

HOW TO RESPOND TO A NOTICE OF EXPULSION

This leaflet is relevant only to third country nationals. If you are a citizen of an EEA or EU country, special rules apply. If you are an EEA or EU national you can contact Jussbuss for free legal advice.

What is a notice of expulsion?

A *notice of expulsion* is a warning given by the police or the Norwegian Directorate of Immigration (UDI) notifying you that the authorities are considering expelling you from Norway. An *expulsion decision* means that you have to leave Norway. When the authorities expel you, you are supposed to be notified, and you have the right to provide information relevant to your case to the authorities before they make their decision. This is what you do by responding to the notice of expulsion.

In the notice you've received from the police or the UDI you will find the deadline for responding to the notice. If you are not able to respond within the deadline, you should still send in your answer. The most important thing is that you explain to the UDI why you feel you should not be expelled.

Who is entitled to a free attorney?

If the authorities are considering expelling you because you have broken provisions in the Immigration Act, you are entitled to a free attorney. The notice should contain information about whether or not you qualify for a free attorney. If you do qualify, you can get in touch with a lawyer of your choice, or the office for free legal aid and ask for help with responding to the notice of expulsion.

If you're in prison, the authorities are usually considering expelling you because you have broken the Norwegian Penal Code. Foreigners who have broken the penal code are not entitled to a free attorney, but you can use the information in this leaflet to write a response to the notice of expulsion.

The fundamental requirement for expulsion

Two conditions must be met in order for it to be legal for the authorities to expel you. These two conditions are called the fundamental requirement and the assessment of proportionality.

The fundamental requirement entails that you must have broken the Norwegian penal code. The UDI will consider whether or not you have been convicted for something that is punishable by law. They will not take into consideration the fact that you feel you have been wrongfully convicted. Jussbuss does not work with criminal law, but if you have questions regarding your criminal case, you can get in touch with The Norwegian Criminal Cases Review Commission.

If you do not have a residence permit, the UDI can expel you more easily. The expulsion notice that you have been given should state which paragraph or section in the law that they are using as the legal grounds for expelling you. If you have a residence permit that the UDI has not taken into consideration in your case, you must notify the UDI about this in your response.



The proportionality assessment

According to the immigration act § 70, the UDI cannot expel you, even if the fundamental requirement is met, if expelling you is a disproportional measure. This means that they have to take your personal situation into consideration. The UDI will consider the seriousness of the crime you have committed, how strong your connection is to Norway, and they also have to consider the consequences expulsion will have for your immediate family. If you have children in Norway, the UDI must take them into consideration.

Generally, your connection to Norway has to be very strong, or the consequences of expulsion for you or your family members must be severe, in order for an expulsion decision to be disproportional.

The seriousness of the crime

When considering the seriousness of the crime you have committed, the UDI will take into account the kind of crime you have committed, the length of your sentence, and whether or not they think the risk of recurrence is high in your case. If you have no previous convictions, you can argue in your response that the risk of recurrence is low. If you have been convicted many times before, the UDI will often come to the conclusion that there is a risk of recurrence in your case. If so, this will affect your expulsion case negatively. The UDI will also consider the length of your sentence, and whether your sentence is low or high in relation to the maximum prison sentence you could have received for the crime you have committed.

Connection to Norway

When the UDI considers how strong your connection to Norway is, they will only take into account the connection you have acquired while you were in the country legally with a residence permit. If you have not had a residence permit, the UDI will often decide that your ties to Norway are weak, even if you've lived here for a long time. The most important purpose of responding to a notice of expulsion is to give the UDI information about how connected you are to Norway.

The following points are relevant:

- How old you were when you arrived in Norway: The UDI thinks that the younger you were on arrival, the stronger your connection is to Norway.
- What kind of residence permit you have had.
- How many years you have lived in Norway.
- How integrated you are in Norwegian society: You can write about jobs you have had here, and if you have been educated here this is also relevant. You can also include any voluntary work, hobbies, social connections, whether or not you speak Norwegian, as well as anything else that implies that you are integrated into Norwegian society.
- Family in Norway: The primary consideration for the UDI will be your spouse, cohabitating partner, and children under the age of 18, but if you have other family members living here, this can also imply that your connection to Norway is strong. If you have children in Norway, it's very important that you inform the UDI about this in your response. It's also very important that you can provide documentation of custodial rights or visitation rights. Documentation can be custody or visitation agreements and if your children are visiting you in prison, you can include transcripts from prison visitation journals.

