

1418066 (Refugee) [2016] AATA 3805 (28 April 2016)

DECISION RECORD

DIVISION: Migration & Refugee Division
CASE NUMBER: 1418066
COUNTRY OF REFERENCE: Jordan
MEMBER: Rodger Shanahan
DATE: 28 April 2016
PLACE OF DECISION: Sydney
DECISION: The Tribunal affirms the decision not to grant the applicants Protection visas.

Statement made on 28 April 2016 at 2:46pm

Any references appearing in square brackets indicate that information has been omitted from this decision pursuant to section 431 of the Migration Act 1958 and replaced with generic information which does not allow the identification of an applicant, or their relative or other dependant.

STATEMENT OF DECISION AND REASONS

APPLICATION FOR REVIEW

1. This is an application for review of a decision made by a delegate of the Minister for Immigration to refuse to grant the applicants Protection visas under s.65 of the *Migration Act 1958* (the Act).
2. The applicants who claim to be **citizens of Jordan**, applied for the visas [in] March 2014 and the delegate refused to grant the visas [in] October 2014.
3. The applicants appeared before the Tribunal on 21 March 2016 to give evidence and present arguments. The Tribunal hearing was conducted with the assistance of an interpreter in the Arabic and English languages.
4. The applicants were represented in relation to the review by their registered migration agent.

CLAIMS AND EVIDENCE

Protection Visa Application

5. The applicant is a practising Jordanian Christian who worked as [an occupation 1] before coming to Australia. He met a Muslim woman and they became so close that she asked him to marry her. He explained that this was forbidden in Jordanian law and she then said she would become Christian. He told her not to do this and soon after this he stopped meeting her.
6. After a short while the woman turned up in the church that he attended, where she was learning about Christianity. She attended for about [number] months, irregularly as she had to find a reason to leave home without her family becoming suspicious. [In] January 2007 he was given a residential address on his mobile which he attended. All the woman's [brothers] were there with long beards and robes and accused him of raping her and forcing her to consider conversion.
7. He was attacked with weapons and lost consciousness. When he woke they had taken all his official documents that he had with him at the time. He was placed by them in a small room and forced to sign some documents, the contents of which he couldn't see. [In] January 2007 they brought a sheikh and forced him to marry their sister. He told the sheikh that he was Christian but the brothers said he had raped their sister and the sheikh married them. They then forced him to live with the woman in their house as husband and wife, declared that he had converted to Islam and threatened to kill him and his family if he didn't obey them.
8. His family was looking for him but he couldn't respond as he was worried for their safety. He contacted his family as soon as he thought her brothers believed he was following their orders. His family didn't believe him and cut him off as they thought he had converted to Islam. After a long time the pressure loosened from the family and went to the family court [in] 2008 where he divorced his Muslim wife. The fanatical family then threatened to kill him on many occasions. He was afraid but went back to his church and practised Christianity.
9. The family then declared him an apostate which meant any Muslim could kill him. He started to escape and live in hiding until [2009] when his [Relative A] was killed in a car crash driving the applicant's car. The applicant believed that someone else caused the crash thinking it was the applicant but the police could find no evidence. His family decided to move elsewhere to escape and in January 2011 the church appointed a lawyer to prove that the applicant was no longer Muslim. The court had not yet reached a verdict and he was still registered as a Muslim

even though he was a practising Christian. All his offspring will be considered Muslim as a result.

10. Back at church he met a [woman] and they married [in] 2012. They lived happily and she got pregnant but the Muslim fanatics still came after him and [in] October 2013 they stole a car he used to go to work, called his mobile and threatened to kill him and his family. He applied for a [temporary] visa to visit his [Relative B] in Australia and was granted a visa and they left secretly.

