

1417088 (Refugee) [2016] AATA 3012 (5 January 2016)

DECISION RECORD

DIVISION:	Migration & Refugee Division
CASE NUMBER:	1417088
COUNTRY OF REFERENCE:	Turkey
MEMBER:	Luke Hardy
DATE:	5 January 2016
PLACE OF DECISION:	Sydney
DECISION:	The Tribunal affirms the decision not to grant the applicant a Protection visa.

Statement made on 05 January 2016 at 4:33pm

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 applicant a Protection visa under s.65 of the *Migration Act 1958* (the Act).
2. The [applicant] is a citizen of Turkey. He arrived in Australia [in] August 2013 on a family sponsored Visitor visa (VV). He lodged his protection visa application [in] November 2013 and the Minister's delegate refused to grant the visa [in] September 2014.
3. [The applicant] appeared before the Tribunal on 17 December 2015 to give evidence and present arguments. The Tribunal also received oral evidence from his brother, [Mr A]. The Tribunal hearing was conducted with the assistance of an interpreter in the Turkish and English languages.
4. [The applicant] was represented in relation to the review by his registered migration agent. The representative attended the Tribunal hearing.

CONSIDERATION OF CLAIMS AND EVIDENCE

The issues

5. The issue in this case is whether [the applicant] is entitled to a protection visa either as a refugee or on complementary protection grounds. Another issue in this case is [the applicant]'s credibility as a witness. For the following reasons, the Tribunal has concluded that the decision under review should be affirmed.
6. [The applicant], who is [age] years old, claims he is an ethnic Arab member of the Alevi minority religious sect. According to DFAT¹, the Alevi sect is not officially recognised in Turkey, although persons who identify as Alevis are not excluded from public office in that country.
7. [The applicant] claims he resides with his wife and [child] in Adana, an Anatolian city in southern Turkey about 1,000km from Istanbul. As at the time he lodged his protection visa application, [the applicant] claimed he was still the co-proprietor of a small commercial enterprise in a district of Adana. He indicated that his previous employment was generally in and around Adana as well. He claimed he no longer has any military service obligations in Turkey. He claims he was interviewed in connection with his passport application and questioned a few times as to the purpose of his travel. He claims he left Turkey legally. In his protection visa application form, which he completed with the assistance of a registered migration agent and interpreter, he did not answer questions relating to whether he was the subject of any criminal investigations.

Original claims

8. In his protection visa application, [the applicant] said he has suffered discrimination in Turkey due to being an Alevi. He said he suffered some bullying and ostracism from students and teachers when he was at school. He claimed that during his military service he was picked on by higher ranked soldiers and made to perform menial tasks. He claimed that in 2000 some Sunni Muslims, leaving their mosque, came to his father's shop and vandalised it, assaulting his father and brother. He said that at the time, the new imam at the mosque was

¹ DFAT *Country Information Report: Turkey*, 2 June 2014, paragraphs 3.49 to 3.59 (See ATTACHMENT B)

preaching anti-Alevi views. He said he had no access to any evidence of this event but said it was well-known in the community. However, he later submitted a translated photocopy of a purported court decision not to prosecute a man accused by his brother [Mr B], who now lives in [Australia], of assault. The document says the date of the offence was in 2001 and not 2000. [The applicant]'s other brother, [Mr A], who has been in Australia since 1999, gave evidence at the Tribunal hearing and spoke of the attack as an event with which the whole family was familiar. I accept on the evidence before me that the incident did occur and that it happened in 2001. On the evidence before me, I give weight to the fact that the episode attracted attention and action on the part of the authorities. On the same evidence, I find that the incident was localised and isolated, and I give some weight in my decision to this finding.

