Detention - Iceland

Overview

Content updated and validated on: 3/10/2025

Relevant EU legislation

Iceland is not bound by the recast Reception Conditions Directive, the recast Asylum Procedures Directive but applies the Dublin III Regulation. Provisions related to detention are stipulated under the Articles 13, 30, 109, 115 and 116 of the Foreign Nationals Act.

Relevant provisions from the Pact:

The Asylum Procedures Regulation entered into force on 11 June 2024 and will enter into application as of 12 June 2026. – see Recitals 15, 33, 63, 69, Articles 4, 6, 10, 18, 29, 30, 53.

The Asylum and Migration Management Regulation entered into force on 11 June 2024 and will enter into application on 12 June 2026 - see Recitals 65, and Section V. - Articles 44, 45.

The Reception Conditions Directive entered into force on 11 June 2024 and will enter into application as of 12 June 2026.

The Return Border Procedure Regulation entered into force on 11 June 2024 and will enter into application as of 12 June 2026 – see Recitals 9, 11 and Articles 5 and 6.

The Regulation on Crises and Force Majeure entered into force on 11 June 2024 and will enter into application as of 12 June 2026 – Recitals 8, 48, and Article 11(10).

The Screening Regulation entered into force on 11 June 2024 and will enter into application as of 12 June 2026 – Recitals 11, 27 and Article 2(12), Article 8(7), Article 10(2a).

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National legislation

Iceland is not bound by the recast Reception Conditions Directive and the recast Asylum Procedures Directive. National legislation includes the following provisions related to detention:

Article 109, Detention. Foreign Nationals Act | 105. gr. Þvingunarúrræði til að tryggja framkvæmd ákvörðunar. Lög um útlendinga.

Article 115, Arrest and detention. Foreign Nationals Act | 115. gr. Handtaka og gæsluvarðhald. Lög um útlendinga.

Article 116, Penal provisions. Foreign Nationals | Act 116. gr. Refsiákvæði. Lög um útlendinga.

Competent authority and stakeholders

Area	National authority/ stakeholder	Assistance to competent authority
Detention decision	Police | Lögreglan	
Administration and management of detention facilities	Not applicable	
Information provision in detention	Directorate of Immigration | Útlendingastofnun	
Interpretation services in detention	Directorate of Immigration | Útlendingastofnun	
Access to the procedure and provision of asylum information in detention	Directorate of Immigration | Útlendingastofnun	

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Area	National authority/ stakeholder	Assistance to competent authority
Detention for the Dublin procedure	Directorate of Immigration | Útlendingastofnun	
Processing of asylum applications of applicants who are in detention	Directorate of Immigration | Útlendingastofnun	
Legal assistance and representation in detention	Directorate of Immigration | Útlendingastofnun	
Review of detention	Police | Lögreglan (First review) District Courts | Héraðsdómur (Onward review)	

Grounds for detention during the asylum procedure

Grounds for detention in national law

A. Detention in the context of identification or verification of identity

Foreign Nationals Act specifies that a foreigner may be arrested and taken into custody if s/he refuses to disclose his/her indent or provides false information. (Article 115, para 1) and Article 105, paragraph 4, sub-paragraph 2. In practice, the authorities typically require a foreigner to report before resorting to detention.

Detention is applied in conjunction with other grounds for detention, such as non-compliance with reporting obligations, where it is considered necessary to secure enforcement of the decision.

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B. Detention to determine elements on which the application for international protection is based, in particular where there is a risk of absconding

Foreign Nationals Act (Articles 105 and 115) provides for detention if there is a risk that a foreign national may abscond and thus hinder the determination of elements relevant to an international protection application.

The police issue the detention order, and detention must always be a measure of last resort, used only when less coercive measures, such as reporting obligations or designated residence, are insufficient. The risk of absconding is assessed case by case, considering factors such as lack of identity documents, past non-compliance, contradictory statements, or behaviour indicating intent to evade procedures. Judicial review is guaranteed. In practice, detention on this ground is rare, with alternatives preferred whenever possible.

