

# **SERVING A SENTENCE**

**A brochure for foreigners in Norwegian prisons**



**Jussbuss**

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## 1. INTRODUCTION

This brochure gives a short overview of the legal rules relevant for foreigners who are serving a prison sentence in Norway. It covers topics which are especially relevant for prisoners who have a background from other countries than Norway. The term “foreigner” entails people which do not have a Norwegian citizenship, though individuals with another mother tongue than Norwegian may also find this brochure useful. Your rights will often depend on your current residence permit, and it can therefore be useful to know what type of residence status you have when reading this brochure.

The first section of this brochure gives an overview of how Norwegian correctional services is organized, and is written for those who have little or no experience with Norwegian society. The brochure also covers a range of topics such as discrimination, the right to an interpreter, telephone calls in your native language, and transfers to serve your sentence in a different country.

This brochure is based on *the Prisoners Handbook*, a handbook which gives an overview of prison rules. *The Prisoners Handbook* should be available in all Norwegian prisons, but is currently only available in a few languages. This brochure attempts to give a summary of *the Prisoners Handbook* for prisoners who do not understand any of the languages in which it is published or for those who prefer a simple brochure to a longer book.

This brochure is written by Jussbuss. Jussbuss is a student-driven legal aid clinic that offers free legal aid in individual cases. We offer oral and written advice. In certain cases we are able to represent our clients, for example through a written appeal on behalf of a client. We cannot help with all types of cases or questions, but we try to refer clients to other organizations if we cannot help with their specific questions.

Jussbuss works with many legal areas. As of April 2019, we work with immigration law, prison law, tenancy law, debt law, social security benefits, financial assistance from NAV (the administrator of social security benefits in Norway) and labour law.

Jussbuss does not work with criminal law – if you have a question concerning your criminal case you will have to speak with your defence counsel.

Because Jussbuss is student-run, we have strict administrative routines to ensure the quality of our work. These routines mean that we often cannot give clients an immediate answer. If you have a case with a short deadline or are in need of an urgent answer, we will do our best to prioritize your case. All of the information you give us is treated with strict confidentiality. This means that we do not share the information you give us without your approval. We will never act on your behalf in your case without your approval either.

Jussbuss’ staff visits many different prisons. We are most frequently in prisons in eastern Norway. We encourage prisoners in all of Norway to call us on weekdays with any legal questions. Our contact information can be found on the back of this brochure. Our office is

closed for Christmas and Easter. Many prisons do not charge prisoners for calls to Jussbuss - ask your prison whether you might be able to call us for free.

It can be helpful to bring a fellow prisoner who speaks your language along for a visit with us if you do not speak Norwegian or English. We do not bring interpreters with us when we visit prisons, but we are sometimes able to schedule a telephone appointment with an interpreter. This service will be free for you, but it can sometimes take a few days for us to find an interpreter.

## **2. ABOUT NORWEGIAN CORRECTIONAL SERVICES**

Norwegian correctional services is responsible for the execution of penal sanctions and remand in custody. The correctional services has a duty to carry out this responsibility in a way that reassures society and prevents new criminal acts. Correctional Services should emphasise measures that enhance prisoners' abilities to change their patterns of criminal behaviour. The correctional service is founded on humanist values and principles. It should to a certain degree meet each prisoner's individual needs.

The rules in prison will control your life as a prisoner in many ways. It can be valuable to understand the rules that apply to you during your imprisonment, as this will enable you to gain an overview of your rights as a prisoner as well.

During your imprisonment, you may be granted visits, escorted leaves, leave of absence, and probation. These opportunities are often not something you have a right to receive, but something that is up to the correctional services' discretion to decide.

The most important legal framework to you as a prisoner is the Norwegian Execution of Sentences Act, and the regulations and guidelines related to this law. In addition, there are often "house rules" that varies from prison to prison. The Norwegian Execution of Sentences Act is translated into seven languages, apart from Norwegian. Currently these are English, Arabic, Polish, Russian, Turkish, Lithuanian and Romanian. You can ask the prison for a copy of the Act in the language that you understand best.

## **3. REMAND IN CUSTODY**

As a general rule, you have a right to be assisted by a defence lawyer in your penal trial. You can ask this lawyer questions about remand in custody and the penal code. If you are not satisfied with your public defence lawyer, you can ask to be represented by someone else. Generally, you have a right to choose your own defence lawyer.

While on remand, you have to follow prison rules in the same way you would if you were convicted. If you break prison rules while on remand, you may get a sanction from the prison. Many of the rules are the same for prisoners on remand and those serving a sentence, but not all.

For example, while on remand, you have no duty to participate in prison labour. You cannot be granted a leave of absence from the prison, and, as a general rule, you will not receive escorted leaves from prison. Whether or not you receive an escorted leave is up to the police to decide and not the prison. You can apply for a transfer to another prison. In most cases, you have the right to use your regular doctor and dentist while on remand, however, the treatment will generally be given in prison.

The rules governing visits and letters from people outside the prison are as a rule the same for prisoners on remand as for those serving a sentence. However, other rules apply for prisoners under court ordered control or court ordered letter or visiting restrictions.

If you have property and obligations outside the prison that you need help with while imprisoned, you may ask your defence lawyer, the prison staff, or social services for help.

#### **4. SERVING A SENTENCE**

##### **4.1 Where and how will you serve your sentence?**

Execution of Sentences  
Act § 10

There are different security levels in the Norwegian prison system. These are high and low security prisons and halfway houses. In addition, prisoners can also serve time in a prison department with a especially high security level. Inmates are often imprisoned at a high security level in the beginning of their sentence and then transferred to a lower security level towards the end of their sentence. It can be difficult for non-Norwegian inmates to receive a transfer to a low-security prison or halfway house because the prison believes there will be a risk of escape or because certain prisons prioritize the rehabilitation of prisoners who will remain in Norway after serving a sentence.