9. [The applicant] claimed in his protection visa application that Alevis are always fearful for their lives in Turkey. He claimed his wife's business profits had declined due to discrimination against Alevis. He claimed his wife recently reported to the police an incident in which the front gate of their house was marked with a red "X", purportedly used as a sign of anti-Alevi sentiment in Turkey: he said the police refused to take a statement from his wife until her brother insisted; he attached a copy of a purported translation of the claimed report. Generally, [the applicant] indicated that his wife still lives at home and continues to operate her business day-to-day.
10. Also in his protection visa application, [the applicant] claimed that he and his wife both attended the notorious Gezi Park protests in Istanbul in May 2013. He said they went to Gezi Park to protest. These protests arose in response to a central government plan to demolish an old and very popular park in Istanbul and replace it with a shopping mall. Several thousand protesters rallied in and around the park for several days to oppose the plan. Independent reporting details how the government's response to the protests was heavy-handed, the authorities using a range of available powers to pursue, pinpoint, isolate, detain and put on trial persons of interest directly in connection with alleged involvement in the Gezi Park protests:

Two weeks after the start of the revolt police forces violently evicted all protesters from Gezi Park. According to the Turkish doctors' organisation, the protests took a heavy human toll: eight people died, at least four as a result of police violence. About 8,000 were injured, 104 sustained serious head injuries and 11 people lost an eye, most as a result of plastic bullets fired by the police...

The Turkish government consented not to build the planned shopping mall, but swiftly proceeded to crush most dissent. Many of those who had supported, reported on, or even tweeted the protests lost their jobs. Some face criminal charges; hundreds are still on trial.²

11. [The applicant], by his own evidence in his protection visa application form, did not lose his job; nor was he detained or charged, let alone put on trial. He said the police attacked him and his wife at the scene of the protest. He said that he and his wife were stalked by strangers in Adana because they "tried to support a boy that was killed in the protest" and because they tried to help families who had lost family members in the crackdown. He said he and his wife had tried to report harassment to the police who either took token statements or told them to go back home. This was essentially the full extent of [the applicant]'s original claims about encounters that he and his wife had with the police during and since the Gezi Park protests. His claims about having attended the Gezi protests in Istanbul, 1,000km from where he lived and worked, are unsupported.
12. I note that in his protection visa application [the applicant] spoke of being detained and tortured by police *purely* as a *future* possibility (see Part C Q.45 page 8). He clearly did not suggest ever having been detained and/or tortured in the past. Later claims from [the

² "A year after the protests, Gezi Park nurtures the seeds of a new Turkey", *The Guardian*, 30 May 2014, <http://www.theguardian.com/world/2014/may/29/gezi-park-year-after-protests-seeds-new-turkey>

applicant] at the Tribunal hearing about having been subjected to police detention and torture therefore appear to contradict this.

13. [The applicant] claimed that the state's response to the Gezi Park protest is indicative of the Erdogan government pursuing a dictatorial pro-*Shari'a* agenda, crushing political dissent and also promoting a Sunni-only Turkey.
14. [The applicant] said he left Turkey in fear of his life; he said he remained fearful for the safety of his wife and [child]. He said he came to Australia looking for protection and a safe place to live (Part C, Q. 45, page 7). He declared that in his application for a Visitor visa, he had said he wished to come to Australia to visit relatives. [The applicant] applied for a protection visa on the last day of his Visitor visa's validity.

Convention nexus

15. [The applicant]'s claims can reasonably be viewed as claims relating to his Arab "race", his Alevi "religion" or "particular social group" and his anti-government, pro-"green", pro-Alevi "political opinion".

Claims to the delegate

16. According to a written statement that appears in his protection visa application file (at f.45), [the applicant] told the Minister's delegate that the police had been looking for him in Turkey. He nevertheless explained to the delegate that he *did not* come to Australia with the intention of applying for protection. This evidently contradicts what he had said in his protection visa application form. [The applicant] made a number of claims apparently in response to concerns as to why he delayed applying for protection. He said that only after coming to Australia did he realise the differences between Turkey and Australia. He also told the delegate that the police had started to look for him "more often" since he came to Australia, and indicated that this moved him to seek protection *sur place*. Meanwhile, I note that [the applicant] omitted from his original claims in his protection visa application form that the police were searching for him.
17. [The applicant] said in his note to the delegate that he did not find out from his "visa agent" in Australia until the last day of his Visitor visa validity that he was eligible to apply for a protection visa. He claimed he then told his "visa agent" that he thought "we don't have any other option." This appears to imply that he had already engaged a migration agent to help him extend his stay in Australia, but had evidently not discussed with her the need for protection until quite late in the process.
18. [The applicant] said he also delayed his protection visa application because he did not know who would look after his wife and [child] in the interim. I note he mentioned having concerns for his wife and [child] in his primary application, but he also said in the same application that he came to Australia with the intention of applying for protection and residing here in safety away from conditions in Turkey. His claims appeared confused and contradictory.
19. [The applicant] said he also did not decide to apply for protection until after his wife sent him a copy of an "arrest warrant" issued by the police. He submitted a copy of the purported "arrest warrant" to the delegate along with an English translation. He implied that the warrant was related to police interest arising from his involvement in Gezi Park. On close reading, the document appears to be more of a summons to appear in court to defend an allegation from a state or private power utility provider about interfering with a usage meter. The summons is dated [in] February 2014 and therefore appears to have no relationship with the timing of [the applicant]'s protection visa application dated [in] November 2013. On the

