

071473817 [2008] RRTA 102 (8 February 2008)

DECISION RECORD

RRT CASE NUMBER: 071473817

COUNTRY OF REFERENCE: Lebanon

TRIBUNAL MEMBER: Kay Kirmos

DATE DECISION SIGNED: 8 February 2008

PLACE OF DECISION: Melbourne

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

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).

The applicant, who claims to be a citizen of Lebanon, arrived in Australia and applied to the Department of Immigration and Citizenship for a Protection (Class XA) visa. The delegate decided to refuse to grant the visa and notified the applicant of the decision and his review rights by letter.

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.

The applicant applied to the Tribunal for review of the delegate's decision.

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.

RELEVANT LAW

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.

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 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).

Further criteria for the grant of a Protection (Class XA) visa are set out in Parts 785 and 866 of Schedule 2 to the Migration Regulations 1994.

Definition of 'refugee'

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.

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.

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.

There are four key elements to the Convention definition. First, an applicant must be outside his or her country.

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.

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.

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.

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.

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.

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

The Tribunal has before it the Department's file relating to the applicant.

In his application, the applicant claimed that he was threatened by people in his village. They accused him of being involved with the Syrian National Social Party (also known as the Syrian Social Nationalist Party [SSNP]), which was believed to have murdered Rafiq Hariri. The applicant stated that he, of course, had nothing to do with the murder, but he was accused and threatened just because he had been involved with the SSNP.

He stated that he was injured while he was driving in his village. He had no idea who injured him but he was very frightened. At one stage he was staying at sibling A's house because he was very afraid to remain at his parent's house. While he was at sibling A's house the house was burned down. No one was hurt. He did not know who was responsible. His family moved to a Christian village to try and protect themselves. The Lebanese authorities are unable to protect him because they cannot protect themselves. There is little law and order in Lebanon and it is extremely dangerous.

The applicant only became involved with the SSNP, because a friend invited him and told him that he would be paid to put up posters and attend meetings. He was in his late teens at the time and he did not understand what he was getting himself into. He had no idea that it would lead to all the problems which followed after Hariri's death.

He is afraid of being targeted by both proponents and opponents of the SSNP. The SSNP is still very strong in Lebanon and he is seen as a defector of them. On the other hand, he is seen as a traitor in Lebanon because he was involved with the SSNP. There are many political groups in Lebanon which oppose Syrian interference.

He fears that if he returns to Lebanon he may be kidnapped and killed. He is in fear for his life if he returns. Two of his close friends who were also involved in the SSNP were killed on the way home from work. They were intentionally run over by a vehicle. Another friend disappeared. He believed that he would be persecuted because of his political involvement.

In an accompanying letter, the applicant reiterated his claims in his application, stating that he had planned to run away from Lebanon but failed to find a way out. Then he met an Australian girl, got engaged to her and came to Australia. After his arrival, she attempted to blackmail him, because of his status in Lebanon.

The applicant appeared before the Tribunal to give evidence and present arguments. The Tribunal also received oral evidence from two witnesses. The Tribunal hearing was conducted with the assistance of an interpreter in the Arabic (Lebanese) and English languages.

The applicant was represented in relation to the review by his registered migration agent. The representative attended the Tribunal hearing.

The applicant gave his personal details. He stated that he arrived in Australia on a valid passport in his own name. He left Lebanon in the early 2000s on a valid visa. He is not working or studying presently, and stated that he was doing nothing much. The applicant lives with sibling B and spouse and sibling C, who support him. He has sibling D in country 1 who also helps him. He stated that he had several siblings in Australia and some siblings in country 1. He has his mother and several other siblings in Lebanon. [Information about applicant's family composition deleted in accordance with s431 of the *Migration Act 1958* as it may identify the applicant]. The applicant lived with his mother until the problems happened in the early 2000s, and then he left after these problems. His mother lives in the family home now and is supported by assistance from her children. She has few expenses.

The applicant stated that after the death of his father, he left school. He reached a certain level at school and then studied for a period of time at a technical school, but did not finish the course. His father died and it cost too much to educate him, so he left school. His father had been a land owner and when he died in the early 2000s the applicant's elder sibling took the land.