Execution of Sentences  
Act §§ 12, 13 and 16

In some instances, prisoners can serve their sentence outside of prison. Time can be served at certain institutions, hospitals, or at home with or without an ankle monitor.

Execution of Sentences  
Act §§ 14 and 15

If you wish to serve your sentence somewhere other than your current location, you may apply for transfer to your preferred institution. The prison can also transfer you in many cases against your will.

There are foreigners serving time in Norwegian prisons all over the country. As of April 2019, Kongsvinger prison is the only prison in Norway especially intended for foreigners who will be deported from Norway after serving their sentence or who will be transferred to a prison in a different

country while executing a sentence. Kongsvinger prison is supposed to offer activities especially intended for foreigners, and the prison is supposed to have the same quality as other prisons in Norway. If you have questions concerning where to serve your sentence, you can ask your contact officer for further information.

Foreigners may apply to be transferred to serve part of their sentence in their native country. You should be informed about this right when you arrive in prison. Read more about this process in section 10 of this brochure.

Execution of Sentences  
Act §§ 17 and 18

As a prisoner, you generally have right to socialise with other prisoners when you are participating in work, school and in your spare time. Convicted persons have a duty to participate in some activities when in prison. This means that the prison normally can force you to work, but also that the prison has a duty to ensure that prisoners who want to participate in work can do so. The duty to active participation can be fulfilled through work, school, or other programmes like drug- and alcohol rehabilitation.

Execution of Sentences  
Act §§ 37–40

If you break prison rules while serving your sentence, for example by using drugs, you may be subject to a variety of sanctions. Examples of sanctions the prison may issue are isolation, loss of privileges, a written reprimand etc.

If you believe that you should not have received a sanction or that you should have received a more mild sanction, you have a right to appeal the decision. The prison must follow certain administrative procedures in appeal cases to ensure that your appeal is treated fairly and correctly.

If you are in need of help to appeal a decision or are unsure about whether or not your rights have been infringed, you can contact Jussbuss.

#### **4.2 Exits and release from prison**

Execution of Sentences  
Act §§ 33, 34 and 20

While serving your sentence, there are some situations in which you are allowed to leave the prison:

- Leave of absence (permisjon) means that you can leave the prison for a certain period of time without being escorted by an employee from prison. As a general rule, you may not leave the country during your leave of absence. An exception to this general rule can occur in extraordinary situations in which special welfare reasons make a trip abroad necessary and important.



- Escorted leave (fremstilling) means that you can leave the prison escorted by prison employees or the police.
- Day-release (frigang) means that you may work or participate in school or other activities outside of prison during the day.

Execution of Sentences  
Act § 42

In many instances it will be possible to be released from prison at an earlier time than the end of your sentence. This is called probation. There are rules concerning probation after “half-time” (after you have served at least half your sentence and 60 days), and after “2/3-time” (when you have served 2/3 of your sentence). Very few people are granted a probation at half-time. It is more common to be granted a probation at 2/3-time, especially if it is your first time in prison and if you have had good behaviour. You may not be released on probation if the prison considers it inadvisable.

Execution of Sentences  
Act § 41  
Guidelines to the  
Execution of Sentences  
Act to § 41 paragraph  
41.4

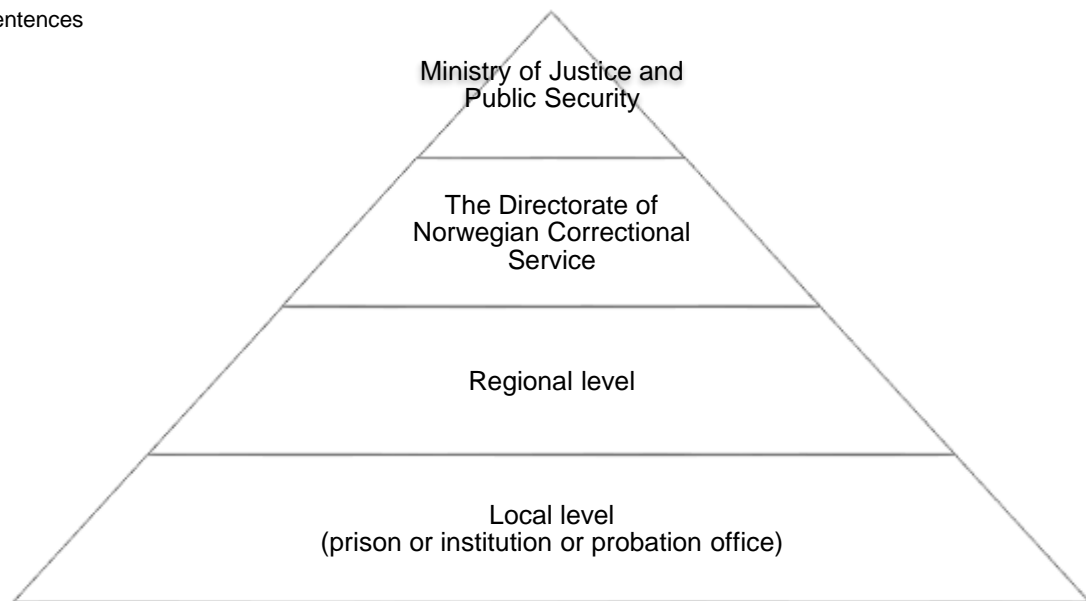
You may apply for probation, but a number of conditions must be fulfilled for you to get probation. Your probation must satisfy the need for security and it must be advisable. This entails that there may not be any reasons for the prison to consider it unsafe to give you probation, for example because they suspect that you may get involved in new criminal acts or break any of the conditions for your release on probation (see also section 5).

The Norwegian Correctional Service should make arrangements to ensure that you are properly prepared for your release. If you are a foreign citizen who is not expelled, but who still wishes to leave the country after imprisonment, the prison will pay for your travels in Norway from the prison to your point of departure out of the country.

