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4 October 2011

ALB103821.E

Albania: Procedures to obtain a police report; whether a police report can be obtained from abroad through a proxy; if so, requirements and procedures

Research Directorate, Immigration and Refugee Board of Canada, Ottawa

Reporting a crime

In correspondence with the Research Directorate, an attorney at a private law firm, who has been practicing and teaching law in Albania for about 10 years, provided the following information about the process to report a crime to the police in Albania (Attorney 10 Sept. 2011). According to him, any person who becomes aware of a crime is required by law to report it to the police (ibid.). Complaints can be made to the Prosecutor's Office or to the police "orally or in writing, personally or through an attorney" (ibid.). When a complainant reports a crime to the police in person, he or she provides a verbal account of the incident (ibid.). The police officer recording the details can use a "sample" or "semi-prepared" form (ibid.). When finished, the police officer must read the document to the complainant and ask for the complainant's signature (ibid.). Alternatively, the person can draft his or her own complaint and submit it to the police by mail or in person (ibid.).

In follow-up correspondence with the Research Directorate, the attorney said that, because the Albanian police do not use a standardized form, the police either type out the report on a computer or use an optional form (ibid. 24 Sept. 2011). The information on the form usually includes the words the "Republic of Albania"; the official symbol of the Republic; the name of the police unit or the prosecution office receiving the complaint; the date; the name of the officer recording the complaint; the name, parent's name, and date and place of birth of the citizen making the complaint; a short explanation of the law and the rights and duties proceeding from it; and a written account of the complainant's statement (ibid.). Each page of the report should be signed by both the officer recording the complaint and the complainant (ibid.).

A lawyer with the Tirana-based non-governmental organization (NGO) Albanian Human Rights Group (AHRG) stated, in correspondence with the Research Directorate, that when victims of a crime give their statement to the police, they can have a copy of the report signed by the police officer (AHRG 11 Sept. 2011).

Right to obtain a police report in Albania

Both the private attorney and the AHRG lawyer said that victims of crime have a legal right to obtain a copy of the police report on their case (AHRG 11 Sept. 2011; Attorney 10 Sept. 2011). However, the AHRG lawyer added, without providing details, that although the law grants victims the right to the police report, in practice they can encounter "difficulties" accessing the report (AHRG 11 Sept. 2011). He also said that witnesses to crimes cannot obtain police reports (ibid.). In contrast, the private attorney indicated that the right to police reports applies to both victims and witnesses since it is protected by the Albanian Criminal Procedures Code and Law No. 8503 on the Right to Information over Official Documents (Attorney 10 Sept. 2011).

Articles 3 and 4 of the Law on the Right to Information over Official Documents state the following:

Right to information

Everyone is [e]ntitled, upon his request, to get information on an official document without being obliged to explain the motives of such request.

Public authorities shall grant any information in relation to an official document, safe when the law provides differently.

Information on an official document, granted to a person, shall not be refused to any other person, excluding the case when this information consists personal data about the person himself, to whom the information was granted before.

Limitations

If the requested information on a[n] official document is restricted by another law, the public authority shall provide the requested with a written declaration expressing the reasons of such refusal and/or basic rules on which the requested can get such information.

If the limitation of the information is related to only one part of the official document, the remaining part shall not be refused to the requester. (Albania 1999, Art. 3 and 4)

The law also stipulates that the public authority must provide a written decision on a request for official documents within 15 days of receipt of the request (ibid., Art. 10). If the request is accepted, the authority must provide the requested documents within either 30 or 40 days, depending on whether an extension to the time limit has been granted (ibid., Art. 11).

However, in correspondence with the Canadian Embassy in Rome, a liaison officer at the Albanian Embassy in Rome provided contrasting information (Albania 3 Oct. 2011). According to the official:

[translation]

A victim or witness may not obtain a copy of the police report, or send or use it outside the national territory, except in the case of rulings issued by a prosecutor's office or tribunal. In all other cases, certification is issued by the administration of the provincial police with jurisdiction, only when authorities in

other places request a document of this type. This type of certification, which must be signed by the competent agency, answers only the questions of the requesting authority, and only with regard to the information that is being requested of the person involved. (ibid.)

