

JURK

Juridisk rådgivning for kvinner

Family immigration

www.jurk.no

FOREWORD

This brochure is published by JURK (Legal Councelling for Women, Norway). JURK is a student-run legal aid initiative that provides free legal advice to anyone who defines themselves as a woman.

JURK reserves the right to change its rules at any time after the publication of this brochure.

We would also like to thank everyone who works with and for JURK for their time and input.

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TABLE OF CONTENTS

1.0. INTRODUCTION	4
1.1. Purpose of this brochure	4
1.2. Abbreviations.....	4
2.0. WHAT IS FAMILY IMMIGRATION?	4
2.1. Terms	4
3.0. HOW TO APPLY?	4
4.0. WHO IS ELIGIBLE FOR FAMILY IMMIGRATION?	5
4.1. The reference person	6
4.2. Spouse.....	6
4.3. Cohabiting partners.....	7
4.4. Engaged partners (Fiancés)	9
4.5. Children under 18	10
4.6 Parents or siblings of children under the age of 18 who were granted asylum.....	11
4.7 Parent of a Norwegian child under the age of 18.....	11
4.8 Parent intending to exercise visitation with his or her Norwegian child under the age of 18 after having lived together abroad.....	12
4.9 Residency for parents on the basis of visitation with a child.....	13
4.9.1 Residency for a parent who intends to continue visitation with a child	13
4.9.2 Residency for a parent where the other parent has visitation with the child	14
4.10 Single parent over the age of 60, with a child over the age of 18 in Norway	15
4.11 A parent visiting a child in Norway	15
4.12 Other persons who may be granted family immigration.....	16
5.0. INCOME REQUIREMENT	17
5.1. The requirement to future income	17
5.1.1. Exceptions to the requirement to future income	18
5.2. The requirement to previous income.....	19
5.2.1. Exceptions to the requirement to previous income.....	20
5.3. Financial assistance from NAV (økonomisk sosialhjelp).....	21
5.3.1. Exceptions.....	22
6.0. HOUSING REQUIREMENT	22

7.0. FOUR-YEAR REQUIREMENT	22
8.0. ENTRY VISA (D-VISA)	24
9.0. THE DURATION AND CONTENT OF THE RESIDENCE PERMIT	25
10.0. FAMILY IMMIGRATION AND BREAKUPS	25
10.1. Residence permit on an independent basis.....	26
10.1.1. Residence permit if the referenceperson dies.....	26
10.1.2. Residence permit due to unreasonable difficulties in your country of origin	26
10.1.3. Residence permit on an independent basis for victims of abuse	27
11.0. WHERE TO GET HELP	27

1.0. INTRODUCTION

1.1. Purpose of this brochure

This brochure provides a brief presentation of legal issues relevant to family immigration for non-EU/EEA nationals. EU/EEA nationals and their family members may be granted residence in Norway both according to these rules and based on special rules for EU/EEA nationals. The special rules are not included in this brochure.

The purpose of the brochure is to guide the reader through the requirements for obtaining a family immigration permit and the rights that this gives.

1.2. Abbreviations

utl. Norwegian Immigration Act

utf. Norwegian Immigration Regulations

UDI The Norwegian Directorate of Immigration

2.0. WHAT IS FAMILY IMMIGRATION?

Family immigration means that a foreign national can be granted residence in Norway to live with one or more family members who already lives here.

2.1. Terms

The foreign national who wants to move to Norway is called the *applicant*. The person the applicant will live with in Norway is called the *reference person*. These terms will be used throughout the brochure.

3.0. HOW TO APPLY?

Normally, the applicant who wants to come to Norway must apply for family immigration at a Norwegian

embassy or consulate where she is a citizen, or where she has had a residence permit for the last six months. This means that the applicant must have been granted a family immigration permit *before* she travels to Norway.

If the applicant already has legal residence in Norway, she can apply for a family immigration permit from Norway. There are some exceptions and additional rules regarding this. You can contact JURK if you have questions.