evidence before me, I give no weight to the story about the “arrest warrant” insofar as [the applicant] suggests it explains his delay in applying for protection.

20. It struck me on reviewing the files in this matter that [the applicant]’s claims about being pursued by the police before and after his departure from Turkey, in connection with the crackdown on anti-government agitators involved in the Gezi Park protests, did not appear to sit with the evidence regarding the issuing to him of a passport and the legality of his departure.

Claims to the Tribunal

21. Prior to the Tribunal hearing, [the applicant] submitted a statement in which he claimed to have been involved in a number of specific demonstrations in 1999, 2010, 2011, again in 2011, and in 2012 and on other occasions. He had not referred to these in his protection visa application. He referred to specific alleged police raids and personal body searches to which he had not made any reference in his protection visa application. He claimed to have been taken from his home in Adana by police on two occasions during the Gezi Park protests, *which he now said he attended in Adana*. He said he was later arrested after he resumed demonstrating and was detained and tortured at the Adana Security Department for one week. He claimed that an [injury] was caused by a violent police officer during the week of torture.
22. In a separate statement, [the applicant]’s brother [Mr A], who later gave evidence at the Tribunal hearing, provided an outline of claimed circumstances in which he invited [the applicant] to visit him in Australia. He also claimed to be in ongoing contact with [the applicant]’s wife and said that she and her [child] are scared and in need of psychological support.
23. A third submission is in the form of a psychologist’s report in which the psychologist reports that [the applicant] is suffering from Major Depressive Disorder and PTSD. The report, whilst referring to cognitive therapy and other talking sessions hitherto, recommends little else in the way of further treatment of [the applicant]’s depression except the granting of a protection visa. Overall, the report does not suggest that [the applicant] is impeded from giving meaningful oral evidence, at a hearing of his claims, by any circumstances beyond his control. I am satisfied that he was not impeded by conditions beyond his control from giving evidence at the Tribunal hearing.
24. The psychologist’s report suggests that [the applicant]’s diagnosed condition is consistent with the claims he has made about past mistreatment in Turkey. I have considered this, but I must also consider that the psychologist was testing [the applicant] in a very different professional framework for an outcome that is very different from the process of assessing a person for entitlement to a protection visa. I also note that the sole source of the psychologist’s personal information about [the applicant] is the apparently untested evidence of [the applicant] himself. Meanwhile, I note that the report strays into historical discussion about Alawites and therefore discusses Turkey’s notorious historical treatment of a group to which [the applicant] does not himself belong (ref. *DFAT County Report: Turkey* at paragraph 3.46: “Alawites in Turkey are frequently confused with Alevis.”). On the evidence before me, I give no weight to the psychologist’s report insofar as it might purport to be independent evidence in support of [the applicant]’s substantive claims in the present matter. [The applicant] told me at the Tribunal hearing that the evidence in his protection visa application was true correct and complete and that he had made the application with the assistance of his first migration agent. He said he owned his own business until 2011 and closed that to open a shop with his wife who had since closed it in 2013.