If you are expelled, other rules apply. In many instances, the police will help to transport you out of the country. If you have questions regarding your expulsion case, you may contact Jussbuss.

### 4.3 The Norwegian Correctional Services' structure and organization

Execution of Sentences  
Act § 5



Execution of Sentences  
Act § 6

In most cases, the local level reaches decisions based on the Execution of Sentences Act. That means that the prison warden or the leader of the probation office is responsible for administrative decisions. If your application is not granted, you then may appeal a refusal to the regional office.

In some situations, an application is sent directly to the regional office. If this is the situation, you then may appeal a rejection to the office of the Directorate of the Norwegian Correctional Service. Applications sent directly to regional offices are often sent there because they concern especially serious situations or because the applying prisoner is sentenced to preventive detention or a sentence of more than 10 years.

Certain independent institutions such as The Supervisory Councils (Tilsynsrådet) and the Ombudsman (Sivilombudsmannen) help to ensure that prisons act according to the law. If you wish to contact these institutions or need more information regarding them you may ask either the prison or Jussbuss.

#### 4.4 Administrative rules, confidentiality and right to information

Execution of Sentences  
Act § 7 letter e

You may apply to the prison to gain a wide variety of opportunities during your imprisonment. If your application is refused, you may appeal the

decision. The deadline for appeal is usually 7 days, though in some instances it is only 48 hours. When appealing decisions from other public institutions, for example from UDI or NAV, the deadline for appeal is generally 3 weeks. You may apply orally, though we do recommend that you apply in writing and ask to keep a copy of the application. An appeal should be written. Usually it must be written in either Norwegian or English. If you struggle to write an appeal in either Norwegian or English, you may ask a fellow prisoner, a friend or an employee at the prison for help. However, you will need to sign the appeal, and a fellow inmate or an employee may not represent you in your case. You can deliver applications and appeals directly to the prison, and they will make sure it gets to the correct institutional office.

After an application or an appeal has been considered, the correct institution will arrive at an administrative decision. If the administrative decision concerns you, you will be informed. Usually you will receive a written notice. The Norwegian Correctional Service has a duty to ensure that you understand the content of the decision (see section 9).

Public Administration  
Act § 13 and Execution  
of Sentences Act § 7  
letter h

All employees in the Norwegian Correctional Service are bound by rules of confidentiality. The general rule is that they may not give information concerning you or your personal affairs to others. This means that they may not inform persons outside of the prison that you are imprisoned. An employee may not give your personal information to your fellow inmates either. They cannot tell others about your family or why you have been convicted. However, there are some exceptions to the duty of confidentiality. For example, the prison will sometimes inform the offended or offender's relatives when you leave prison (e.g. if you are granted a leave of absence or probation).

Execution of Sentences  
Act § 7 letter i

As a general rule, you have a right to gain access to all information that concerns you. Your right of access to this information is termed "right to access to information" ("innsynsretten"). The documents that you wish to gain access to must relate to a specific case. Exceptions to the main rule may occur, for example if the prison worries that full access to information may lead to unsafe situations. If you wish to know more about your right to information and when you may be denied information, you can contact Jussbuss. A denial of access to information is an administrative decision that you can appeal.

Execution of Sentences  
Act § 7 letter c

## **5. ESPECIALLY CONCERNING FOREIGN PRISONERS:**

### **LAWS AND RIGHTS**

This section concerns issues that are particularly relevant for foreign prisoners.

Execution of Sentences  
Act § 1

The Norwegian Execution of Sentences Act applies to all prisoners imprisoned in Norwegian prisons. Typically, you will therefore have the same rights and duties as Norwegian prisoners even though you are a foreign citizen.

This means that you also have the same opportunities to be granted a leave of absence, probation or transfer to a prison of lower security. However, your residence permit will often be a significant factor in the prison's assessment.

#### **5.1 What significance does an expulsion decision or a prior notice of expulsion have for your imprisonment?**

Whether or not you have been expelled or been given a prior notice of expulsion may impact your time in prison. Your current residence permit might influence whether or not you are granted a leave of absence, day-release, educational opportunities, probation, an ankle monitor, or transfer to a prison of a lower security level. Some of these opportunities are more difficult to receive if you have been expelled, and others do not allow expelled prisoners at all. Whether or not you have been expelled may also be relevant in the question of serving your sentence in another country.

Your residence permit may be relevant when the prison evaluates security. For example, when the prison evaluates whether or not you may be granted probation, they will assess whether it is "inadvisable" that you are released from prison. "Inadvisable" means that the prison considers it not to be safe or secure that you are released. If you have been expelled, the prison might be concerned that you will try to escape your sentence or disappear to avoid deportation.

A prior notice of expulsion, which means that the Norwegian Directorate of Immigration is considering expulsion, can also influence the outcome of the decision from the prison. This is because a prior notice of expulsion indicates uncertainty as to whether or not you will get to stay in Norway after you have served your sentence. The prison can therefore sometimes think that there is a risk that you will run away to avoid expulsions. A prior notice of expulsion is not final. It does not mean that you have been

expelled or that you definitely will be expelled. The prison should not put as much emphasis on a prior notice of expulsion as they would with a final expulsion decision. If the prison has used a prior notice of expulsion against you in a negative decision, you should write about the uncertainty of such notices in an appeal.

