

JOINT SELECT COMMITTEE ON AUSTRALIA'S IMMIGRATION DETENTION NETWORK

Q63

Question: Will the department provide copies of all departmental decisions on protection visa applications, by all the iterations of the process including the most recent Protection Obligations Determinations, both positive and negative, of all IMA's since July 2009, to the Committee?

Answer: According to departmental records, the Department of Immigration and Citizenship (DIAC) finalised over 8000 Refugee Status Assessments (RSA) and Protection Obligations Determinations (POD) records since July 2009.

The department estimates that it would take a departmental officer approximately 667 hours of work (this is equivalent to around 18 weeks of work for a full time officer) to extract all assessment records from the system, not taking into account the need to retrieve some hard copy files from archives.

The department is also required to de-identify these records in order to maintain the privacy and safety of our clients. This is to mitigate the risk of asylum seekers being positively identified in the public domain, and the associated risk of 'sur place'¹ claims being raised.

The process of de-identifying these records would involve removing all identifying information including clients' names, relevant dates, origins, movements, family composition and location, and any other specific identifying factors about their activities or claims. This process has been estimated to take approximately 1-1.5 hours per record, which would be, at a minimum, 8000 hours of work (the equivalent of 213 weeks of work for a full time officer).

As an alternative way of demonstrating how departmental decisions are made, the department has instead provided a copy of both negative and positive RSA and POD assessment record templates. These templates are used as a guide by departmental RSA and POD officers to assist in assessing claims and articulating findings in determining refugee status.

¹ A person who is not a refugee on departure from their country, but becomes a refugee later, is called a refugee '*sur place*'. Sur place claims can arise from the publication of names and other identifying information of people who are asylum seekers.

COMMONWEALTH OF AUSTRALIA

DEPARTMENT OF IMMIGRATION AND CITIZENSHIP

File Number:

Client ID:

Boat Name and ID Number:

PROTECTION OBLIGATIONS EVALUATION (POE) REFERRAL

Definition of a Refugee – Article 1 of the Refugees Convention

Article 1A(2), of the *United Nations 1951 Convention relating to the Status of Refugees* (Refugees Convention) amended by the *1967 Protocol relating to the Status of Refugees* (the Refugees Protocol), provide that a “refugee” is a 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.’

REFERRAL FOR INDEPENDENT PROTECTION ASSESSMENT

After having evaluated [Claimant’s name]’s (the ‘claimant’) case, I am not satisfied that he/she is a person to whom Australia has protection obligations. I have therefore referred his/her case for an Independent Protection Assessment (IPA).

1. CLAIMANT DETAILS

Family name:

Given names:

Known aliases:

Date of birth:

Country of birth:

Country of citizenship:

Identity issues

[If relevant, include discussion on any unresolved identity issues, providing information on how you have sought to clarify/establish identity and set out your finding. Include consideration of any FCC match result either here or under Client’s migration history (and indicate whether it impacted on the assessment), as relevant.]

2. CLAIMANT’S KEY MIGRATION HISTORY

[Brief summary of claimant’s migration history as it relates to protection obligations – for instance]

- The claimant arrived on Christmas Island on [date] on a boat codenamed [insert here].
- The claimant has / has no evidence of having any contact with UNHCR.

OR

- A check with the UNHCR revealed that the claimant was / was not mandated by / registered with UNHCR [on date]. Folio [x] on Department file [x] refers.
- The claimant claims to have previously resided in and / or transited through the following countries [also insert here known dates]. The claimant claims that [she/he does/does not] have a right to enter and reside in any of these countries.
- Any other relevant issues relating to the claimant's migration history; such as FCC match results.

3. CLAIMS FOR PROTECTION

The claimant's detailed written claims are on DIAC file CLFXXX from folio XX. The claimant attended a POE interview at [place] on [date].

[Briefly outline the key claims]

Claimant's response to material issues put to them for comment:

[Briefly outline the claimant's responses to questions asked about their key claims – this may include their responses to relevant country information]

[NB: this discussion does not need to be repeated under the relevant sections in Part 6 PROTECTION OBLIGATIONS EVALUATION REASONS AND FINDINGS]

4. MATERIAL BEFORE THE POE OFFICER

4.1 Departmental file n° [insert claimant file n°] relating to the claimant.

4.2 Relevant case law, legislative provisions in the *Migration Act 1958 (Migration Act)* and the Department's Refugee Law Guidelines.

