

FAMILY IMMIGRATION

A brochure on immigration law



Jussbuss

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1. INTRODUCTION

This brochure has been issued by Jussbuss, a free legal aid organization. It was last updated in the autumn of 2017.

The brochure is about family immigration, and is based on the Immigration Act and Immigration Regulations. We note that changes may have occurred after we issued the brochure. For updated information, please visit www.udi.no.

The brochure provides an introduction to family immigration. It is intended as a guide when you want to apply for family immigration, or if you have received a rejection on your application and need to write an appeal. The brochure reviews the rules that typically apply to family immigration cases.

The brochure is mainly about family immigration for citizens of countries outside the EEA, but we will briefly explain the rules for EEA citizens and their families.

Contact information for Jussbuss can be found at the back of the brochure.

2. WHAT IS FAMILY IMMIGRATION?

If you have family members living in Norway, you can apply for a residence permit to live with them. This is called family immigration. To get such permission, there are several requirements that must be fulfilled.

The immigration authorities (see point 3) will consider amongst other things the relationship between the person applying for a residence permit and the person already living in Norway (see point 4), and if the person living in Norway has enough income (see point 8). For some applicants, more requirements apply. We will look at these requirements later in this brochure.

3. ORDINARY CHARACTERISTICS

The applicant: The person wishing to obtain a residence permit to live with his or her family in Norway.

Reference person: The family member already living in Norway, that is, the person that the applicant wishes to reunite with or establish family life with.

Family immigration: A residence permit you can apply for if you wish to live with your family in Norway. Family immigration can be divided into family *reunification* and family

establishment. Different requirements apply in family reunification cases and family establishment cases.

Family reunification: Cases where family life was established before the reference person came to Norway. This applies, for example, if you were married, had lived together for at least two years or was pregnant before the reference person came to Norway. In other words, the family life was established in one country and you wish to be reunited in Norway.

Family establishment: Cases where the family life was established after the reference person came to Norway. This applies, for example, if you got married or became pregnant after the reference person came to Norway. In family establishment cases there are more requirements than in family reunification cases.

Decision letter: The answer to the application. You can either be granted a residence permit (positive answer) or you can receive a rejection (negative answer).

Immigration authorities: Norwegian Foreign Service (Embassies and Consulates), the Police, The Directorate of Immigration (UDI) and the Immigration Appeals Board (UNE).

Power of attorney: An applicant or reference person may give others the right to act on behalf of him/her, such as a family member or a lawyer. The person who has the power of attorney has the right to, among other things, contact the immigration authorities on behalf of the applicant. The authorization should be in writing and be sent to the immigration authorities.

Reference Number (DUF): A number each person receives when applying for a residence permit in Norway. You will be able to find the reference number in all letters received from the immigration authorities.

4. RELATION TO THE REFERENCE PERSON

The requirement of relation to the reference person means that there must be a family relationship between the person seeking to come to Norway and the one who already lives in Norway. Not all family members can be granted family immigration.

The reference person's residence permit:

It is a requirement that the reference person is a Norwegian or Nordic citizen, or has a residence permit that gives a right to family immigration. If the permit does not give a right to family immigration, this will be noted in the reference person's decision on residence.

Who can be granted family immigration?

The closer the family relationship is between the applicant and the reference person, the easier it is to fulfill the requirement of relation to the reference person. Some family relationships entitle you to a residence permit, if the other terms of law are met:

- Spouse/Partner
- Cohabitants who have lived together for at least two years or have children together
- Children and adoptive children under the age of 18, who have parents in Norway
- Parents who have children under the age of 18 in Norway

Other family relationships may give grounds for a residence permit if the other terms of the law are met, but in these cases the applicant is not entitled to a residence permit. This means that the immigration authorities make an individual assessment in each case. The family members that may be granted family immigration are:

- A fiancée,
- A single parent over the age of 60, with children over 18 in Norway, and who doesn't have any close family (spouse, cohabitant, relatives in the ascending or descending line) in his/her home country,
- Parents who want to visit their child in Norway for up to nine months

If the applicant doesn't fit into any of the mentioned categories, it is difficult to get family immigration to Norway. Some applicants may still be able to get a residence permit if there are special circumstances that makes it important for the family to be together. This is especially relevant for:

- Children between 18 years and 21 years who have lived in Norway for a long time with a residence permit
- Children over the age of 18 who is still provided for by their parents, and who otherwise would be left alone in their home country
- Children who due to medical reasons are entirely dependent on personal care from parents in Norway
- Foster children under the age of 18.
- Siblings under the age of 18 without parents or other caregivers in the home country or in the country where they reside

If the applicant doesn't fit into any of these categories, it is very difficult to get family immigration to Norway.