C. Detention in the context of a procedure to decide on the applicant's right to enter the territory

Under Article 106 of the Foreign Nationals Act, foreign nationals may be refused entry or deported from the country upon arrival or within 7 days, for the following reasons:

- If they do not follow passport, visa or entry requirements.
- If they were previously deported from Iceland or another Nordic country and are still under a re-entry ban.
- If they lack the necessary residence or work permit or cannot prove the purpose of their stay.
- If they cannot show they have enough money for their stay and return home.
- If they have a criminal record or there is concern that they might commit a serious crime.
- If they are likely to be expelled from another Nordic country for similar issues.
- If medical reasons indicate that they are unable to care for themselves or may pose a risk to themselves or others.
- If they have not paid previous fines or costs for a removal from the country.
- If they are listed in the Schengen Information System for refusal of entry.
- If a Schengen country has ordered their expulsion due to a serious crime or threat.

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- If their presence threatens public policy, national security or international relations.

A decision must be made within 7 days, and a temporary refusal may be applied during that time. The decision is final and cannot be appealed. If the foreigner claims refugee or stateless status, the case will be reviewed by the Directorate of Immigration. A foreigner may be expelled even after the 7-day limit, but the case may be processed within 9 months. Foreigners with a valid residence permit cannot be deported.

D. Detention in the context of a return procedure

Under the Foreign Nationals Act, detention may be ordered for the purpose of enforcing a deportation or removal decision when there is a risk that the foreign national will evade or obstruct the execution of the decision (Article 115, Article 105, para 3).

According to the law, if a foreign national, including an applicant for international protection, is subject to a return decision (e.g. after refusal of international protection or revocation of a permit), detention may be imposed if there are objective grounds to believe the person will not comply voluntarily. Detention is lawful only if necessary and proportionate, and it must be shown that no less severe measures (like reporting or residing at a specific address under Article 114) would be sufficient. In line with the Return Directive, Icelandic law requires an individual assessment to verify that the application for protection is not being used solely to delay or frustrate removal.

The police always assess whether there is a likelihood that an individual will attempt to evade the enforcement of a decision, considering, among other things, the factors listed in Article 105, paragraph 3. As a rule, less severe measures are applied first, such as requiring the person to report regularly or to reside at a specified location. In exceptional cases, pre-trial detention is requested immediately if it is considered necessary and there are overriding indications that a less severe measure will not achieve the intended purpose. In cases where detention is applied, emphasis is placed on ensuring that it lasts for the shortest possible time.

E. Detention in the context of national security and public order

Article 115(c)-(d) of the Foreign Nationals Act specifies that a foreigner may be arrested and taken into custody if the foreigner is considered a threat to national

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security in the opinion of the police and the intention is to be deported. In this case according to Article 26, para 2, *the police shall, if necessary, assess the circumstances and condition of the applicant and may call upon the assistance of appropriate experts to assess whether the applicant may be a danger to himself/herself or others.*

F. Detention for the purpose of a Dublin transfer

Iceland is associated with the Dublin III Regulation through its participation in the Schengen/Dublin system. Similar provisions included in the Foreign Nationals Act:

- Article 115 provides for detention where necessary to secure enforcement of a deportation order or transfer under the Dublin Regulation.
- Article 36 (Dublin transfers) specifies that Iceland may request another state to take back an applicant under the Dublin Regulation, and detention can be applied to ensure compliance with the transfer if there is an imminent risk of absconding.
- Alternatives to detention under Article 114 of the Foreign Nationals Act (e.g. reporting obligations, designated residence) may also be applied in Dublin transfer cases.

Less coercive measures (alternatives to detention)

Foreign Nationals Act, requires considering less coercive alternatives first, including:

- Reporting obligations (regular check-ins with the police),
- Residence requirements (living at a specific place),
- Surrendering travel documents, or
- Other supervisory measures under Chapter XIII of the Act.

Practical considerations include the cost-effectiveness of detention, the applicant’s family, social or community ties, stable housing, and whether these measures reduce the risk of absconding.

Under national legislation (Article 115), a foreign national must not be arrested or detained if, based on the circumstances of the case, doing so would be an unfair or disproportionate measure. Instead, less coercive measures available under the law should be used whenever possible.

