, this stability is being constantly tested by the conflict in neighbouring Syria, including through the large influx of Syrian refugees, and the presence in Lebanon of extremist groups, such as Daesh and al-Nusra, with an intent to perpetrate violence in Lebanon and agitate the pre-existing sectarian tensions within Lebanon. Overall, DFAT assesses that Daesh and al-Nusra currently have an increasing capacity and influence in Lebanon, and that civilians face a moderate risk of violence, depending on their location. For example, recent incidents of violence linked to Daesh or al-Nusra have targeted Alawite and Shi'a interests.⁵
39. Country information indicates that Akkar Province in the North Governorate is poor and has moderate rates of crime. Its security situation is complicated by an extensive border with Syria, which is largely defined but poorly controlled and has long been a base for smuggling into Syria. Country information before me indicates that North Governorate has a majority Sunni population with small populations of Alawites in Akkar.⁶ In the above report, DFAT assessed the potential for Daesh or al-Nusra to launch attacks in Sunni-dominated areas as unlikely and there are no other country information sources before me which indicate that Sunnis face a real chance of harm in Akkar for any reason. I have also considered that the applicant's immediate family have resided in their home town of [Town 4] and I am not satisfied on the evidence they have been threatened or come to any other harm as a result of the individual or combined factors of being Sunni and the political and sectarian tensions affecting Lebanon. I am not satisfied the applicant has been harmed as a result of these issues whilst residing in [Town 4],

⁵ DFAT, "DFAT Country Information report – Lebanon", 18 December 2015, CISEC96CF14155

⁶ Ibid.

Tripoli and Beirut. I am not satisfied the applicant has a profile such that he would be targeted by any person or group for any reason or that he will otherwise face a real chance of harm from any group or person as a result of his Sunni faith and/or the political and sectarian tensions and security situation in Lebanon in the reasonable foreseeable future. I am not satisfied the applicant will face a real chance of harm in Lebanon for these reasons.

40. The applicant claimed during his arrival interview that he also left Lebanon because there was no work. I have considered that he has previous experience as a [Occupation 1] and qualifications [and] previous business experience and that he has a large family remaining in Lebanon which he claimed in his arrival interview assist one another. I have not accepted that he lost his last job in a [workplace] because of sectarian reasons or that his [shop] was attacked for sectarian/political reasons. Even if I were to accept that he may struggle to find work, particularly given Akkar is poor, I am not satisfied he will face a real chance of significant economic hardship or be denied the capacity to earn a livelihood such that it would threaten his capacity to subsist or otherwise suffer serious harm or that he will struggle to find work for one of the reasons stipulated in s.5J(1)(a) of the Act.

Refugee: conclusion

41. 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

42. 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

43. 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.
44. I have not accepted that the applicant or his family were asked to join Hezbollah to fight in Syria or that his family were threatened and asked for money by any person or group or that their [shop] in Beirut was targeted and attacked or that the applicant was pressured to leave his [job] because he is Sunni. I have not accepted that the applicant or any of his family members have ever come to the adverse attention of Hezbollah of their agents or any other group for any reason. I am not satisfied he will face a real risk of significant harm in Lebanon for these reasons or because of his association with this brother, [Brother 1].

45. For reasons already stated I am not satisfied the applicant face a real chance of harm from any group or person as a result of the individual or combined factors of his Sunni religion and the political and sectarian tensions and security situation in Lebanon. As real chance equals real risk⁷ I am also not satisfied the applicant will face a real risk of significant harm in Lebanon for these reasons.
46. Even if I were to accept that the applicant may struggle to initially find work if he returns to Lebanon I am not satisfied this amounts to significant harm as defined in the Act.

Complementary protection: conclusion

47. 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.

⁷ *MIAC v SZQRB* (2013) 210 FCR 505.

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.