Even though it might be more difficult to be granted what you apply for when expelled, we still recommend that you apply. If you have a strong connection to Norway, you should make this clear in your application. When considering applications, the prison is obligated to make an individual assessment in your case. The prison will always consider whether it is safe and secure to grant your application. In this assessment, they will consider the same elements as for other prisoners, including the crime for which you are convicted. In addition, they may take into consideration the following factors:

- The risk that you may try to illegally leave the country and escape the remainder of your sentence. This is an important aspect of the prison's consideration.
- Your connection to Norway, in particular any family relations you have here.
- How long you have resided in Norway before your conviction and imprisonment

Guidelines to the  
Execution of Sentences  
Act § 16 paragraph 16  
(2) 1.8

Unless the law specifically permits it, your residence permit or an expulsion decision cannot be the sole deciding factor in the decision. Serving your sentence at home with an ankle monitor is, for example, usually not an option for expelled prisoners, as the law specifically requires that prisoners have a legal residence permit. Prisoners who do not have Norwegian citizenship or who have received either an expulsion decision or a prior notice will generally not qualify for day-release (frigang) either. However, you may still apply for day-release. If you wish to be granted day-release because of educational purposes, the prison will also assess whether or not you may be able to finish your educational programme upon release and if the educational qualifications you achieve might be relevant for you in your country of residence.

Guidelines to the  
Execution of Sentences  
Act § 20 paragraph  
20.4, 20.5 and 20.6

If you receive a negative answer to an application which only considers your expulsion decision or a prior notice of an expulsion, Jussbuss might be able to help you with a written appeal.

## 5.2 Probation for foreign prisoners

Execution of Sentences  
Act § 42 subsection  
three

The rules that apply for release on probation of foreign prisoners at **1/2-time** are the same as for Norwegian citizens. It is very difficult to get probation at 1/2-time. Foreign prisoners may have reasons to apply for 1/2-time that differ from those of Norwegian citizens. For example, prison might be especially difficult for you compared to other prisoners because you have not had leaves of absence or had any visits. Language issues might have led to more isolation or less leisure time with fellow prisoners. To receive probation at 1/2-time, your personal difficulties have to be significantly worse than those experienced by other foreign prisoners.

Execution of Sentences  
Act § 42 first subsection

The rules applying for release on probation at **2/3-time**, are also the same for foreigners and Norwegian citizens. As with 1/2-time, foreign prisoners may have different arguments for release than Norwegians. It is always important to explain thoroughly and clearly why your situation is special when you apply for probation. The prison may not deny you probation solely on the basis of an expulsion decision.

Execution of Sentences  
Act § 42  
Guidelines to the  
Execution of Sentences  
Act § 42 paragraph  
42.10 and 42.12

If your expulsion decision is final, you will usually be transported out of the country immediately upon your release from prison. This means that if you are released on probation, you will usually be transported out of the country at the time of probation. Even if you have not applied for probation or do not want probation, the prison can decide that you will be released on probation and transported directly out of Norway.

In some situations, the police can pick up a prisoner and force him or her to leave the country at the time of release from prison. The police often contact the prison before the release date to coordinate if and how deportation will occur. In some cases, the arrangements concerning deportation may be relevant to the assessment of advisability the prison makes when considering whether or not to grant probation.

## 6. WELFARE RIGHTS WHILE IN PRISON

### 6.1 Educational rights

All prisons in Norway offers some educational programmes.

Education Act

While imprisoned you generally have the same rights to education as people in your situation outside of prison. This means that if you have a type of residence permit that does not give you educational rights outside

of prison in Norway, you may not have such rights while serving time either.

However, foreign citizens may have a right to an educational programme while imprisoned based on international law, even though they would not have those rights if they were outside of prison. This includes foreign prisoners who do not have legal residence in Norway.

## 6.2 Health rights

As a rule, you will have the same health rights when imprisoned as the general public. However, in some regards your health rights are more restricted. For example, you may not choose your doctor while imprisoned.

Health and Rights Act  
(pbrl.) §§ 1-2 and 2-1 a

Execution of Sentences  
Act § 4  
Regulation concerning  
general practioners in  
the municipality  
(Forskrift om  
fastlegeordning i  
kommunene) § 10 jf. §  
14

The state is obliged to care for your physical and mental well-being while you are imprisoned. This includes supplying you with necessary and proper health care.

Everyone in Norway has a right to healthcare services. There are several laws regulating this field, most importantly the Patient Rights Act (pasient- og brukerrettighetsloven).

Guidelines from the  
Norwegian Directorate  
of Health concerning  
healt and care rights  
while in prison  
(Helsedirektoratets  
veileder om helse- og  
omsorgstjenester til  
innsatte i fengsel)

If you do not have legal residence in Norway, your health care rights are limited outside of prison. However, while imprisoned, you have a right to health care that may not wait until your release. Often, you will therefore have the same health care rights as other prisoners regardless of residence permit. Your health care rights may also include preventive and rehabilitating care. Only health care which can be delayed without significant negative effects can be denied while imprisoned. Many people do not understand foreign prisoners' health care rights. If you have questions regarding your right to health care, you can contact Jussbuss.

All prisons in Norway have an agreement with dental services, and the dental care provided is independent of your residence status.

## 6.3 Right to services provided by NAV

Your rights from NAV (the Norwegian Labour and Welfare Administration) are dependent on membership in the National Insurance Scheme (folketrygden). These rights include different types of social security benefits. If you reside in Norway, you are generally a member of the National Insurance Scheme. "Residence" in Norway means that your stay have lasted or have been meant to last at least 12 months. Your citizenship, registration in the national registry (folkeregister), and tax

payment are not deciding factors, but you must have a legal residence status. If you have any questions regarding your rights from NAV, you can ask the social worker in prison.

Guidelines to the Social Welfare Act

If you do not have a legal residence permit in Norway, you will usually not have a right to help from NAV except in the form of general information. However, an exception to this rule exists for prisoners in Norway; as long as you are serving time and therefore cannot leave the country, you have a right to necessary services while imprisoned.

You also have a right to get an individual assessment of your need for social welfare services while imprisoned. Such services can cover necessities like clothing or glasses that you need in prison.