Tribunal Hearing

11. The second-named applicant confirmed that she was present as part of the family unit of the first-named applicant and did not have any claims of her own. The applicant then claimed that if he returned to Jordan he would be killed by Islamic groups because he had converted from Islam to Christianity and he was forced to marry a Muslim woman who he then divorced. He and his family would be killed by the Salafist group.
12. He also claimed that he would lose his civil rights because the court case meant that he would not be able to sell property that he owned. Asked if he had any property, he claimed that he owned a car but no property. He claimed that the Islamic court could sentence him to certain restrictions because he had converted away from Islam that could be enforced but the civil court. He couldn't be married, travel or sell any property that he owned.
13. He was asked but said it hadn't been endorsed by the civil court because he had left for Australia before it had been confirmed. He said that he had been in Australia for two years and was asked if it can had been confirmed in his absence; he said this was possible but didn't know as he had not followed it. His family in Jordan had also not followed the case. Asked if he had hired a lawyer for the procedure in the civil court he claimed that he hadn't. He had no other claims.
14. At work he had gotten to know a Muslim girl and had forged a relationship over [a few] years from [year range]. He worked for a [company] called [name]. She worked for a company that was located in a separate building next to their building. She worked for a company selling [products]. She was [an Occupation 2].
15. Asked what job he did, he claimed that he was [an occupation 1]. He would go to [their venues] in the morning and return to the office around noon. Asked how he came to meet the Muslim [Occupation 2] from a building next door given this work role, he claimed that he used to ask about the orders from her company and they met as a result. It was put to him that this was the type of low-level detail that a procurement person or trade person looked after rather than [an occupation 1]. He claimed their company wasn't large and he had to do a lot of jobs. He did office work and was also [Occupation 3].
16. He was asked how he could be an office worker, [Occupation 3] and [Occupation 1] at the same time given the [Occupation 3's] job was to be at the [venue] all the time. He then clarified that he had [an Occupation 3 job] and wasn't actually the [Occupation 3] as they had [several] of them. It was put to him that he had said he was in a small company and had to be both [Occupation 3] and [Occupation 1] and he now said that he had [several] [Occupation 3s]. He claimed that he had not said he was the [Occupation 3]; they had [other roles] and he fulfilled a range of other duties. It was put to him that he must have been very busy and he agreed.
17. He was then asked how he was practically able to forge such a close a relationship with the Muslim girl in another company in a separate building given how busy he was in his own company.

18. He claimed he was talking about a non-emotional relationship and he always had breaks and free time. He is different from his Muslim co-workers and she spoke to him about how much she disliked Islam and how she was treated by her parents in the Islamic culture. He was asked under what circumstances they had these discussions and he claimed that he was at her company checking on [deleted] and she would come to their company.
19. He was asked why the [Occupation2] from a company had to come to his building to talk to the [Occupation 1] given they didn't appear to have any issues in common. He claimed in Jordan people could move from their desk and walk around and in her company there was no one there and she was the only one somebody could deal with and this was how they began to talk.
20. He was the only Christian in the two companies and so she spoke to him about Islam. After some time she said she wanted to convert to Christianity and marry him. When this occurred he then tried to avoid contact with her. Later he was at church praying at the [church] in [town], [name]. He claimed that he was baptised as an orthodox Christian and was asked when he became [(Catholic)] church. He claimed he did this as he became more knowledgeable and he was asked when he was baptised into the Catholic faith and he claimed there was no need as he had already been baptised into the Orthodox faith. There was no need to be baptised twice if one was already Christian.
21. He ignored the girl and prayed normally but she continued to attend, irregularly. He spoke to her and she claimed she was interested in Christianity. After a while she stopped going to church or going to work. [A number] days later (sometime in 2007) her brother rang him and identified himself, and said he would like to speak to the applicant privately. He didn't specify what he wanted to talk about and the applicant claimed that he didn't ask what her brother wanted to talk about. He took it that the chat was friendly and he was asked how he formed this opinion given he hadn't asked what the subject matter was.
22. He was also asked why he didn't ask to meet in a public place such as a shopping mall if he didn't know what the subject was. He claimed that he had never experienced harm or harsh words before. He had never spoken to the brother before. He was asked why he didn't think it strange that a person he had never met before, who claimed he was the brother of a girl who had wanted to convert from Islam and marry him, rang him suddenly and asked to meet at a very private location without telling him what he wanted to talk about. He claimed it may have been strange but not dangerous.
23. The meeting was at the brother's house and when he entered there were [number] brothers present, all bearded and dressed in Islamic dress. They talked normally and they accused him of trying to convert their sister to Christianity. He claimed he had nothing to do with this and she sought to do it herself. They felt their honour was besmirched and there was a sexual relationship between them. He was hot and they had guns and knives.
24. He lost consciousness and after regained consciousness in a small room with no windows where he spent the next 14 days. The documents that were in his pockets were taken. They then brought in a religious sheikh to his room and was told that he would marry a girl. He refused but was told to sign a marriage contract. A bigger group of 100 people came and took him to [Province 1]. He was made to live with the girl as husband and wife for less than two years.
25. Asked if converted to Islam, he claimed he had in the papers. He never recited the *shahada* and it was put to him that if he hadn't recited the *shahada* he can't have been Muslim, which meant that he was still Christian and a sheikh wouldn't have married a Christian man to a Muslim woman. He claimed that he had official Muslim paperwork that proved he was Muslim and there was a procedure that would indicate he said these words.

