

## Foreign national prisoners: a briefing

There has been increasing media coverage about foreign national prisoners<sup>1</sup> of late, but there is little information available about the numbers of incarcerated foreign nationals worldwide, and applicable laws and policies are not widely understood. In this briefing, we analyse the latest available data on numbers of foreign prisoners in the UK and around the world, before providing an overview of key provisions concerning foreign nationals' human rights in custody, and the most commonly used mechanisms for repatriating foreign nationals. We draw on data held on our World Prison Brief database, and on our expertise on human rights in prison settings.

In a context of heightened public and political anxiety about immigration and crime, imprisonment is a more likely outcome for foreign nationals at all stages of the justice process. Foreigners are often unable to get bail due to lack of an address or surety in the country where they are arrested. For this reason, significant numbers of foreign national prisoners will be pre-trial detainees, that is, either un-convicted or convicted but awaiting sentence. Foreign nationals are less likely than nationals to receive non-custodial alternatives or early conditional release, due to a lack of protective factors such as a job or family, or not having a local address.

### How many foreign national prisoners are there globally?

Our analysis of the latest available data on prison populations worldwide shows that at least 4.5% of the world's approximately 11.5 million prisoners are not nationals of the country where they are imprisoned.<sup>2</sup>

Although not all countries produce data on their foreign national prison populations, the majority do so, albeit at varying intervals. We have calculated an estimated figure of 518,000 foreign national prisoners globally. This figure draws on official figures from 77 countries<sup>3</sup> and estimates for 38 countries where no official figure was available, using an assumed rate of 6% foreign nationals in prison populations.<sup>4</sup>

### Which countries have the highest proportions of foreign national prisoners?

Foreign nationals make up a significant proportion of some countries' prison populations, often following rapid increases in a fairly short period of time. In at least 20 countries globally, non-

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<sup>1</sup> There is no universal definition of 'foreign national prisoners'. The category can include a wide range of people: those who come from their home country and are then convicted and imprisoned in another country; those who have had a long relationship with the country in which they are imprisoned and may be permanently resident but do not have citizenship of that country; and those who are imprisoned not under criminal law but for immigration reasons.

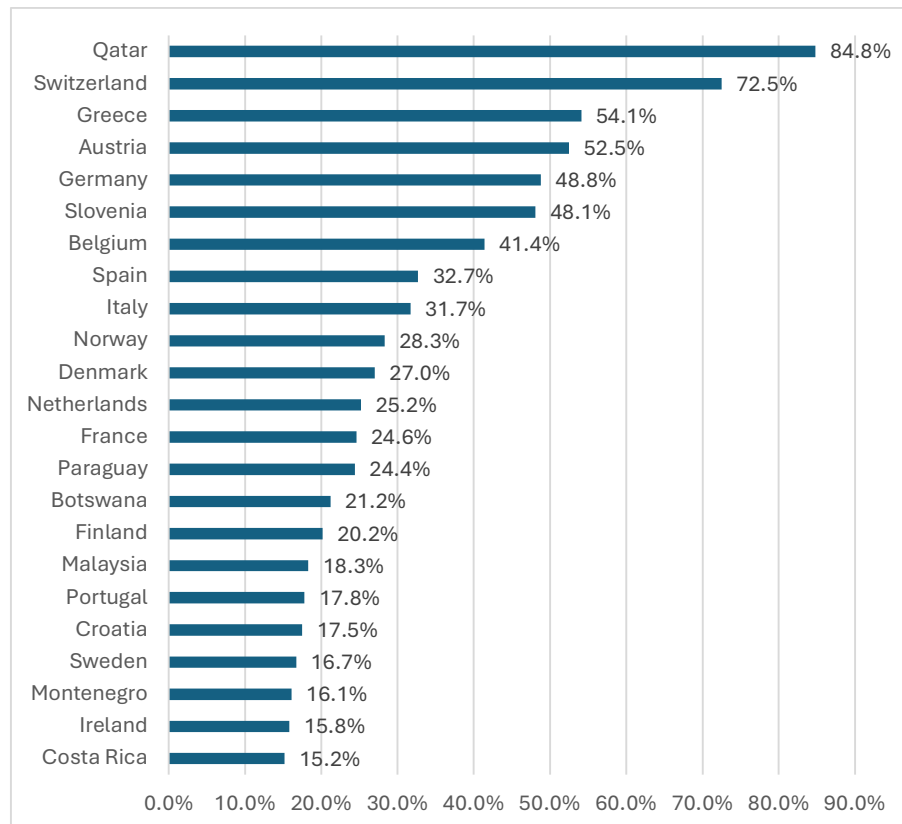
<sup>2</sup> All data on foreign national prisoner numbers are derived from the latest available figures on the World Prison Brief as at 5.12.2025: <https://www.prisonstudies.org> Figures are updated monthly.