## **7. CONTACT WITH FAMILY AND CHILDREN**

### **7.1 Visits and letters**

Execution of Sentences Act § 31  
Regulation to the Execution of Sentences Act § 3-28  
Guidelines to the Execution of Sentences act § 31

While imprisoned, you usually have a right to receive visits. However, there are many conditions that apply for this. Sometimes, the prison may deny or restrict your right to visits. As a general rule, you should be allowed to have at least one visit a week and the visit should last for at least an hour. You can apply for extended visiting time if you need it, for example if your visitors have travelled far to visit you. If some of your visitors are children, the prison should consider extending the visiting time if this would be in the children's best interest.

Visits will often be controlled. The means of control can take the form of supervision during the visit, monitoring conversations, a ban on physical contact, or the use of a glass wall. The prison may also set as a requirement that you and your guest speak in a language that the prison officer understands. If the visit is of great importance to you, and it is impossible to have a conversation in a language one of the officers understands, the prison should assess whether an approved interpreter can assist the prison during your visit.

High security prisons generally control visits, while low security prisons usually do not. Control should not be more strict than necessary. If the prison controls your visits in a way that you think is unnecessary, you can appeal the measures that the prison chooses. The prison cannot monitor conversations between you and your lawyer. Jussbuss' staff are not considered lawyers.



If the prison denies a visit, both you and your visitor may appeal this decision.

Execution of Sentences  
Act § 30  
Guidelines to the  
Execution of Sentences  
Act § 30

Generally, you have a right to receive and send letters while you are in prison. However, there are some limitations to this right. Letters can be controlled; in high security prisons your letters to and from the prison will generally be controlled. In low security prisons your letters are generally not controlled. The prison can control your letters in different ways; they can open and read your letters or they can inspect the letters with dogs or technical equipment. The prison cannot demand that you write your letters in a specific language unless you are imprisoned in a department with an especially high level of security. The prison cannot read letters to and from your lawyer.

## **7.2 Telephone calls**

### **7.2.1 General Information**

Execution of Sentences  
Act § 32  
Regulation to the  
Execution of Sentences  
Act § 3-29  
Guidelines to the  
Execution of Sentences  
Act § 32

As a main rule, prisoners have a right to make phone calls. In high security prisons, your total call time should be 20 minutes a week unless capacity reasons makes this impossible. In low security prisons and in halfway houses, these limitations do not apply.

You may be granted extended call time if there are special reasons to grant you an extension. Special reasons can include children who live far from the prison and have a limited opportunity to visit you; an imprisonment that is especially difficult for you and your family; or situations in which a prisoner cannot take leaves of absence from the prison. These reasons may be particularly relevant for foreign prisoners.

While imprisoned in a high security prison, the prison will generally monitor your phone calls. While in low security prisons or halfway houses, the prison will usually not monitor phone calls. An officer will usually monitor phone calls by listening to your conversations. The prison are not allowed to monitor calls to your lawyer.

The prison may decide that you may only speak in a language that the prison guard who is monitoring your calls understands. Unfortunately, this often means that prisoners who speak other languages than Norwegian and English not get as much call time as Norwegian and English speaking prisoners.

### 7.2.2 Expenses

Regulation to the  
Execution of Sentences  
Act § 3-29 subsection  
five

Generally, you do not have a right to receive money to pay for expenses related to phone calls. You will typically have to pay for your phone calls using your daily allowance from the prison. You can pay for necessary phone calls to and from your defence lawyer, diplomatic or consular representatives, or your closest family with your personal savings if needed. If you do not have any personal savings to cover expenses, the prison should pay for necessary calls to and from your defence lawyer.

Guidelines to the  
Execution of Sentences  
Act § 32 paragraph 32.9

Foreign prisoners may use their own personal savings to pay for expenses related to international calls to their closest family members, even if these phone calls are not considered “necessary”.

### 7.2.3 Phone calls in your native language

Guidelines to the  
Execution of Sentences  
Act § 32 paragraph 32.3

As mentioned above, the prison may decide that you and the person you are calling need to speak a language that the guard who monitors the conversation understands. If you are not Norwegian and the persons you wish to speak with does not understand Norwegian or English, this can mean that you may not be able to speak with family in your native country.

You may apply to speak your native language during phone calls. The prison can then make an exception to the rule that you must speak in a certain language. The prison might choose to monitor your call without understanding what you are talking about. They might instead check whom you are speaking with and that the call is not transferred to somebody else. The prison may also choose not to monitor your calls at all. A voluntary tape recording of your conversation can also be an alternative to a decision that requires you to speak a certain language.

Recording your conversations may be particularly relevant if you wish to speak to close family that only speak their native language. In all situations in which the prison uses alternatives to listening to your calls, the chosen control method must satisfy the need for security. You should therefore explain thoroughly to the prison why they should consider it safe and secure that you speak your native language. If the prison considers it necessary to understand your conversation, an additional alternative may be an interpreter. However, using an approved interpreter is expensive, which can limit the prison’s use of this alternative.

If you wish to speak to someone in your native language, it is important that you explain to the prison why this is necessary, why the phone call is important and why you need to speak with this particular individual. The

prison should especially consider letting you use your native language while speaking to your closest family if you do not receive visitors or if you have little or no contact with your family while imprisoned. This may be the case if they do not live in Norway, but also if you are imprisoned far away from where they are living in Norway. In special circumstances, especially acute health- or welfare- related circumstances, the prison should consider granting you permission to speak in your native language. This can for example occur if someone in your family suddenly becomes seriously ill.

If your application to speak in your native language is denied, you may appeal the decision. You may contact Jussbuss if you need help with the appeal.