The requirement of relation is only one of many terms you must meet in order to get family immigration to Norway. In addition to this, there is also a four year requirement.

5. THE FOUR YEAR REQUIREMENT

What is the four year requirement?

The four year requirement means that the *reference person* must have worked or studied full-time for four years combined.

The requirement applies if the reference person has a:

- Residence permit as a refugee
- Residence permit on humanitarian grounds
- Residence permit as on the basis of family immigration
- Permanent residence permit based on one of the above mentioned grounds

Who must not meet the four year requirement?

The four year requirement applies only to *family establishment* cases. This is not the case if:

- You got married or became pregnant before the reference person came to Norway
- You got married or became pregnant while both had a residence permit in Norway
- You lived together for at least two years before the reference person came to Norway
- The reference person is a Norwegian citizen
- The reference person's age is 67 years

How to meet the four year requirement?

In order to fulfill the four year requirement, the person living in Norway must have worked or studied full-time for a total of four years. The types of work or education considered relevant are:

- Ordinary work
- Primary school
- Secondary school
- University and college (at least 60 credits per year)
- Introduction program
- Norwegian and social studies according to the Introductory Act
- Parental leave
- Periods where the reference person has received sickness benefit, disability benefit or retirement pension.

6. THE 24 YEAR REQUIREMENT

In all family establishment cases, it is also a requirement for spouses and cohabitants that both parties have reached 24 years of age. The 24 year requirement does not apply if:

- If you were married or you lived together for at least two years before the reference person's entry into Norway, or
- You were married or you lived together for at least two years in Norway while both had a residence permit, or Norwegian or Nordic citizenship.

Exceptions may be made from the requirement if it is *obvious* that the marriage or cohabitation is voluntary. If the applicant or reference person comes from a country where it is known that forced marriages occur, it is very difficult to obtain exemptions from the 24 year requirement. You can contact UDI for more information about this.

7. NO STRONG CONNECTION TO A SAFE THIRD COUNTRY

This requirement only applies if:

- The reference person is a refugee who has not yet been granted permanent residence or Norwegian citizenship.

An application for family immigration can be rejected if the family can live together in another *safe country* to which they are more *affiliated*. This may for example be in cases where the family of a refugee in Norway has settled in a country where the family can live safely without fear of persecution.

The authorities cannot reject your application on these grounds unless the applicant is in a *safe country*. This means that the country must respect the fundamental rights of refugees and asylum seekers, and that the family in Norway can travel to the country through safe and legal entry. Furthermore, the family abroad must either have a:

- Citizenship,
- Formal residence permit or,
- Similar status in the country

When the immigration authorities assess *how strong a connection* the family has to Norway and the other country, they look at, *among other things*:

- How long the reference person has lived in Norway
- How long the family has lived in another safe country
- Language
- Education
- Work
- Relatives
- Network

In addition, the authorities will assess whether it is possible that the reference person and any children living in Norway can get a residence permit in the country in which the applicant is resident.

8. THE INCOME REQUIREMENT

8.1 WHAT IS THE INCOME REQUIREMENT?

The income requirement is a requirement that the reference person must earn enough to support the applicant. It is required that the reference person:

1. Is likely to earn enough the next year (future income, see point 8.2),
2. Has earned enough the previous year (previous income, see point 8.3) and
3. Has not received social benefits or qualification benefits during the last 12 months prior to the decision (see point 8.4).

We will look into the requirements in the points below. Exemptions may be made to the requirements, see point 8.5.

The income requirement is determined by the government and is changed on a regular basis.

The requirement applies to gross income. Gross income is income before tax is deducted.

8.2 FUTURE INCOME

What does the requirement for future income mean?

The requirement for future income means that the reference person must show that he or she *is likely to earn* at least 256 256 kr¹ before tax for the period in which family immigration is sought. This is usually one year ahead from the time of application.