The applicant was left with his mother and his siblings to look after. He joined the SSNP. He stated that his friends saw his financial situation and that he could not get a job, and he was told that if he joined the SSNP he would be paid a wage of a large sum of Lebanese pounds. He had friends who were members, including person E, person F, person G and person H. He was asked to put up posters photographs and go to meetings regularly. The applicant joined the SSNP some months after his father's death, in the early 2000s. Person E was responsible for the area as organiser of activities for the political party. The SSNP stood for freedom in Syria and the applicant had to attend meetings and support the electoral representatives during the election. He had to carry photos of the representative. The SSNP mainly supported freedom from Israel and its main purpose was to support its representatives in elections. It supported the ideology of Syria in Lebanon. The applicant received the posters and other material from person E at the SSNP centre in city 2

The applicant worked for the SSNP until the assassination of Rafiq Hariri in April 2005. The applicant was still a member of the SSNP when the assassination hit like an earthquake. There were immediate allegations that Syria was responsible, and parties like the SSNP and the Baath party were named as being responsible for the assassination. There were threats to kill members of the SSNP and the Baath party. People knew that the applicant was a member, because he was seen distributing photos and putting up posters. It was at this time that he left the SSNP and stopped attending meetings. He had a party identification card which he burned. He stated he had been paid his wages by person E in cash, and this stopped. His siblings started to help out financially.

He was approached to re-join the SSNP, but he refused. He was told he must return to the SSNP. He stated that he had no telephone. He was told that if he stayed away from the SSNP he would be killed either by members of his party or by a pro-Hariri group. He refused. He was then shot at. He stated that the members of the SSNP would kill anyone who leaves the SSNP, as he would be seen as not being a real adherent and as a collaborator with others. He was asked why he anyone would threaten him, given his very low position in the SSNP. He stated because he was part of the SSNP. After the threatening message,

Person E disappeared. Several days later he received news of a vehicle having killed person E and person F.

In the early 2000s, the applicant was shot at. It was late and he was returning from his sibling A's home, in his car. The car was damaged. It was reported to the police, but the police said how could they know who shot him and that they could never find out. After the shooting, the applicant went back to sibling A's house. Sibling A lives in the same village as his mother. The applicant then left and went to his relative I's house and heard that sibling A's house had been set on fire. The whole house was destroyed. No one was there, and it was not known who burned it, but petrol was used. The applicant then fled and stayed in city 3. This is a Christian area far away. He did not stay in the town, but in the bush.

The applicant visited his mother later that year but there was a problem. He lived in the bush near city 3 for several months. He visited his mother and someone saw him and knocked on the door. He jumped from the window and heard his mother scream. This would have been in the early 2000s. He rang his mother when he returned to the bush, and his mother said that some people came to the house and told her that the applicant could escape this time but never again. He did not know who they were. The people were not in uniform. Asked how the applicant called her, he stated that he spoke to her from a neighbour's house in the bush. He stated that the person he worked for had a house in city 3. He would ring and then return to where he lived. There was mobile coverage in the bush, but at that time he did not have a mobile phone. It was too expensive.

He stayed in the bush near city 3, but regularly he went to town. On one night he met his fiancée. He met her in the mountains in city 3 some weeks prior to visiting his mother. She was dancing when they met and he went to sit with her. They talked to each other and she introduced him to her mother, and he took her phone number and later rang her. They met again and went to the beach near city 3. They went out together and discussed matters of love and she gave him her address in city 4. He visited her in city 4 and took her to visit his mother. This was very difficult, but they visited his mother's village twice. They only stayed for a very short period of time and left straight away. They visited his mother at sibling A's house in the bush, not at his mother's house, because there were too many people around who might inform on him. They did no sightseeing in his village. Following a request from her family, they had a celebration, and he went to the village. A small celebration was held. He stayed for a while and then went to city 4 and never returned to his village again. His fiancée put in an application to sponsor him for a visa, but he never told her any of his problems.