<sup>3</sup> Countries with a total prison population of more than 1,000, at least 3% of foreign national prisoners and where the data have been published since 2020.

<sup>4</sup> The median rate of 6% foreign national prisoners has been applied, derived from the 198 countries on which World Prison Brief holds data on numbers of foreign national prisoners.

nationals now make up more than 15% of the prison population: see Figure 1 below. Most of these countries are in Europe, reflecting increased migration into and within the region.

Figure 1: Countries where more than 15% of prison population are foreign nationals. *Source: World Prison Brief Website <https://www.prisonstudies.org/> (Excludes: (i) the special administrative regions of Hong Kong and Macau; (ii) countries with a total prison population of less than 1,000; (iii) countries where data on foreign prisoners is older than 2020.)*



Even low percentages of foreign nationals can represent substantial numbers in countries with large prison populations. For example, the USA has over 137,000 non-national prisoners; Russia over 31,000; and Turkey almost 13,000; but foreign nationals make up less than 8% of the prison population in each of these countries.

#### **How does the UK compare?**

In England & Wales 12% of prisoners are foreign nationals, in Northern Ireland 10% and in Scotland 8%. In total there are around 11,485 foreign nationals in the UK's prisons.

## **Prison overcrowding**

Having an occupancy level at or above 100% of the official capacity of a prison system is taken as a clear indication of overcrowding.<sup>5</sup> Many of the countries with large proportions of non-national prisoners currently have overcrowded prison systems, including France, Belgium, Sweden, England & Wales, Austria, Italy and Portugal.

Overcrowded prison systems will struggle to provide safe, decent regimes and sufficient meaningful activity for all prisoners. Foreign national prisoners held in such conditions will frequently be overlooked in the allocation of suitable work, training and education activities; and their rehabilitation may suffer as a result.

Pressure on prison capacity presents an argument for prioritising prisoner transfers, and has even led to consideration of transferring foreign national prisoners to countries with which they have no connection: see further under ‘Repatriation’ below.

## **Human rights of foreign national prisoners**

All prisoners have the same human rights irrespective of nationality or immigration status, but foreign nationals often struggle to access their rights. They can face higher risks of mistreatment and often experience social isolation due to language difficulties and lack of contact with family and friends. They may be hindered in their ability to participate in their defence, receive a fair trial, and be fairly sentenced (with proper consideration of alternatives to custody in appropriate cases). They may also have more limited access to rehabilitation programmes or reintegration support, including after release or repatriation.<sup>6</sup>

Rule 2.1 of the Nelson Mandela rules (which set out minimum standards on the treatment of prisoners) prohibits discrimination in the application of fundamental rights during imprisonment, including on the grounds of race, colour, language, religion, national or social origin, or birth; and prisoners’ religious beliefs and moral precepts must be respected. Rule 2.2 requires prison administrations to give practical effect to these provisions by taking account of prisoners’ individual needs, particularly where they are vulnerable in prison settings.

As explained in the UNODC’s Handbook on Prisoners with Special Needs, there are several distinct reasons why foreign nationals are a potentially vulnerable category of prisoner.<sup>7</sup> They are often disadvantaged in criminal justice systems due to increasingly punitive measures applied to foreign national offenders in many countries, uncertain immigration status, limited awareness of legal rights, lack of access to legal counsel, lack of social networks, and

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<sup>5</sup> Occupancy rates alone cannot be taken as a definitive indicator of the extent of overcrowding or the impact it may have on prison conditions, for several reasons: not least, there are no fixed rules on how much physical space should be allowed per prisoner. See Heard, C (2019) ‘Towards a health-informed approach to penal reform?’ (14–18), London, UK: Institute for Criminal Policy Research Birkbeck, University of London.

