

Article

Reporting on the Sustainable Development Goals: People on remand in custody in England and Wales

Reports on global indicator under Goal 16 of the Sustainable Development Goals (SDG) "proportion of people who are remanded to custody".

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1 . Main points

All 17 of the Sustainable Development Goals



- In England and Wales in 2017 the proportion of people on remand was 11.2% of the total prison population (a decline of over one-third since 2002 from 18.4%) – this is a main indicator to monitor progress towards the UN Sustainable Development Goals.
- The proportion of women held on remand in custody is higher than that for men; 14.3% compared to 11.1% in 2017.
- In 2017, 8.8% of the children and young people (aged 10 to 17 years) on remand were held in custody.
- In 2016, England and Wales had one of the lowest proportions of people on remand in the EU (9.2%).

2 . Statistician’s comment

“Today’s analysis provides insight into ‘the proportion of people on remand in custody’ in England and Wales and it looks at the differences between sex, ethnicity, children and young people.

“These data help to show how England and Wales is performing in regards to the UN’s Sustainable Development Goals target of promoting the rule of law, ensuring equal access to justice for all and helps to identify vulnerable groups and those at risk of being left behind.”

Glenn Everett, Head of Sustainability and Inequality, Office for National Statistics

3 . Introduction

Goal 16 of the Sustainable Development Goals



There is a commitment under Sustainable Development Goal (SDG) 16 to “promote the rule of law at the national and international levels and to ensure equal access to justice for all”. One of the global indicators that contributes to monitoring this target is the reporting of “unsentenced detainees” – from a UK perspective, this means “people on remand in custody” (see Section 11 “Things you need to know”).

To measure the proportion of people on remand in custody, data from the Ministry of Justice (MoJ) is used. This includes Crown Court and Youth Justice data but it is only for England and Wales (see Section 11 “Things you need to know”). [Scotland](#) and [Northern Ireland](#) are not governed by the UK Government’s Bail Act 1976 – data in these countries are collected slightly differently¹.

The overall trend of people on remand in custody in England and Wales will be shown, and the differences between men and women will be explored, as the implications of being on remand in custody can be different for men and women.

To further support the SDG agenda to identify vulnerable groups and those at risk of being left behind, sex will be looked at in conjunction with ethnicity by looking at those who are remanded in custody at Crown Court. Youth Justice Statistics will be used to look at the children and young people who are on remand in custody and their age, sex and ethnicity will also be explored.

A comparison of “unsentenced detainees” within the EU will be explored using data compiled by the [United Nations \(UN\) SDG global database](#) to show the position of the four countries in the UK (see Section 11 “Things you need to know”).

Notes for: Introduction

1. Both Scotland and Northern Ireland data are based on average daily prison population, whereas England and Wales reports a monthly headcount.

4 . Overall trend for all people, and men and women on remand in custody in England and Wales

The proportion of the prison population that are on remand in custody is declining. A person on remand in custody can be either convicted but unsentenced, or untried. Untried remand in custody means that a person is held in prison whilst waiting for their trial in court and has not been found guilty.

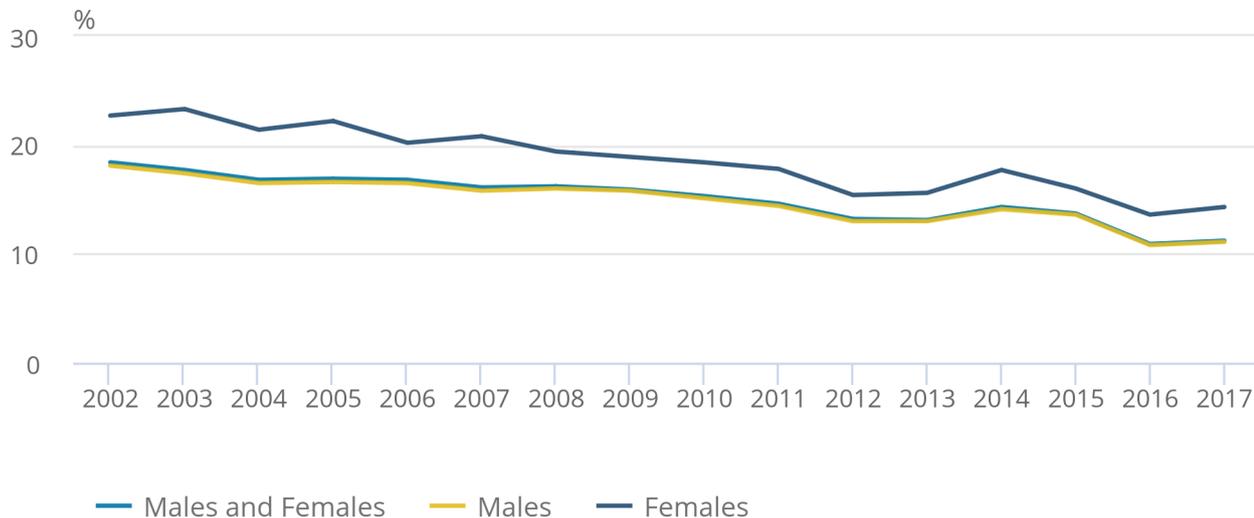
Ministry of Justice (MoJ) data includes people aged 15 years and above in prison population figures.

