

1101078 [2011] RRTA 674 (4 August 2011)

DECISION RECORD

RRT CASE NUMBER: 1101078

DIAC REFERENCE(S): CLF2010/50582

COUNTRY OF REFERENCE: Egypt

TRIBUNAL MEMBER: Ms Christine Long

DATE 4 August 2011

PLACE OF DECISION: Sydney

DECISION: The Tribunal remits the matter for reconsideration with the direction that the applicant satisfies s.36(2)(a) of the Migration Act, being a person to whom Australia has protection obligations under the Refugees Convention.

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 and Citizenship to refuse to grant the applicant a Protection (Class XA) visa under s.65 of the *Migration Act 1958* (the Act).
2. The applicant, who is a citizen of Egypt, arrived in Australia on [date deleted under s.431(2) of the *Migration Act 1958* as this information may identify the applicant] March 2008 and applied to the Department of Immigration and Citizenship for the visa [in] April 2010. The delegate decided to refuse to grant the visa [in] January 2011 and notified the applicant of the decision by letter [on the same date].
3. The delegate refused the visa application on the basis that the applicant is not a person to whom Australia has protection obligations under the Refugees Convention.
4. The applicant applied to the Tribunal [in] February 2011 for review of the delegate's decision.

RELEVANT LAW

5. Under s.65(1) a visa may be granted only if the decision maker is satisfied that the prescribed criteria for the visa have been satisfied. In general, the relevant criteria for the grant of a protection visa are those in force when the visa application was lodged although some statutory qualifications enacted since then may also be relevant.
6. Section 36(2)(a) of the Act provides that a criterion for a protection visa is that the applicant for the visa is a non-citizen in Australia to 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).
7. Further criteria for the grant of a Protection (Class XA) visa are set out in Part 866 of Schedule 2 to the Migration Regulations 1994.

Definition of 'refugee'

8. Australia is a party to the Refugees Convention and generally speaking, has protection obligations to people who are refugees as defined in Article 1 of the Convention. Article 1A(2) relevantly defines a refugee as any person who:

owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence, is unable or, owing to such fear, is unwilling to return to it.
9. The High Court has considered this definition in a number of cases, notably *Chan Yee Kin v MIEA* (1989) 169 CLR 379, *Applicant A v MIEA* (1997) 190 CLR 225, *MIEA v Guo* (1997) 191 CLR 559, *Chen Shi Hai v MIMA* (2000) 201 CLR 293, *MIMA v Haji Ibrahim* (2000) 204

CLR 1, *MIMA v Khawar* (2002) 210 CLR 1, *MIMA v Respondents S152/2003* (2004) 222 CLR 1 and *Applicant S v MIMA* (2004) 217 CLR 387.

10. Sections 91R and 91S of the Act qualify some aspects of Article 1A(2) for the purposes of the application of the Act and the regulations to a particular person.
11. There are four key elements to the Convention definition. First, an applicant must be outside his or her country.
12. Second, an applicant must fear persecution. Under s.91R(1) of the Act persecution must involve “serious harm” to the applicant (s.91R(1)(b)), and systematic and discriminatory conduct (s.91R(1)(c)). The expression “serious harm” includes, for example, a threat to life or liberty, significant physical harassment or ill-treatment, or significant economic hardship or denial of access to basic services or denial of capacity to earn a livelihood, where such hardship or denial threatens the applicant’s capacity to subsist: s.91R(2) of the Act. The High Court has explained that persecution may be directed against a person as an individual or as a member of a group. The persecution must have an official quality, in the sense that it is official, or officially tolerated or uncontrollable by the authorities of the country of nationality. However, the threat of harm need not be the product of government policy; it may be enough that the government has failed or is unable to protect the applicant from persecution.
13. Further, persecution implies an element of motivation on the part of those who persecute for the infliction of harm. People are persecuted for something perceived about them or attributed to them by their persecutors. However the motivation need not be one of enmity, malignity or other antipathy towards the victim on the part of the persecutor.
14. Third, the persecution which the applicant fears must be for one or more of the reasons enumerated in the Convention definition - race, religion, nationality, membership of a particular social group or political opinion. The phrase “for reasons of” serves to identify the motivation for the infliction of the persecution. The persecution feared need not be *solely* attributable to a Convention reason. However, persecution for multiple motivations will not satisfy the relevant test unless a Convention reason or reasons constitute at least the essential and significant motivation for the persecution feared: s.91R(1)(a) of the Act.
15. Fourth, an applicant’s fear of persecution for a Convention reason must be a “well-founded” fear. This adds an objective requirement to the requirement that an applicant must in fact hold such a fear. A person has a “well-founded fear” of persecution under the Convention if they have genuine fear founded upon a “real chance” of persecution for a Convention stipulated reason. A fear is well-founded where there is a real substantial basis for it but not if it is merely assumed or based on mere speculation. A “real chance” is one that is not remote or insubstantial or a far-fetched possibility. A person can have a well-founded fear of persecution even though the possibility of the persecution occurring is well below 50 per cent.
16. In addition, an applicant must be unable, or unwilling because of his or her fear, to avail himself or herself of the protection of his or her country or countries of nationality or, if stateless, unable, or unwilling because of his or her fear, to return to his or her country of former habitual residence. The expression ‘the protection of that country’ in the second limb of Article 1A(2) is concerned with external or diplomatic protection extended to citizens abroad. Internal protection is nevertheless relevant to the first limb of the definition, in

particular to whether a fear is well-founded and whether the conduct giving rise to the fear is persecution.

17. Whether an applicant is a person to whom Australia has protection obligations is to be assessed upon the facts as they exist when the decision is made and requires a consideration of the matter in relation to the reasonably foreseeable future.