[https://www.prisonstudies.org/sites/default/files/resources/downloads/icpr\\_prison\\_health\\_report.pdf](https://www.prisonstudies.org/sites/default/files/resources/downloads/icpr_prison_health_report.pdf)

<sup>6</sup> Coyle, A and Fair, H (2018) ‘A Human Rights Approach to Prison Management: Handbook for Prison Staff’ (3rd edition). London, UK: Institute for Criminal Policy Research Birkbeck, University of London.

[https://www.prisonstudies.org/sites/default/files/resources/downloads/handbook\\_3rd\\_ed\\_english\\_v7b\\_web.pdf](https://www.prisonstudies.org/sites/default/files/resources/downloads/handbook_3rd_ed_english_v7b_web.pdf)

<sup>7</sup> UNODC Handbook on Prisoners with Special Needs provides guidance and recommendations on working with foreign national prisoners (Chapter 4).

[https://www.unodc.org/pdf/criminal\\_justice/Handbook\\_on\\_Prisoners\\_with\\_Special\\_Needs.pdf](https://www.unodc.org/pdf/criminal_justice/Handbook_on_Prisoners_with_Special_Needs.pdf)

economic marginalization. Their custodial experience could be more damaging, particularly because of social isolation, separation from family, and language barriers. The non-discrimination principle (Rule 1 of the Nelson Mandela Rules, above) requires prison administrations to adopt specific measures so that foreign nationals can understand and exercise their rights while in custody.

### **Torture and mistreatment**

In some countries foreign nationals have reportedly experienced torture and mistreatment while in custody. The UK charity Prisoners Abroad, which has assisted thousands of people imprisoned away from home, have published individual accounts of British nationals detained in inhumane prison conditions in the United Arab Emirates, Malaysia, Thailand and the Caribbean.<sup>8</sup>

### **Consular support**

Consulates have a duty to assist their nationals abroad, which includes visiting prisoners, monitoring the conditions of their detention, facilitating legal representation, and aiding contact with families. Under the Vienna Convention on Consular Relations (Article 6), foreign prisoners must be allowed to communicate freely and in private with their home country's diplomatic representative and receive assistance from them. The Mandela Rules further require foreign national prisoners to be allowed reasonable facilities to communicate with the diplomatic and consular representatives of the state to which they belong.<sup>9</sup>

In practice, consular support varies greatly from country to country: often the main focus is on cases where there is high risk of torture, mistreatment, arbitrary detention, and other fundamental rights abuses.<sup>10</sup>

### **Repatriation**

Whether a foreign national will remain in the country of imprisonment for the duration of the sentence (or after it has been served) depends primarily on their immigration status. Non-national non-residents are unlikely to be permitted to remain in the country where they are incarcerated following release: most will be repatriated to their home state, either by agreement or compulsory return. The following three types of repatriation arrangement are the most widely used.

#### **Early return arrangement**

The UK and many other countries operate systems whereby convicted foreign nationals can be repatriated after serving part of their custodial sentence or, in some cases, before serving any of it: a permanent expulsion order usually accompanies this, sometimes alongside a provision requiring the person to serve the remainder of their prison term if they breach the expulsion order by re-entering the country. In the UK, an additional scheme operates to incentivise foreign national prisoners to drop any pending stay or appeal application, with the offer of a cash payment and free travel for

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<sup>8</sup> Prisoners Abroad website: <https://www.prisonersabroad.org.uk/Pages/Category/Prisoner>

<sup>9</sup> The United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), General Assembly resolution 70/175, annex, 17 December 2015: Rule 62: 1.

<sup>10</sup> Additional requirements for consular officials to provide support to foreign national prisoners apply in the European region by virtue of Council of Europe Recommendation CM/Rec(2012)12 of the Committee of Ministers to member States concerning foreign prisoners.

the prisoner and their partner/spouse and any children. Known as the ‘facilitated return scheme’ this can be requested by anyone serving a custodial sentence who is liable to deportation.<sup>11</sup>

### **Prisoner transfer agreement**

Because of the many and complex challenges facing non-nationals in prison, transferring to a prison in their native country will generally lead to more favourable outcomes, particularly relating to effective resettlement after the custodial sentence. Being in the home state can also make it easier for the prisoner to be granted conditional release before the end of their custodial term. Usually initiated through the request of a prisoner, transfers of this kind require bilateral transfer agreements between the country of imprisonment and the person’s home country. The UK is party to 110 such agreements, including one recently reached with Albania to facilitate both the consensual transfer of Albanian nationals, and their transfer without consent to give effect to a deportation order. (There are over 1,400 Albanian nationals in UK prisons.)