Figure 1 shows that between 2002 and 2017, the proportion of the total prison population on remand in custody had decreased by over a third (18.4% to 11.2%). A decline can be seen for both men and women. Since 2002, the proportion of women in prison on remand in custody has decreased by 8.4 percentage points from 22.7% to 14.3% in 2017, and the proportion of the men in prison on remand has decreased by 7 percentage points from 18.1% to 11.1%.

[Prison population figures \(XLSX, 518KB\)](#) in 2017 show that men make up the majority of the prison population in England and Wales, with women making up just 4.7% and men 95.3% (this was 4,007 women and 81,856 men). However, the proportion of women on remand and in custody in 2017 is higher than that for men, 14.3% compared to 11.1%.

Figure 1: Proportion of prison population on remand in custody by sex, England and Wales, 2002 to 2017

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Source: Ministry of Justice Offender Management Statistics

Notes:

1. Annual data is recorded as a headcount every June. Males and Females aged 15 and over.
2. Source: [Ministry of Justice Offender Management Statistics](#).

Notes for: Overall trend for all people, and men and women on remand in custody in England and Wales

1. The amount of time spent on remand by an individual is credited towards the amount of time that the individual will spend in prison as a result of any custodial sentence that might be subsequently imposed by the court.
2. Annual data for offender management statistics are collected from a headcount every June and consists of males and females aged 15 years and over.

5 . Differences between men and women on remand in custody in England and Wales

As Figure 1 shows, the proportion of women on remand in custody between 2002 and 2017 is higher than that for men. [The Female Offender Strategy \(PDF, 363 KB\)](#) (2018) outlines that women in prison on remand can be held there due to a lack of available appropriate accommodation for them rather than being a threat to the public or committing a particular offence.

People on remand are normally held in local prisons. There are 106 men's prisons across England and Wales, and 12 women's prisons all of which are in England. This can have implications particularly for women in custody (including on remand), because they are more likely to have to go further from home, potentially weakening ties with children and family.

In the UK, these implications have been recognised. The [United Nations \(UN\) General Assembly adopted the 'Bangkok Rules' \(PDF, 180 KB\)](#) in 2010, which stated that many prison facilities worldwide were designed mainly for male prisoners and that alternative approaches to custody for women should be prioritised. As a signatory to the Bangkok Rules, the UK Government acknowledges the gendered differences in offending and imprisonment.

There are also differences in offence, sentence lengths and impact of being in custody between men and women. Women often commit less serious offences, which means the case is more likely to be held in magistrates' courts than Crown court (see Section 11 "Things you need to know"). In addition, women, when sentenced following trial, often receive shorter custodial sentences than men. For example, in 2017, 26.3% of adult (aged 18 years and over) women sentenced to custody received [sentences of up to and including one month](#), compared to 14.8% of adult men. The impact on children and family can be greater when women are imprisoned, and there are often confounding factors to women's offending such as [domestic abuse](#).

In the 12 months ending 2017, the rate of self-harm incidents was nearly five times as high amongst female prisoners than male prisoners in England and Wales.