Obtaining a police report from Albania

According to the private attorney, a person must submit a request to obtain a copy of a police report in writing (Attorney 10 Sept. 2011). The attorney noted that if the requested documents are refused, the requestor has a right to challenge the decision in a court of law (ibid.). The attorney also said that, in his experience, it has usually taken between one and three days to obtain the report for a crime victim (ibid. 24 Sept. 2011).

Obtaining a police report from abroad

The private attorney stated that, through a power of attorney, requestors can grant the authority for obtaining a copy of the police report to a relative, a licensed attorney, or another person (ibid.). The power of attorney must be drafted and signed by a public notary in Albania or another country (ibid.). He said that power-of-attorney documents from public notaries abroad must either be stamped with the "Apostille Stamp as foreseen in the Hague Convention" or legalized by the Albanian embassy or the foreign ministry of the country in question (ibid.).

In a telephone interview with the Research Directorate, the Consul of the Embassy of Albania said that someone in Canada can arrange a power of attorney in Albania through a public notary in Canada (Albania 15 Sept. 2011). He explained that the document must then be "authenticated" by Foreign Affairs and International Trade Canada and "legalized" by the Albanian embassy in Canada (ibid.). He noted that the Albanian embassy's legalization process involves verifying DFAIT's authentication and that it can be done the same day that it is received (ibid.).

The AHRG lawyer stated that in most cases, individuals experience "difficulties" when trying to obtain a police report from outside Albania (AHRG 11 Sept. 2011). He said that a crime victim can request information from the police file with the help of a lawyer, but added that in "most of the cases, he will have no answer on this request" (ibid.). In contrast, the private attorney expressed the opinion that appointing a legal representative to obtain police reports in Albania "works very well" (Attorney 10 Sept. 2011). The attorney said that it might also be possible for a victim or witness of a crime to send a written request for the police report by mail, but that it might be "very slow" (ibid.). Finding a way to pay the cost to copy and ship the documents back to the requestor might also present obstacles (ibid.).

The liaison office at the Albanian Embassy in Rome provided the Canadian embassy in Rome with the following information about whether a representative in Albania can obtain a police report on behalf of a victim or witness of a crime:

[translation]

Neither family members nor counsel may be given a copy of the police report on behalf of a victim or witness. Only when a case is referred back to a

prosecutor's office, or when it has been examined by the court, may family members obtain certification of this type ... (Albania 3 Oct. 2011)

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

References

Albania. 3 October 2011. Embassy of the Republic of Albania in Rome. Correspondence between a liaison officer and the Embassy of Canada in Rome. Translated by the Translation Bureau, Public Works and Government Services Canada.

Albania. 15 September 2011. Embassy of Albania in Ottawa. Telephone interview with the Consul by the Research Directorate.

_____. 1999. Law No. 8503, Date 30.6.1999, on the Right to Information over the Official Documents. (Legislationline)
<<http://www.legislationline.org/documents/action/popup/id/6492>> [Accessed 23 Sept. 2011]

Albanian Human Rights Group (AHRG). 11 September 2011. Correspondence from a lawyer to the Research Directorate.

Attorney. 24 September 2011. Correspondence with the Research Directorate.

_____. 10 September 2011. Correspondence with the Research Directorate.

Additional Sources Consulted

Oral sources: Attempts to contact representatives at the Office of the People's Advocate, the Albanian State Police, the Albanian Helsinki Committee and two law firms were unsuccessful within the time constraints of this Response.

Internet sites, including: Amnesty International; European Country of Origin Information Network; Factiva; Human Rights Watch; International Crisis Group; International Federation for Human Rights; Office of the People's Advocate; Open Society Foundation; Organization for Security and Co-operation in Europe; Radio Free Europe/Radio Liberty; Transitions Online; United Nations - Refworld, ReliefWeb; World Organisation Against Torture.

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