When renewing a family immigration permit, the applicant can apply from Norway. The applicant must then apply *at least* one month before the residence permit expires in order to continue to reside legally in Norway while the application is being processed. **(utl. § 61 sjette ledd)**

4.0. WHO IS ELIGIBLE FOR FAMILY IMMIGRATION?

**Utl. Chapter
6**

Normally, only the *immediate family members* of the reference person can be granted family immigration.

The following individuals are considered immediate family members:

- Spouse
- Cohabiting partner
- Engaged partner (Fiancé)
- Children
- Adoptive children
- Parents

Siblings over the age of 18 are not considered to be immediate family members.

They can be granted a residence permit in Norway if

they meet certain requirements. Read more about this below.

4.1. The reference person

When applying for family immigration, the reference person needs to have a certain residence permit. The reference person must either:

- be a Norwegian or Nordic citizen who lives or intends to live in Norway, or
- have a permanent residence permit, or
- have or will be granted a residence permit that can form the basis for a permanent residence permit, such as a work permit or asylum, or
 - A study permit does not form the basis for a permanent residence permit.
- have a residence permit (collective protection) due to a mass flight situation.

4.2. Spouse

**utl. section
40**

A spouse can be granted a family immigration permit if the requirements below are met.

The reference person must fulfill the requirements referenced in item 4.1.

Spouses must always be at least 18 years old. In many cases, the spouses must be at least 24 years old.

However, the requirement to be 24 years old, does not apply if:

- the applicant was married to the reference person *before the reference person entered Norway*, or
- the spouses married while *both* had either a *residence permit* or *Norwegian/Nordic citizenship*,

or it is *obvious* that the marriage is voluntary.

The spouses must be lawfully married in Norway or abroad. If the spouses married abroad before entering Norway, it is required that both spouses were at least 16 years old when they married.

The spouses must plan to live together in Norway. If the applicant is granted family immigration with her spouse, the spouses must live together in Norway. To read about the rules that apply if the spouses move apart, see item 10.0.

The marriage can not be pro forma. Pro forma means that the spouses only married for the applicant to be granted a residence permit in Norway.

The reference person must have a certain income and a place where they can live together, for the spouse to be granted a family immigration permit. To read more about this, see items 5.0 and 6.0.

Sometimes the reference person is also required to have worked or studied in higher education for four years. To read more about this, see item 7.0.

4.3. Cohabiting partners

**utl. section
41**

A cohabing partner may be granted a family immigration permit if the requirements mentioned below are met.

The reference person must fulfill the requirements referenced in item 4.1.

The cohabitants must have lived together in a permanent and established relationship for at least two years.

- If the entire cohabitation, or parts of it, has taken place in Norway, the cohabitation will only count towards the two year period if both partners had legal residence in Norway.
- The cohabiting partners can not, as a main rule, earn time as cohabiting partners if one or both of them are married to someone else.

There is no requirement to have lived together for two years if the cohabitants have a child together. This also applies if the cohabitants are expecting a child together.

The cohabitants must plan to live together in Norway. If the applicant is granted family immigration with her cohabitant, they must live together in Norway. To read about the rules that apply if the cohabitants move apart, see item 10.0.

The cohabitants can normally not be married.

The cohabitants must *always* be at least 18 years old. In many cases, the cohabitants must be at least 24 years old.

However, the requirement to be 24 years old, does not apply if:

- the cohabitation was established *before the reference person entered* Norway, or
- *both* partners had either a *residence permit* or *Norwegian/Nordic citizenship* during the cohabitation, or

- it is *obvious* that the cohabitation is voluntary.

The reference person must have a certain income and a place where they can live together, for the cohabitant to be granted a family immigration permit. To read more about this, see items 5.0 and 6.0.

Sometimes the reference person is also required to have worked or studied in higher education for four years. To read more about this, see item 7.0.

**utl. section
48**

4.4. Engaged partners (Fiancés)

An applicant who plans to marry a reference person may be granted an engagement-visa if the requirements mentioned below are met. An engagement-visa is a residence permit that lasts no longer than six months. The visa can not be renewed or extended. The reference person must fulfill the requirements referenced in item 4.1.