25. At the hearing, [the applicant] made vague and unsupported new claims about having disseminated his political views to the public. I asked him if he had any evidence to support his claims about involvement in public protests and he said there was none available to him.
26. At the hearing, [the applicant] said in effect that he attended the Gezi Park protest in Istanbul, consistent with the claim in his protection visa application but apparently not agreeing with the claim in his more recent statement to the Tribunal: I asked him who goes to a local shopping centre protest one thousand kilometres from home and he said, “[A] thousand of us opposed to deforestation.” He also said he and some friends first saw the Istanbul protests on television and wanted to contribute. He said they organised some marches locally.
27. [The applicant] told me he feared being detained and tortured due to his role in the Gezi Park protests and their aftermath. He also confirmed his claim to the effect that his wife was also similarly involved in those protests. I asked him why the police were seeking him in connection with his role whereas they were not evidently seeking his wife in connection with hers and in reply he said that his wife’s family is protecting her from the police. I questioned the reliability of such a claim, given [the applicant]’s overall claim about individuals not being able to resist harassment by the authorities in Turkey, and he then said that the authorities have no reason to pursue his wife. I expressed concern about this explanation given that [the applicant] claimed he and his wife were similarly involved in Gezi Park movement. He then argued in effect that the Gezi Park incident was not so significant as “everybody” had been involved in it.
28. [The applicant] then claimed that he was one of many who had been detained by police in connection with the Gezi Park protests. I asked him if he had any supporting evidence of having been detained and he said that he did not. He said that there was no possibility of having such treatment investigated in Turkey. I drew his attention to the fact that Human Rights Watch and Amnesty International, to name just two institutions, had conducted detailed investigations^{3 4} into the crackdown, detailing names of detainees, etc. I was surprised that [the applicant] appeared so ignorant of outside interest in the Gezi Park crackdown, especially since he claimed to have been caught up in it.
29. I put to [the applicant] that in his protection visa application he omitted to refer to being the subject of police investigations; I referred specifically to his failure to answer Q. 66 at Part C of his protection visa application form. In reply, [the applicant] said he did not provide the information he was now providing because at the time of his protection visa application he did not consider himself to be a criminal. I put to him that the question was clearly about being perceived to be a criminal by the police and he then proceeded to give seemingly confused evidence about having received poor advice from his first migration agent. He seemed unable to commit to whether he had consciously decided not to refer to the police having pursued him in Turkey or having failed to do so due to unsatisfactory dealings with his adviser. When I put to him that he explicitly referred to arrest and torture only as future possibilities in his protection visa application form (at Q.44), he said his adviser explicitly told him “Please don’t tell me anything.” I reminded him that he had just told me that the omissions were the result of decisions he had made at the time, and he then said he only

³ “Turkey: Adding injustice to injury: One year on from the Gezi Park protests in Turkey” Amnesty International, 10 June 2014, Index number: EUR 44/010/2014, <http://www.amnesty.org/en/documents/EUR44/010/2014/en/>

⁴ “Dispatches: One Year After Turkey’s Gezi Protests, Activists on Trial” HRW, 11 June 2014, <https://www.hrw.org/news/2014/06/11/dispatches-one-year-after-turkeys-gezi-protests-activists-trial>: “According to the Human Rights Foundation of Turkey and the Human Rights Association in a FIDH report, 5,653 demonstrators have been put on trial, in 97 separate trials, for joining unauthorized protests, resisting the police, damaging public property, and even for terrorism offenses. In some cases the courts have acquitted defendants at the first hearing, but other trials are limping along. The vast majority of defendants are at liberty, though some charged with terrorism offenses spent up to ten months in pre-trial detention. One trial in Istanbul against 255 people began last month but has been postponed until November.” See also: https://www.fidh.org/IMG/pdf/turkey_avril_2014_uk_web.pdf

saw his first migration agent twice. He continued to give contradictory evidence about this issue: he said to me at one stage that he explicitly told his adviser that he had been arrested and tortured and that he had been the subject of police investigations, but then he said these claims did not appear in his protection visa application because he was not asked about these issues until the delegate asked him at his protection visa interview.