CLAIMS AND EVIDENCE

18. The Tribunal has before it the Department's file relating to the applicant which includes the applicant's application for protection visa and the delegate's decision record. The Tribunal also has had regard to the material referred to in the delegate's decision. The Tribunal also has before it the applicant's application to this Tribunal for review together with the documents and materials sent to the Tribunal in support of the application for review.
19. In the application for protection visa the applicant states that he was born [in] Egypt in [year deleted: s.431(2)] and he has never married. He indicates that he is Coptic Christian. He was educated in Egypt between [years deleted: s.431(2)] and has attained a Bachelor [degree]. He indicates that prior to leaving his country he lived at the same address in Egypt, which he gives, from [birth] until March 2008. He was a teacher prior to coming to Australia and worked in a college which he names from September 2006 and March 2008. He indicates that his parents and his brother (born in [year deleted: s.431(2)]) and his sister (born in [year deleted: s.431(2)]) reside in Egypt. He indicates that he left his country legally through Cairo airport [in] March 2008 and arrived in Australia [the following day]. He indicates that he travelled on a passport in his name issued in Egypt in October 2006 and entered Australia as a student.
20. The applicant states that he left his country because he was persecuted there for his religious activities; he also risks harm if he returns to Egypt due to his work in Australia. He states that in Egypt he was involved in religious activities through his profession, in particular he volunteered to present Christian religious theatrical performances. He worked with youth activities in Egypt to present the true history of the Coptic Church. At the time he presented his art work he was arrested by Egyptian police for insulting the Islamic religion. He was released for further investigation and his lawyer advised him to leave the country immediately. The applicant states that in Australia he has worked for a Christian religious TV channel, Al Hayat TV, and this channel broadcasts programs showing conflicts between Islam and Christianity. The channel has caused many Muslims in the Middle East to convert to Christianity and Muslim governments have prevented this channel being shown in their countries. Muslim governments want to kill Father Zakaria Botros and have offered a reward for information about him. All the team working with the channel have been threatened. The applicant states that he [worked] at conferences held in Australia "last month" and the Egyptian embassy took photographs of those who organised the conference/s and informed the Egyptian government about "our activity in Australia" The applicant states that he has received threats by telephone in Australia from Arabic speaking callers, that he has changed his address and informed police about the threats. He states that his life is in danger if he returns to Egypt. He states that he fears harm from the Egyptian government and the Muslim Brotherhood because of his religious activities. He claims that he cannot get protection from the harm he fears in Egypt as the authorities in Egypt have banned the Al Hayat TV channel in the Middle East.

21. Attached to the applicant's application for protection visa is a copy of the applicant's passport issued in Egypt in October 2006, copies of his academic records, a copy of his birth certificate and a personal resume for the applicant.
22. The applicant was interviewed by the delegate about his claims [in] October 2010. The applicant submitted various documents and photographs to the delegate in support of his claims including a letter dated [in] October 2010 from a senior minister from [Church 1] confirming that the applicant attends the church services and provides the Church with technical help in the field of Christian media, that the applicant works for Al Hayat TV Broadcasting and if he returns to his country his life will be in danger; a letter which is undated from the parish priest of [Church 2] explaining that the Church is located in a suburb with a large number of Muslim families and that there are many incidences of violence against the church which in the writer's belief relates to programs in the media that promote the Christian faith, targeting in particular Muslim people and noting that Al Hayat TV is active in this area; also submitted by the applicant are various photographs showing the applicant with others, including others associated with the channel.
23. In his application for review the applicant makes no new claims.

Tribunal hearings

24. The applicant appeared before the Tribunal [in] April and [in] July 2011 to give evidence and present arguments. The Tribunal also received oral evidence from [Mr A] and [Mr B], witnesses for the applicant. The Tribunal hearing was conducted with the assistance of an interpreter in the Arabic and English languages.

Tribunal Hearing [in] April 2011

25. The applicant produced to the Tribunal various materials in support of his application for review including a copy of the passport page showing his witness was granted an Australian visa subclass 866 in March 2011; copies of the applicant's academic records and a copy of his Certificate IV from [college and subject deleted: s.431(2)]; a copy of the applicant's bank records for February and March 2011 showing wages paid into his account from CMTV; a letter dated [in] April 2011 from [priest deleted: s.431(2)] on letterhead of the Coptic Orthodox [Church] which essentially states that Christians are persecuted in Egypt by Muslims, that the applicant is in danger because of his work with the TV channel which is considered an enemy of Islam, that the applicant's recent involvement with Al Hayat TV channel will put him on the blacklist for authorities and fanatical Muslims in Egypt, including the Muslim Brotherhood and a group who call themselves "El Salafeyoon", and that the applicant's case is a genuine case of persecution and he will experience "a real life threat" if he returns to Egypt. Also submitted to the Tribunal by the applicant is a copy of a letter dated [in] April 2011 from the Australian Coptic Movement Association indicating that the applicant is very active in the Movement as [position deleted: s.431(2)] and supports the Movement's protests as well as [working] at Al Hayat TV which is a controversial channel in the eyes of those who persecute Coptic Christians in Egypt where Coptic Christians are attacked all over the country and are living in fear. The letter states that the applicant fears to return to Egypt because he fears retribution by Islamic extremists and even the Egyptian army. The letter continues that the Muslim Brotherhood is very active in Egypt and this puts the applicant in grave danger should he return to Egypt. Also produced to the Tribunal is information about the Al Hayat channel in Australia and New Zealand, a copy of the Tribunal decision in relation to the applicant's witness (RRT case number 1009606), various

identity cards for the applicant and the originals of the letters given to the Department in support of the applicant's application, namely the undated letter from the parish priest at [Church 2] and the letter dated [in] October 2010 from the senior Minister at [Church 1]. The applicant also produced to the Tribunal his passport issued in Egypt in October 2006; a copy is placed on the Tribunal file.

26. In answer to questions from the Tribunal the applicant said he obtained his passport in October 2006 just to have "in case" and he had no passport before obtaining that passport. The applicant said he had never left Egypt before travelling to Australia.
27. The applicant told the Tribunal that he applied for his student visa in mid-December 2007 but it was not exactly his intention to study in Australia but rather to get out of Egypt quickly; he was told a student visa was the quickest visa to get and he obtained it through a migration agent. He delayed leaving Egypt until the end of March however as that was the first airline booking he could get. The applicant said that he did in fact study when he came to Australia and obtained two certificates which he handed up to the Tribunal and also he obtained a certificate in English. He said that he began studying in Australia soon after he arrived [in] March and he studied English. The Tribunal asked him if he had in mind to study these courses when he left Egypt given that he started studying them immediately after his arrival. He said that once he was in Australia he realised it was a good chance to improve his language and he had paid for the courses. The applicant told the Tribunal that he finished studying in Australia in August 2009 and that he thought his student visa ended in November 2010. He said he kept studying after completing his [certificate] in August 2009 and then he did a diploma course but he did not get the diploma he was studying for at that time.
28. The Tribunal asked the applicant whether he thought he would return to Egypt when he left there. The applicant said he hoped he would stay in Australia for three years on his student visa and that after that he thought things would settle down for him in Egypt so that he could return to Egypt. He made the decision he would not return to his country when he worked for the TV channel and received death threats in late February 2010. He received three threatening calls on his mobile phone which he answered but then he did not answer the phone. He told the Tribunal that he reported these threats to the [police] and he asked for a report or event number. He said however that when police told him they would give the information to the Department of Foreign Affairs and that this information would be passed on to the authorities in Egypt he decided he would not proceed with his report because he was afraid for his family. The Tribunal asked the applicant if the police took his name and he said they did not ask him anything. The Tribunal expressed surprise at this response from the police in Australia, especially given that they had not conducted any investigation about the allegations. The applicant then said that he was asked who would threaten him and he said he was involved in activities which were not liked in Egypt so it was likely that someone in Egypt was threatening him. The applicant told the Tribunal that he only went to the police once to report a call but that the three calls came close together, about a week or two between them; they started at the end of February and he went to the police station early to mid March 2010 before he made the application for protection. He then said that he did go to the police a second time less than a month ago before the hearing but it was in relation to a different issue which was in relation to recording some evidence in support of his claims. The applicant explained that a private investigator took photos of his manager with "[Mr C]" a commentator for Al Hayat TV, who was visiting Australia to do an episode on the TV channel. They approached the police to see if they could record what was discussed between the private investigator and the manager to use as evidence but the police said they could not

do so. The applicant explained that he submitted photographs to the Department of Immigration showing [Mr C]'s visit in January 2010 to do an episode with the TV channel.