The engaged partners must be at least 24 years old. The engaged partners must document that they can marry lawfully in Norway. They can not be married to anyone else.

The engaged partners must plan to live together in Norway. If the applicant is granted an engagement-visa, they must live together.

It must be made likely that the applicant will return to his or her country of origin if they do not get married. If UDI believes this is not likely, the application for an engagement-visa will be rejected.

After the couple has married, the applicant can apply for

family immigration according to utl. section 40. This can be done from Norway. This application should be submitted *no later than one month* before the engagement-visa expires. To read more about family immigration with a spouse, see item 4.2.

If the engaged partners do not marry each other, the applicant must leave Norway unless she has right of residence on another ground.

**utl. section
42**

4.5. Children under 18

A child under the age of 18 can be granted a family immigration permit with the parents if the requirements mentioned below are met.

The reference person must fulfill the requirements referenced in item 4.1.

The child cannot have a spouse or cohabiting partner.

Both parents must have a residence permit in Norway.

If only one parent has a residence permit in Norway, that parent must have parental responsibility alone or together with the other parent. If parental responsibility is shared, the other parent must agree that the child can apply for family immigration. There are some exceptions to this. If you have any further questions regarding this, please contact JURK.

When UDI evaluates the application, they will consider what is best for the child.

4.6 Parents or siblings of children under the age of 18 who were granted asylum

**utl. section
43**

The parents and siblings of a child under the age of 18 may be granted family immigration if the requirements below are met.

The child must have legal residence in Norway due to asylum.

The parents must live with the child in Norway. If the parents are not together, priority is given to the parent who has parental responsibility and who the child lived with permanently in the country of origin.

Siblings under the age of 18, who live with one or both parents who are granted family immigration, can join the parent(s) to Norway. If so, the sibling can not have a spouse or a cohabiting partner.

4.7 Parent of a Norwegian child under the age of 18

**utl. section
44**

A parent may be granted family immigration with a Norwegian child under the age of 18 if the requirements below are met.

The parent must have parental responsibility. Joint parental responsibility is also accepted. The purpose of the residence permit must be to live with the child in Norway.

The parent must live permanently with the child. If the parents live separately, the requirement is met when the child lives equally with both parents.

The parent cannot be married to or plan to live with the child's other parent.

4.8 Parent intending to exercise visitation with his or her Norwegian child under the age of 18 after having lived together abroad

**utl. section
45**

A parent may be granted family immigration to spend time with his or her Norwegian child under the age of 18 (visitation rights/access rights) if the requirements below are met.

The child must be under the age of 18.

The child must live permanently with the other parent in Norway.

The parent must have previously lived with the child or had visitation rights to a certain extent in the last year *abroad* before the child moved to Norway.

As a general rule, the extent of the visitation must be equal to one afternoon per week, every other weekend, 14 days during the summer holidays, in addition to Christmas or Easter.

In *some* cases a residence permit may be granted, even if visitations are less extensive than described above.

The parent must also have visitation rights in Norway. Visitation rights must be of a certain extent.

The parent must make it probable that he or she will actually spend time (exercise visitation) with the child.

The parent usually has to apply within three months after the child moved to Norway.

**utl. section
52**

4.9 Residency for parents on the basis of visitation with a child

A parent may be granted a renewed residency to continue visitation with a child under the age of 18 in Norway if the requirements in item 4.9.1 are met.

A parent may also be granted a renewed residency to allow the *other* parent to continue visitation with a child under the age of 18 in Norway. The requirements in item 4.9.2 have to be met.

4.9.1 Residency for a parent who intends to continue visitation with a child

In order for a parent with visitation rights to be granted residency, the child must live permanently with the other parent in Norway (the one not applying).

The child can not live permanently with the applicant.

The child must be under the age of 18.

