

## Poland amends the Asylum Act to allow the detention of asylum-seeking unaccompanied minors zzzzzz

On 1 January 2026, an amendment to Article 88a(3)(3) of the Act on Granting Protection to Foreigners, introduced on 21 November 2025 ([Journal of Laws, Item 1794](#)), came into force. The change removed the previous legal protection that barred the detention of asylum-seeking unaccompanied children, effectively allowing their placement in guarded centres. While unaccompanied children aged 15 or older could previously be detained for migration-related reasons, asylum-seeking minors had been explicitly exempt from detention under earlier versions of the law.

The Polish Ombudsman, the [Ombudsman for Children](#) and [12 civil society organisations](#) (CSO) commented on the amendment, arguing that it was inserted into a broader legal modification concerning migration without adequate transparency or public consultation. Notably, the issue of detaining children was absent from the government's draft presented to the lower house of the Parliament on 6 August 2025 and only appeared after the first reading in October 2025.

The Polish Ombudsman emphasised that the amendment conflicts with the principle of the best interests of the child, as enshrined in Article 72 of the Polish Constitution, Article 3 of the Convention on the Rights of the Child, and Article 24 of the EU Charter of Fundamental Rights. In a similar statement, the [Ombudsman for Children](#) stressed that EU law requires unaccompanied children to be placed in reception conditions suited to their specific needs. Civil society organisations also highlighted this requirement and pointed to established case law from the European Court of Human Rights, [including cases in Poland](#), where the detention of children violated Articles 5 (right to liberty) and 8 (respect for private and family life) of the European Convention of Human Rights

In a response to the Polish Ombudsman, the Ministry of the Interior and Administration recognised the need to strengthen guarantees, including judicial review, psychological care and the development of alternative forms of non-custodial care.

### Source(s)

- Ombudsman | Rzecznik Praw Obywatelskich (3 February, 2026), *Sprawa cudzoziemskich dzieci bez opieki, które wnoszą o ochronę międzynarodową w RP. Odpowiedź MSWiA* [The case of unaccompanied foreign children who apply for international protection in the Republic of Poland. Response of the Ministry of Interior and Administration], <https://bip.brpo.gov.pl/pl/content/rpo-cudzoziemcy-dzieci-ochrona-miedzynarodowa-mswia-odpowiedz>

- Global Detention Project (11 February, 2026), [GUEST POST: Poland – More Migrant Children To Be Detained Following Controversial Legislative Changes],  
<https://www.globaldetentionproject.org/guest-post-poland-more-migrant-children-to-be-detained-following-controversial-legislative-changes>

**Related development(s)**

[Poland enacted amendments to Migration, Asylum and Temporary Protection laws, introducing CUKR residence cards](#)

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Poland

**Thematic area(s)**

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