29. The applicant explained that he started working for the TV channel from September 2008 about six months after he arrived in Australia. He obtained that position through a friend who works with the channel. He had previously been involved in Church theatre and acting in Egypt. The applicant gave the Tribunal details of the board member he spoke with at the channel in relation to his employment there and the name and address of the location of the TV channel. He explained the activities of the TV channel and gave the Tribunal a brochure about the channel. He said that he never worked for the channel in Egypt. The applicant explained that he is Coptic Christian but the channel is not only for Coptic Christians but for all Christians. The applicant said that the channel has four studios around the world but has no studio in Egypt although it broadcasts in Egypt. The applicant said the delegate who made the decision about his application confused the channel with which he is employed with another channel in Egypt that broadcasts sport and entertainment. The applicant told the Tribunal that the channel he works for is firstly a preaching channel aimed at introducing Jesus Christ to Muslims. It has no offices or correspondents in the Middle East or Egypt and it is a hated channel in the Middle East because it preaches about Christianity. It is still broadcasting in Egypt via a European satellite but is not coming from or based in Egypt. The channel is targeted because it has managed to convert Muslims. People are scared to watch the channel in Egypt as people there feel that if they watch the channel they are supporting it. Egyptian/Arabic authorities and Muslim fanatics including the Muslim Brotherhood want to kill everyone involved with the channel.
30. The applicant explained that before he came to Australia he was [teaching] as described in his protection visa application; he taught from 2006/2007 until mid March 2008 when he left to come to Australia. The applicant said that he lived in the same village all his life which he named and he was living there just before he came to Australia; it is the family home and all of the family live there. He said that his parents are not in the family home now as they went to live with his sister in his village about half an hour away by car; his brother works in Kuwait and is a sort of sales manager for a company. He said his father decided to put the family home up for sale and go and live with the sister because his father received calls and threats about the applicant's activities in Australia and Egypt. His father did not receive any other calls because he put the house on the market and he had to act quickly because if these people had the telephone number they would know the address. The applicant explained that his parents moved out of the family home about mid April because they received these threats. His father contacted him and warned him about the threats. The applicant confirmed that the only threats he received in Australia were around February and March 2010; although he got calls from other people he hung up because he knew that they were hoaxes. The Tribunal asked the applicant if his parents had any trouble after they moved from the family home and the applicant said that nobody knows where they are; it was a "full on" Muslim area where the family home was situated.
31. The applicant explained that he started working at the channel in September 2008 and he first received threats around February 2010. He explained that he received the threats in 2010 because that was when they first started to do work outdoors; previously when they first started, they did no work outdoors but they had about four outdoor events with "[Mr C]" when he came and they were out with cameras and equipment to cover his visit to Australia.
32. The applicant referred to the letter dated [in] April 2011 from the Australian Coptic Movement Association which was sent the Tribunal in support of his claims. The applicant

said that he joined this association in January 2010; he has known the person who gave him the letter for two years. He explained that the association had a peaceful rally in Sydney about the events in Egypt and the TV station did coverage of the [rally] in Australia. They also covered a rally for events at another church [on the same day]. As a result of that coverage they will be exposed as it is a crime to defame his country overseas. The applicant said that in the Egyptian embassies there are spies on citizens in Australia.

33. The Tribunal asked the applicant about his work at the TV channel. He said he is [details of employment deleted: s.431(2)]. The Tribunal asked him how he obtained those skills given that he was a teacher and directed some church theatre in Egypt. The applicant said that he did work as a teacher right up until he came to Australia but he did not obtain his skills in connection with his teaching. He said that since he was young he has been interested in drama and theatre and involved in those activities with the church as a hobby. He said he did shows in Church at university and at school, he was involved once a year with a festival which he named and was also in charge of Christian theatre for a Cathedral which he named. He said that he was very involved with the Coptic Church in Egypt but had no difficulties from authorities in Egypt before the problems he had in October 2007.
34. The applicant said that he could give the Tribunal DVD's showing what he has been involved in with the channel and he explained that there are quite a few programs running now. He explained about the programs that he was working on at the channel. The applicant referred to the letter from [Church 2] which was produced to the Tribunal in support of the applicant's claims; he said that this letter refers to events that happened at the church about which a Muslim leader was questioned. The applicant said when the channel started the Muslim community did not accept it. The TV channel started up again in November 2007 with another broadcaster. The applicant explained that the channel has continued since then but has been under pressure. The Tribunal asked the applicant how the channel is funded. He said it relies on donations from Christians in Australia. He confirmed he is paid for his services at the channel and said he could send the Tribunal evidence of his payments. He said he started with the channel in September 2008 as a volunteer and worked as such for six months but then he was paid for his services and his wages are paid by Christian media TV (CMTV). The applicant said he works each day at the channel and sometimes works in the studio and sometimes outdoors. He said he would work there at the channel for 40 to 50 hours a week if he could.
35. The applicant told the Tribunal his mother father and brother are Coptic Orthodox Christians but his sister converted to Protestantism when she married because her husband is Protestant. He said he was raised as a Coptic Christian and has always been interested in the history of the Coptic Church. He said even in the history books at school nothing is mentioned in Egypt about its history as a Christian country
36. The Tribunal asked the applicant how he learnt about the availability of protection visas in Australia and he said he found out about them after the death threats he received in Australia in February/March 2010. He said he became worried about his safety and nobody can understand the risk to those involved in the channel and the websites. The applicant said that he spoke to his witness and they went to see his agent who recommended he apply for a protection visa.
37. The Tribunal asked the applicant what happened to cause him to leave his country and/or not want to return there. The applicant explained that he had always been involved with the church from the time he was a child. [In] October 2007 he was attending a spiritual day

organised by the church and they were doing a play showing the history of the Coptic Church and the invasion of Islam. The audience for the show was from the church and other surrounding churches. The applicant explained that he wrote the show with a team of others but that he does not have the script. He said officials came into the church and asked for explanations about what was going on and why people on stage were dressed as they were. They asked who wrote the script and he said he was responsible as director/writer. The officials said that the show defamed Islam and was giving a bad reputation to Muslims. The applicant said he gave the officials the script and they threw it out and took him and placed him and others in a police car. They were not charged but were accused of religious conflict and defamation of religion. He said he was locked up for three days. The Tribunal noted that he does not mention he was detained for three days in his application for visa and the applicant said that he had a problem with the agent. He said that he told his agent everything that happened and he (the agent) wrote his statement; when he raised with the agent that some points were not clear in the statement the agent said he would be able to explain this at the interview. The Tribunal asked the applicant if he had read his statement/application form before he signed the documents and he said he did not do so, that he signed the documents in blank. When the Tribunal asked him why he would do that he said it was because he thought it was just his personal details. The Tribunal reminded him that he had said previously that certain points were not clear and raised this with the agent and the Tribunal asked him when he did that. The applicant said that the agent told him he could go and he would get a copy of the documents, which he did, but that was only after the application were submitted to the Department.