The applicant must have parental responsibility for the child. The visitation must be of a certain extent, and the parent must exercise visitation. The extent of the visitation must be equal to one afternoon per week, every other weekend, 14 days during the summer holidays, in addition to Christmas or Easter.

The applicant must have resided legally in Norway with a residence permit the last year.

The child must have one of the following grounds for residency:

- be a Norwegian or Nordic citizen that is residing in Norway, or is going to reside in Norway
- permanent residence permit
- a temporary residence permit that forms the basis for a permanent residence permit
- collective protection according to section 34 of the Immigration Act

4.9.2 Residency for a parent where the other parent has visitation with the child

A parent who must stay in Norway for the *other* parent (the one not applying) to have visitation, may be granted a residence permit.

The child must live permanently with the applicant.

The child must be under the age of 18.

The applicant must have parental responsibility for the child.

The other parent must have visitation rights with the child to a certain extent and must exercise these rights. This requirement is usually met if the other parent has visitation one afternoon per week, every other weekend, 14 days during the summer holidays, in addition to Christmas or Easter.

The applicant must have resided legally in Norway with a residence permit the last year.

The other parent (the one not applying) must have one of the following grounds for residence:

- be a Norwegian or Nordic citizen that is residing in Norway, or is going to reside in Norway.
- permanent residence permit
- a temporary residence permit that can form the basis for a permanent residence permit
- collective protection according to section 34 of the Immigration Act

If the child loses his or her residence permit because the parent the child lives permanently with, loses his or her last residence permit, the child may also be granted residency according to the rule in this item.

The parent who the child lives permanently with must also be granted a residence permit according to the same rule.

4.10 Single parent over the age of 60, with a child over the age of 18 in Norway

**utl. section
46**

A single parent over the age of 60 can apply for family immigration with a child over the age of 18 who has a residence permit in Norway. The parent can not have a spouse or a cohabiting partner. The parent can not have children, grandchildren, parents or grandparents in his or her country of origin. **(utl. § 46 første ledd)**

4.11 A parent visiting a child in Norway

**utl. section
47**

A parent who has a child with a residence permit in Norway can apply for a residence permit to visit the child. The residence permit is time-limited and lasts *nine months* at most. The residence permit can not be renewed or extended.

If the child is over the age of 18, it is a requirement that the child has enough money to provide for the parent and

has a place the parent can stay during their visit in Norway. See more about this in items 5.0 and 6.0.

The parent is also required to return to the country of origin when the residence permit expires. If the UDI finds it unlikely that the parent will return to their country of origin after the residence permit expires, they will reject the application.

The parent can *at the earliest* apply again for this residence permit after staying outside of Norway for one year.

4.12 Other persons who may be granted family immigration

**utl. section
49**

In a *few* cases, other family members may be granted family immigration if there are *strong humanitarian considerations*. Other family members can be:

- children between the ages of 18 and 21, without a spouse or cohabiting partner, who have been in Norway with a residence permit for a long time
- children over the age of 18, without a spouse or cohabiting partner, who are being supported by their family in Norway, but are alone in their country of origin
- children over the age of 18 who, due to health problems, are fully dependent on the personal care of their parents in Norway
- a foster child under the age of 18 who is an established member of the family
- siblings under the age of 18 who do not have caregivers in their country of origin

Note that family immigration because of strong humanitarian considerations is difficult to get.

5.0. INCOME REQUIREMENT

**utf. section
58**

The reference person must have a minimum income (the income requirement) to support the person coming to Norway.

The reference person is required to:

- earn enough money the next year (future income, see item 5.1)
- have made enough money the previous year (previous income, see item 5.2)
- have not received financial assistance (økonomisk sosialhjelp) from NAV in the last twelve months before the permit is granted (see item 5.3)

The income requirements change regularly. Find the current income requirement at www.udi.no/en.

5.1. The requirement to future income

**utf. section
10-8**

The reference person must show that he or she will earn at least 2.7 times the basic amount in the National Insurance Scheme (G) the first year the applicant has been granted a residence permit.

