The deportation of the authors to the Russian Federation will not violate the ICCPR

**Substantive Issues**
- Expulsion of aliens: risk of irreparable harm

**Facts**
The authors of the communication, Mr and and Mrs X, are both Russian nationals residing in Denmark who claim that if Denmark proceeds with their forcible return to the Russian Federation this would constitute a violation of their rights under articles 6, 7, 14 and 26.

Mr X claims that his family has been the object of persecution by Wahhabi militants and has fled the Russian Federation for that reason. In 1998, his father was stabbed by the militants for refusing to send his two youngest sons to a Wahhabi training camp. Based on this incident, Mr X's mother and two of his brothers were granted asylum in Denmark in 2002. In 2004, Mr X's other brother wrote a critical psychology essay about Wahhabism and his 7 month-old son was killed by the militants. As a result, the said brother and his wife sought and received asylum in France in 2008. Finally, the author’s fourth brother currently resides in Sweden and his half sister has Danish citizenship.

With regards to the author’s situation, the latter submits that he and his brother were visited by Wahhabi militants in 1990 to recruit them to participate in their activities. He and his brother fled home and lived in different places, but he was located by the militants who beat him up with some hard tools. While being treated after the assault, he met his future wife (a nurse) and the couple married. In 2006, Mr X was allegedly visited by four militants who informed him of an upcoming terrorist attack and explained his anticipated role as a suicide bomber. When Mr X refused to participate in the terrorist attack, he was told that he and his wife would be killed. As a result, Mr X accepted to collaborate and the author’s identity papers were taken by the militants to prevent them from escaping. Shortly thereafter, Mr X approached the Federal Security Service (FSS) and informed its agents of the planned terrorist attack. In response,
agents of the FSS killed three of the four individuals who had visited the authors. Fearing that they would be the target of reprisals and that they would be suspected of being militant collaborators by the Russian authorities, the authors went into hiding and then fled to Denmark. On the 21st of June 2007, the authors applied for asylum in Denmark. However, the Danish Immigration Service rejected their asylum application and the decision was upheld by the Refugee Board in 2008. The Refugee Board considered the author’s story implausible and therefore concluded that Mr X. had not been exposed to attacks or abuse by either the militants or the Russian authorities since the incident took place in 2003. Although the case was reopened by the board in April 2010, in June 2012 the Refugee Appeals Board re-heard the appeal and issued a decision concluding that there was no reason to set aside its previous decision and the author was ordered to leave Denmark.

The authors submit that, by deporting them to the Russian Federation, the State party will violate their right to life and right not to be subjected to torture that are guaranteed under articles 6 and 7 of the Covenant. Moreover, the author submits that the State party violated article 14 and 26 because the authors suffered from a discrimination as they were unable to appeal in a court against the decision of the Refugee Board, unlike decisions of all other types of boards in Denmark.

Committee’s View

Consideration of admissibility
Concerning the claims raised by the author under articles 14 and 26 of the Covenant, the Committee refers to its jurisprudence that proceedings relating to the expulsion of aliens do not fall within the ambit of a determination of “rights and obligations in a suit of law” within the meaning of article 14(1), but are governed by article 13 which offers some of the protection afforded by article 14(1) but no right of appeal. The Committee therefore considers that the authors’ claim under article 14 is inadmissible. Furthermore, the Committee considers that the author’s claim with respect to article 26 is insufficiently substantiated and declares it inadmissible.

With regard to the author’s claim under articles 6 and 7 of the Covenant, the Committee considers that the authors adequately explained the reasons for which they fear that their forcible return to the Russian Federation would result in a risk of treatment incompatible with the above articles and declares it admissible.

Consideration of merits
The Committee recalls its general comment No. 31 in which it refers to the obligation of States parties not to extradite, deport, expel or otherwise remove a person from their territory where there are substantial grounds for believing that there is a real risk of irreparable harm such as that contemplated by articles 6 and 7 of the Covenant. The Committee also recalls that generally speaking, it is for the organs of States parties to the Covenant to review or evaluate facts and evidence in order to determine whether such a risk exists.
The Committee observes that the authors’ refugee claims were thoroughly assessed by the State party’s authorities, which found that the authors declarations about the motive for seeking asylum and their account of the events that caused their fear of torture or killing were not credible. In the absence of any irregularity in the decision-making process, or any risk factor that the State party’s authorities failed to take properly into account, the Committee cannot conclude that the authors would face a real risk of treatment contrary to articles 6 or 7 of the Covenant if they were removed to the Russian Federation.

As a result, the Human Rights Committee, acting under article 5(4) of the Optional Protocol to the International Covenant on Civil and Political Rights, is of the view that the facts before it do not reveal a breach of any provision of the Covenant.