4.3 The United Nations High Commissioner for Refugees *Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees, Re-edited, Geneva, January 1992* (the UNHCR Handbook) and supplementary UNHCR materials, academic commentaries and international jurisprudence.

4.4 [Relevant country information (**that you have used in your reasons – do not include extensive reference to country information if not required**). This should be listed by CISNET reference number (eg. CX12345) first]

5. PROTECTION OBLIGATIONS EVALUATION REASONS AND FINDINGS

I am referring this case for an IPA for the reasons that follow:

A. Nationality (Citizenship) / Country of former habitual residence

[Set out reasons and findings on nationality (citizenship) / statelessness – for instance]

The claimant arrived at Christmas Island documented / undocumented. They state they are a citizen of [country]. They have consistently maintained this claim throughout the POD process (to date). They also appeared to speak the [XXX] language fluently at the POE interview (and which language is commonly spoken by persons from [country]).

I therefore accept the claimant is a citizen of [country]. OR

I therefore accept the claimant is stateless and their country of former habitual residence is [country].

B. The right to enter and reside in a safe third country

[Provide reasons as necessary]

I am satisfied the claimant does not / does have the right to enter and reside in a safe third country (pursuant to s.36(3)-(5) of the Migration Act).

C. The exclusion clauses in the Refugees Convention

[Provide findings and reasons and the consequences of any relevant findings – then state for instance]

Based on the evidence presently before me, I am not satisfied the claimant is excluded from protection under Articles 1D, 1E or 1F of the Refugees Convention.

D. Section 91R(3) of the Migration Act

[If you are proposing to disregard conduct under s.91R(3), please first search **PAM3: Refugee Law Guidelines** for guidance. Then set out reasons and findings and the consequences of any relevant findings – then state for instance]

After considering the claimant's evidence, I am / am not disregarding conduct engaged in by the claimant under s.91R(3) of the Migration Act.

E. Findings of fact (credibility)

[Set out your reasons and findings on key facts having regard to all the evidence including that evidence provided by and on behalf of, the claimant (**which you would have set out in part under '3. Claims for Protection'**). Your discussion may include reference to at least the relevant country information **sources** which you may have put to the claimant and recorded under section '3. Claims for Protection'. Your discussion may also address relevant credibility reasons and findings. **It is important to ensure that your reasons are set out herein**]

[Finally, you do not need to repeat your reasoning process under the below Convention criteria – you may however, need to refer to relevant findings below]

F. Refugees Convention ground/s and nexus

[NB: As you have set out your reasons and findings on material facts above, do not repeat that discussion here. Simply refer to the relevant facts you have found, then refer to any relevant case law, legislative guidance, and/or country information, then set out your findings and reasons regarding Convention ground/s and Convention nexus]

After considering the claimant's evidence, I am /am not satisfied that the essential and significant reason the claimant fears harm [OR] persecution is for one of the Refugees Convention reasons.

[ADDITIONAL OPTION s91S]

The claimant's claims are subject to s91S of the Migration Act.

[Provide findings and reasons]

G. Persecution

[NB: As you have set out your reasons and findings on material facts above, do not repeat that discussion here. Simply refer to the relevant facts you have found, then refer to any relevant case law, legislative guidance, and/or country information, then set out your findings and reasons regarding the harm feared. Where appropriate, the harm feared should be considered cumulatively]

After considering the claimant's evidence, I am / am not satisfied the harm the fear is sufficiently serious to constitute persecution for the purposes of the Refugees Convention, having regard to s.91R(1) & (2) of the Migration Act.

H. Well founded-fear

A fear of being persecuted is well-founded if there is a 'real chance' that a claimant may be persecuted (see *Chan v MIEA* (1989) 169 CLR 379 per Mason CJ at 389, Toohey J at 406-7, Dawson J at 396-8, McHugh J at 428-9). A 'real chance' may be below a 50 per cent chance. However, a real chance is not a remote chance; there needs to be a real substantial basis for a fear of persecution in order for it to be well founded.

[NB: As you have set out your reasons and findings on material facts above, do not repeat that discussion here. You may also consider adopting the immediately above paragraph as sufficiently setting out the relevant case law. Then simply refer to the relevant facts you have already found above, any country information, then set out your findings and reasons relating to well-founded fear]

After considering the claimant's evidence, I am / am not satisfied the claimant's fear is well-founded for the purposes of the Refugees Convention.

I. Internal flight / Relocation

If you discuss relocation in your POE record, you must have put this to the claimant for comment. That said, set out findings and reasons and then state – for instance]

After having considered the evidence, I am / am not satisfied the claimant can relocate within [country].