Types of income that count as future income are:

- income from employment,
- sickness benefits, pregnancy benefits, parental benefits, disability benefits or retirement pension in accordance with the National Insurance Act,
- pension or other fixed periodic benefits and
- student loans or educational grants.

One can also meet the requirement by having a combination of these types of income.

Types of income that do not count as future income are:

- benefits in accordance with the Social Services Act,

- unemployment benefits (dagpenger),
- the work assessment allowance (arbeidsavklaringspenger),
- housing benefits (bostøtte),
- profit from stocks for private individuals,
- child benefit, child support, cash-for-care benefit, or the transitional benefit and
- introduction benefits (for applications submitted after 1st of October 2021)

5.1.1. Exceptions to the requirement to future income

The reference person or applicant is a child

Exceptions to the future income requirement may be made when the reference person is a child under the age of 18, or the applicant is a child under the age of 15 without caregivers in their country of origin.

The reference person is a refugee

Another exception to the future income requirement is when spouses, cohabiting partners or children apply for family immigration with a reference person who is a refugee or under collective protection in Norway.

NOTE: This only applies when the application for family immigration is submitted *no later than six months* after the reference person was granted a residence permit in Norway. The applicant is also required to appear in person at a foreign service mission or an external service provider *no later than one year* after the reference person was granted a residence permit, in order to submit the necessary documentation for the application.

The reference person is obviously able to provide for the applicant

Exception from the future income requirement may be

made if the reference person is obviously able to provide for the applicant. It is difficult to get an exception in accordance with this rule because there are very high demands to the reference person's net wealth. This exception only applies for applicants who have applied as a spouse, cohabiting partner or a child of a reference person.

The reference person is taking higher education
Exceptions or adjustments may be made to the future income requirement if the reference person is taking higher education (college or university), or has a residence permit as a researcher with their own funds.

The reference person receives pension or disability benefit (uføretrygd)
If you have questions regarding this, please contact JURK.

Particularly strong humanitarian considerations
Exceptions are in rare cases made to the future income requirement if it is clearly unreasonable to ask the reference person to meet the income requirement. The UDI will assess whether there are particularly strong humanitarian considerations. This type of exception is rarely granted.

**utf. section
10-9**

5.2. The requirement to previous income

The reference person must also show that he or she has had an income in the past year of at least 2.7 times the basic amount in the National Insurance Scheme (G).

All taxable income is counted as previous income.

Benefits in accordance with the Integration Act do not count as income (introduksjonsstønad).

5.2.1. Exceptions to the requirement to previous income

The reference person or applicant is a child

Exceptions to the requirement to previous income may be made when the reference person is a child under the age of 18, or the applicant is a child under the age of 15 without caregivers in their country of origin.

The reference person is a refugee

Another exception to the previous income requirement is when spouses, cohabiting partners or children apply for family immigration with a reference person who is a refugee or under collective protection in Norway.

NOTE: This only applies when an application for family reunification is submitted *no later than six months* after the reference person was granted a residence permit in Norway. The applicant is also required to appear in person at a foreign service mission or an external service provider *no later than one year* after the reference person was granted a residence permit, in order to submit the necessary documentation for the application.

The reference person is obviously able to provide for the applicant

Exception from the previous income requirement may be made if the reference person is obviously able to provide for the applicant. It is difficult to get an exception in accordance with this rule because there are very high demands to the reference person's net wealth. This exception only applies for applicants who have applied as a spouse, cohabiting partner or a child of a reference person.

Particularly strong humanitarian considerations

Exceptions are in rare cases made to the previous income requirement if it is clearly unreasonable to ask the

reference person to meet the income requirement. The UDI will assess whether there are particularly strong humanitarian considerations. This type of exception is rarely granted.

The reference person has taken higher education in the past year

In order to be granted this exception, the reference person must be a Norwegian or Nordic citizen, or a foreign national with a permanent residence permit. The reference person must also have attended university or college and earned at least 60 credits or equivalent, or have taken vocational education equivalent to one year of study time.