The applicant's mother and his siblings had no problems with the authorities or other persons, and he stayed underground until he came to Australia. He kept in contact with his family and his mother. After he and his fiancée were engaged, she obtained a mobile phone for him and called him from time to time. After they met she returned to Australia and later returned to Lebanon and stayed with him for a few weeks. He believed that she left Lebanon in the early 2000s, then returned to Lebanon after a few months and left again. She was forced to go with her mother who was sick. The applicant feared that he would be assassinated or kidnapped either by members of his own party or other groups. He stated that that if the government could not protect others who had already been assassinated, it could not protect him. He went to the police to report the house burning and the shooting, and the police took it as a joke.

He was asked if there were any other incidents and he stated that he was the victim of an attempted assassination, and when he visited his mother he fled through a window and hid for his life. The applicant came to Australia because he loved his fiancée. When he was in

Australia someone told her about the problems he had in Lebanon and that he was wanted in Lebanon. She stated that she needed money to continue to sponsor him. He stated that he loved her, but she realised what was happening and she did not want to run the risk of having problems in Lebanon. The relationship ended a few months after he arrived in Australia. He waited until the end of the visa period to seek a protection visa because he hoped they would reconcile, and even now he had hope of reconciliation. It was submitted that he was very young and naive when he joined the SSNP.

Witness J stated that he/she and the applicant grew up together. They lived next door to each other in Lebanon and have known each other since they were children. Witness J came to Australia in late 1990s and knew of the applicant's circumstances because he/she had contact with him and his family in Lebanon. He/she knew that the applicant was working for the SSNP to make money during the elections, putting up posters. Since the Hariri execution his/her relatives and friends told him/her in the early 2000s that the applicant had run away and that he had guys blackmailing him and saying that he was a bad person. Witness J's relative worked for the same party, and was killed in a vehicle accident. Two others were killed in a vehicle crash, but he/she thought it was not an accident because all three deaths involved the same party. The vehicle crash was unusual, because the other vehicle which the vehicle hit was parked far from the road and the driver, who was Syrian, was uninjured. The applicant's sibling A's house was burned in the early 2000s and he/she knew that someone had tried to shoot at the applicant.

Witness K stated that he/she was from Lebanon and had known the applicant a long time. They lived in the same village. He/she asked his/her relatives about the applicant, and was told that during the elections the applicant put posters on walls until the assassination of Hariri, when he left the SSNP. He/she stated that he/she had a sibling who was a government official and he/she had siblings in the army. When he/she would ring Lebanon they would tell him/her what was happening, and he/she was told that after the Hariri assassination there were explosions in Lebanon.

He/she heard that the applicant left the SSNP and that the SSNP was looking for him. He/she found out because he/she calls Lebanon and one of his/her siblings is in the Lebanese army. He/she said that he/she also had problems there, because he/she knows the SSNP and Baath party. He/she rings his/her sibling and he/she was told that people were asking about and waiting for the applicant. The applicant disappeared from the village, and Witness K's mother said that people were asking about the applicant, believing that he had information regarding the SSNP and he might give it away.

When witness K was young they pulled out his/her nails. He/she went to buy bread and flour, and he/she knew the parties sell these things, he/she was caught buying for another party and they pulled out his/her nails.

He/she knows what is happening to the applicant. His/her siblings work in the bush and he/she spoke to them and was told that the applicant was living in the bush and scared because of the SSNP. He/she stated he/she knew that the applicant's sibling A's house had been burned completely down using petrol. Some time ago his/her teen relative and his/her relative's sibling-in-law by marriage were killed by a vehicle on the road. His/her sibling saw it, and their car was totally disintegrated. He/she stated that he/she has a lot of information regarding the parties.

He/she stated that he/she knew that the SSNP was asking about the applicant. He/she knew the applicant had been engaged, and that he went to see his mother once or so at night secretly, he stayed a short time and then left. On the same day as the celebration was held in the village, a person was killed on the road in a van. The applicant's sibling A and family were there, and they left the celebration immediately and the applicant returned to the bush. The applicant was engaged and came to Australia. The applicant's fiancée tried to extort money from him, which he refused to pay. He/she has tried to help the applicant.

The visa applicant was sent a letter pursuant to Section 424A of the Act, asking him to comment on the following information:

[Information about the Tribunal's letter amended in accordance with s.431 as it may identify the applicant].

