

# GLOBAL **NEXTGEN** INDEX

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## End Child Detention Scorecard

# FRANCE

Published August 2018 using information compiled between November 2017 – July 2018, based on the most up-to-date reports and analysis available.



## FINAL SCORE

# 39

Law in France allows for the detention of children with their families.

The law also allows for the detention of unaccompanied migrant children on arrival. Commendably, unaccompanied children cannot be detained before deportation.

In practice, more than 4,000 children were detained on French Territory in 2016 including unaccompanied children being detained with unrelated adults. The majority of these children are detained in the overseas Department of France, Mayotte.

There has also been a significant increase in the numbers of children detained in France continental – 305 cases were recorded in 2017 compared to 40 children detained in 2013.

	France	Possible
Treaties	18	20
National laws	3	10
Processing	8	26
Placement	4	12
Rights	12	20
Oversight	5	12
<b>Sub Total</b>	<b>50</b>	<b>100</b>
Points off	-14	-15
Bonus points	+3	+15

### Treaties 18/20

France has ratified five of the six Conventions and Protocols that assist in the protection of children in the context of migration.

**Recommendation:** The Government of France is encouraged to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

### National laws 3/10

Article L511-4 1° of the French Code de l'entrée du séjour et du droit d'asile (CESEDA) establishes that deportation can only be applied to people who are older than 18 years old. As immigration detention is only permitted during deportation proceedings, this excludes unaccompanied minors from detention once they are on the French territory. However there are more than 50 transit zones, which under the same laws, are considered exempt from the French territory (despite a 2009 court ruling that children in the transit zones are in fact in France). Children, including unaccompanied children, can legally be detained in these transit zones. The department of Mayotte also has a legal framework which enables immigration detention. Immigration reform that

will come into effect in September 2018 increased the time that children with families can be detained during deportation procedures from 45 days to 90 days.

**Recommendation:** The Government of France is commended for having a law which protects all children from detention on arrival, and protects unaccompanied children from detention and during deportation. The government is encouraged to urgently introduce legislation to protect all children, and their families, from being held in immigration detention while preparing for departure from the country.

## Processing 8/26

France has weak processes for integrating migrant children into the community. Specifically, there is very limited practice of child-sensitive screening, best interest determination, case management, issue documentation or ensuring access to legal advice during migration processes. Guardianship is provided by specialist organisations in many regions, but some regions refuse to provide this to undocumented children. Some translation services are available.

**Recommendation:** The Government of France is encouraged to urgently introduce and strengthen processes to ensure child-sensitive migration systems. The government is strongly encouraged to undertake the substantial effort required to ensure screening, best interest determinations, case management, documentation and legal advice are of an acceptable international standard.

## Placement 4/12

Placement options in France are limited. While unaccompanied children cannot be detained, there are not enough spaces in shelters for their care. All of the placement options for families are conditional, placing restrictions or conditions on a person's liberties which are automatically and arbitrarily imposed without established reasoning or evidence that they are required in the individual case.

**Recommendation:** The Government of France is encouraged to expand placement options, as well as ensure conditions such as reporting are only applied when shown to be necessary in specific cases.

## Rights 12/20

Access to rights is variable across France. Access to education is established in law and respected in the majority of cases. Access to housing is limited, with reports of families and unaccompanied children sleeping on the street. Access to social assistance is limited for non-citizens, while irregular migrants can only access part of welfare. Health care is available with certain conditions, including a 3-month waiting period.

**Recommendation:** The Government of France is commended for upholding the rights of migrant children to non-discriminatory access to education. However, the government is encouraged to provide appropriate services to address the specific needs of migrant children and their families. It is recommended the government ensure indiscriminate access to housing, social assistance and health care for all children, as well as permit parents to seek employment. Further, the government is encouraged to strengthen de-facto firewall protections into legislation to ensure social services are not impeded by migration control activities.

## Oversight 5/12

The oversight of immigration detention in France could be improved. From September 2018, Judges will not review detention decisions for 96 hours and have limited powers to review detention decisions. While monitoring is undertaken by an independent authority, its powers are limited and authorities are not required to comply with

recommendations. Immigration detention statistics are published each year but the French Government. However, they are considered inaccurate and do not report specifically on children.

**Recommendation:** The Government of France is encouraged to improve its score by solidifying judicial control of detention decisions, boosting the powers of the detention monitoring bodies, and by publishing disaggregated detention population statistics on a monthly basis that provide an accurate overview of all territories in which immigration detention takes place.

### Points off -14/-15

According to NGO reports, it is estimated that 4,000 children were detained in 2016. The majority of these are detained in the overseas Department of France, Mayotte, where the 6 July 2012 circular (which implemented the decision of placing families in a residence facilities rather than being kept in immigration detention centres) does not apply. France both transfers and returns children to territories where they are at risk of detention. In addition, children are regularly detained with unrelated adults.

**Recommendation:** The Government of France is strongly encouraged to abolish the detention of children. The government is encouraged to take steps to reduce the number of children who are detained, to reduce the time children spend in detention, to end transfer and return practices, and to ensure children are not detained with unrelated adults.

### Bonus points 3/15

French law protects unaccompanied minors from detention; however, there is no evidence of any political will to end the immigration detention of all children and their parents. Although, some rights are embedded in law, and some exploration of pilots is in emerging.

**Recommendation:** The Government of France is encouraged to abide by international law and standards by preventing the detention of all children, removing reservations to the CRC, and expanding its exploration of alternatives through pilot projects.



This scorecard has been assessed by the France NextGen Index Committee:

- La Cimade

For further information regarding how this score was measured visit <http://next-gen-index.org/>

If you have any questions, please contact the Global Campaign:  
[media@endchilddetention.org](mailto:media@endchilddetention.org)

# Additional Resources & Information

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## Treaties & National Laws

- [Convention on the Rights of the Child, 1989](#)
- Senat: [Rapport D'Information fait au nom de la commission des affaires sociales \(1\) sur la prise en charge sociale des mineurs non accompagnés](#)

## Directives & Services

- [La Protection Sociale Des Etrangers en France](#)
- [Immigration, asile, accueil et accompagnement des étrangers en France](#)

## Community Integration & Support

- Défenseur des Droits: [Case Management Report](#)

## Infrastructure & Oversight

- [Opinions and Recommendations of the French 'Contrôleur général des lieux de privation de liberté'](#)
- Rapport d'activité 2016: [Le Contrôleur général des lieux de privation de liberté](#)
- Asylum Information Database: [Detention of Vulnerable Applicants, France](#)