6. FINDING ON PROTECTION OBLIGATIONS EVALUATION

I am not satisfied the claimant meets the definition of a refugee set out in the Refugees Convention and the Refugees Protocol and accordingly, I am not satisfied they are someone to whom Australia owes protection obligations.

7. REFERRAL FOR REVIEW

As this assessment has found the claimant does not meet the definition of a refugee in the Refugees Convention and the Refugees Protocol, the claimant's case is to be automatically referred for Independent Protection Assessment.

[*POE Officer's signature*]

[POE Officer's name]

Protection Obligations Evaluation officer

Position no.

[DATE]



Australian Government
Department of Immigration and Citizenship

COMMONWEALTH OF AUSTRALIA

DEPARTMENT OF IMMIGRATION AND CITIZENSHIP

File Number: CLF
Client ID:
Boat name and ID number:

PROTECTION OBLIGATIONS EVALUATION OUTCOME

Definition of a Refugee – Article 1 of the Refugees Convention

Article 1A(2), of the *United Nations 1951 Convention relating to the Status of Refugees* (the Refugees Convention) amended by the *1967 Protocol relating to the Status of Refugees* (the Refugees Protocol), provide that a “refugee” is a 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.’

1. CLAIMANT DETAILS

Family name:
Given names:
Known aliases:
Date of birth:
Country of birth:
Country of citizenship:

Identity issues

[If relevant, include discussion on any unresolved identity issues, providing information on how you have sought to clarify/establish identity and set out your finding. Include consideration of any FCC match result either here or under Client’s migration history (and indicate whether it impacted on the assessment), as relevant.]

2. CLAIMANT’S KEY MIGRATION HISTORY

[Brief summary of claimant’s migration history as it relates to protection obligations – for instance]

- [Claimant's name] (the 'claimant') arrived on Christmas Island on [date] on a boat codenamed [insert here].
- The claimant has / has no evidence of having any contact with UNHCR.

OR

- A check with the UNHCR revealed that the claimant was / was not mandated by / registered with UNHCR [on date]. Folio [x] on Department file [x] refers.
- The claimant claims to have transited through and / or resided in, the following countries [also insert here known dates]. The claimant claims that [she/he does/ does not] have a right to enter and reside in any of these countries.
- Any other relevant issues relating to the claimant's migration history, such as FCC match results.

3. CLAIMS FOR PROTECTION

The claimant's detailed written claims are on DIAC file CLFXXX from folio XX. The claimant attended a POE interview at [place] on [date].

[Briefly outline the key claims]

Claimant's response to material issues put to them for comment:

[Briefly outline the claimant's responses to questions asked about their key claims – this may include their responses to relevant country information]

[NB: this discussion does not need to be repeated under the relevant sections in Part 5 PROTECTION OBLIGATIONS EVALUATION REASONS AND FINDINGS]

4. MATERIAL BEFORE THE POE OFFICER

- 4.1 Departmental file n° [insert DIAC file n°] relating to the claimant.
- 4.2 Relevant case law, legislative provisions in the *Migration Act 1958 (Migration Act)* and the Department's Refugee Law Guidelines.
- 4.3 The United Nations High Commissioner for Refugees *Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees, Re-edited, Geneva, January 1992* (the UNHCR Handbook) and supplementary UNHCR materials, academic commentaries and international jurisprudence.
- 4.4 [Relevant country information (**that you have used in your reasons – do not include extensive reference to country information if not required**). This should be listed by CISNET reference number (eg. CX12345) first]

5. PROTECTION OBLIGATIONS EVALUATION REASONS AND FINDINGS

A. Nationality (Citizenship) / Country of former habitual residence

[Set out reasons and findings on nationality (citizenship) / statelessness – for instance]

The claimant arrived at Christmas Island documented / undocumented. They state they are a citizen of [country]. They have consistently maintained this claim throughout the POD process (to date). They also appeared to speak the [XXX] language fluently at the POE interview (and which language is commonly spoken by persons from [country]).

I therefore accept the claimant is a citizen of [country]. OR

I therefore accept the claimant is stateless and their country of former habitual residence is [country].

B. The right to enter and reside in a safe third country

[Set out reasons and findings – then state for instance]

After having discussed his/her claims at the POE interview, and after having considered his/her migration history, I am satisfied the claimant does not have the right to enter and reside in a safe third country (pursuant to s.36(3)-(5) of the Migration Act).