30. On the evidence before me, I find that [the applicant] provided unsatisfactory explanations for having omitted from his protection visa application his claims about past detention and torture by police.
31. [The applicant] cited a number of recent news stories, in particular some reports about two individual Alevis who were killed by police in apparently unrelated circumstances. One of these individuals was a man called Ugur Kurt, the other Dilek Dogan. The former was reportedly hit by a stray bullet apparently fired as riot police took on anti-government demonstrators at a funeral in Istanbul in May 2014;⁵ the latter was shot during a police raid on her home in the course of investigating a suicide bombing.⁶ On review of the evidence, I give these somewhat disparate individual histories little weight in my assessment of [the applicant]'s own protection claims.

Assessment of claims with regard to s.36(2)(a)

32. I accept that [the applicant] is an ethnic Arab Alevi. I have considered the claims about bullying at school and discrimination in the armed services along with the evidence of the attack on the family shop in 2001. I have considered and give very little weight to the evidence of the claims about the failure of the business run by [the applicant] and his wife leading to its closure in 2013. I have considered and given ultimately little weight to the claims about the red X painted on the front gate of the [applicant's] residence in Adana. I have considered and give little weight to the claims about the difficulty [the applicant]'s wife had in trying to lodge a report about this with the police. Overall, I am not satisfied that the evidence is indicative of discrimination rising to the level of persecution. On review of all the evidence in this matter, I find that there is insufficient information before me to satisfy me that [the applicant] faces a real chance of persecution in Turkey in the reasonably foreseeable future for either separate or cumulative reasons of Arab ethnicity. Whilst I accept that there is some societal and institutional discrimination against Alevis, I am not satisfied on the evidence before me that [the applicant] faces a real chance of persecution in Turkey in the reasonably foreseeable future either separately or cumulatively for reasons of being an Alevi.
33. I find that [the applicant] has been untruthful about being the subject of police interest in Turkey. I find on the evidence before me that his claims about having been detained and tortured during and after the Gezi Park protests is completely invented. Since I do not accept that he was ever detained or tortured, I give no weight to his claims about injury or scars to his [body].

⁵ "Man shot dead at funeral as police and protesters clash in Istanbul", The Guardian, 23 May 2014, <http://www.theguardian.com/world/2014/may/22/cleaner-shot-riot-police-istanbul-funeral>

⁶ "Funeral held for woman shot during police operation in Istanbul" Hurriyet Daily News, 25 October 2015, <http://www.hurriyetdailynews.com/funeral-held-for-woman-shot-during-police-operation-in-istanbul.aspx?pageID=238&nID=90328&NewsCatID=341>:

... Dilek Doğan, 25 ... was seriously injured after she was shot by police at her home in Istanbul's Küçükarmutlu neighborhood in an anti-terror operation against the outlawed Revolutionary People's Liberation Party-Front (DHKP-C) on Oct. 18... According to her family, Doğan was shot by a police officer following a quarrel that erupted after she asked police officers to put on galoshes instead of simply barging into her home... The Istanbul police, however, stated that Doğan was shot in the chest during a scuffle after a resident tried to seize police officer's gun... Given that no criminal investigation had been launched before the police raid of the home, an investigation was launched into the shooting of Doğan, but the lawyers of the Doğan family have not been informed about the process or the evidence in the file due to a secrecy ruling by an Istanbul court.