The reference person has served military or civil service

The reference person has had a set net wealth of more than NOK 1 million over the past two years and is over 23 years old

The reference person receives retirement pension or disability benefit (uføretrygd)

If you have questions regarding this, please contact JURK.

The reference person has a residence permit as a skilled worker or self-employed person

The reference person has a residence permit that can not form the basis for a permanent residence permit

Note that this only applies to some residence permits.

5.3. Financial assistance from NAV (økonomisk sosialhjelp)

**utf. section
10-10**

The reference person can not have received financial assistance from NAV in the last twelve months before

the application is decided.

5.3.1. Exceptions

The reference person may still have received financial assistance if it has been paid while waiting for sickness benefits, pregnancy benefits, parental benefits, disability benefits or old-age pension from NAV.

The same applies if financial assistance (økonomisk sosialhjelp) has been paid while the reference person was waiting for housing benefits.

**utl. section
58**

6.0. HOUSING REQUIREMENT

Sometimes, applicants who come to Norway on family immigration must be secured housing in Norway during the entire period the applicant will stay in the country.

The requirement must be met in cases about:

- residence permit for a single mother or father with a child over 18 years of age in Norway,
- short stays to visit children in the country,
- residence permit in order to get married (fiancé permit)and
- family immigration for anyone other than immediate family members.

It must be documented that the applicant has housing where she will live.

”Housing” can be a house, apartment, dorm or similar.

**utl. section
40 a**

7.0. FOUR-YEAR REQUIREMENT

The four-year requirement means that the reference person has worked or has taken a full-time education for a total of four years.

The requirement applies if the reference person has:

- a residence permit as a refugee,
- a residence permit on the basis of strong humanitarian considerations or a particular connection to the country,
- a residence permit based on family immigration and
- a permanent residence permit on the basis of the grounds mentioned above.

As a main rule, the four-year requirement applies to *the reference person* of the person applying for a residence permit for spouses or cohabiting partners.

However, the four-year requirement does not apply if:

- the reference person and the applicant married or got pregnant before the reference person came to Norway,
- the reference person and the applicant married or got pregnant while both had a residence permit in Norway,
- the reference person and the applicant have lived together as cohabiting partners for at least two years before the reference person came to Norway. If the cohabiting partners have lived together for *less* than two years, the four-year requirement does not apply when:
 - they have a child together who was conceived before the reference person came to Norway, or
 - the child was conceived while both had a residence permit in Norway
- the reference person is a Norwegian citizen or
- the reference person has reached the age of 67.

The work or education must together take place full-

time.

The following is considered as work or education:

- income-generating work,
- primary and lower secondary school,
- upper secondary education,
- university or college (60 credits per year),
- introduction programmes and Norwegian language training and social studies in accordance with the Integration Act,
- the national qualification programme through NAV,
- caring for children for 46 weeks after birth or adoption if the reference person has earned the right to parental benefits and
- periods in which the reference person has received sickness benefits, disability pension or old-age pension

**utl. section
12**

8.0. ENTRY VISA (D-VISA)

An entry visa (D-visa) grants someone who has applied for or is going to apply for family immigration the right to stay in Norway while the application for family immigration is being processed.

For the applicant to get an entry visa, it has to be likely that she will be granted a family immigration permit.

Only spouses, registered partners and children can be granted entry visas. Note that registered partners *are not* the same as cohabiting partners.

Applications must be submitted by appearing in person at a Norwegian foreign service mission in the country of which the applicant is a citizen or has had legal residence for the last six months.

9.0. THE DURATION AND CONTENT OF THE RESIDENCE PERMIT

**utl. section
60**

First-time family immigration permits are granted for up to five years, and for at least one year. However, the permit can not be granted for longer than the reference person's residence permit.

Some family immigration permits form the basis for a permanent residence permit. This means that you can apply for a permanent residence permit in Norway at a later time.

However, not all family immigration permits form the basis for a permanent residence permit.