#### 7.2.4 Video calls

Guidelines from KDI  
3/2017

Some prisons offer video calls, for example through services like Skype. Video calls are not meant to replace other means of communication such as letters, visits or telephone calls. They are instead intended as an addition to these. You do not have a right to video calls and not all prisons offer this service. If you have questions concerning opportunities for video calls and the application process, you should speak with your contact officer. Video calls are a service that is especially relevant for prisoners who do not receive regular visits, typically because they are in prisons far away from their families.

## **8. PROHIBITION OF DISCRIMINATION**

### **8.1 General Information**

Norwegian Constitution  
§ 98  
ECHR article 14

The Constitution of Norway (Grunnloven) § 98 states that no human being may be subjected to unfair or disproportionate differential treatment. This right is also protected by the European Charter of Human Rights (ECHR) article 14, which states that nobody should be subjected to discrimination while enjoying the rights governed by the convention. Sentences must be served in accordance with the principle of non-discrimination.

The reason for the legal protection against discrimination is the general opinion that equal cases should be treated equally. Whether cases are equal or not is a question of values. ECHR article 14 expresses explicitly that we are all equal regardless of “sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status”.

As a general rule, you are therefore entitled to the same benefits as others while imprisoned. However, individuals are not all the same, which means that some people may be granted benefits that others are not. As an example, individuals who struggle with mental illness may have special needs that make it lawful to grant them benefits that others do not receive. We also see different treatment of individuals in probation cases; sometimes it may be advisable to release one prisoner on probation but not another. This differentiated treatment may be lawful because there are indications that only the first individual will abstain from committing new criminal acts.

Thus, the prohibition against discrimination does not mean that the fact that you are a foreigner is irrelevant, but your citizenship, your residence permit or your expulsion decision cannot be the sole deciding factor. If you believe that you may have been subjected to unlawful discrimination, you should contact the Equality and Anti-discrimination Ombudsman (Likestillings- og diskrimineringsombudet) – see the register at the end of this brochure for their contact information. You may also contact Jussbuss.

## **8.2 The right to religious practice**

Execution of Sentences  
Act § 23

All individuals have a right to practice their religion. Norwegian Correctional Services shall ensure that prisoners are given the opportunity to practice their religion and life philosophy while imprisoned.

Norwegian Constitution  
§ 16  
ECHR article 9

The Constitution of Norway § 16 (Grunnloven § 16) says that all inhabitants of the state have a right to free exercise of their religion. This right is also protected in the ECHR article 9, which says that everyone has the right “either alone or in community with others [...] to manifest his religion or belief, in worship, teaching, practice and observance.”

The authorities may make exceptions and limitations to the general rule of religious freedom. Such limitations need to be “prescribed by law” and “necessary in a democratic society in the interest of public safety, protection of public order, health or morals, or for the protection of the rights and freedoms of others.”

For many prisoners, the deprivation of freedom will in itself entail limitations in the ability to practice their religion. The prison should, however, to a certain extent, facilitate the ability to practice religion in prison. Religious individuals may have a right food which is prepared in accordance with their beliefs; for example by offering vegetarian food to

Buddhist prisoners, an alternative to pork to Muslim prisoners, or kosher food to Jewish prisoners.

## **9. LANGUAGE BARRIERS**

### **AND THE RIGHT TO AN INTERPRETER**

Imprisonment can be difficult if you cannot communicate with the prison employees and your fellow prisoners.

Public Administration  
Act § 11  
Directive from KDI  
1/2018  
Guidelines to the  
Execution of Sentences  
Act concerning the  
availability of the  
legislation ( "Tilgang til  
regelverket m.v.»)

Because Norwegian Correctional Services is a part of the Norwegian public administration system, prisons have a duty to provide information. This means that the prison employees should give you information about rules, routines and practices that are relevant in the prison in which you serve time. When Norwegian Correctional Services make administrative decisions which concern you, they should also inform you of your right to guidance and information about the decision.

The amount of information provided should reflect your individual need for guidance, the scale and importance of your case, and the capacity of the prison. The prison will usually have a duty to give more information to foreign prisoners. If you believe that you have not received guidance to meet your needs, you may send a complaint to the regional office associated with your prison.

As a prisoner, you are entitled access to legislation which applies to you while you are imprisoned. This will generally be the Norwegian Execution of Sentences Act, the Regulations relating to the Execution of Sentences, and the Guidelines relating to the execution of sentences (Straffegjennomføringsloven, Forskriften til straffegjennomføringsloven, Retningslinjene til straffegjennomføringsloven). You can request an English translation of the Norwegian Execution of Sentences Act and the Regulations relating to the Execution of Sentences. Translations in Arabic, Polish, Russian, Turkish, Lithuanian and Romanian (per May 2019) are also available. The prison has a duty to give extra information about these rules when assisting prisoners who cannot understand the English or the Norwegian versions.

Foreign prisoners shall be given the guidance needed to ensure that they comprehend administrative decisions and other letters from the Norwegian Correctional Service. When a prisoner does not understand a case of special importance, an interpreter should assist the prison. As a

general rule, you have a right to be given the reasons behind an administrative decision and not only the result of the decision.

When the documents in a case is sent to you from other authorities than the prison (like the public health authorities or immigration authorities), it is the authorities that have issued the documents that are responsible for financing an interpreter or translating the document if necessary. If you do not understand the contents of a document you receive, you should ask the prison for help.

## **10. TRANSFER TO SERVING A SENTENCE ABROAD**

### **10.1 General information concerning transfers to prisons abroad**

The general rule is that you serve your sentence in the country in which you have been convicted. In some instances, Norwegian laws and international agreements allow for a transfer to other countries so that you may serve your sentence there.

Transfer of Sentenced  
Persons Act

The rules regulating transfers to other countries are given in different acts and agreements, and the procedure may differ depending on which country you are to be transferred to. This makes it difficult to say something general in regards to transfers abroad. In this section, we will take a closer look at the agreement between Norway and the majority of European countries, in addition to some countries outside of Europe. In addition, Norway has some independent agreements between Latvia, Lithuania, Romania and Thailand. A separate set of rules regulate transfers between the Nordic countries (Norway, Sweden, Denmark, Finland and Iceland).