C. The exclusion clauses in the Refugees Convention

[Provide findings and reasons and the consequences of any relevant findings – then state for instance]

Based on the evidence presently before me, I am not satisfied the claimant is excluded from protection under Articles 1D, 1E or 1F of the Refugees Convention.

D. Section 91R(3) of the Migration Act

[If you are proposing to disregard conduct under s.91R(3), please first search **PAM3: Refugee Law Guidelines** for guidance. Then set out reasons and findings and the consequences of any relevant findings – then state for instance]

After considering the claimant's evidence, I am not disregarding conduct engaged in by the claimant under s.91R(3) of the Migration Act.

E. Findings of fact (credibility)

[Set out your reasons and findings on key facts having regard to all the evidence, including that provided by and on behalf of, the claimant (**which you would have set out in part under '3. Claims for Protection'**). Your discussion may include reference to at least the relevant country information **sources** which you may have put to the claimant for comment and recorded under section '3. Claims for Protection'. Your discussion may also address relevant credibility reasons and findings. **It is important to ensure that your reasons are set out herein**]

[Finally, you do not need to repeat your reasoning process under the below Convention criteria – you may however, need to refer to relevant findings below]

F. Refugees Convention ground/s and nexus

[NB: As you have set out your reasons and findings on material facts above, do not repeat that discussion here. Simply refer to the relevant facts you have found, then refer to any relevant case law, legislative guidance, and/or country information, then set out your findings and reasons regarding Convention ground/s and Convention nexus – then state for instance]

After considering the claimant's evidence, I am satisfied that the essential and significant reason the claimant fears harm [OR] persecution is for one of the Refugees Convention reasons.

G. Persecution

[NB: As you have set out your reasons and findings on material facts above, do not repeat that discussion here. Simply refer to the relevant facts you have found, then refer to any relevant case law, legislative guidance, and/or country information, then set out your findings and reasons regarding the harm feared. Where appropriate, the harm feared should also be considered cumulatively – then state for instance]

After considering the claimant's evidence, I am satisfied the harm they fear is sufficiently serious to constitute persecution for the purposes of the Refugees Convention, having regard to s.91R(1) & (2) of the Migration Act.

H. Well-founded fear

A fear of being persecuted is well-founded if there is a 'real chance' that a claimant may be persecuted (see *Chan v MIEA* (1989) 169 CLR 379 per Mason CJ at 389, Toohey J at 406-7, Dawson J at 396-8, McHugh J at 428-9). A 'real chance' may be below a 50 per cent chance. However, a real chance is not a remote chance; there needs to be a real substantial basis for a fear of persecution in order for it to be well founded.

[NB: As you have set out your reasons and findings on material facts above, do not repeat that discussion here. You may also consider adopting the immediately above paragraph as sufficiently setting out the relevant case law. Then simply refer to the relevant facts you have already found above, any country information, then set out your findings and reasons relating to well founded-fear – then state for instance]

After considering the claimant's evidence, I am satisfied the claimant's fear is well-founded for the purposes of the Refugees Convention.

I. Internal flight / Relocation

[If you discuss relocation in your POE record, you must have put this to the claimant for comment. That said, set out findings and reasons and then state – for instance]

After having considered the evidence, I am not satisfied the claimant can relocate within [country].

5.2. SUMMARY OF FINDINGS

The Refugees Convention ground[s] of [race/religion/nationality/membership of a particular social group and/or political opinion] is/are the essential and significant reason[s] for the harm which the claimant fears.

Having carefully considered all of the available evidence, I find that:

- The claimant is a citizen / stateless of [COUNTRY] and is outside [his/her] country of nationality / country of former habitual residence;
- The claimant has no other nationality and does not have a right to enter and reside in a third country;
- The cessation clauses in Article 1C of the Refugees Convention do not apply to the claimant;
- There is no information before me which indicates that the claimant comes within one of the exclusion clauses in Articles 1D, 1E and 1F of the Refugees Convention;
- Article 33(2) of the Refugees Convention does not apply to the claimant;
- The harm that the claimant fears is for a Refugees Convention reason;
- The harm that the claimant fears amounts to persecution;
- That effective protection, pursuant to sections 36(3)-(5) of the Migration Act, is not available to the claimant;
- That internal relocation is not a reasonable option for the claimant; and
- That having carefully considered the claimant's account in terms of detail, internal consistency and credibility and after having regard to country information, I am satisfied that the claimant's fear of being persecuted is well-founded.