### **Expulsion/deportation to home country**

A non-national prisoner can also be repatriated to their home country without consent, which has the effect of revoking any pre-existing legal right to be in the deporting state (for example, under a previously granted visa). Sometimes deportation is ordered at the point of sentencing, to take effect immediately or after a specified portion of the sentence has been served; in other cases, deportation occurs by operation of law (for example, in the UK, when the offence involves a firearm, or where there is a previous criminal record). In the UK, any foreign national sentenced to more than one year is automatically deported. Deportation can be appealed on human rights grounds: for example, where a person has been settled in the country for some time and has family ties there.

### **Transfer to third countries**

In Europe, very limited use has been made of ‘cell renting’ arrangements whereby countries with overcrowded prison systems transfer prisoners to third countries with spare prison capacity.<sup>12</sup> Belgium, the Netherlands and Norway participated in such arrangements at various points between 2010 and 2018, with two Dutch prisons receiving prisoners selected for transfer (many of them non-nationals in the ‘sending’ state).

This policy has resurfaced recently. Under the 2021 ‘Giljan agreement’, for example, Denmark has agreed to pay Kosovo around 200 million euros to house 300 of its more than 1,100 foreign inmates over 10 years. Denmark will effectively rent space at Giljan prison in Kosovo for prisoners who are subject to Danish deportation orders. After serving their sentences at Giljan, the individuals will be deported to their home states. Concerns have been raised that the policy effectively reserves for Danish national prisoners a humane, resocializing punishment regime, while ‘off-shoring’ foreigners to unfamiliar systems where their rights could be difficult to enforce. The scheme has been beset by delays, and no prisoners have so far been transferred to

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<sup>11</sup> UK Government website: <https://www.gov.uk/government/publications/the-facilitated-return-scheme-frs/facilitated-return-scheme-frs-accessible--2> Where a foreign national has completed all their custodial sentence in a UK prison, the government will organize and fund their repatriation under a separate ‘voluntary return’ scheme.

<sup>12</sup> In the USA, inter-state arrangements of this nature are regularly used.

Kosovo. Other countries reported to have looked at similar arrangements include the UK and Sweden.

### **Extradition**

Extradition orders can require a person to be transferred to another country (the ‘requesting state’), generally the country where an alleged offence was committed, to be tried or sentenced. When a person is extradited, this often leads to their being imprisoned in the requesting state, whether pre-trial or after conviction. Extradition requires a bilateral treaty between the two countries. Assurances are sometimes needed about prison conditions or available sanctions in the requesting state. Extradition requests can be refused where there is a risk of torture or other inhuman or degrading treatment; or if there are reasons to believe the person would be persecuted on account of gender, race, religion, nationality, ethnic origin, or political opinion. States that have abolished the death penalty will refuse to extradite to countries where the death penalty could be imposed, except where credible assurances are given that the individual will not be sentenced to death.

### **Further resources**

The [World Prison Brief](#) : an online database providing free access to information on prison systems around the world. It is a unique resource, which supports evidence-based development of prison policy and practice globally. The World Prison Brief is hosted by the Institute for Crime & Justice Policy Research ([ICPR](#)), at Birkbeck, University of London.

The United Nations Standard Minimum Rules for the Treatment of Prisoners (the [Nelson Mandela Rules](#)), General Assembly resolution 70/175, annex, 17 December 2015.

Recommendation [CM/Rec\(2012\) 12](#) of the Committee of Ministers to member States concerning foreign prisoners, Council of Europe: sets out principles and expectations on the treatment of foreign nationals in prisons systems of the European region.

The UNODC [Handbook](#) on Prisoners with Special Needs: provides guidance and recommendations on working with foreign national prisoners (Chapter 4).

Coyle, A and Fair, H (2018) [A Human Rights Approach to Prison Management: Handbook for Prison Staff \(3rd edition\)](#) Implementation guidance and practical recommendations on the treatment of all prisoners including foreign nationals.

The NGO [Prisoners Abroad](#) supports British citizens detained overseas and their families.

The NGO [Prison Watch](#) carries out research and provides training in relation to foreign national prisoners.