Even if your native country is not a party to any of these acts or agreements, Norway can still come to an agreement with that country in an individual agreement concerning you and your situation. For this to happen, there will need to be “special circumstances” in your case. However, very few transfers abroad occur this way.

If you are in doubt as to which rules apply in your situation, the prison will often be able to give you information regarding your case. Jussbuss can also give you guidance if you take contact with us directly.

If you are transferred to serve your sentence abroad, the rules of the country to which you are transferred to will apply when you arrive. This means that you may be subjected to other rules in regards to when and if you may get probation, leaves of absence etc.

## 10.2 Administrative proceedings and appeals

The prison should inform you of the possibility for a transfer to serve your sentence in your native country. In most cases, you should be able to transfer to your native country, and in some cases you may also apply to be transferred to other countries to which you have a strong connection.

The Directorate of Norwegian Correctional Service (KDI) will prepare your case. You shall be given an opportunity to make a statement concerning whether or not you wish to be transferred and why. However, in some situations, you may be transferred against your will. If KDI wish to transfer you, they will make an enquiry to the country in question. That country will then process your case and decide whether or not they accept the transfer.

At this stage of the proceedings, you will be given some documents from KDI. These will often be called **“Request for transfer of sentenced persons”**, and you will often receive this together with a copy of the documents sent from KDI to the suggested country of transfer. These documents are meant to inform you that the proceeding has begun. They are not a final administrative decision, and they cannot be appealed.

If the other country agrees to the transfer, KDI may make an administrative decision to transfer you. This administrative decision can be appealed to the Ministry of Justice and Public security. If you appeal the decision, you may ask not to be transferred until the transfer decision is final. This is called “suspensive effect” (“oppsettende virkning”).

Because the procedure for transferring foreign prisoners abroad involves cooperation between countries, Norwegian administrative procedural rules are not the only rules that apply. The amount of time such processes take varies from country to country, but the process is usually lengthy. If you need help in a case regarding a transfer abroad, you should contact a lawyer, Jussbuss or another legal aid clinic as early as possible. The contact information to different legal aid clinics can be found at the end of this brochure.

## 10.3 Conditions for transfers abroad

Prisoners can apply to transfer or give consent to transfer, but the rules also allow individuals to be transferred against their will in certain situations. In this section, we will take a closer look at conditions for transfer abroad.

### 10.3.1 Applications to transfer abroad

Transfer of Sentenced  
Persons Act  
Convention on the  
Transfer of Sentenced  
Persons article 2 nr. 2

You may apply to be transferred to serve your sentence in another country. Transfers to the majority of European countries and some non-European countries are regulated by the Transfer of Sentenced Persons Act and the Convention on the Transfer of Sentenced Persons. If you are unsure as to whether or not the country to which you wish to transfer is subject to these rules, you may ask the prison or call Jussbuss.

Convention on the  
Transfer of Sentenced  
Persons article 3

The conditions that must be fulfilled are:

1. You must be a national of the country to which you wish to transfer. What is considered a “national” differs between countries. Some countries define nationals strictly as individuals with citizenship. Other countries may accept a transfer if you have a strong connection to that country, for example if you have lived there for a number of years.
2. Your judgement has to be final. You may not apply for a transfer before you have been sentenced or while you are waiting to appeal your sentence in Norway.
3. You must have at least 6 months left of the sentence to serve in prison, or you have been sentenced to preventive detention (forvaring). The time you have left is calculated in relation to your expected release. Usually this will be when you have served 2/3 of your sentence. You should thus have more than 6 months left to serve before you reach 2/3-time. There may be exceptions to this rule under extraordinary circumstances. This means that there has to be something particularly unique about your situation in comparison to other prisoners’ situations which make a transfer advisable despite having less than 6 months left to serve in Norway.
4. You have to consent to the transfer.
5. The actions of which you have been convicted, need to constitute a criminal offence according to the national laws of the country you wish to be transferred to.
6. Both countries have to agree to the transfer. Even if all other conditions are fulfilled, each country may still decline the transfer.

There are separate agreements between Norway and Thailand, Latvia, Romania and Lithuania. These agreements may have other conditions than those listed above. If you wish to transfer to one of these countries, you may ask the prison or Jussbuss for more information.



### 10.3.2 Transferring without your consent

As a main rule, a transfer to serve your sentence abroad requires your consent. However, there are some rules and agreements that allow for transfer against a prisoner's will.

You may not under any circumstances be transferred to serve your sentence in a country in which there are reasons to believe that you will be subjected to torture or killed. If you believe that you are in danger of being transferred to a country where you may experience torture or attempted murder, you can contact Jussbuss.

Additional protocol to  
the Convention of the  
Transfer of Sentenced  
Persons article 3

Many countries which agreed to the European Convention on the Transfer of Sentenced Persons have also signed and ratified the Additional Protocol to the convention. The Additional Protocol enables countries to transfer you without your consent if you have received a final expulsion decision from Norway, and the other country agrees to the transfer. In simpler terms; Norway and the other country in question have to agree that you may be transferred.

If you have not received a final expulsion decision, you can generally not be transferred without your consent. However, Norway has entered into agreements with some countries which enable transfers to be carried out even if the prisoner does not consent to the transfer and a final expulsion decision has not yet been issued. As of April 2019, Norway has entered into such agreements with Romania, Latvia and Lithuania.

According to these agreements, there is no requirement that you have been expelled to be transferred as long as you are considered a national of the other country and you have your permanent residence there. An important question in these cases is whether you are a national of the country and whether you have such a connection to the country that you may be considered to reside there. Some relevant information when assessing the question of residence is whether you have a permanent address, family, work etc. in the country in question. If you have only spent a short time in Norway or another country and you usually live in the country you may be transferred to, than it will probably be difficult to argue that the conditions to be transferred are not met.