What is considered as future income?

The requirement for future income can be met with:

- Earned income
- Sickness benefits, maternity benefits, parental benefits, disability pension or retirement pension under the National Insurance Act
- Retirement or other regular periodic benefits. Interest income and private pensions are examples of other periodic benefits. It is a requirement that the benefits are lasting benefits.
- Benefits you receive while in the introduction program

¹ This applies as of October 2017. For updated information, visit www.udi.no

- Educational loans or educational grants
- Age or disability pension equivalent to minimum pension level

The requirement for future income can also be fulfilled by a combination of the sources mentioned above.

If the reference person receives a retirement or disability pension equivalent to full rate full time pension, the income requirement is fulfilled.

What is not considered as future income?

- Benefits according to the Social Services Act
- Unemployment benefits
- Labor clearance fee, attendance, time-limited disability pension etc.
- Savings

How to prove that you meet the requirement for future income?

The requirement for future income must be documented. The reference person must submit his employment contract and salary slips from the last three months. The employment contract must as a general rule apply for the period for which family immigration is sought. This is usually one year ahead from the time of application. If you meet the requirement with other sources of income, you must provide documentation.

Is the applicant's income relevant?

In some cases, the applicant's own income may be considered when assessing whether or not the requirement is met. The applicant's income will be considered if:

- The applicant is working legally in Norway.
- The reference person is studying at university or college and has earned 60 credits, or if he/she is studying fulltime to become a skilled worker. In cases like this, it is also possible that the immigration authorities will consider a job offer for the applicant in Norway. It is a requirement that both the applicant and the reference person are at least 23 years old.

8.3 PREVIOUS INCOME

What does the requirement for previous income mean?

The previous income requirement is fulfilled if the reference person *has earned* at least 253 704 kr² the previous year before applying.

What is considered as income?

² This applies as of October 2017. For updated information, visit www.udi.no

All taxable income counts as previous income, ie. all items on the “income side” of the tax certificate. The tax certificate is a letter from the tax administration, which tells you how much you earned the previous year.

How to prove that you meet the requirement for previous income?

The reference person’s previous income is documented by submitting the tax certificate with the application.

Exemption from the requirement for previous income

In order to get an exemption from this requirement, the reference person must have been in one of the following situations the year prior to the decision:

- A Norwegian or Nordic citizen, or a foreign national with a permanent residence permit, who has attended university or college, and earned at least 60 credits or equivalent, or has taken a vocational education equivalent to one year of study,
- Completed military service or mandatory civil service,
- Has had a net fortune of more than one million NOK over the last two years and is over 23 years old. The fortune must be registered in the tax registry,
- Received retirement or disability pension equivalent to the minimum pension,
- Had a residence permit as a skilled worker or specialist.

Note that these exemptions only applies in regard to the requirement for *previous income*, and apply *in addition* to the exemptions listed in point 8.5. The exemptions in point 8.5 apply to both the requirement for future income, the requirement for previous income, and the requirement that the reference person has not received social benefits or qualification benefits.

8.4 SOCIAL AND QUALIFICATION BENEFITS

It is also a requirement that the reference person *has not* received social benefits or qualification benefits during the last 12 months prior to the decision.

If the reference person has received such a benefit, the application will be rejected. In other words, if the reference person has received such a benefit, you have to wait at least one year after the reference person have ceased to receive such benefits before he/she meets the requirement. It is therefore important to submit a confirmation from NAV that no such benefits have been received within the last 12 months.

However, this requirement does not apply if the reference person received social and qualification benefits while attending the introductory program.

8.5 EXEMPTION FROM THE INCOME REQUIREMENT

For many reference persons it can be difficult to earn enough to fulfill the income requirement. In some cases, exemptions from the income requirement can be made. An exemption can be made both to the requirement for previous and future income, and to the requirement that reference person has not received social or qualification benefits.

The reference person or applicant is a child

Exceptions may be made if the reference person is a child under the age of 18, or if the applicant is a child under the age of 15 without caregivers in their home country.

The reference person is a refugee

If the reference person is a refugee, an exception may be made from the income requirement in some cases. In order for an exception to be made, the applicant must be a *spouse, cohabitant* or *child* to the reference person. If you are spouses, you must have been married before the reference person moved to Norway. This also applies to cohabitants.