5.3 POE OUTCOME

I am satisfied the claimant meets the definition of refugee within the meaning of the Refugees Convention and relevant provisions of the Migration Act and is someone to whom Australia owes protection obligations.

POE Officer's signature

[POE Officer's name]

Position no.

[DATE]

**COMMONWEALTH OF AUSTRALIA
DEPARTMENT OF IMMIGRATION AND CITIZENSHIP**

File number: CLF

Client ID number:

Boat name & ID number: (eg. XXX 001)

REFUGEE STATUS ASSESSMENT RECORD

Definition of a Refugee – Article 1 of the Refugees Convention

Article 1A(2), of the United Nations 1951 Convention as amended by the 1967 Protocol relating to the Status of Refugees (Refugees Convention), provides that a “refugee” is a 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.

1. CLAIMANT DETAILS

Family name:

Given names:

Known aliases:

Date of birth:

Country of birth:

Country of citizenship:

DEPENDANT DETAILS

Family name:

Given names:

Known aliases:

Date of birth:

Country of birth:

Country of citizenship:

Relationship to Claimant

Identity concerns (if applicable)

[List all aliases in the above section. Also include discussion on any unresolved identity issues, providing information on how you have sought to clarify/establish identity and a finding.]

2. CLIENT HISTORY/MIGRATION HISTORY

[Details of arrival and migration history if applicable]

3. CLAIMS FOR PROTECTION

[Outline claimant’s claims made against the Refugees Convention]

4. MATERIAL BEFORE THE RSA OFFICER

1. Departmental file no. [insert client file no.] relating to the claimant.
2. The United Nations High Commissioner for Refugees Handbook on Procedures and Criteria for Determining Refugee Status (the UNHCR Handbook).
3. Relevant academic commentaries, including but not limited to Prof. Hathaway, James *The Law of Refugee Status*, 1991.
4. CISNET references.

5. [if appropriate] Relevant case law and legislative provisions in the *Migration Act 1958*- as an aid to interpretation of the Refugees Convention.

[When referring to COI material, please provide relevant reference numbers together with CISNET reference numbers, eg. for material number 5, please refer as CX12345 (4.5)]

5. **REASONS AND FINDINGS**

- a. **What is the claimant's country of reference?**

(claimed country of nationality or former habitual residence)

[Evidence and discussion if applicable]

Finding

I find that the claimant [insert name of claimant] is [a citizen of (insert relevant country)/or is stateless and is a former habitual resident of (insert relevant country)].

- b. **Does the claimant have the right to enter and reside in a safe third country?**

Claims

[Evidence and discussion if applicable]

Finding

I find that the claimant does/does not have effective protection in a third country.

- c. **Does a cessation clause apply (Article 1C)?**

I find that the cessation clauses in Article 1C do/do not apply to the claimant.

[Insert relevant elements and discussion if applicable]

- d. **Does the claimant come within one of the exclusion clauses in Article 1D, 1E or 1F?**

I find that the claimant does/does not come within Articles 1D, 1E and 1F of the Refugees Convention.

[Insert relevant elements and discussion if applicable]

- e. **Does the claimant come within Article 33(2) of the Refugees Convention, in respect of its express exception to the prohibition on refoulement?**

I find that the claimant does/does not come within Article 33(2) of the Refugees Convention.

[Insert relevant elements and discussion if applicable]

- f. **Is the harm feared for a Convention reason?**

Claims

[Insert relevant elements of claimant's claims, and discussion if applicable]

I find that the Convention ground/s of [insert ground/s] [is/are] the essential and significant reason/s for the harm feared.

- g. **Does the harm feared amount to persecution?**

Claims [Insert relevant elements of claims as they relate to the harm feared]

Analysis and discussion (that is,, is the harm feared of sufficient seriousness to amount to persecution and is it systematic and discriminatory?)

Finding

I find that the harm feared involves/does not involve serious harm and systematic and discriminatory conduct which amounts to persecution.

- h. **Is the fear of Convention-based persecution well-founded?**

Reasons

[Assessment Officer to clearly present facts and an *analysis of information leading to finding*]

[If the agent of persecution is a non-state agent, insert consideration of whether effective state protection is available to the claimant and/or whether state protection may be withheld for a Convention reason]

[Consideration of whether internal relocation is a viable option for the claimant]

Finding

I find that the claimant has/does not have a genuine fear of harm and that there is/is not a real chance of persecution occurring. I therefore find that the claimant's fear of persecution, as defined under the Refugees Convention, is/is not well founded.