38. The Tribunal asked the applicant why he thinks he did not receive threats before October 2007 given that he had earlier told the Tribunal that he lived in a “full on” Muslim area and had the significant involvement with the Coptic Church that he described. The applicant said “they” were not aware of what he did but became aware when the incident occurred.
39. The Tribunal asked the applicant how he managed to live at his usual address in the family home in the Muslim area and work as a teacher up until he left Egypt at the end of March 2008 if the events he describes happened to him and he feared harm; the Tribunal noted he did not apply for his visa until December 2007 according to his evidence. The applicant said his lawyer told him to leave immediately in October 2007 and he started to look at the quickest option to leave and a student visa was the best option. The Tribunal reminded him that he did not do that until mid-December 2007 according to his evidence and asked how he managed to stay in the family home and keep teaching as he did. The applicant said that when he was released in October they told him he had to forget about any involvement with church plays told him to go back to work and to go home and not tell anyone what had happened. He could talk about the detention but not the physical abuse. He said they could get him wherever he was and said if they could not find him they would find his family members. The Tribunal noted that he had earlier said that his parents remained living in the family home until April 2010. The applicant responded that they received threats about him saying he would be killed. The Tribunal asked the applicant why he thinks nothing happened to him even though he was told there were to be further investigations as he wrote in his statement in the application form. The applicant said they released him from the building but he had to check in to the local station and an investigator was sent at any time to see him. The Tribunal asked him if he was claiming to be under surveillance in Egypt. The applicant said they kept up with all he did. The Tribunal asked the applicant whether officials knew he had applied for a visa to come to Australia and he said they did not and he had no trouble exiting Egypt although he was scared about that happening. The Tribunal told the applicant

that country information about Egypt available to the Tribunal suggests that if he were of interest to authorities in Egypt he would have had trouble leaving the country and asked him why he thinks he was able to exit without difficulty. The applicant said that officials could not find anything against the show which was against him. The Tribunal queried this explanation noting that the applicant had earlier said that the officials took the script for this show which he wrote. The applicant said that was not correct they did not take the script but just asked the actors who they were and they responded that they were church actors. The Tribunal queried this and asked the applicant why it was not their observations that caused the officials to take him away. He said they left all the others and left the script and were concerned about making him confess but he did not tell them what he was doing. The Tribunal asked the applicant why he delayed applying for a visa until mid-December 2007 as he told the Tribunal he did, given the seriousness of what he claims happened to him. He said that he had not travelled overseas before and was young and experienced; he had to do his homework first about which a visa to apply for and which country to go to as he needed to ensure he was successful. He said he applied for his visa and had to pay for the first semester of his course and for Medicare and he paid for these things when he went to the agent. He said he filled in the form straight away and gave the agent the money; the conditions applied to him and he had the money. It then took around three months to get the visa.

Materials sent to the Tribunal following the first Tribunal Hearing

40. [In] June 2011 the Tribunal received further information and materials from applicant in support of his application for review; the further information included a letter dated [in] May 2011 from [MP deleted: s.431(2)] stating that the applicant is known to him for his excellent work in El Hayat TV which is a Christian Channel working to convert Muslims to Christianity and noting that the applicant's life would be at great risk if he went back to Egypt as the applicant is active in Christian human rights issues; Australian Taxation office records in relation to the applicant for the period January to June 2009 and a PAYG payment summary for the period July 2009 to June 2010 showing that the applicant received gross payments of \$29,435 during that period from CMTV Pty Limited; bank records for the applicant showing wages paid to him from CMTV during 2011, 2010 and 2009.

Tribunal Hearing [in] July 2011

41. The applicant submitted further documents and photographs, disks and a USB stick to the Tribunal in support of his claims at the hearing, including a document and translation dated [in] March 2010 indicating that the applicant is a church member of the [church deleted: s.431(2)] in the Archdiocese [names deleted: s.431(2)] for Coptic Orthodox and that he is active in various church activities especially in the preparation of the stage for religious plays; a document described as a certificate of appreciation described as from the legal committee of [convent and location deleted: s.431(2)] thanking the applicant for his work and love in 2006; and a copy of a [diploma] from a labour university in Egypt giving the applicant's name and noting his religion as Christian. The applicant also gave the Tribunal a photocopied document described as an organisation chart as at [a date in] June 2010 in relation to CMTV; a copy of a document dated [in] July 2010 and signed [on a further date in] July 2010 in relation to the applicant's employment at CMTV, and a document dated [in] May 2010 described as an employment offer/contract in relation to be applicant's employment at CMTV together with a statement of his [responsibilities]. At the hearing the applicant also submitted further bank records in relation to his wages paid from CMTV in 2011, a bundle of the photographs, the originals of his various identity cards and the original of a brochure about the Al Hayat Channel in Australia and New Zealand; and two disks, one

entitled “Al Hayat Promo” and another described as an Arabic documentary entitled, “Jihad Between Doctrine and Reality”.