6 . Ethnicity and sex of people remanded in custody in England and Wales

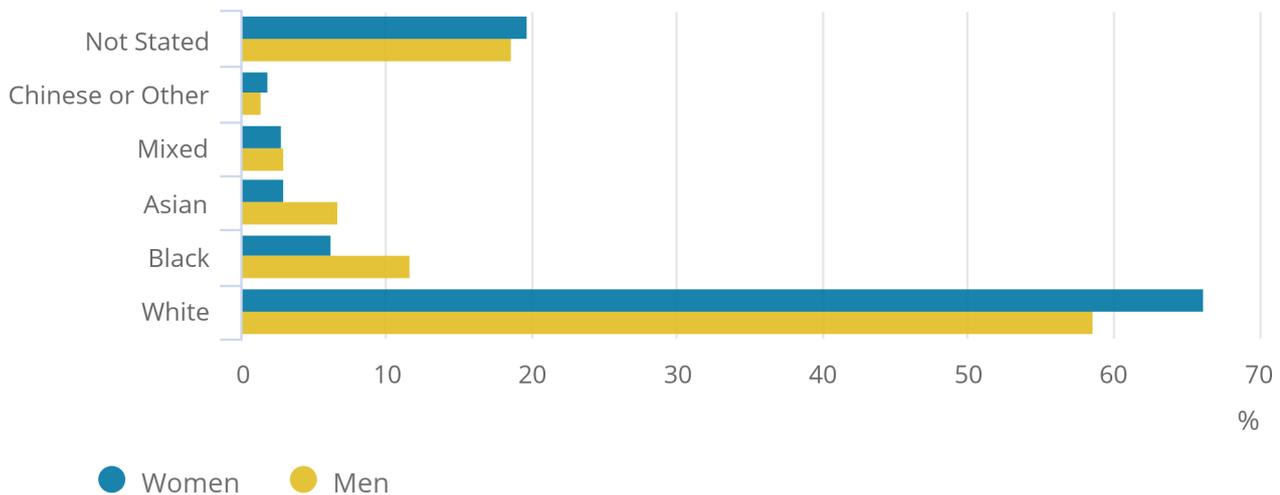
"A higher proportion of men from the "Mixed" and "Black" ethnic groups were remanded in custody at Crown Court than any other remand decision within the same ethnic group."

[Criminal Justice Statistics](#) report that between 2014 and 2017, the percentage of people remanded in custody at Crown Court fell.

Of all the people remanded to custody at Crown Court in 2017 in England and Wales, there were more "White" men and "White" women (58.6% and 66.3%) than any other ethnic group (see Figure 2). Of all ethnic groups, more "White" and "Chinese or Other" females were remanded in custody than males from the same ethnic groups¹.

Figure 2: Percentage of men and women remanded in custody at Crown Court, by ethnic group, England and Wales, 2017

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Source: Criminal Justice Statistics

Notes:

1. Source: [Criminal Justice Statistics](#).

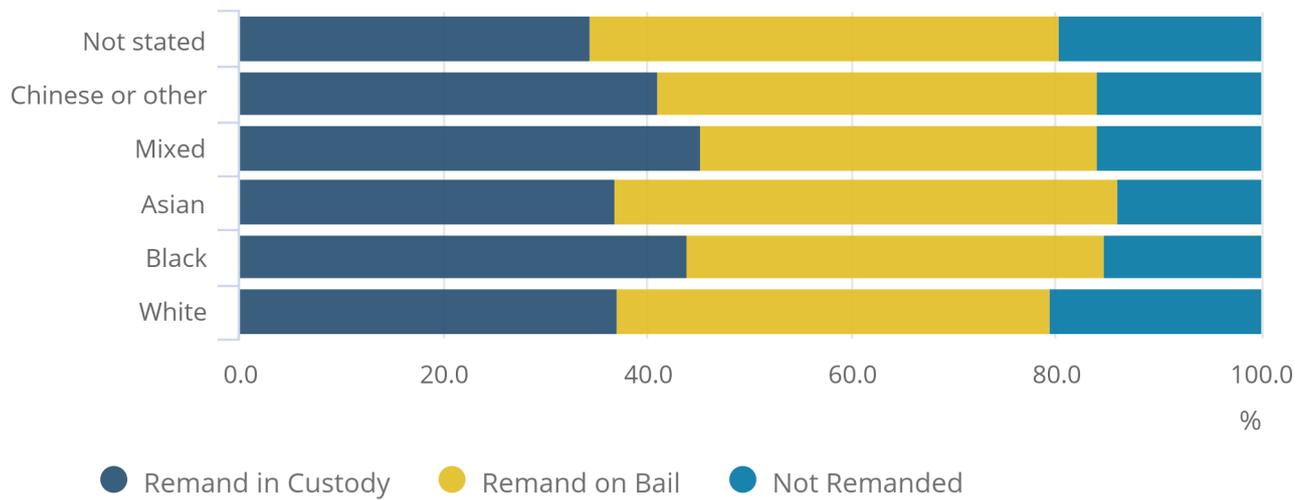
Looking at the proportions of custodial remands within each ethnic group (as compared to other remand decisions: bail or not remanded), we can see that there were differences between the ethnic groups of those who were remanded in custody at Crown Court, in England and Wales, in 2017.