Claims [Insert relevant elements of claims as they relate to the harm feared]

6. Finding on Refugee Status Assessment

I am satisfied that the claimant does not meet the definition of a refugee set out in Article 1A of the *1951 Convention relating to the Status of Refugees and its 1967 Protocol* and is not someone to whom Australia owes protection obligations.

7. Access to Review

As this assessment has found that the claimant do not meet the definition of a refugee set out in Article 1A of the *1951 Convention relating to the Status of Refugees and its 1967 Protocol*, the claimant may apply for a review of the finding.

[*Assessment Officer's signature*]

[Assessment Officer's name]

Position no.

[*DATE*]

COMMONWEALTH OF AUSTRALIA
DEPARTMENT OF IMMIGRATION AND CITIZENSHIP

File Number: CLF

Client ID:

Boat name and ID number: (eg. XXX 001)

REFUGEE STATUS ASSESSMENT RECORD

Definition of a Refugee – Article 1 of the Refugees Convention

Article 1A(2), of the United Nations 1951 Convention and 1967 Protocol relating to the Status of Refugees (Refugees Convention), provides that a “refugee” is a 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.

1. CLAIMANT DETAILS

Family name:

Given names:

Known aliases:

Date of birth:

Country of birth:

Country of citizenship:

DEPENDANT DETAILS (if applicable)

Family name:

Given names:

Known aliases:

Date of birth:

Country of birth:

Country of citizenship:

Relationship to client:

Identity concerns (if applicable)

[List all aliases (still in effect on ICSE) in the above section. Also include discussion on any unresolved identity issues, providing information on how you have sought to clarify/establish identity and a finding.]

2. CLIENT HISTORY/MIGRATION HISTORY

[Details of arrival and migration history]

3. CLAIMS FOR PROTECTION [an outline of the key claims are required]

The claimant’s detailed claims are on client file CLF XXXXXXXX folios XX to XX.

4. MATERIAL BEFORE THE RSA OFFICER

1. Departmental File Number [insert client file no.] relating to the claimant(s).
2. The United Nations High Commissioner for Refugees Handbook on Procedures and Criteria for Determining Refugee Status (the UNHCR Handbook).

3. Relevant academic commentaries, including but not limited to Prof. Hathaway, James *The Law of Refugee Status*, 1991.
4. [If appropriate] Relevant case law and legislative provisions in the Migration Act 1958 – as an aid to interpretation of the Refugees Convention.
5. Country Information Service (CIS) documents and information directly relevant to the case [should be listed below]:

[When referring to COI material, please provide relevant reference numbers together with CISNET reference numbers, eg. for material number 5, please refer as CX12345 (4.5)]

5. REASONING

Analysis and discussion: Facts and an analysis of the information leading to the RSA officer's finding are to be presented clearly here.

6. FINDINGS

The Convention ground[s] of **[race/religion/nationality/membership of a particular social group and/or political opinion]** is/are the essential and significant reason[s] for the harm which the claimant fears. (delete those that are not applicable)

Having carefully considered all of the available evidence I find:

- The claimant is a citizen of [COUNTRY] **and is outside [his/her] country of nationality;**
- The claimant has no other nationality and does not have a right to enter and reside in a third country;
- The cessation clauses in Article 1C of the Refugees Convention do not apply to the claimant; **[Any consideration of this Article should be clearly discussed in part 5 under 'Reasoning']**
- There is no information before me which indicates that the claimant comes within one of the exclusion clauses in Articles 1D, 1E and 1F of the Refugees Convention; **[Any consideration of these Articles should be clearly discussed in part 5 under 'Reasoning']**
- Article 33(2) of the Refugees Convention does not apply to the claimant; **[Any consideration of this Article should be clearly discussed in part 5 under 'Reasoning']**
- The harm that the claimant fears is for a convention reason;
- The harm that the claimant fears amounts to persecution;
- That effective state protection is not available to the claimant;
- That internal relocation is not a viable option for the claimant; and
- That having carefully considered the claimant's account in terms of detail, internal consistency and credibility in relation to country information. I am satisfied that the claimant's fear of persecution as defined under the Refugees Convention is well-founded.

7. FINDING ON REFUGEE STATUS ASSESSMENT

I am satisfied that the claimant does meet the definition of a refugee as set out in Article 1A of the *1951 Convention relating to the Status of Refugees and its 1967 Protocol*, and is someone to whom Australia owes protection obligations.

[Assessment Officer's signature]

[NAME]

Position no.

[DATE]