42. In answer to questions from the Tribunal the applicant indicated that he had produced his tax and bank records to the Tribunal to indicate that he had been and was working and paid by the TV channel as he claimed. He said he worked for the channel as a volunteer initially but then worked as a paid employee. He confirmed that he goes to the studio each week to work and has no other employment. The Tribunal noted that his income is recorded as \$500 per week and asked him how he manages to live on that income and he said that he has no other income and that is enough; he explained that the pay was not very high as the income for the channel comes from donations. He explained that when his income was less than \$500 per week as indicated in his records his rent had already been deducted by the owner of the TV channel but he left that accommodation and his income has now risen to \$500 per week.
43. The Tribunal referred to the three certificates submitted by the applicant at the hearing. The applicant said that the certificate dated in March 2010 was from the Church he attended in Egypt where he participated in artistic works and plays. He explained that the other certificate is a diploma from an institution equivalent to TAFE which he obtained in 2002. He also referred to another certificate submitted to the Tribunal describing it as a certificate he received from a monastery in relation to the work he did there in 2006.
44. The Tribunal asked the applicant about the work he did in Egypt just prior to coming to Australia. He said he did practical training and did a [diploma]. He also attended university after getting his diploma and obtained a [degree]. He said his teaching was a source of income and he was employed by the government but he did his Church drama activities as a hobby.
45. The Tribunal asked the applicant how long it was after he came to Australia, which was at the end of March 2008, that he became involved with the channel as a volunteer. He said it was in September 2008 when he started to do training with the channel; at that time he also worked in a bakery because he was getting no income. After the training he was offered paid work at the channel. He gave the Tribunal an organisation chart in relation to the channel but he explained that the chart was out of date and that some people in the diagram are not at the channel any longer. Also his supervisor commenced at the channel after he took the copy of the chart. He said all of the people at the channel are Australian citizens except for one of his witnesses. He said that the channel could have been operating in Australia since 2005 but it started overseas before that time.
46. The Tribunal referred to the disk which the applicant had submitted to the Tribunal entitled “Al Hayat Promo” The applicant said this disk is about the history of the channel in Australia, how it overcame its problems and how it was established in Australia. He explained that the channel broadcasts 24 hours a day in Australia but not all the broadcasts are produced in Australia. He explained that broadcasts also go to other countries including Egypt. He said that on the disk/DVD there are two photos of him to show employees but this DVD is not for broadcasting; it is given to churches so they will give the channel donations. He said the DVD was made a long time ago when the channel was established in Australia. The applicant explained that the USB stick he produced to the Tribunal in support of his claims contains samples of his work including advertisements about the programs he has worked on and clips of the programs. He said one of the photos has links that go to Arabic sites and there are links to Facebook which show [details deleted: s.431(2)]. He explained that the videos on the USB stick are in Arabic with subtitles in English. The applicant also

said that the USB contains a folder that gives the number of people who viewed the channel in the Middle East and the effect of the channel there. There is also a folder on the USB called "threats" which is about a broadcast on Egyptian TV; it is about threats made against Father Botros who was targeted because he is well known.

47. The Tribunal asked the applicant about the photographs he had submitted to the Tribunal. The applicant said some of these photos were taken in Egypt and there are also some photos taken at a [protest] in Australia and then one year later when there was a protest about the church at Alexandria. He said there are other photos with [Mr C] in Australia in January 2010 and also photos of [Mr C]'s second visit in December 2010. He said there are also other photos in relation to drama presentations that he was involved with in Egypt. The applicant explained that it is not permitted to put work from the channel or work about protests on Facebook, websites or social networks; the TV channel restricts this for security reasons. The applicant explained that there is information on Facebook and a [website] generated by the USA containing his photos. He explained that someone else put his photos with a camera on Facebook and on the [website] following the protests that happened in January 2010; he has met a lady from the Church who told him she saw these photographs of him. He said that Egyptian authorities know that they are/he [works] for the channel as it is a professional channel.
48. The Tribunal asked the applicant more about the threats he has received whilst he has been Australia. That applicant said that the threats started towards the end of February and went into March 2010. The Tribunal asked him if he has received any other threats since that time. He said the threats came from unknown numbers and he does not answer such numbers now. The Tribunal asked him whether as far as he knows he has received any threats since February/March 2010. The applicant said that he received his last threatening call in July 2010 but he only went to the police once about the threatening calls in March 2010. The Tribunal asked the law is out the threats he received in July 2010. The applicant said someone rang him and asked him if he was still working with the channel. The applicant said he queried who was calling and the person said it was not important as the applicant knew what he was talking about. The applicant said the caller told him to be careful about himself but as he felt tense at the time he cannot now remember much more about the call. The applicant said that when he started to get these threats in March 2010 he spoke to the police and told them he was a student and involved in these activities in Australia; the police said they would give a report to Foreign Affairs in Egypt so they could protect him. The police said that they would write a report but this would let the Egyptians know about his activities. The Tribunal queried why police would respond in that way about a threatening call that the applicant had received on his phone in Australia. The applicant continued that preaching in Egyptian law is a crime and the information on the USB stick links shows problems caused to others when there was an accusation of preaching against them. The applicant explained he did not go to the police in Australia after the July 2010 threatening call/s because of what he was told by the police the first time he went to make a report in March 2010. He told the police at that time that he was a student and he was not sure whether the calls were from Australia or from Egypt or the Egyptian intelligence in Australia.
49. The Tribunal spoke to the applicant about his attendance at church in Australia. The applicant told the Tribunal that he first attended a Coptic Church in [Australia] as soon as he came here and has a letter of support from [reverend's name deleted: s.431(2)] because an incident happened in the church due to the activities of the channel. He said that he attended [Church 2] and also a Baptist church in [suburb deleted: s.431(2)]. The Tribunal asked the

applicant why he attended a Baptist church if he was a Coptic Christian. He said that he went to the Coptic Christian [church] but there are more activities in Protestant churches for young men and more meetings in Protestant churches; he does not have a problem with what the churches call themselves. He said he has a letter of support from the Baptist Church in Australia and there was a programme on the channel about that church which is to be broadcasted internationally.

50. The Tribunal asked the applicant about his most recent programs on/for the channel. He said he goes and works at the channel every day and last worked the day before the hearing; he described to the Tribunal what he was working on and said it was not necessarily a Coptic channel but more a general Christian channel.
51. The Tribunal asked the applicant about the members of his family who were living in Egypt. The applicant confirmed that his brother is working outside of Egypt but his sister does not work although she has a certificate. He explained she is married and a housewife. He said his mother is also a housewife and his father is a [details deleted: s.431(2)]. He confirmed for the Tribunal that his father is still [working] but will retire in a month or two; the school where he works is a government school. The applicant said that his parents left where they were living and went to live with his sister because of what happened to him; his sister is about 35 min away from where his parents were previously living. The Tribunal queried how then he was still [working]. The applicant said that because his father is going to retire shortly he doesn't go to work often or on time. The Tribunal asked the applicant who threatened his father and he said he is not sure, the call came on the landline. He said that his father moved with his mother to his sister's place and took a month off work. The Tribunal asked the applicant if his father has received any other threats and the applicant said he has not done so because the family house is for sale and in his sister's area where he now lives it is calmer. He said his father received threats in the first week of April. The Tribunal queried why his father would not be located by those who were threatening him if the threats were serious given that he is still working at the same job and living relatively close by to where he was previously living in the family home. The applicant said his father is now in a new area with his sister who is in a village and no one knows that his father is there. The applicant repeated that his father is about to retire and only goes to work one or two days and hopefully no one can find him. The Tribunal expressed surprise at this given that his father is working at the same school where he has always worked. The applicant said that the school has a number of employees and it is busy and no one can get to his father when he is inside the school.
52. The Tribunal generally explained subsection 91R(3) of the Act to the applicant in relation to his activities in Australia. The applicant responded that he started at the channel in September 2008, worked there as a volunteer for 5 to 6 months and then worked as a paid employee from January 2009. He said that if his employment at the channel were for the purposes of his application for protection visa he would have applied earlier after starting work there. He said that he just submitted his application when he was in danger and could not return to Egypt. He explained that when they were shooting programs within the studio no one knew who the employees were at the channel but this changed when they started shooting protests and prayer meetings outside and after [Mr C] came to Australia; after that they became known.
53. The Tribunal asked the applicant if he intended to return to Egypt before he received the threats in Australia in February/March 2010. The applicant said that that he had no problem returning to Egypt before he received the threats in Australia; there was no problem going