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For applicants for international protection who are minors aged 15 to 18, detention is only permitted if their behaviour poses a genuine threat to public order, national security, or the public interest. Even in this case, detention must be a measure of last resort, and it can only be used if no other, less restrictive measures under the Aliens Act or the Child Protection Act are suitable or effective.

When detention is considered for a minor, their age, individual needs, and best interest of the child must always be carefully assessed.

According to Article 105, paragraph 3 of the Foreign Nationals Act, when coercive measures under paragraphs 1 (d), (e), (g), or (h) are applied (for example, detention to enforce deportation or refusal of entry) the initial detention order cannot exceed two weeks.

If the foreign national does not leave the country voluntarily within this period and there is a reasonable risk that they will otherwise evade removal, the detention may be extended for up to two weeks at a time, but no more than twice.

This means the maximum total detention duration under these provisions is six weeks (initial two weeks plus two extensions of two weeks each).

Application for international protection and processing while in detention/impact on the asylum procedure

Access to information, interpretation, and legal counselling

Under Articles 13 and 30 of the Foreign Nationals Act, all applicants for international protection, including those in detention, have the right to be informed of the procedure, their rights, and obligations. They must receive this information in a language they can reasonably be expected to understand, using written, visual, or audio formats. They have the right to a legal representative with expertise in asylum and refugee law, appointed by the Directorate of Immigration. They also have the right to interpretation services throughout the procedure, unless they explicitly waive this right.

Processing an application made in detention

A foreign national may apply for international protection at any stage, including while in detention under Article 115. The Directorate of Immigration is

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responsible for registering and processing the application. The same procedural safeguards apply as for applicants not in detention. The applicant in detention shall submit supporting documents and evidence, attend interviews, and communicate confidentially with his/her legal representative with the support of an interpreter.

Notification of decisions at first instance

Applicants in detention are notified decisions at first instance in person. The Directorate of Immigration must ensure that the decision and its justification are adequately explained in a language the applicant understands, with the support of an interpreter if required. The applicant must be informed of his/her right to appeal and the relevant deadlines to do so.

Continuation or termination of detention

According to Article 115, detention must not be maintained if it is unnecessary or disproportionate, especially when an application for international protection has been submitted. The authorities must consider whether less coercive measures under Chapter XIII of the Foreign Nationals Act are sufficient. If detention continues, it must comply with the applicant's rights under national legislation, including respect for dignity and family life.

Issuance of applicant's card

Under the Reception Conditions Directive, Article 6, the applicant must receive documentation confirming that an application has been lodged (applicant's card). Although Iceland is not bound by the Reception Conditions Directive, the Directorate of Immigration is responsible for issuing the asylum applicant ID card, either directly in detention or through the detention authority. This ensures that the applicant retains proof of his/her status along with relevant rights and obligations.

Subsequent applications while in detention

An applicant in detention may submit a repeated application for international protection (Article 35). Such applications are handled in line with the procedures for repeat claims under the Foreign Nationals Act. The Directorate of Immigration must assess whether new information justifies reopening the case. Detention conditions must not prevent the effective exercise of the applicant's right.

Ensuring documents are provided on release

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Upon release from detention, the Directorate of Immigration must ensure the applicant is provided with all documents attesting that an asylum application has been lodged and is under examination, in compliance with the national legislation.

Exceptions to border procedure and assessment of detention conditions

Iceland does not apply border procedure. The assessment of detention conditions is carried out through regular monitoring, individual case reviews, and, where necessary, input from independent child protection services or healthcare professionals.

Procedural safeguards

Access to information and interpretation

In Iceland there is not any administrative detention facility, meaning that third-country nationals in detention do not require specific information on detention procedures. However, asylum applicants can access comprehensive information through various official websites.

Iceland is not bound by the recast Reception Conditions Directive. The national legislation stipulates that when a foreign national, including an applicant for international protection, is detained under Article 115 of the Foreign Nationals Act, must be informed promptly of the reasons for detention, both in fact and in law. This includes the legal basis, the specific grounds (e.g. risk of absconding, threat to public order), and the procedural rights available to the applicant, such as the right to appeal.