-In your application for a visa, you indicated your telephone and mobile number. Telstra records provided in support of the application indicate that calls were made to both numbers in the early 2000s. The country code indicates calls made to City 2.

At hearing you stated that you were in the bush near City 3 during this time.

-In your Departmental interview for a valid visa, you stated that you and your fiancée held a large engagement party with a large number of guests on (a particular date), and that you read the fatiha at home. You told a Departmental officer that your fiancée returned to Australia a month before and the officer's notes indicate that she departed Australia for Lebanon again the following month.

In your submission to the Tribunal it was stated that you were at home on (a particular date) when men banged on the door announcing that they were from the SNSP, whereupon you jumped out of the window.

At hearing you stated that this incident occurred on a different date, and you did not know who the assailants were. You also stated at hearing that a small celebration with your fiancée was held on (a different date to that stated at the Departmental interview), at which you only stayed for a short time.

-In your Departmental interview for a valid visa, you stated that you and your fiancée went out a lot together, including in your village, which she liked.

At hearing you stated that you and your fiancée visited your village a few times for a very short period of time, left straight away and did no sightseeing.

-At hearing you stated that Mr Hariri was assassinated in April 2005.

Information obtained by the Tribunal indicates that Mr Hariri was assassinated in February 2005.

This information is relevant because it indicates some inconsistent account in relation to these aspects of your claims and evidence at different stages of the proceedings. Subject to the comments you make the Tribunal may decide that certain events may not have happened and may decide that there are credibility issues, which may be the reason or part of the reason for deciding that you are not entitled to a protection visa.

The visa applicant provided a detailed response, responding to all the issues raised in the invitation.

Evidence from other sources

Primary source information has indicated that there have been reported incidents of animosity between pro-Syrian groups and anti-Syrian factions. In one report, it is stated that a large arsenal of weapons was recovered and connected to the SSNP, but the SSNP leadership denied that this was for use by the SSNP, but rather for the security of individual members:

The Syrian Social Nationalist Party (SSNP) said on Sunday that weapons confiscated from one of its members over the weekend were private arms bought for protection due to the lack of security in areas controlled by the "state militia." The SSNP's response came after Lebanese customs officials stopped a car on the Damascus-Beirut highway on Saturday carrying automatic weapons and ammunition in the direction of the capital, the Internal Security Forces (ISF) said. Twenty-five Kalashnikov rifles and six cases of ammunition and ammunition clips were found from the trunk of the vehicle, officials said.

ISF director Ashraf Rifi told The Daily Star on Sunday that the driver of the car, which was stopped near the mountain resort town of Bhamdoun, was a member of the SSNP.

...

In December, police seized explosives, fuses and detonators in raids on homes that resulted in the arrest of seven SSNP members.

"We see the purchase of the confiscated rifles by one of our members who transported them in his private car as a precautionary action," the SSNP said in a statement, "especially in areas controlled by the 'state militia,' areas that witness a worrying breakdown of security." (Bathish, H. 'Customs police seize 25 assault rifles from SSNP member' 2007, *Daily Star*, 5 March).

During recent protests, several SSNP supporters were alleged to have been attacked:

One man was killed and four were wounded during a firefight between opposition and pro-government crowds in the northern village of Halba, security sources said.

They said the clash involved members of the pro-government Future movement and the Syrian Social Nationalist Party (SSNP). In other violence, a gunman fired on protesters in the ancient Christian town of Byblos, wounding three people before soldiers arrested him.

...

An SSNP member was hit in the head by a bullet near the mountain village of Sofar. At least a dozen people were hurt in scuffles elsewhere, especially in Christian areas.

The demonstration escalates a campaign by Hizbollah, the radical Islamist movement which is backed by Syria and Iran, to replace the government and hold early parliamentary elections. (Hirst, M. 'Beirut is paralysed by demonstrations' 2007, *The Telegraph*, 24 January, <http://www.telegraph.co.uk/news/main.jhtml?xml=/news/2007/01/23/wlebanon123.xml> - Accessed 6th August 2007).