In addition, it is required that both:

- The application is submitted online at www.udi.no and the application fee (8000 kr³) is paid **within six months** after the reference person received a residence permit in Norway, and
- the applicant meets in person and provides the required documentation at the Norwegian embassy **no later than one year** after the reference person received a residence permit in Norway.

It is very important that the application is submitted within these deadlines!

If the deadline is not met, it is important that the applicant explains why he or she missed it. If possible, try to document the obstacles that caused the application to be submitted late.

Cases where it is obvious that the reference person is able to provide

Exceptions may also be made if the reference person *is obviously able to support* the applicant. This exemption is only meant to apply in very special cases. When the applicant is the reference person's spouse or cohabitant, exceptions can only be made in such cases if

³ This applies as of 2017. For updated information, visit www.udi.no

it is *obvious* that the marriage or cohabitation is voluntary. If the applicant or reference person comes from a country where it is known that forced marriages occur, it is very difficult to obtain exemptions from the income requirement on these grounds.

Special cases

If none of the above mentioned exceptions apply to your case, it is still possible to be exempted if there are very strong reasons for doing so. This will be assessed by UDI and UNE in all cases. The threshold is *very high*, and this exemption is only meant to apply in very special cases. This means that your case must distinguish itself from other cases. For example, it may be relevant if the applicant has serious health problems and/or does not have any caregivers in his or her home country.

9. THE RESIDENTIAL REQUIREMENT

If the applicant is a spouse, partner, cohabitant or child of the reference person, it is a requirement that the applicant and reference person will live together in Norway. In such cases it must be documented that the reference person has a residential.

10. IDENTIFICATION

As a general rule, everyone who comes to Norway must prove their identity by passport. This also applies to those seeking family immigration.

If the applicant does not have a passport, he/she must state why this is not possible to obtain. This may for instance be the case where the applicant comes from a country where there is high occurrence of false documents, or where the government in the home country is not able to issue passports. In addition, this may apply to cases where there are personal reasons why the applicant cannot contact the authorities. This is particularly relevant if the applicant is a refugee because of his/her relationship with the authorities in his or his/her home country.

If the immigration authorities accept that the applicant *cannot obtain a passport*, it is sufficient that the applicant render it *probable that he/she is who they claim to be*. This means that the applicant is able to show that it is at least 50% likely that the applicant is who he/she claims to be.

The applicant can prove his/her identity by submitting documents such as a birth certificate, national ID card, or other documents that link the applicant's ID to him/her. In this assessment, everything is relevant, including, for example, witness statements from others. It is very important that the information given regarding identity is *consistent*; in

other words, that the information given either by the applicant or others does not differ in any way.

11. RULES FOR FAMILY MEMBERS OF AN EEA CITIZEN – A BRIEF REVIEW

An EEA citizen is a citizen of an EEA country (all EU countries are also EEA countries). Other rules apply for family members of EEA citizens.

EEA countries are: Belgium, Bulgaria, Denmark, Estonia, Finland, France, Greece, Ireland, Iceland, Italy, Croatia, Cyprus, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, United Kingdom and Northern Ireland, Sweden, Czech Republic, Germany, Hungary and Austria.

Norway is included in the EEA Agreement. Nonetheless, Norwegian citizens are not regarded as EEA citizens in this context. The same rules apply to a person seeking family immigration with a Norwegian citizen as citizens of non-EEA countries.

In order for a Norwegian citizen to be considered an EEA citizen, the Norwegian citizen must have exercised his/her rights as an EEA citizen. You are exercising your rights as an EEA citizen by living in a different EEA country than Norway.

