

HOW TO RESPOND TO A NOTICE OF EXPULSION

This leaflet is relevant only to EU/EEA-citizens. If you are from another country, other rules apply to you. We have another leaflet about this.

What is a notice of expulsion?

A *notice of expulsion* is a warning given either by the police or by 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 have the right to be notified beforehand, 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 have received from the police or the UDI you will find the deadline for responding to the notice. If you are unable to respond within the deadline, you should still send in your response. The most important thing is that you explain to the UDI why you feel you should not be expelled.

The conditions for expulsion

Three conditions must be met in order for it to be legal for the authorities to expel you. These three conditions are called the basic condition, personal conduct, and proportionality.

An expulsion decision will be a restriction on the right to freedom of movement within the EU/EEA-area. This is a right that all EU/EEA-nationals enjoy. Restrictions on this right are only lawful if they are strictly necessary. Therefore the authorities must give your case fair consideration before they can expel you, and they have a general duty to give thorough justification as to why they believe expulsion is a necessary measure in your case.

1. The basic condition

The fundamental condition for expulsion is that expulsion must be on "grounds of public order or safety." This condition will be met if you have been convicted of a criminal act. The UDI will only 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.

Criminal convictions are not the only thing that can justify expulsion "on grounds of public order or safety." If the authorities believe you are addicted to narcotic substances, or if you suffer from a serious mental illness, this can also be expulsion "on grounds of public order or safety." However, the authorities can only use this as grounds for expelling you if you were addicted or mentally ill *before* you came to Norway. If this is not the case in your case, you must point this out in your response.

2. Personal conduct

Expulsion on grounds of public policy or public security can only be based on the "personal conduct" of the person concerned. In assessing this, the UDI will consider whether or not they believe that there is a *possibility that you will commit new crimes*. Also, the criminal conduct you have been convicted for must be considered *so serious that expulsion is deemed a necessary measure*.



When the UDI considers whether or not these conditions are met in your case, they will consider two things. Firstly, they will look at how many offences you have been convicted of, and secondly, they will consider the seriousness of these crimes.

When the UDI considers how serious a crime is, they will first and foremost look at the maximum amount of prison time you *could have* received for this type of offence. The length of your particular sentence is also relevant. If you have been convicted for only a few offences, and if the maximum sentence for these crimes is low, the crimes may not be serious enough to justify expelling you from Norway.

In your response to the notice of expulsion, you can try to prove that this condition is not met in your case. In order to do this, you must focus on all the things in your particular case that can imply that the crimes you have been convicted of are not very serious. If you received a short prison sentence, you must point this out in your response. If you can prove that it is not likely that you will commit further crimes in the future, for instance because your behaviour has changed, or because you have attended behavioural therapy courses in prison, this is also relevant information to include in your response. If you have never been convicted for anything in the past, this can also imply that it is unlikely that you will commit further crimes, so this is also something that you can point out in your response.

When the UDI considers whether or not they can expel you on grounds of public order or security because your personal conduct makes expulsion a necessary measure, the type of right of residence you have had in Norway is highly relevant. If you have what is called permanent right of residence* as an EU/EEA-citizen, the danger that you pose towards Norwegian public order or security has to be greater than if you only had a temporary right of residence. If you have been in Norway for ten years or more* the danger you pose must be even greater, and therefore it will be even more difficult for the authorities to expel you. Therefore, if this applies to your case, it is very important that you focus on this in your response.

* See separate paragraph regarding right of residence below

3. The proportionality assessment

Even if the fundamental condition and the condition regarding your personal conduct are met, the UDI still cannot expel you if this is a "disproportional measure", meaning that expulsion is a too strict reaction in your case, all things considered.

When the UDI considers whether or not expulsion is a disproportional measure, they will first and foremost look at *how serious the crime or crimes you have been convicted for were*, and compare this with the *strength of your ties to Norway*. If you have close *family members* living in Norway, the UDI also has to take into account how your expulsion will affect them.

In general, your ties to Norway have 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 a disproportional measure.

The seriousness of the crime

When considering how serious the offences you have been convicted for are, the UDI will take into account the type of crime you have committed, and the length of your sentence.



Additionally, the UDI will assess how great the risk of recurrence is in your case and take this into account. In your response, you must argue that the crimes you have been convicted of aren't too serious, and you must highlight anything that can imply that you will not commit further offences in the future.

Connection to Norway

When the UDI considers how strong your connection is to Norway, they will as a general rule only take into account periods when you've been here legally*. If you have not had a right of residence, the UDI will often conclude that your ties to Norway are weak, even if you have lived here for a long time. However, even if you have not had a right of residence, it is still very important that you give the UDI a thorough account of your connection to Norway in your response.