- When the family life was established: If you became a family after you should have realized that you could be expelled, your family life in Norway is not as well protected, and it's easier for the UDI to expel you, even if you have family living in the country.
- Possibilities of continuing the family life in your home country: If somebody in your family enjoys international protection (asylum) from your home country, they cannot travel to your home country to be with you if you have been expelled. You must notify the UDI about this if this is relevant in your case.

Connection to your home country

If your connections to your home country are strong, expelling you will often not be a disproportional measure. The UDI will look at how old you were when you left your home country, whether or not you have visited your home country, and if so how often. The UDI will also take into account whether or not you have family living in your home country, and whether or not you speak the language. If your connections to your home country are weak, it's very important that you inform the UDI about this in your response to the expulsion notice.

The consequences of expulsion for your family members and the best interest of the child

When the UDI considers expelling you, they must take into account how your expulsion affect your immediate family. Immediate family includes your children, spouse, and cohabitating partner. Expulsion is not necessarily a disproportionate measure even if your family will be separated as a result of your expulsion. The UDI will consider whether or not it's possible for you and your family to continue your family life in your home country, whether or not you have custodial or visitation rights with your children, and whether or not any of your family members have health issues. The UDI must always consider the best interest of your children. However, this does not mean that you cannot be expelled when you have children living in Norway. The UDI will consider how old your children are, how attached they are to you, and whether they have other adult caregivers living in Norway.

What is a re-entry ban?

If you get expelled, you will also receive a re-entry ban. This means that you are not allowed to return to Norway for as long as the re-entry ban lasts. You are not allowed to return regardless of the reasons for you wanting to visit. You cannot come back even for just a short visit. The re-entry ban can last for two years, five years, ten years, or forever. Violating the re-entry ban is punishable by law, and normally results in prison time of approximately one year.

Registration in the Schengen Information System (SIS)

If you are expelled from Norway, most often you will also be registered in the Schengen Information System (SIS). This means that you will also be expelled from the other Schengen countries. It's very important that you notify the UDI in your response about any residence permits in other Schengen countries that you might possess. If you wish it, you can in your response ask to be deported to the Schengen country in question. It is up to this other Schengen country whether or not they will allow you to return there even though you have been expelled from the Schengen area.

Closing remarks

You can deliver your response to the expulsion notice at your local police station, or you can send it directly to the UDI. If you are in prison, your contact officer can help you with faxing your response to the police, or with sending the response to the UDI through the post. If you



receive an expulsion decision, contact Jussbuss, and we can look into your case. Our phone number is 22 84 29 00. It will normally take us 1-2 weeks to process your case, so it is important to get in touch with us right away when you receive a letter from the UDI.

Contact information

Norwegian Directorate of Immigration (UDI)

Postboks 8108 Dep.

0032 Oslo

Phone number: 23 35 15 00

National Police Immigration Service

Postboks 8102 Dep.

0032 Oslo

Phone number: 22 34 24 00

Faks: 22 35 37 00

Free legal aid

Storgata 19

0184 Oslo

Phone number: 23 48 79 00

Advokatenhjelperdeg.no

The Norwegian Criminal Cases Review Commission.

Postboks 8026 Dep.

0030 Oslo

Phone number: 22 40 44 00

Here is an example of what your response can look like. You must fill out the information highlighted in italics yourself. All attachments must be numbered and they must be marked with your name and DUF-number.

Your local police office
The police office's address
The post office's post number

Place, date

Your reference: *Here you write your DUF-number. Your DUF-number is included in the letter you have received from the police or the UDI*

**RESPONSE TO NOTICE OF EXPULSION – CITIZEN OF YOUR HOME COUNTRY
– FIRST NAME LAST NAME - BORN: YOUR DATE OF BIRTH**

I refer to the notice of expulsion made by the *police/UDI and the date your notice was made*. I would like to give some comments relevant to my case.

Here you fill in why you think the UDI cannot expel you. Use the information in this leaflet to formulate your arguments.

Regards,

(signature)

First name last name

Attachment 1: Title

Attachment 2: Title