back then as the problems he had there had happened a long time ago. He said when they started to work at the channel outside the studio those involved became more well known and there is no way he could return then and hence he applied for protection. He said he has lots of skills and he loves the work at the channel. The applicant referred to the letter dated [in] July 2010 which he produced to the Tribunal in support of his claims from CMTV. He explained that this letter is in relation to his application for the job at the channel. The applicant also referred to the employment offer from the TV channel dated [in] May 2010. The applicant said he signed a contract to give to the Department of Immigration but it was rejected because the pay details were incorrect. The Tribunal noted that the employment offer letter dated [in] May 2010 refers to an application for a 457 visa and asked him if he tried to get another type of visa to stay in Australia. The applicant said he didn't know about that but the TV channel prepared this document so that he could stay in Australia; they did the paperwork but he did not make any other application for another visa. The applicant also referred to a document from the TV channel in relation to the responsibilities of his position at the channel; he produced a copy of that document to the Tribunal which refers to him and his position as “[details deleted: s.431(2)]”.

54. The Tribunal next spoke to the applicant about his witnesses, [Mr A] and [Mr B], both of whom the applicant said that he met at the TV channel. The applicant said that both he and [Mr A] went to the migration agent together in Australia and submitted their applications for protection at the same time; he did not know this witness in Egypt. The applicant said that his other witness, [Mr B], is his team leader/supervisor at the channel although he started at the channel after the applicant; his name is not on the organisation chart as he started after the copy of that chart was done and he commenced working at the channel after the applicant started there.
55. The Tribunal spoke with [Mr B] who told the Tribunal that he is [ethnicity deleted: s.431(2)] and he came to Australia 11 years ago with his family from Egypt. He explained that he was raised as a Christian and started working at the Al Hayat channel where he met the applicant in 2009 and began working with him. He said that the applicant [duties deleted: s.431(2)]. The witness told the Tribunal that the channel is a Christian channel that preaches Christianity to Muslims; the channel is based in the Middle East and there is an Australian Branch. The witness referred to the comments and profile of Father Botros and a well known commentator for the channel, “[Mr C]” The Tribunal asked the witness whether he had experienced any difficulties because of his work at the channel. He said that he did not tell anyone about it although the community now knows he works there; he will not visit Egypt any more. The witness told the Tribunal about an incident that happened when [Mr C] came to Australia in January 2010, namely that a private investigator took photos of his father with [Mr C] on a cruise and told the witness that he knew about his work at the channel. The witness said that the applicant had mentioned to him about getting threatening calls from a private number about 6 to 8 weeks after [Mr C] came to Australia in January 2010. The witness said that he thinks there is a risk for those who work at the channel and he himself would not go to Egypt. He said that he thinks the applicant would be at risk because of his work at the channel if he returns to Egypt. The witness gave the Tribunal a copy of photographs of [Mr C]’s visit to Australia including a photograph of [Mr C] at the channel’s studio which the witness said was taken in January 2010 before the cruise they attended with [Mr C].
56. The Tribunal then spoke with [Mr A] who explained that he came to Australia in December 2007 to study. He said that his student visa expired in July 2010 and he completed a

[diploma]. The witness said that he met the applicant when he went to work at the channel. He said that he applied for protection at the same time as the applicant in April 2009. He said that the main reason he applied for protection was because of his work at the channel. The witness said that he started at the channel in February/March 2008; the channel needed an editor and he worked there as an editor from November 2008. The witness explained that he is Coptic Christian and evangelical but he does not go to the same church as the applicant. The witness said that only his mother remains in Egypt now and she has had difficulties in Egypt because of him. The applicant said that fanatical Muslims are now controlling the streets in Egypt.

57. The witness told the Tribunal that he knows that the applicant had trouble because of his activities in Egypt and that he told his agent that he had trouble with National Security in Egypt; the applicant said that “they” asked for him in Egypt and that his family had been threatened by National Security in Egypt. The witness said that the applicant did not tell him all the details about the threats made but said the threats were about his work at the channel. The witness said that he heard that the applicant went to the police about the threats but he was hesitant to tell anyone about them.
58. The Tribunal spoke further with the applicant. He said that he has the same case as his witness who obtained a protection visa from the Tribunal. He said that the problems that he had in Australia is the main reason that he cannot return to Egypt. His first agent convinced him that he understood the issue and took his money but after he was rejected by the Department he could not contact the agent; the agent did not translate his documents and arrived late when he was interviewed by the Department. The person who interviewed him at the Department was mistaken about what the channel did as there are two channels but they have different logos; he showed the Tribunal the different logos of the different channels. The applicant said he could not explain about the channel to the delegate as the delegate said that he knew about the channel. He told the delegate about his activities with the church.
59. The applicant said that the channel’s broadcast caused huge problems in Australia; the troubles caused by Muslims at the Coptic [church] were because of the channel according to the police; the police requested the head of the Muslim community to come for investigation. The channel was withdrawn by the broadcaster, UBI, but then it changed broadcasters and was broadcast by an Australian company, Globecast. The applicant described various incidents of threats and harm against Coptic Christians in Egypt and the threats by Egyptian National Security made against a cameraman who was filming a priest praying at a meeting in Egypt. The applicant said that in Egypt innocent people, Christians, were killed and children were kidnapped by Islamic groups and he will be in danger because he works in a preaching channel. The applicant explained to the Tribunal that Jesus asked people to preach and this is in the Bible. He said that an Egyptian man attended a protest in Egypt in 2010 when he went to Egypt for a holiday and he was shot and accused of having weapons so what will happen to those who film or organise protests. The applicant said that there is a DVD which he produced to the Tribunal (he identified the disk entitled “Jihad Between Doctrine and Reality”) which explains why he/they preach the message of love.

COUNTRY INFORMATION

60. In addition to the country information referred to be the applicant and the delegate the Tribunal had regard to the following independent country information in relation to Egypt and Coptic Christians.

61. Reports from a range of sources state that there has been an increase in violent attacks on Christians by Muslims in recent years but despite this Egyptian authorities failed to investigate many incidents; see *Human Rights Watch 2010, World Report-Egypt; US Department of State 201, International Religious Freedom Report 2010-Egypt; United States Commission on International Religious Freedom 2011, USCIRF Annual Report 2011-Countries of Particular Concern; Egypt, UNHCR website*. The 2010 US Department of State International Religious Freedom Report states that the authorities failed to prosecute perpetrators of violence against Coptic Christians in a number of cases. The 2011 United States Commission on International Religious Freedom (USCIRF) report concludes that the Egyptian authorities have failed to protect religious minorities, particularly Coptic Christians, from violent attacks, including during the transitional period and that after Mubarak's resignation, religious freedom conditions have not improved and attacks targeting Coptic Christians have risen.

