

# GLOBAL **NEXTGEN** INDEX

Protecting the liberty of our next generation, today.

## End Child Detention Scorecard

# ITALY

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



## FINAL SCORE

# 70

Unaccompanied children cannot be detained in Italy, however children migrating with their families or guardians can be detained.

Unaccompanied children may still be housed in secure accommodation centres for identification and age determination purposes in dedicated “first aid” facilities (centri di prima accoglienza a loro destinati). Age assessment techniques used in Italy have also been significantly criticised for being inaccurate. De facto detention of children at “hotspots” is also common.

A new national law was passed in 2017, aiming to guarantee the rights of unaccompanied children and provide a standard procedure. This legislation sets Italy up as a world leader on this issue, and implementation will be keenly assessed in years to come.

	Italy	Possible
Treaties	18	20
National laws	7	10
Processing	16	26
Placement	8	12
Rights	14	20
Oversight	4	12
<b>Sub Total</b>	<b>67</b>	<b>100</b>
Points off	-2	-15
Bonus points	+5	+15

### Treaties 18/20

Italy 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 Italy is commended for its commitment to relevant international obligations that protect the rights of migrant children. The government is further encouraged to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

### National laws 7/10

The Italian Legislative Decree no.25/2008 explicitly prohibits the detention of unaccompanied children in accordance with international and European Union law. Art. 2, paragraph 5 of the Decree of the President of the Republic n. 303 of the 16/09/2004 prevents unaccompanied children from being detained in centers for identification or temporary stay.

However, the law allows children migrating with parents, family members, or guardians to be detained, although family unity is protected (Art. 9, paragraph 1 of the Decree of the President of the Republic n. 303 of the 16/09/2004 of execution on rules in the subject of asylum applicable as of 21/04/2005) and the preference is for families to be processed in reception centers, with detention only used pre-deportation. Further, a child cannot be deported from Italy until they are 18 years old.

**Recommendation:** The Government of Italy is commended for enacting law to protect unaccompanied children from detention. The government is encouraged to strengthen this by ensuring children are not detained during identification processes. Further, the government is strongly encouraged to extend these protections to all children, including children migrating with parents, family members or guardians.

## Processing 10/26

Italy has strong processes that are focused on providing protection and support for unaccompanied children. For example, recent laws require use of holistic and not-intrusive methods of age determination, although this law has yet to be operationalised. Italy employs a one-guardian-per-child model which is to be commended for its child-centred approach, although training for guardians is only at the infancy stage. Further, legal aid and some case management is provided. While translation support is legislated, it is rarely available in practice.

**Recommendation:** The Government of Italy is commended for its efforts to develop and implement child-centred laws and practices to support the well-being and rights of children. The government is strongly encouraged to extend these procedures to all migrant children, including children migrating with parents, family members or guardians.

## Placement 8/12

Italy has placement options that are in alignment with normative international standards. However, unaccompanied children are often subject to incorrect age assessments, and are subsequently placed in detention with adults. Oxfam has reported that large numbers of children often go missing from reception centers, because despite being “open,” they are viewed as de facto detention.

**Recommendation:** The Government of Italy is commended for providing placement options for children, particularly for providing unconditional placement in the community. In order to become a world leader on this issue, the government is strongly encouraged to strengthen its placement practices to ensure that its options do not include de facto places of detention.

## Rights 14/20

Italy has enshrined many of the rights relevant for migrant children in the law, and a significant proportion of these rights are enabled in practice as well.

**Recommendation:** The Government of Italy is commended for respecting and providing housing, healthcare and education rights to migrant children. Further, the government is strongly encouraged to enable work rights for parents of migrant children to develop self-sufficiency of families. Additionally, in order to become a world leader on this issue, the government is encouraged to immediately introduce firewall legislation to ensure access to welfare and social services are not impeded by migration control activities.

## Oversight 6/12

Italy does not have an agency or institution that independently monitors administrative detention centers. While accessibility to such channels is limited, it is possible for complaints to be filed through legal decisions in courts. Further, statistics are not published on populations in administrative detention.

**Recommendation:** The Government of Italy is strongly encouraged to urgently establish a National Preventive Mechanism and make monitoring reports publicly available, particularly as a signatory to OPCAT. Further, while the government is commended for its reporting of criminal detention statistics, it is encouraged to report

on administrative detention as well, including detailed statistics on populations detained in administrative detention.

### Points off -2/-15


In 2017, no children were detained in Italy. Further, national laws ensure holistic care for unaccompanied minors in particular, and children are not removed to countries that detain them. However, without a robust oversight system, it is difficult to assess the accuracy and transparency of information.

**Recommendation:** The Government of Italy is strongly encouraged to collect and provide detailed statistics on populations detained in administrative detention, disaggregated by age and gender.

### Bonus points +5/+15

According to art. 2 of the DPR 303/2014, Italy prohibits the detention of unaccompanied children.

**Recommendation:** The Government of Italy is commended for being a world leader on this issue, particularly in terms of ensuring holistic practices which provide protection and support for unaccompanied children as their migration status is being determined.



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

- Minori Stranieri Non Accompagnati

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

- Italy: [Decreto Del Presidente Della Repubblica, 2004 \(Italian\)](#)
- Italy: [Penal Code of Italy, 1930 \(Italian\)](#)

## Directives & Services

- AGA: [Autorità Garante per L'infanzia e L'adolescenza](#)

## Oversight & Support

- International Detention Coalition
  - [Resources from IDC Member Analyse Detention in Italy](#)
  - [Italy Plans to Expand Immigration Detention](#)
- Kids Empowerment
  - [Reception of Children on the Move in Italy](#)
- Global Detention Project
  - [Italy Immigration Detention Profile](#)
- AIDA Asylum Information Database
  - [Italy Country Report](#)