26. The building he lived in was full of Salafists (including his family-in-law) and they took him to prayers daily and the sheikh taught him all about Islam. He wasn't working as they made him work with them. Asked if his parents were concerned or if anyone rang the police once he disappeared from work and his life in Amman, he claimed that there was a thing called Islamic detention and he was allowed to call his mother and he reassured her he was safe.
27. He claimed the parents couldn't come to rescue him. He was asked why his parents didn't approach the police to broker an agreement to release him. He claimed that his work knew he had converted to Islam because Jordan was small and everyone knows these things. It was put to him that they therefore must have known he was being held against his will; he claimed that they wouldn't have known all the details. He was asked what his work thought occurred to him, given he was a key and busy man in a small company. He had been managing all these projects one day and the next he was gone – it was reasonable to think his employer would be worried.
28. He claimed that he didn't know what the employed would say about his conversion. It was put to him that everyone else in his company were Muslims so they would have been happy for him and expected him back at work. If they were worried they would have also spoken to his parents to find out what happened. He claimed that they would have been worried and he claimed that he wasn't there so didn't know what they did.
29. He was asked how he was administratively changed to be identified as a Muslim on his documents if he was not allowed out and therefore the person issuing the identity documents would not have seen the person whose documents they were. He claimed Islamic groups had connections and power everywhere. His documents were altered sometime between 2007 and 2008, including his identity card.
30. He showed the Tribunal an original of his identity card. The card was broken and he was told that it was issued in 2011; he said there was no way this was the case. The interpreter was asked to read out the date of issue and he said that it was issued on [a date in] 2011. When this was put to the applicant he claimed that he remembered he had lost his ID card and had to get a replacement. He was asked why the number on the back was different to that on the front and he claimed that one is the national number and the other is the number of his ID card.
31. He was asked why, when he had the card re-issued in 2011 it still said he was Muslim. He said that it was impossible to change and he was asked why he couldn't just have told the authorities what occurred, showed his baptism certificate and a letter from his priest and then had his real religion returned. He claimed that he had tried to do this and the priest had told him he would try to get legal ways to have his religious identity changed. This was why he went to the Islamic court.
32. He was asked if he had reported his assault by [the] men, kidnapping and detention for nearly two years to police, which would have revealed the entire criminal enterprise and the falseness of his religious identity and done away with the need to go to religious courts, and he claimed it wouldn't have worked because the government is an Islamic one. The police wouldn't have been on his side if he claimed he had converted and wanted to convert back. It was put to him that he hadn't recited the shahada, and he claimed that during the detention he had been forced to recite the shahada. It was put to him that he had previously claimed he hadn't recited the shahada, and he claimed that he was forced to live as a Muslim and recite the shahada. He wasn't released but fled in August [2008].
33. He had been detained in January 2007 and had never been allowed out of the building by himself until he fled in August 2008. He left the building to help other Muslims by redistributing rice for example and went in a truck to do so. He went with someone else but never went to Amman during his time in detention.

