

# GLOBAL **NEXTGEN** INDEX

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## End Child Detention Scorecard

# IRELAND

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



## FINAL SCORE

# 75

The Government of Ireland has made a clear political commitment to prevent the detention of children both in law and in practice. However, considerable work remains to improve living conditions and supports for children and their families seeking asylum in Ireland.

	Ireland	Possible
Treaties	16	20
National laws	9	10
Processing	19	26
Placement	7	12
Rights	12	20
Oversight	7	12
<b>Sub Total</b>	<b>70</b>	<b>100</b>
Points off	-3	-15
Bonus points	+8	+15

### Treaties 16/20

Ireland has ratified four of the six Conventions and Protocols that assist in the protection of children in the context of migration. The United Nations Convention Against Torture (UNCAT) was ratified by Ireland in April 2002 and the Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) was signed in 2002 but has never been ratified.

**Recommendation:** The Government of Ireland is encouraged to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT).

### National laws 9/10

Children under the age of 18 are prohibited from being detained in Ireland, subject to age assessments. However, the parent or guardian of the child can be legally detained and the child will live under the care of the Child and Family Agency (TUSLA).

**Recommendation:** The Government of Ireland is commended for their law prohibiting the detention of children under the age of 18 years. However, in order to meet international law standards and obligations, the government is strongly encouraged to implement the law in alignment with the child's right to family unity.

### Processing 19/26

Ireland has many of the supports in place to effectively process children in the community, rather than in immigration detention. Child-sensitive screening procedures, best interest determinations, documentation, guardianship, legal advice and translation are all provided to varying degrees. Of concern, the fact that applicants who the International Protection Office do not believe to be under 18 are treated as adults and accommodated in the direct provision system as single adults, even while screening procedures are taking place.

**Recommendation:** The Government of Ireland is commended for their commitment to uphold the rights of children. The government is supported as a world leader on this issue. However, the government is encouraged to strengthen processing systems by improving the provision of legal and translation services. Additionally, length of time in the system remains one of the most important issues for asylum seekers in Ireland. The government is encouraged to continue to apply the principles and mechanisms recommended by the McMahon Report. These would address the situation of persons living long term in Direct Provision. Additionally, in order to eliminate existing backlogs and enable the Single Procedure to operate as efficiently and as soon as possible, the government is encouraged to fully recruit and allocate the necessary resources for the International Protection Office and the International Protection Appeals Tribunal.

## Placement 7/12

Ireland has a variety of placement options that enable children, whether unaccompanied or with their families, to live in the community while awaiting case resolution. Families are placed in Direct Provision accommodation centres with the option of living in the community only if they can provide for themselves.

**Recommendation:** The Government of Ireland is commended for their commitment to uphold the rights of children. Further, the government is encouraged to enact policies that will enable and encourage people to support their own livelihoods. This includes the full implementation of the recommendations contained within the McMahon Report.

## Rights 12/20

Housing, by way of Direct Provision, is provided for migrant children and their families, however very little social assistance is extended to families. As of June 2018, asylum seekers will have access to the labour market nine months from the date when their protection application was lodged, if they have yet to receive a first instance recommendation from the International Protection Office, and deemed to have cooperated with the process. Migrant children have access to education but there are challenges to accessing services.

**Recommendation:** The Government of Ireland is commended for its progress towards upholding the rights of migrant children through indiscriminate access to education, housing, social assistance and health care. Further, the government is encouraged to implement fully the key outstanding McMahon Report recommendations relating to improved living conditions (access to communal catering and additional living space) and supports. The government is also encouraged to strengthen firewall legislation to ensure access to social welfare services are not impeded by migration control activities.

## Oversight 7/12

Judicial decisions about detention are made at the District level in Ireland, but automatic review is limited. Immigration detention statistics are published on an annual basis, but Ireland does not have any independent monitoring or reporting of immigration detention.

**Recommendation:** The Government of Ireland is encouraged to improve its score by providing disaggregated data about immigration detention populations on a monthly basis. Additionally, the government is encouraged to urgently allocate appropriate resources to monitor immigration detention facilities and to provide oversight of judicial processes.

## Points off -3/-15

Section 20(7) of the International Protection Act 2015 provides that children may not be detained. This principle does not extend to adult family members but section 20(3) does allow for release of all detainees subject to

conditions. In practice, this could mean that one adult family member is placed in immigration detention. Family unity is a fundamental child right.

The statistics provided by the government are for the broader criminal detention system in Ireland, which makes it difficult to monitor the application of the Irish law which prevents the immigration detention of children. In cases where age determination is not done accurately the conditions of detention have been criticised.

**Recommendation:** The Government of Ireland is strongly encouraged to abolish the detention of all children and their families in law and in practice to fully comply with their international obligations. Additionally, the government is encouraged to improve its reporting in order to ensure that laws are being implemented in full, and also ensure that the best interests of children are considered in the context of returns.

### Bonus points +8/+15

Ireland has made a clear political commitment to prevent the detention of children. CRC reporting on child detention takes place, but the UNCRC has not been fully domiciled into Irish law yet.

**Recommendation:** The Government of Ireland is encouraged to consistently uphold the rights of children to family unity in order to comply with international obligations and standards, as well as incorporate the UN CRC into national law.



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

- Jesuit Refugee Service (JRS) Ireland

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

- [Ireland International Protection Act 2015](#)
- [Ireland and the Optional Protocol to the UN Convention against Torture](#)
- [International Protection Office: EU Dublin Regulation](#)
- [Ireland and the United Nations CRC](#)
- [European Communities \(Reception Conditions\) Regulations 2018](#)

## Directives & Services

- [Ireland Child Care Act 1991](#)
- [Administrative Immigration Arrangements for the Protection of Victims of Human Trafficking](#)
- [Department of Children and Youth Affairs: Guardian ad Litem Reform Plans](#)

## Community Integration & Support

- [Barnardos: Guardian ad Litem Service](#)
- [Information Booklet for Applicants for International Protection](#)
- [Tulsa Child and Family Agency: Separated Children Seeking Asylum](#)
- [Department of Employment Affairs and Social Protection: Irish Refugee Protection Programme](#)

## Infrastructure & Oversight

- [The McMahon Report: Report to Government Working Group on the Protection Process on Improvements to the Protection Process, including Direct Provision and Supports to Asylum Seekers](#)
- [Irish Prison Service: 2016 Annual Report](#)
- [Asylum Information Database, Irish Refugee Council: Conditions in Detention Facilities](#)