34. As noted, I am troubled by [the applicant]'s claims about his and his wife's having been monitored and stalked since the time of the Gezi Park protests. I am also troubled by his seemingly improvised explanations as to why his wife has remained at large notwithstanding the suggestion in his protection visa application that they were both observed at the protests. On review of the evidence, I find that [the applicant] has fabricated claims about how he and his wife were treated after the protests. In light of this, I give no weight to the purported "arrest warrant".
35. The independent evidence shows that the authorities in Turkey openly branded Gezi Park protesters as terrorists and directly prosecuted them accordingly. By strong contrast, [the applicant]'s story is an implausible account of mysterious and indirect "cat-and-mouse" treatment such as the deployment of persons unknown to harass [the applicant's wife] at her shop. To the extent that [the applicant] might be suggesting or implying that the charge relating to interference with a power meter is a veiled attempt to punish him for his political involvement, I give no weight to such a suggestion. On the evidence before me, I give no weight to the purported court summons.
36. I find that [the applicant]'s account of being pursued by the police essentially as a suspected "terrorist" is inconsistent with the fact that the authorities issued him with a passport and let him depart Turkey legally. On the evidence before me, I am not satisfied that [the applicant] was considered as any kind of national security threat at the time he left Turkey.
37. In view of my findings regarding [the applicant]'s credibility, and in view of his claiming a long history of political activism with no evidence at all to support the claim, I find that I do not believe he or his wife have ever been involved in any of the socio-political activity he claims to have supported.
38. I do not accept on the evidence before me that deficiencies in [the applicant]'s claims are due to poor representation by his first migration agent.
39. I give some weight in this particular case to [the applicant]'s delay in applying for a protection visa and to the confused evidence he has given as to why he delayed his application and as to whether he came here for long term protection or not in the first place.
40. I find that [the applicant] will not participate in socio-political protests in Turkey in the reasonably foreseeable future not because he fears persecution but because he is not genuinely interested in such activities. I am not satisfied on the evidence before me that [the applicant] would be imputed with a dissident or otherwise negative political profile in Turkey in the reasonably foreseeable future.
41. Although I accept that the family shop was attacked and [the applicant]'s brother [Mr B] was assaulted in 2001, I find that [the applicant] has been such an unreliable witness in relation to his own treatment that I am unable to give any weight to the rest of the written and oral evidence pertaining to him that has been provided by his other brother [Mr A].

Findings with regard to s.36(2)(a)

42. I have considered all of the evidence in this case separately and cumulatively. Overall, I am not satisfied on the evidence before me that [the applicant] faces a real chance of Convention-related persecution in Turkey in the reasonably foreseeable future. His claimed fear of Convention-related persecution is not well founded. He does not meet the refugee criterion.

43. For the reasons given above, I am not satisfied that [the applicant] is a person in respect of whom Australia has protection obligations under the Refugees Convention. Therefore he does not satisfy the criterion set out in s.36(2)(a).

Consideration of claims against s.36(2)(aa)

44. Having concluded that the applicant does not meet the refugee criterion in s.36(2)(a), I have considered the alternative criterion in s.36(2)(aa).
45. Essentially, [the applicant]'s claims to complementary protection are the same claims he has presented as his refugee claims. The refugee claims above that fail due to lack of credibility can no more succeed as complementary protection claims. The refugee claims that fail due to failure to meet the "real chance" test also fail to meet the "real risk" test. This is the "real risk" test imposes the same standard as the "real chance" test applicable to the assessment of "well-founded fear" in the Refugee Convention definition: *MIAC v SZQRB* [2013] FCAFC 33.
46. Having considered all of the evidence before me, I am not satisfied that I have substantial grounds for believing that, as a necessary and foreseeable consequence of being removed from Australia to Turkey, there is a real risk that [the applicant] will suffer significant harm.
47. Accordingly I am not satisfied that [the applicant] is a person in respect of whom Australia has protection obligations under s.36(2)(aa).

Other findings

48. There is no suggestion that [the applicant] satisfies s.36(2) on the basis of being a member of the same family unit as a person who satisfies s.36(2)(a) or (aa) and who holds a protection visa. Accordingly, he does not satisfy the criterion in s.36(2).

DECISION

49. The Tribunal affirms the decision not to grant the applicant a Protection visa.

Luke Hardy
Member

ATTACHMENT A

RELEVANT LAW

50. The criteria for a protection visa are set out in s.36 of the Act and 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.
51. 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).
52. Australia is a party to the Refugees Convention and generally speaking, has protection obligations in respect of 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.
53. 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').
54. 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 – and any country information assessment prepared by the Department of Foreign Affairs and Trade expressly for protection status determination purposes, to the extent that they are relevant to the decision under consideration.

ATTACHMENT B

EXTRACT FROM *DFAT COUNTRY REPORT: TURKEY, 2 JUNE 2014*

Alevis

3.49 Alevis follow a heterodox set of religious practices probably derived from Shia Islam, but with elements of Sufism and, in some areas, incorporating elements of Zoroastrianism and pre-Islamic Turkish shamanism. Many Alevis do not consider themselves Muslims, while the state considers Alevism a heterodox sect of Islam. Most Alevis do not pray in mosques, but gather in religious and community centres called Cemevi, or Cem houses. Alevis generally pray in Turkish. Among other important distinctions from Sunni Islam, Alevis do not (completely) segregate women in their houses of worship. Veils are regarded as optional by Alevi women, though many Alevi women wear headscarves.