The transitional authorities have also been criticised for failing to protect Christians during violence in Imbaba, Cairo in May 2011 in which several churches were attacked. The Egyptian Initiative for Personal Rights (EIPR) conducted an investigation into the attacks, concluding that there was a 'clear dereliction of duty on the part of the security apparatus'. *Egyptian Initiative for Personal Rights 2011, EIPR Releases Findings of Field Investigation into Imbaba Events*, 14 May.

A range of reports indicate that sectarian tensions have risen since Mubarak's resignation. *The New York Times* reported, on 30 June 2011, that the 'system whose inequities and lack of opportunities helped topple a government, has now ground to a virtual halt, further wounded by the revolution itself.' 'Egypt News – Revolution and Aftermath' 2011, *The New York Times*, 30 June.

On 28 June 2011 *The Middle East Reporter* wrote that since the fall of Mubarak 'tensions between Muslims and Coptic Christians in Egypt have been increasing, and sometimes culminating in clashes'. *Egypt-sectarian tension' 2011, The Middle East Reporter*, 28 June. Human Rights First reported, on 14 June 2011, that the incidence of attacks against Christians were rising during the later years of the Mubarak regime and this trend has continued since 11 February 2011. *Human Rights First 2011, 'Sectarian Violence in Egypt'*, 14 June. On 12 June 2011 *The Express on Sunday* stated that after Mubarak's fall 'Cases of persecution have increased dramatically'. Giannangeli, Marco 2011, 'Christians fear for their lives in Arab Spring', *The Express on Sunday*, 12 June. The United States Commission on International Religious Freedom (USCIRF) stated, in its report dated May 2011, that 'there continued to be a high incidence of violent attacks targeting Coptic Orthodox Christians and their property'. In the United States Commission on International Religious Freedom 2011, *Annual Report 2011*, May: USCIRF stated -

During the reporting period, [1 April 2010-31 March 2011] there continued to be a high incidence of violent attacks targeting Coptic Orthodox Christians and their property. In most cases, perpetrators have not been convicted. In other cases, the alleged perpetrators have been briefly detained but eventually released without charge. The ongoing violence, and the failure to prosecute those responsible, continued to foster a climate of impunity, especially in Upper Egypt. In recent years, in response to sectarian violence, Egyptian authorities have conducted "reconciliation" sessions between Muslims and Christians as a way of easing tensions and resolving disputes. In some cases, authorities compelled victims to abandon their claims to any legal remedy. This continued during the reporting period...

In 2010 the US State Department noted that the security forces ‘reportedly maintain regular and sometimes hostile surveillance of Muslim-born citizens who are suspected of having converted to Christianity’; the Egyptian police also reportedly detained or harassed individuals ‘accused of proselytizing on charges of ridiculing or insulting heavenly religions or inciting sectarian strife.’ US Department of State 2010, *International Religious Freedom Report for 2010 – Egypt*, 17 November.

The Tribunal also had regard to comments about the violence against Coptic Christians in Egypt in *Human Rights Watch 2011, “Egypt: Human Rights Reform an Urgent Priority”*, 7 June

The Tribunal also consulted *CX238371: EGYPT: Attack on Egyptian Coptics kills six, Cable News Network (CNN)*, 7 January, 2010, which reported that shooters opened fire at a gathering outside an eastern Egyptian church, killing six during the celebration of the Christian sect's Christmas Eve.

The Tribunal also consulted the *Immigration and Refugee Board of Canada 2008, EGY102804.E – Egypt: Exit and entry procedures at airports and land borders*; 5 May.

The Tribunal also consulted the *website of Al Hayat TV Australia*.

FINDINGS AND REASONS

62. The Tribunal finds that the delegate’s decision is an RRT-reviewable decision under s.411(1)(c) of the Act. The Tribunal finds that the applicant has made a valid application for review under s.412 of the Act.
63. Essentially the first named applicant claims that he left his country and fears to return there because he was and will be threatened and harmed there by Muslims/authorities/Muslim extremists because he is a Coptic Christian, in particular because he is/was involved in activities that proselytised to Muslims about the Christian religion, both in Egypt and in Australia. He claims that in Egypt in October 2007 he was threatened and detained for three days by Egyptian officials/police/authorities because he was involved in the writing and performance of a Christian play which officials considered defamed and gave a bad reputation to Islam. He claims that he has received threats since he has been in Australia because he has worked, and continues to work, for a TV channel (Al Hayat) that preaches Christianity to Muslims and that this channel is hated by Muslim authorities in Egypt and Muslim extremists both in Australia and in Egypt. He claims that photographs of him [working] for the channel in Australia appear on Facebook and a Coptic website. The applicant also claims that his family in Egypt has received threats because of him and have had to move from the family home for that reason. The applicant claims that he cannot get protection against the harm he fears in his country.
64. The Tribunal accepts that the applicant is who he claims to be; he produced his passport issued in his country in October 2006 to the Tribunal and a copy is on the Tribunal file. The Tribunal also accepts that the applicant is Coptic Christian and comes from a Christian family as he claims.
65. The Tribunal accepts the applicant’s evidence and that of his witnesses that since September 2008, about six months after he arrived in Australia, the applicant has worked and continues to work with Al Hayat TV in Australia. Having regard to the country information it has

consulted, and also the evidence of the applicant and his witnesses, the Tribunal accepts that the Al Hayat TV channel is an international Arabic Christian TV Channel which is evangelical in its aims and that it airs in various countries including in Egypt, America, some parts of Europe and Australia. It also accepts that Father Zakaria Botros who has been arrested by Egyptian authorities for his controversial comments in relation to Islam, has been associated with the channel and that the channel attracts criticism from supporters of Islam for its controversial programmes, which question the Koran and oppose Islam, including programmes of commentator “[Mr C]”, as the applicant claims.