34. After he fled he continually changed his location and never stayed in the same location for more than a month. He changed his church to one in [location] ([church name]). Every now and then the Salafists came to his parents asking about him and whenever he got a new phone number they found out and called and threatened him. In 2009 they approached his [Relative A] thinking he was driving the car and caused an accident that killed his [Relative A]. Asked where he stayed for a month at a time, he claimed he lived with a friend or acquaintance and then moved on.
35. He was married while on the move and kept on moving. He was married in May 2012 and left Jordan in January 2014. They came together and applied for the same visa together. He filled out his visa application and agreed that everything he had filled out there was correct. The Salafists had continued to come to his parents' house. He was observant in Australia.
36. It was put to him that in his PV application he had only mentioned living in two locations between August 2008 and January 2014 whereas he had claimed that during this hearing he had claimed to have moved every month. He claimed he had only included his official residential location in the application. It was also put to him that despite claiming to have to move monthly to avoid the Salafists, he had only worked at two locations during that five years so it should have been easy to locate him at his workplace if people were really looking for him. He claimed the companies knew his story and he didn't attend regularly but they covered his living expenses.
37. He was advised about s 424AA and it was put to him that he had applied in person for a [Country 1] visa at the [Country 1] Embassy in Amman on [a date in] 2007 and he had been fingerprinted and photographed doing so. He had claimed to have been detained against his will in [Province 1] at this time. The inconsistency may lead the Tribunal to disbelieve his claim to have ever been detained. He claimed he didn't apply for a visa on this date but couldn't remember the date, but it was after he had been released in 2008; he was shocked.
38. It was also put to him that in his [temporary] visa application signed in November 2013 (18 months after he was married), he claimed he had never been married, that he was not traveling with any family members and described the people he was staying with as a friend, when she was in fact his [Relative B]. He also claimed not to have been charged with any offence that was awaiting legal action. There was a concern that he had hidden the fact that he was married and had a [Relative B] in Australia in a deliberate attempt to gain a visa and had deliberately lied on the application form.
39. Under s 424AA it was also put to him that a member of the community had anonymously claimed that he had provided a false statement regarding his marital status on his [temporary] visa application which further added to concerns about his credibility. He claimed he hadn't mentioned that he had been married because he didn't have an official document to prove it. It was put to him that this was not the question that was asked. He was asked to state whether he was married when he filled out the form and he claimed that he had been. He had been married in the church but not officially as the Jordanian government was not informed. He was asked why he did not state this on the application, as the concern was that he tried to present himself as a single person to better his chances of getting a visa.
40. He again stated that he thought he had to provide a document in support and it was put to him that he could have provided something from the church and then explained the circumstances. He claimed he couldn't register the marriage in a civil court as his children would be Muslim as his documents showed him to be Muslim. It was put to him that there were concerns about his credibility over a number of his claims and that he may well have been Christian all along, married and never detained at any stage. He claimed that if he wanted to list anyone in his family book their religion had to be noted and he showed the Tribunal the copy of what he

claimed was a family book. It was put to him that documents could always be manipulated and the Tribunal had to weigh up what he presented and how credible he was as a witness.

41. It was put to him that his claim regarding his detention in [Province 1] was not something that the Tribunal was aware occurred and he was asked to provide country information that may support such a claim.

CONSIDERATION OF CLAIMS AND EVIDENCE

42. The primary applicant arrived in Australia on a [temporary] visa [in] January 2014 and applied for a protection visa [in] April 2014. The Tribunal sighted his Jordanian passport as proof of her identity and his claim will be assessed accordingly.
43. The primary applicant is [an age] year old married man from Amman in Jordan. The second- and third-named applicants are members of the same family unit and have no separate claims of their own. The applicant claimed that if he returned to Jordan he would be killed by Islamic groups because he had converted from Islam to Christianity and was forced to marry a Muslim woman who he then divorced.
44. In considering an applicant's account, undue weight should not be placed on some degree of confusion or omission to conclude that a person is not telling the truth. Nor can significant inconsistencies or embellishments be lightly dismissed. The Tribunal is not required to accept uncritically any and all claims made by an applicant.
45. I found the applicant's evidence regarding his claims to lack credibility. For reasons set out below I did not find the applicant to be a reliable or credible witness, and that he fabricated his entire claim in order to be granted a protection visa.

Capture by Islamists

46. I do not accept that the applicant was ever in a relationship with a Muslim women near where he worked or that he was assaulted and detained in [Province 1] for nearly two years by Islamists, made to convert to Islam and marry a Muslim woman before he escaped. His story entirely lacked credibility.
47. His account of the way in which the applicant forged a close, non-sexual relationship with a Muslim woman is implausible. The applicant was initially inconsistent in his description of his role within the company, saying that he was both [Occupation 1] and [Occupation 3], but later claiming he was [an Occupation 1]. His claim that he was very busy in a small [company] would appear to preclude him from establishing close relationships with anyone outside his immediate work environment.
48. Despite this, he claimed he frequently went to her building to discuss deliveries of [products] with her. Given she was [an Occupation 2] it is unclear why he had to discuss these matters with her rather than leaving it to his office manager, or why he didn't just call the company given the multiple jobs he was expected to do at his firm. He was also unclear as to why the [Occupation 2] had to leave the company to come to their building and discuss issues with the [manager]. This is particularly the case given she was the only person in the company and would have needed to attend to the normal business in the building – any inquiries she needed to have made could have been done by phone.
49. Given the implausibility of their alleged meeting and friendship, it follows that she never discussed her dislike of Islam with him, offered to convert to Christianity and marry him or began attending the church that he attended. It also follows that the applicant never received a call from this woman's brother inviting him to have a chat.