And following the assassination of Walid Eido, threats were made against SSNP supporters:

As soon as the bomb went off, dozens of young men rushed to the scene, and soldiers had to push them back from the burning cars. They gathered around two fire trucks, picking through twisted wreckage. Naim Chebbo, a 33-year-old waiter, ran for a half-mile from his restaurant, following the cloud of black smoke. Drenched in sweat and hyperventilating, he screamed, "Look at what the Syrians are doing to us! Don't ask me why this bombing happened. Ask the Syrians!" He pointed up a hill, toward the headquarters of the Syrian Social Nationalist Party. "I'm going to get the SSNP. I'm going to fuck them up!" he shrieked. "They're just sitting up

there laughing." His friends restrained him from marching up the hill. (Bazzi, M. 'Sectarian tension puts Lebanon on knife edge' 2007, *The Nation*, 11 July, http://yalibnan.com/site/archives/2007/07/sectarian_tensi.php - Accessed 30 July 2007).

The following country information also received from our post in Lebanon and dated 12 March 2007:

In the aftermath of the July-August conflict between Israel and Hizballah, sectarianism and the pro- vs anti-Syrian divide strengthened. Although there is considerable anti-Syrian sentiment on the Lebanese street, there are also a large number of pro-Syrians.

FINDINGS AND REASONS

In order to be a refugee under the Convention, it is necessary for the applicant to be outside his country of nationality and for him to hold a well-founded fear of persecution for reasons of at least one of the five grounds listed in that Convention. The applicant has claimed that he is in need of protection for reasons of his political belief (being his adherence to the Syrian Social Nationalist Party [SSNP]).

The applicant has claimed to be a national of Lebanon and of no other country. He claimed to have travelled to Australia on a Lebanese passport in his own name. He has not made claims against any other country. The Tribunal is thereby satisfied that he is outside his country of nationality and that is Lebanon.

The Tribunal's task is to consider whether the applicant's claimed fear of persecution for reasons of his political belief (being his membership of the SSNP and his subsequent departure from the SSNP), is well-founded. To do this, the particular claims he has raised and the information he has advanced must be examined.

The applicant claims that he seeks protection because he is a member of the SSNP who has since left the party, and he will be persecuted if he returns to Lebanon.

The applicant's evidence at hearing was consistent with that on his protection application, and his evidence was corroborated by that of his witnesses. There is nothing before the Tribunal to lead it to the conclusion that the applicant was an unreliable witness. The Tribunal accepts that the applicant was a member of the SSNP.

The applicant claimed that he was targeted by both supporters and opponents of the SSNP. Although he is uncertain of the identity of those responsible for the incidents he described in his evidence, he claims that the incidents followed threats made by supporters and opponents of the SSNP. There is little objective information to support the applicant's assertions that he is being targeted by SSNP members for having left the SSNP, however, there have been incidents against persons seen to be pro- as well as anti-Syrian. On the evidence overall, the Tribunal accepts that the applicant has been persecuted in the past for reasons of his political beliefs. As to whether the applicant now has a well-founded fear of being persecuted because of his membership of the SSNP, the Tribunal has had regard to the aforementioned country information. The Tribunal accepts that the applicant was threatened and he and his family members attacked for having been a member of the SSNP.

Further, as to the reasonably foreseeable future, the Tribunal accepts that the authorities are unable to offer protection. The Tribunal accepts that Lebanon is a relatively unsafe

environment, that many of its citizens have been involved, wittingly or unwittingly, in violent incidents or episodes, and that the Lebanese protection authorities may often fail to provide adequate protection to Lebanese citizens

The Tribunal finds that there is a real chance that the applicant may face serious physical abuse now and in the reasonably foreseeable future, should he return to Lebanon, which the Tribunal considers sufficiently serious to amount to persecution.

The applicant would not be able to fully avoid persecution by relocating within Lebanon as the attacks on pro- and anti-SSNP sympathisers do not appear to be centred in any particular region. There is no evidence that he has effective third country protection or that section 36(3) of the Act applies to him.

The Tribunal is therefore satisfied, and finds, that the applicant has a well-founded fear of being persecuted for the Convention reason of political belief.

CONCLUSIONS

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) for a protection visa.

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.

I certify that this decision contains no information which might identify the applicant or any relative or dependant of the applicant or that is the subject of a direction pursuant to section 440 of the *Migration Act 1958*.

Sealing Officer's I.D: PRRTZB