According to legislative provisions, the information must be given in a language the person understands. Interpretation must be provided, if necessary, in line with Article 30 (on interpretation in international protection cases) and general principles of fair procedure under Icelandic administrative and procedural legislation.

A detention order shall be issued by a judge at the request of the Directorate of Immigration or the police. Under Article 115, detention can only be ordered by a court. Administrative authorities may request it but cannot order it themselves. The applicant has the right to be heard and to legal representation during this process (Articles 13 and 115 of the Foreign Nationals Act).

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In practice, Iceland does not maintain a dedicated immigration detention facility, so third-country nationals are not typically held in detention under standard procedures requiring detailed detention information. However, applicants for international protection have access to comprehensive information about the asylum process and related procedures through various official government websites.

Legal assistance and representation

The Foreign Nationals Act, specifies that any third-country national, including applicants for international protection who are subject to detention, is guaranteed the right to free legal assistance and representation throughout all stages of the asylum procedure. According to Article 13, if detention is requested under Article 115, or if a detention order is brought before a court pursuant to Articles 109, 110, or 114, a judge is required to appoint a lawyer to represent the foreign national. This right also extends to appeals against decisions on refusal of entry, expulsion, or revocation of residence permits, except in specific cases of appeals at first instance, outlined under Chapter III.

Furthermore, Article 30 provides that applicants for international protection have the right to a legal representative with expertise in asylum matters for the entire procedure, including while in detention and during any appeals procedure. The State Treasury covers the costs of this legal aid, although the foreign national may later be required to reimburse these costs partially or fully.

Length of detention

The national legislation does not specify timeframes for detention. Article 115, provides that a foreign national, including an applicant for international protection, may only be detained by a court order and for as short a time as possible, given the purpose of the detention.

However, according to Article 105, paragraph 3, when coercive measures are applied (for example, detention to enforce deportation or refusal of entry) the initial detention order cannot exceed two weeks.

If the foreign national does not leave the country voluntarily within this period and there is a reasonable risk that they will otherwise hinder removal, the detention may be extended for up to two weeks at a time, but no more than

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twice.

In practice, it is very rare to request an extension of detention, i.e., to have it last longer than two weeks. Detention usually ranges from 7 to 10 days.

Judicial review of detention

According to Article 114 of the Foreign Nationals Act, the district courts decide on detention. That decision may be appealed to the Court of Appeal | Landsréttur.

Foreign nationals must be clearly informed of their right to request a court review of whether the conditions for the reporting or residence requirement are met and whether there are valid grounds for enforcing it. This ensures proportionality and safeguards the individual's legal rights during removal procedures.

Specific conditions relating to detention

Conditions of detention

In practice, Iceland does not operate any dedicated administrative detention facility or a pre-removal centre. When detention is inevitable, individuals may:

- be held in secure police facilities temporarily, under separate conditions from criminal suspects when possible.
- be held in special units within prisons (if no other option exists), but they must be kept separate from convicted prisoners under conditions respecting their non-criminal status.

There are no dedicated border detention facilities. Arrivals at the airport border crossing points who are refused entry are usually kept in short-term holding areas until return flights can be arranged. According to the Global Detention Project, there is no data available for detainees.

Detention of applicants with special needs

Legislative overview

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Iceland is not bound by EU Reception Conditions Directive 2024/1346. Foreign National Act provides for safeguards for vulnerable applicants as follows:

- Detention must always be a last resort, used only when less severe measures (e.g., reporting obligations) are insufficient (Article 115).
- Children under 18 may only be detained if over 15, posing a threat to public order, and if no alternative is available (Article 115(para 2)).

There are no dedicated administrative detention facilities; in practice, individuals may be held in secure police units or, rarely, in prison units under separate conditions.

In practice, detention of vulnerable applicants is prohibited, and detention of families with children is not applied or rarely applied.

If necessary, milder measures are used for vulnerable individuals and families, such as a decision to stay in a specific location, if it is clear that the individuals are not cooperating in leaving the country in accordance with the decision.

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