50. It lacks credibility that the applicant would receive an unsolicited call from the brother (to whom he had never spoken) of a woman who had offered to convert from Islam in order to marry the applicant, inviting him to talk at a private location and not be suspicious of the purpose of the talk. Not only did the applicant not seek a more public place to meet, he claimed that he didn't even ask what the brother wanted to talk about.
51. His claims of assault, detention, forced marriage, conversion and escape entirely lack credibility. To begin with, he claimed that he was told to marry a Muslim woman after he was beaten and that he signed an Islamic marriage contract in front of a religious sheikh. Given that it is prohibited¹ in Islam for a Christian man to marry a Muslim woman, no religious sheikh would have allowed this to occur before the applicant had at least recited the profession of faith (shahada) that would signify² he was Muslim.
52. I do not accept the applicant's claim post-hearing that the sheikh was shown paperwork stating that the applicant was Muslim. He never stated exactly what paperwork stated he was Muslim, or why the sheikh still married them even though the applicant refused to do so, as he claimed in the hearing. It is reasonable to believe that the sheikh would have wanted to confirm the veracity of the applicant's religious identity with him personally given his refusal to get married.
53. The applicant claimed that he had been detained in a building in [Province 1] in January 2007 and had never been allowed out of the building by himself until he fled in August 2008. He had been allowed to do some charitable works in the company of other Muslims in some towns, but claimed he had never been to Amman in that time.
54. This claim is contradicted by information that shows a photograph of him and a set of his fingerprints taken by the [Country 1] Embassy in Amman on [a date in] 2007 while applying for a [Country 1] visa. He was inconsistent in his response to this, claiming during the hearing that he had applied for a visa after his release in 2008 but in his post-hearing submission that he had forgotten to mention that the Salafists detaining him had allowed him to travel alone to Amman to visit his sick mother in hospital and he took this opportunity to apply for a visa. The inconsistency was due to his stress causing him to forget this issue. I find his explanation for the inconsistency to be completely implausible given the tight control he claimed the Salafists exerted over him.
55. There are a range of other issues that point to the implausibility of this claim regarding detention and conversion. He claimed that his workplace knew he had converted to Islam because Jordan was small and everyone knew everything yet at the same time they didn't know he was being forcibly detained because they wouldn't have known all the details. Given he was a key man at the small company their lack of evident concern was puzzling; he didn't know if they contacted his parents or the police about his sudden and extended absence.
56. He also claimed to have lived in a different house each month between August 2008 and when he left Jordan in January 2014 yet he only mentioned living in two houses in his protection claim. I don't accept that he only included his 'official' residences, or that he was stressed and couldn't remember or only needed to include places where he stayed for long periods of time as he claimed in his post-hearing submission.
57. It is also implausible that he moved monthly to avoid detection over all these years and yet only worked at two locations during the same period yet was never found. I don't accept that his work paid his living expenses and let him only attend regularly, given the first of those companies at least was small and he would have been needed. Their inability to locate him at

¹ http://www.peopleofsunnah.com/index.php?option=com_content&view=article&id=80&Itemid=71

² http://www.muslimconverts.com/shahadah/starting_point_in_Islam.htm

work is also inconsistent with his claim that in a small country like Jordan everyone knew everything.

58. I place little weight on the documentation he provided in support of his claim to have been forced to become Muslim. He claimed that his documents (including his identity card) had been changed between 2007 and 2008 yet the ID card he presented was issued in 2011 (folio 57 - I note the card was broken). He then claimed that he had lost his ID card and had to get a replacement card. It lacks credibility that, if the applicant had been forced to convert to Islam he would not have taken the earliest opportunity to correct the mistake by involving the police and the authorities who could have righted the wrongs he had experienced.
59. One of the precepts of Islam is there should be 'no compulsion in religion'³ so his forced conversion could have been readily contested if it had occurred. I also note that he has not referred to his alleged conviction of apostasy in the sharia'h court in his protection visa application (folio 3)
60. There is also an inconsistency between his claim that he went to the family court to divorce his Muslim wife [in] 2008 and yet what he alleges to be a divorce order from a religious court was issued on [an earlier date in] 2008, five months before he claimed he went there. I have also taken into account the letters he claims to be from priests, his lawyer, emails from his family saying Salafists have been visiting their house and a marriage contract. I lend them all little weight; they could have been produced on any home computer, the emails could have been solicited to strengthen his story, and the applicant has displayed a consistent lack of credibility throughout his claim and I place more weight on the range of inconsistencies throughout his evidence and the implausibility of his claims.
61. I also note that the marriage contract (folio 48) states the woman's father was present and an offer was made and accepted verbally which was not mentioned by the applicant, who claimed that he was forced to sign the contract. There is no indication that the marriage has been registered civilly. Because I have not accepted that the applicant was ever detained, it also follows that the applicant's [Relative A] was not mistakenly targeted in a car crash. For the same reason as above I lend little weight to the document he claims is from the police attesting to this fact.