3.50 Alevis are the largest non-Sunni religious minority in Turkey. Credible academic estimates suggest between 10 and 20 million Turks are Alevis, though Alevi groups claim up to 30 million. An estimated 1.5 million Alevis attend Cemevi monthly. Alevis are widely distributed across Turkey, but are concentrated in central and inner-eastern Anatolia, and in Istanbul and other major cities. There is some overlap between Kurdish and Alevi identity. Estimates of the Kurdish Alevi population vary widely: of an estimated population of over 12 million Kurds, between 500,000 and several million are Alevis.

Official Discrimination

3.51 The Turkish state does not officially recognise Alevism as a religion. As a result Cemevi are not recognised as official places of worship and do not receive funding from the central government, although some local governments are starting to provide land or other forms of support. There are approximately 3000 Cemevi across Turkey. Alevi groups argue that this number is insufficient to meet the needs of their community and that they have difficulty in securing the necessary government approvals to build further Cemevi. Because the state regards Alevism as a heterodox sect of Islam, Alevis cannot establish schools in which to train their clergy in Turkey.

3.52 Unlike the Lausanne minorities, Alevi children are not exempt from mandatory religious and ethical classes in public schools. In recent years, religious and ethics classes have begun to include limited elements of other faiths, including Alevism. Alevi groups have been consulted on parts of the course that cover Alevism, but feel that the coverage of Alevism remains cursory. Alevi groups have argued that content covering Alevism has been included at the end of the school year, when students are normally absent to begin exam preparation.

3.53 As with other religious minorities, much Alevi property was confiscated in the early period of the Turkish republic. Unlike other religious minorities, Alevi property is not eligible to be returned under recently enacted decree enabling the return of confiscated property. The majority of the Alevi property was confiscated in 1924 and 1925, while the decree was in regard to confiscations from 1936 onward.

3.54 The Government has undertaken extensive consultations with the Alevi community in regard to its issues and suggested publicly in 2013 that it was considering providing some concessions to the Alevi community in its 'democratisation package'. However, the democratisation package announced in September 2013 did not contain measures directed at Alevis and the proposed reforms have not been forthcoming at the time of writing of this report.

3.55 Like other minority groups, Alevi are generally able to secure public sector employment. They are normally able to continue their public sector employment but many report they do not feel comfortable revealing their religions. Securing promotions can be difficult if they are open about their Alevi identity. For example, there are few, if any, Alevi police chiefs in Turkey.

3.56 Alevi in Turkey enjoy many religious freedoms: they are generally free to gather in Cemeteries to undertake religious ceremonies and in many spheres of life can freely express their identity without fear of discrimination. Increasingly, municipal governments in Alevi-majority areas are providing financial support for Alevi cultural institutions. DFAT is not aware of any discrimination against Alevi in terms of access to health care, education or private sector employment.

Societal discrimination

3.57 Alevi in Turkey are widespread and often accepted as an integral part of Turkish society. For example, up to 40 Alevi were represented in Parliament in early 2014 (including 30 in the CHP; five in BDP and two in AKP). Many Alevi still prefer to hide their identity, and overall DFAT assesses that Alevi face low levels of societal discrimination on the basis of religion.

Violence

3.58 The Alevi community has suffered significant violence in the past. For example, over 30 Alevi were killed in 1993 when a Sunni mob set fire to a hotel in Sivas, in which an Alevi group was holding a cultural celebration. Authorities did not intervene at the time, but later tried and convicted many of those responsible. Following a range of discussions with representatives of the Alevi community, DFAT is not aware of significant instances of community violence against Alevi in recent years. Some civil society groups told DFAT that all of those killed in Gezi Park protests in May–July 2013 were Alevi, though none claimed that this was the result of intentional targeting of Alevi (see also 'Anti-Government Protestors / Activists', ...).

3.59 Overall, on the basis that Alevi are generally free to practise their faith, express their identity and achieve political representation, DFAT assesses that Alevi suffer a low level of discrimination and are at a low risk of violence.