The country to which Norway is considering a transfer may deny the transfer. This can occur if you have less than 6 months left of your sentence

## 11. CONTACT INFORMATION

### **FFP – For Fangers Pårørende**

Postboks 6710 St. Olavs plass  
0130 Oslo

Besøksadresse:  
Nordahl Brunsgt. 5, 2. etg.  
0165 Oslo  
Tlf.: 22 11 41 30  
Faks: 22 11 46 55  
post@ffp.no  
www.ffp.no

*Organization assisting family and friends of imprisoned individuals.*

### **Gatejuristen**

Skippergata 23  
0154 Oslo  
Tlf.: 23 10 38 90  
Faks: 23 10 38 91  
post@gatejuristen.no  
www.gatejuristen.no

*Organization offering free legal aid to individuals who currently or previously have had an addiction.*

### **Gjenopptakelseskommisjonen**

Postboks 2097 Vika  
0125 Oslo  
Tlf.: 22 40 44 00  
Faks: 22 40 44 01  
www.gjenopptakelse.no

*The Norwegian Criminal Cases Review Commission, decides whether or not convicted persons may have their cases retried in court.*

### **JURK – Juridisk rådgivning for kvinner**

Skippergata 23  
0154 Oslo  
Tlf.: 22 84 29 50  
Faks: 22 84 29 51  
[www.jurk.no](http://www.jurk.no)

*Student-run organization offering free legal aid to women.*

### **Jushjelpe i Midt-Norge**

Bispegata 9C  
7012 Trondheim  
Tlf.: 73 51 52 50  
Faks: 73 52 72 80  
[www.jushjelpe.no](http://www.jushjelpe.no)

*Student-run organization offering free legal aid.*

### **Jussbuss**

Skippergata 23  
0154 Oslo  
Tlf.: 22 84 29 00  
Faks: 22 84 29 01  
[www.jussbuss.no](http://www.jussbuss.no)

*Student-run organization offering free legal aid, author of this brochure and the Prisoner's Handbook.*

### **Jussformidlingen i Bergen**

Sydneshaugen 10  
5007 Bergen  
Tlf.: 55 58 96 00  
Faks: 55 58 96 06  
[www.jussformidlingen.no](http://www.jussformidlingen.no)

*Student-run organization offering free legal aid.*

### **Jusshjelpe i Nord-Norge**

UiT Norges Arktiske Universitet  
Breivika senter  
9037 Tromsø  
Tlf.: 77 64 45 59  
Faks: 77 64 65 65  
[www.jusshjelpe.no](http://www.jusshjelpe.no)

*Student-run organization offering free legal aid.*

**LDO – Likestillings- og diskrimineringsombudet  
/Equality and anti-Discrimination Ombud**

Postboks 8048 Dep  
0031 Oslo  
Tlf.: 23 15 73 00 / 800 41 556  
Faks: 23 15 73 01  
www.ldo.no

*Works to prevent discrimination and give guidance in questions relating to equality and discrimination.*

**NAV Servicesenter**

Tlf.: 55 55 33 33

*NAV's main number. Here you may get answers concerning all NAV's services and benefits, with the exception of retirement benefits and disability.*

**NOAS - Norsk organisasjon for asylsøkere**

Torggata 22, 2.Etg  
0183 Oslo  
Tlf.: 22 36 56 60  
Faks: 22 36 56 61  
www.noas.no

*Works to ensure the legal protection of asylum seekers in Norway, and offers free legal aid in asylum cases.*

**Pasient- og brukerombudet i Oslo og Akershus –  
Sosial- og eldreombudet i Oslo**

Lille Grensen 7  
0159 Oslo  
Tlf.: 23 13 90 20

*Works to ensure the rights of patients and users of healthcare services. May assess your case and provide individual legal counselling.*

**Politiets utlendingsenhet (PU)**

Postboks 8102 Dep.  
0032 Oslo  
Tlf.: 22 34 24 00  
politiets.utlendingsenhet@politiet.no

*Registers asylum seekers, investigates to determine identity, deports persons without a legal residence*

*permit, runs Trandum, the immigration detention centre.*

**SEIF – Selvhjelp for innvandrere og flyktninger**

Postboks 6856 St. Olavs Plass  
0130 Oslo  
Tlf.: 22 03 48 30  
Faks: 22 11 05 13 www.seifnorge.wordpress.com

*Non-profit and independent organization that helps immigrants in Norway..*

**UDI – Utlendingsdirektoratet**

Postboks 8108 Dep.  
0032 Oslo  
Tlf.: 23 35 15 00  
www.udi.no

*Responsible for processing of applications from foreigners who wish to visit or live in Norway, runs asylum reception centres and processes expulsion cases.*

**WayBack**

Kristian Augusts gate 10, 3. etg.  
0164 Oslo  
Tlf.: 23 22 80 10  
johan@wayback.no

*A non-profit establishment which works to ease the transition from prison back to society.*

## **Jussbuss**

Skippergata 23, 0154 Oslo

Phone: +47 22 84 29 00 Fax: + 47 22 84 29 01

[www.jussbuss.no](http://www.jussbuss.no)

### **Case Intake:**

You can contact Jussbuss by phone or visit us at our office. We visit many prisons regularly.

Prisoners can call us weekdays 10:00 a.m. – 3:00 p.m. On Mondays, you can also reach us from 5:00 p.m. – 8:00 p.m. Ask a prison guard or contact us for information about our next visit to your prison. Ordinary intake hours for non-prisoners are Monday 5:00 p.m. – 8:00 p.m. and Tuesdays 10:00 a.m. – 3:00 p.m.

You can also register your case in our electronic intake system at [www.jussbuss.no](http://www.jussbuss.no).