The letter of decision from the UDI will explain whether your residence permit forms the basis for a permanent residence permit or not.

10.0. FAMILY IMMIGRATION AND BREAKUPS

In the case of family immigration for spouses and cohabiting partners, the main rule is that the partners must live together in order for the residence permit to be valid. This means that you will lose your residence permit if you permanently live separate from your spouse or cohabiting partner.

If the foreign national stays in Norway without a residence permit, she is in Norway illegally.

In some certain cases, the foreign national can be granted a residence permit on an independent basis. This means that you are allowed to stay in Norway, even if the cohabitation ends. You can read about the different types of independent residence permits below.

Even if you are not granted residence on an independent basis, you can still apply for other residence permits if you meet the requirements for these. You can read more about the different family immigration permits at the beginning of this brochure.

10.1. Residence permit on an independent basis

10.1.1. Residence permit if the reference person dies

**utl. section
53**

As a main rule, the applicant has the right to stay in Norway if the reference person dies.

10.1.2. Residence permit due to unreasonable difficulties in your country of origin

**utl. section
53**

In some cases, the applicant may be granted residence on an independent basis. This can be granted if a divorced or separated person will have unreasonable difficulties in his or her country of origin. Such difficulties can be social and cultural circumstances.

It can be difficult to get residency on this basis. It is not enough that you will face difficulties in your country of origin. The difficulties must be so serious that it would be unreasonable for the foreigner to return to his or her country of origin. The UDI will decide this in each case.

The UDI may consider:

- general circumstances in the country of origin,
- family legislation in the country of origin and its practice,
- the divorced/separated persons' status in society and their opportunity for employment and/or
- the foreign national's individual situation in their country of origin. One example is whether the applicant's family in their country of origin expresses support for the foreign national's choice

to leave the reference person, and the foreign national's background and affiliation.

**utl. section
53**

10.1.3. Residence permit on an independent basis for victims of abuse

An applicant who has a family reunification permit and is a victim of abuse, might be eligible for a residence permit on an independent basis. This means that the applicant can obtain her own residence permit that is not dependent on the person she came on family immigration with. This also applies if your child is a victim of abuse.

If you have any questions about this residence permit, please feel free to contact JURK.

11.0. WHERE TO GET HELP

JURK (Legal advice for women) is a legal aid organization that provides free guidance and assistance to anyone who defines themselves as a woman.

You can always submit your case to us digitally. You can do this online: www.jurk.no → "Send us your case"

Skippergata 23, 0154 Oslo
Tel: 22 84 29 50

Jussbuss is a legal aid organization that provides free guidance and assistance to women and men.
Tel: 22 84 29 00

Krisesenter is a crisis center that provides assistance to women and men who are victims of abuse in all of Norway. More information is available online: www.krisesenter.com

Self-help for immigrants and refugees (SEIF)

provides practical help and guidance.

Tel: 22 03 48 30, www.seif.no

ROSA provides practical assistance and information on assistance and protection to victims of human trafficking.

Tel: 22 33 11 60, www.rosa-help.no

MiRA Ressurscenter a resource center that works with issues of gender equality for immigrant and refugee women in Norway.

Tel: 22 11 69 20, www.mirasenteret.no

Equality and Anti-Discrimination Ombud

Tel: 23 15 73 00, www.ldo.no

Caritas provides practical assistance and legal guidance in multiple languages.

Tel: 23 33 43 60, www.caritas.no

The Norwegian Directorate of Immigration (UDI) has a duty to provide guidance, and must answer your questions about immigration law.

Tel: 23 35 16 00, www.udi.no

The Norwegian Organization for Asylum Seekers (NOAS) provides legal assistance and guidance.

Tel: 22 36 56 60, www.noas.no

Rosenhof adult education

Tel: 22 38 77 00, <https://rosenhof.oslovo.no>

Office for Free Legal Aid provides guidance and concrete legal assistance for free in Oslo and surrounding areas.

Tel: 23 48 79 00, www.frirettshjelp.com

JURK



www.jurk.no

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