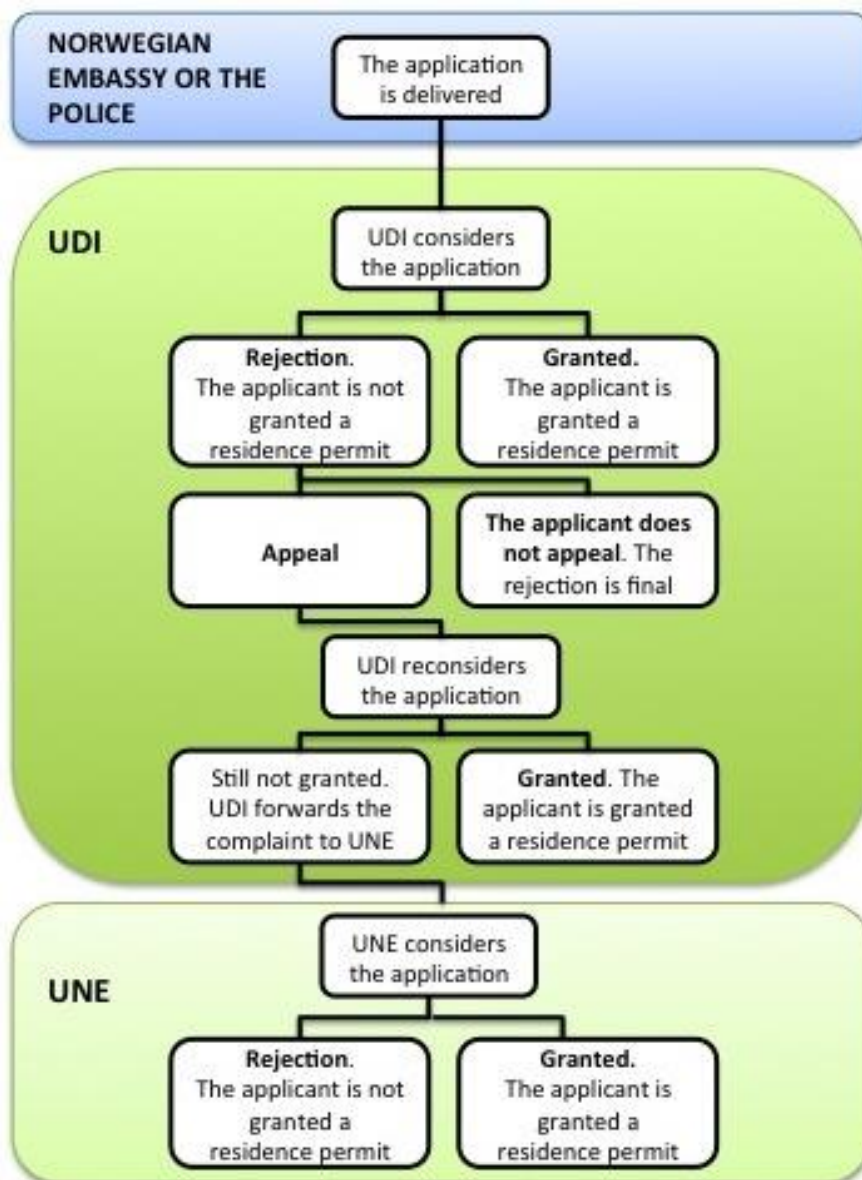
Who can get a residence permit under the EEA rules?

If an EEA citizen is entitled to reside in Norway, the family of the EEA citizen also has a right to reside here. This applies even if the family is not from an EEA country. EEA citizens have the right to reside in Norway if they work, can support themselves or attend an approved educational institution.

These family members have a right to family immigration according to the EEA rules:

- Spouses,
- Cohabitants who have lived together for two years or have children together,
- Children or grandchildren of the EEA citizen under 21 years, who is provided for by the EEA citizen,
- Parent or grandparent of the EEA citizen, who is provided for by the EEA citizen.

12. PROCEEDINGS



The illustration on the previous page shows the proceedings in a family immigration case. It is advisable to familiarize yourself with the requirements for family immigration before applying.

The UDI's checklist shows which documents you must submit with the application. You can find this checklist on www.udi.no.

Where to submit your application:

- Foreign station: As a general rule, the applicant shall submit an application for family immigration at a Norwegian foreign station (an embassy or consulate) in the applicant's country of origin, or a country where the applicant has had a residence permit the last six months.
- Norway: Some applicants can submit their application to the local police office in Norway.

Who processes the case?

The UDI are responsible for assessing applications for family immigration. When they have made a decision, it will be sent to the applicant or the person who has been authorized in the case. If the application is granted, the applicant may come to live in Norway. If the application is rejected, the applicant will not be allowed to come to Norway.

If the application is rejected, you have the right to *appeal the decision*. This means that you have a right to have your case considered again by the UNE, who has the right to overturn UDI's decision. This must be done within the deadline stated in the decision, **usually three weeks** after you received the decision.