Other Credibility Issues

62. The applicant also displayed a lack of credibility on other occasions. In his [temporary] visa application dated November 2013 he claimed that he had never been married and described the people he intended to stay with in Australia as friends. Yet he claimed during the hearing that he was married in May 2012 and admitted that the person he intended staying with in Australia was in fact his [Relative B]. Community information had also been received that accused the applicant of falsifying his marital status on his [temporary] visa.
63. I do not accept that he failed to mention he was married because he had only been married in a church and not told the Jordanian government, given the form only asked about his marital status, not where it had been registered. Given the applicant's lack of credibility that he has consistently displayed I am also not satisfied that he hasn't in fact registered the marriage with the civil authorities in Jordan.
64. I do not accept his post-hearing claim that someone helped him with the application as his English wasn't very good. He never mentioned this during the hearing even though he was given the opportunity to do so and I am satisfied that he was aware of exactly what answers were written on the visa application.

³ <http://quran.com/2/256>

65. As the applicant hasn't raised any other claims to fear persecution and, having had regard to all the evidence, and the applicant's claims both singularly and cumulatively, the Tribunal finds that the applicant does not have a well-founded fear of persecution for any Convention reason either now or in the reasonably foreseeable future.

Complementary Protection

66. Because I do not accept that the applicant ever befriended a Muslim woman near his workplace, was ever detained, assaulted, forced to convert to Islam and marry a Muslim woman, held against his will for nearly two years, wanted by a Salafist or any other group in Jordan, reasserted his Christianity and was convicted of apostasy, I am not satisfied that there are any substantial grounds for believing that there is a real risk that the applicant will suffer significant harm.
67. As a consequence I also do not accept that there are substantial grounds for believing that, as a necessary and foreseeable consequence of the applicant being removed from Australia to Jordan, there is a real risk that the applicant will suffer significant harm on the basis of these claims as outlined in the complementary protection criterion in s.36(2)(aa).

CONCLUDING PARAGRAPHS

68. For the reasons given above the Tribunal is not satisfied that any of the applicants is a person in respect of whom Australia has protection obligations. Therefore the applicants do not satisfy the criterion set out in s.36(2)(a) or (aa) for a protection visa. It follows that they are also unable to satisfy the criterion set out in s.36(2)(b) or (c). As they do not satisfy the criteria for a protection visa, they cannot be granted the visa.

DECISION

69. The Tribunal affirms the decision not to grant the applicants Protection visas.

Rodger Shanahan
Member

ATTACHMENT A – RELEVANT LAW

1. The criteria for a protection visa are set out in s.36 of the Act and Part 866 of Schedule 2 to the Migration Regulations 1994 (the Regulations). An applicant for the visa must meet one of the alternative criteria in s.36(2)(a), (aa), (b), or (c). That is, the applicant is either a person in respect of whom Australia has protection obligations under the 'refugee' criterion, or on other 'complementary protection' grounds, or is a member of the same family unit as such a person and that person holds a protection visa of the same class.

2. Section 36(2)(a) provides that a criterion for a protection visa is that the applicant for the visa is a non-citizen in Australia in respect of whom the Minister is satisfied Australia has protection obligations under the 1951 Convention Relating to the Status of Refugees as amended by the 1967 Protocol relating to the Status of Refugees (together, the Refugees Convention, or the Convention).

3. If a person is found not to meet the refugee criterion in s.36(2)(a), he or she may nevertheless meet the criteria for the grant of a protection visa if he or she is a non-citizen in Australia 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 applicant being removed from Australia to a receiving country, there is a real risk that he or she will suffer significant harm: s.36(2)(aa) ('the complementary protection criterion').

4. In accordance with Ministerial Direction No.56, made under s.499 of the Act, the Tribunal is required to take account of policy guidelines prepared by the Department of Immigration – PAM3 Refugee and humanitarian - Complementary Protection Guidelines and PAM3 Refugee and humanitarian - Refugee Law Guidelines – to the extent that they are relevant to the decision under consideration.