** See separate paragraph regarding right of residence below*

The following points are relevant to include in your response:

- 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 right of residence you have
- How many years you have lived in Norway
- How integrated you are into 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 can imply that you are integrated into Norwegian society.
- Your health: If you have health issues, expulsion might be a disproportional measure. This is particularly relevant if you receive treatment in Norway that is unavailable in your home country. You should try to document your health issues, for instance with a medical certificate. You should also try to provide documentation of any treatments you are receiving for your ailments.
- 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 residing in Norway, it is very important that you point this out in the response to the notice of expulsion. It is also very important that you provide documentation of custodial rights or visitation rights. Such 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 is easier for the UDI to expel you, even if you have family living here.

Connectedness 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 ties to your home countries are weak, it is 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 interests of the child

When the UDI considers expelling you, they must take into account how your expulsion will affect your close family. The close family includes your children, spouse and cohabitating partner.

Expulsion is not necessarily a disproportional measure even if your family will be separated as a result of the 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 rights or visitation rights for 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 as long as 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.

If your children are over the age of seven, or if they are mature enough to form opinions of their own, they have the right to be heard. This means that the child itself or others have a right to say what they think of your expulsion and what it will mean for the child. This can be done i.e. by attaching a letter from the child to the expulsion response, describing what he or she feels about the expulsion and how it will affect him or her.

Right of residence as an EEA/EU-citizen

According to the EEA-agreement, all citizens of the EEA/EU-area should be able to move freely between the EEA-countries. An EEA-citizen is therefore in general entitled to go to whichever EEA-country he or she likes.

In Norway, the rules are such that you can only stay in Norway for three months without special grounds for your stay. In order to qualify for a *right of residence* lasting for longer than these three months, you must have grounds for your stay. Such grounds include working or studying in Norway, or living with a close family member with a right of residence as an EEA-citizen. Close family members include your parents, spouses, cohabitating partners, and children/stepchildren.

As mentioned above, whether or not you have a right of residence, and for how long you have had such a right, are both of importance in the proportionality assessment. Therefore, it can be a good idea to explain in your response what your grounds for right of residence are/have been. You can i.e. explain that you have worked or studied here, or that you have family here that you live with. If you can provide documentation that proves this, for example tax receipts, contracts of employment, or papers from the school you have attended.

After five years of continued right of residence of Norway, you qualify for what is called *permanent right of residence*. If you have a permanent right of residence, the UDI needs to have stronger grounds for expulsion. If you have been here with a right of residence for ten years or more, the UDI need even stronger grounds for expulsion. If this applies to you, it is important that you highlight this in your response.

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 a short visit. The re-entry ban cannot be shorter than two years.

Violation the re-entry ban by coming back to Norway, is punishable by law, and normally results in a prison sentence of approximately one year. Normally, if you violate the re-entry ban, you will also be expelled again, often with a longer re-entry ban than what you originally received.

How to respond to an expulsion notice

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 by post.

On the next page, we have included an example of what a response can look like. You must fill in the information marked in *italics* yourself. All attachments must be numbered and marked with your name and reference number (DUF-number)

What to do if you receive an expulsion decision?

After you have received an expulsion notice, and been given the opportunity to reply, the UDI will consider whether or not to expel you. If they decide to expel you, they have to make a *decision of expulsion*.

If you receive an expulsion decision from the UDI, you will usually receive three weeks to appeal the decision, starting from the day you received the decision. If you want advice regarding what to write in your appeal, you can contact Jussbuss and we can look into your case. Our phone number is 22 84 29 00. It will usually take is 2-3 weeks to process a case, so it is very important that you contact us right away after receiving a decision from the UDI.

Your local police office
The address of this police office
The post number of this police office

Place, date

Your reference: *Here you write down 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* on *the date your notice was made*. I wish to give some comments relevant to my case.

Here you must explain 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

Contact information

Norwegian Directorate of Immigration (UDI)

Postboks 8108 Dep.

0032 Oslo

Phone number: 23 35 15 00

National Police Immigration Service (PU)

Postboks 8102 Dep.

0032 Oslo

Phone number.: 22 34 24 00

Fax: 22 35 37 00

The Norwegian Criminal Cases Review Commission

Postboks 8026 Dep.

0030 Oslo

Phone number: 22 40 44 00

Fax: 22 40 44 01

Jussbuss

Skippergata 23

0154 Oslo

Phone number.: 22 84 29 00

Fax: 22 84 29 01