How to write an appeal, and what you should submit with it, will be reviewed under point 13. If you do not appeal, or you're not within the deadline, UDI's decision will be final. You cannot appeal the decision later. If you are unable to appeal within the deadline, you can ask UDI for a longer deadline.

When the UDI receives an appeal, they will review your case again. They will either change their decision or forward the case to the UNE.

When UNE receives the appeal from the UDI, they will consider the matter and either grant or reject the application. The decision of the UNE is final. Once the UNE has made a decision, the decision will be sent to the applicant.

Final rejection

If you receive a final rejection, but still want a residence permit, you have four possibilities:

1. Apply again
2. Send a request for reversal: A request for reversal means asking UNE to review the case again, either because you feel that some circumstances have not been evaluated

or have not been considered sufficiently, or because new circumstances have occurred that were not considered in the initial assessment. The request for reversal should be sent *within one month* after the decision from the UNE was received.

3. Go to trial: You can bring the case to court. In this case you should contact a lawyer. Note that a lawsuit can be very expensive. Jussbuss can unfortunately not take matters to court.
4. Civil Ombudsman: Cannot change the decision, but can assess whether there is a case processing error. Call tel: 800 80 039

Processing time

The processing time is long; it can take many months before you receive an answer. At www.udi.no you can find the expected processing time for your type of case. It is very important to submit all necessary documentation with the application. Otherwise it may take longer time to process your case.

Many people contact Jussbuss because the processing time is very long and they find it hard to wait for an answer. Unfortunately, Jussbuss are unable to make the processing time shorter.

13. HOW TO WRITE AN APPEAL

If you receive a rejection, you have the right to appeal.

You must appeal within a deadline. The deadline will be stated in the decision, but as a general rule the deadline is three weeks from the date you received the decision. If you do not complain within the deadline, you will lose the right to appeal.

You can send a time limit suspensory appeal explaining that a more complete appeal will be submitted, and request a new deadline. If you want an example of how a time limit suspensory appeal may look like, check out the form on Jussbuss' website.

Below is a suggestion of how an appeal may look like. You should try to document your statements, for example by contract of employment, tax certificate or marriage certificate. It is the applicant who is entitled to appeal the decision.

If someone other than the applicant wants to appeal, he/she must have a power of attorney from the applicant. The complaint and the power of attorney must be delivered to Norwegian immigration authorities. If the applicant is in Norway, he/she must request "deferred implementation", in order for the applicant to stay in Norway while the appeal is being processed.

You must fill out the information highlighted with italics yourself. If you submit attachments to the appeal, these should be numbered and marked with your name and reference number.

Your local police office/foreign station/UDI

Address

Post number

Place, date

Reference number (DUF-number): *xxxx xx xxxx-xx*

APPEAL - APPLICATION FOR FAMILY IMMIGRATION - CITIZEN OF *YOUR HOME COUNTRY - FIRST NAME LAST NAME - DATE OF BIRTH*

I refer to the rejection to my application for family immigration from UDI *date*. The deadline to appeal was set to *date*. By this letter, I consider the appeal to be submitted within the deadline.

If the applicant is staying in Norway: By this letter I also request deferred implementation of the decision.

I would like to give some comments relevant to my case. I ask you to consider that: *Here you fill in why you think you fulfill the requirements for family immigration, or why you think there should be made an exception in your case.*

Regards,

Signature

First name last name

Attachment 1: Title

Attachment 2: Title

...

14. NORWEGIAN AUTHORITIES' DUTY TO PROVIDE GUIDANCE

If you request it, the Norwegian immigration authorities have an obligation to explain to you how you apply and what is required in order to be granted a residence permit.

If your application has been rejected, the authorities also have a duty to explain why, and how to appeal the decision.

You can contact UDI's Guidance Phone if you have questions regarding your application or appeal.

On the internet pages of UDI and UNE you can also find useful information.

UDI:	Guidance phone:	23 35 15 00
	Address:	Postboks 8108 Dep. 0032 Oslo
	Internet:	www.udi.no www.udiregelverk.no
UNE:	Telefon:	21 08 50 00
	Postadresse:	Postboks 8165 Dep. 0034 Oslo
	Internet:	www.une.no