66. The Tribunal does not accept however that the applicant left Egypt to come to Australia for the reasons that he claims. It does not accept that he was threatened or detained in Egypt as he claims for the reasons that he claims, or that he was of interest to authorities in Egypt as he claims or that he feared harm in Egypt before he left there in 2008. The Tribunal does not accept that the applicant fears harm in Egypt because of any activities he was involved in or associated with before he left Egypt in 2008. The applicant did not mention that he was detained for three days in his application for visa and the Tribunal considers that, given the seriousness of this claim and given that the applicant claims essentially that he left his country and his family because of this incident, he would have mentioned this in his application for visa if his claims about this were true. The Tribunal does not consider that the applicant gave a reasonable explanation for not including this claim in his application for visa; he said that he had a problem with the agent and that he signed his application for visa documents in blank but the Tribunal does not accept this is true. When the Tribunal asked him why he would sign the documents in blank he said that he thought that they contained only his personal details but the form that he signed directs applicants to include details of their claims and why they are seeking protection and also the applicant told the Tribunal that he told his agent everything that happened. Also the Tribunal considers that if the applicant had experienced the very serious difficulties that he claims occurred in October 2007 he would not have continued to live at the same address in the family home in the Muslim area and work as a teacher up until he left Egypt in March 2008, which he told the Tribunal was the case, and also he would have taken steps to apply for his visa before December 2007 which is when he applied for his student visa to come to Australia according to his evidence to the Tribunal. He did not give the Tribunal a reasonable explanation about these matters.
67. The Tribunal also does not accept as true that the applicant’s father/family has been threatened because of him in Egypt and/or that the father/family has had to leave the family home in Egypt because of the applicant’s activities in either Egypt or his activities in Australia. In the Tribunal’s view this claim is not consistent with the applicant’s oral evidence to him that his father/family remained living in the family home which was in a “full on” Muslim area until April 2010 which was some time after the October 2007 incident and also some time after the applicant started working with Al Hayat TV in Australia which was in September 2008 according to the applicant’s evidence to the Tribunal. In the Tribunal’s view it is also not consistent with the applicant’s evidence that despite serious threats to his father/family his father has continued his usual [work] at a government school and also that his father/the family moved only a relatively short distance away from the family home where they had experienced those threats; the applicant told the Tribunal that the father/family moved to his sister’s place which was in different area but only about 35 minutes away from the family home. Tribunal does not accept that the applicant is telling the truth about these claims.

68. Further, the applicant's own evidence to the Tribunal is that he did not fear harm in his country as at February/March 2010 before he received the threatening calls and the Tribunal so finds; the applicant told the Tribunal at the second Tribunal hearing that he had no problem returning to Egypt before he received the threats in Australia in February/March 2010 as the problems he had in Egypt had happened a long time ago.
69. The Tribunal finds also that the applicant did not leave his country because he feared harm there for the reasons that he claims. He told the Tribunal that he arranged and paid for his courses before he left his country and that he has in fact studied whilst in Australia and starting studying very soon after his arrival in Australia. The Tribunal finds that the reason that the applicant left Egypt and came to Australia was to study.
70. The Tribunal considers that the applicant has embellished his claims before the Tribunal. The Tribunal has however found that the applicant has worked for Al Hayat TV which broadcasts internationally including to Egypt and that he has worked for this channel since September 2008 and that he continues to so; it accepts that he has worked on the programmes and assignments that he claims as [details deleted: s.431(2)]. As set out above the Tribunal accepts that the Al Hayat TV broadcasts programs and interviews which question the Koran and oppose Islam. Having regard to all the evidence before it including the evidence of the applicant's witnesses, the Tribunal is satisfied that the applicant has not worked for Al Hayat channel in Australia to strengthen his claims to be a refugee. The Tribunal has some doubt that the applicant was threatened in Australia in February/March 2010, and again in July 2010, because of his work at the channel as he claims. Although he said that he reported the first threatening call to NSW Police he essentially said that he could not give the Tribunal any evidence about that because he did not proceed with the report as police told him after the first incident that they would have to give his name to Egyptian authorities because he was unsure whether the threatening calls came from Egypt. Although the Tribunal considers that this explanation is unlikely, the Tribunal considers that it is reasonably possible that the applicant received the threats he claims he did and that he was given this information by the police when he reported the first call, or that he understood that was the effect of the information he was given by police at that time. The Tribunal gives the applicant the benefit of the doubt it has about this claim especially given that his witness, [Mr B], said that the applicant told him about the threats around the time the applicant claims they were made, and also given that the applicant claims these threats were made at a time when violence in relation to Coptic Christian was escalating in Egypt; the Tribunal refers for example to the internationally reported violence that happened in January 2010, when shooters opened fire at a gathering outside an Egyptian church, killing six Coptic Christians, and the aftermath of violence.
71. Further, although the Tribunal does not consider that it is likely that because of his work in Australia at the Al Hayat channel the applicant will come to the attention of authorities, Muslim extremists, or others who may threaten or harm him in his country if he returns there, nevertheless the Tribunal cannot exclude the reasonable possibility that this may occur, especially given the country information about the escalating violence against Coptic Christians more recently in Egypt; the delegate refers to reports of the Egyptian government cracking down on satellite broadcasters and journalists who report critically on events/protests in Egypt. Although the applicant works in an essentially technical role at the channel and does not have the high profile of others who have been associated with the program, such as Father Botros and [Mr C], nevertheless the applicant would be [visible] at various events as he claims he did, and named as such in various programmes which have

been broadcast. Country information supports the applicant's claims that he may not get protection from such threats or harm in Egypt if they occur because he is Coptic Christian. Although it has some doubt about the matter the Tribunal finds the applicant fears harm in Egypt because of threats he received in Australia and because of his work at the Al Hayat TV channel in Australia and because he considers that he will not be able to get protection from the harm he fears in Egypt.

72. The Tribunal cannot exclude the reasonable possibility that the applicant will suffer harm amounting to serious harm from Muslim extremists, Egyptian authorities/police in Egypt for the reasons that he claims, namely because of his religion, if he returns there. Having regard to the country information it has consulted the Tribunal finds that the applicant cannot access effective protection from the harm he fears in Egypt because he is Coptic Christian.
73. The Tribunal considers that the persecution which the first named applicant fears in Egypt involves 'serious harm' as required by paragraph 91R(1)(b) of the Migration Act in that it involves a threat to his life or liberty or significant physical harassment or ill-treatment. The applicant's religion is the essential and significant reason for the persecution which he fears, as required by paragraph 91R(1)(a). Further the Tribunal considers that the persecution which the applicant fears involves systematic and discriminatory conduct, as required by paragraph 91R(1)(c), in that it is deliberate or intentional and involves his selective harassment for a Convention reason, namely his religion.
74. The Tribunal finds that the applicant is outside his country of nationality, Egypt.
75. For the reasons given above, the Tribunal finds that the applicant has a well-founded fear of being persecuted for reasons of his religion if he returns to his country now or in the reasonably foreseeable future. The Tribunal finds that applicant is unwilling, owing to his fear of persecution, to avail himself of the protection of his country. There is nothing in the evidence before the Tribunal to suggest that the applicant has a legally enforceable right to enter and reside in any country other than his country of nationality. It follows that the Tribunal is satisfied that the applicant is a person to whom Australia has protection obligations under the Refugees Convention as amended by the Refugees Protocol.

CONCLUSIONS

76. The Tribunal is satisfied that the applicant is a person to whom Australia has protection obligations under the Refugees Convention. Therefore the applicant satisfies the criterion set out in s.36(2)(a) for a protection visa.

DECISION

77. The Tribunal remits the matter for reconsideration with the direction that the applicant satisfies s.36(2)(a) of the Migration Act, being a person to whom Australia has protection obligations under the Refugees Convention.