Figure 3 and Figure 4 shows that in 2017, a higher proportion of men from the "Mixed" ethnic group (45.2%, 881 men) and women from "Chinese or Other" ethnic group (34.6%, 37 women) were remanded in custody, than any of the other ethnic groups. These ethnic groups tend to be based on lower numbers of defendants and can be highly variable over time.

Higher proportions of men in 2017 were remanded to custody at Crown Court than women, of all ethnicities.

Figure 3: Percentage of custodial remands within ethnic groups, at Crown Court, for men, England and Wales, 2017

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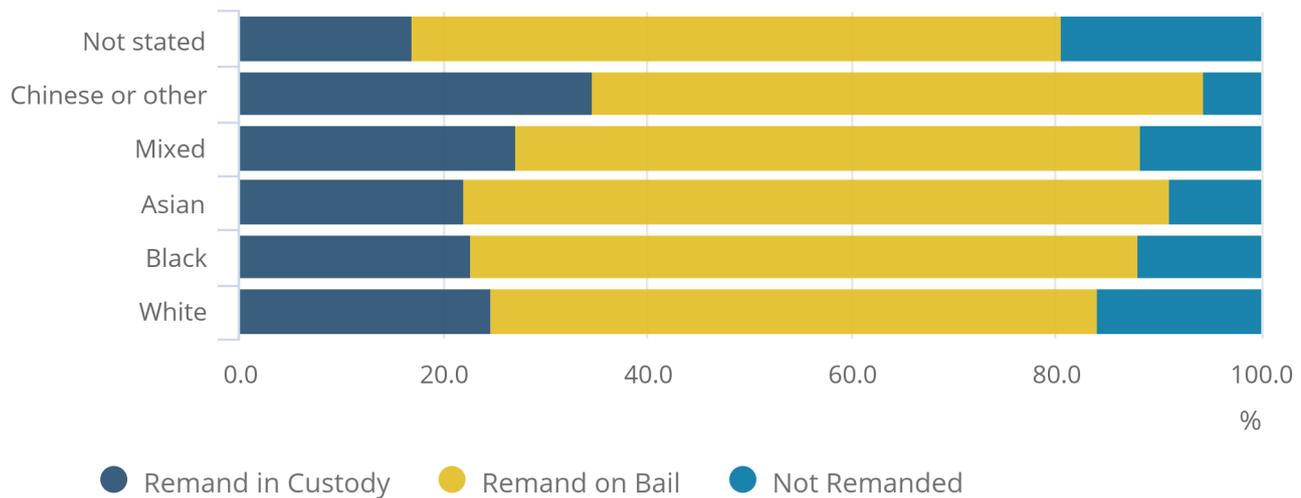
Source: Criminal Justice Statistics

Notes:

1. Source: [Criminal Justice Statistics](#).

Figure 4: Percentage of custodial remands within ethnic groups, at Crown Court, for women, England and Wales, 2017

Figure 4: Percentage of custodial remands within ethnic groups, at Crown Court, for women, England and Wales, 2017



Source: Criminal Justice Statistics

Notes:

1. [Criminal Justice Statistics](#).

Notes about Ethnicity and sex of people remanded in custody in England and Wales

1. Figures for ethnicity are categorised using the 5+1 self-identified classification based on the 16+1 classification used in the 2001 Census.

7 . Children and young people on remand in custody in England and Wales

“8.8% of the children and young people (aged 10 to 17 years) who were on remand were held in custody in 2017”

[Legislation in England and Wales](#) stipulates that the age of criminal responsibility is 10 years old. There are two types of custodial placements for children and young people (10 to 17 years): youth detention accommodation (youth offender institution, secure training centre, secure children’s home) and local authority accommodation (provided by local authority, and can include homes of family members). 15- to 17-year-olds are also captured in the offender management statistics as “juveniles”, so will be included in both proportions.

There are also three types of remand for children and young people: custodial remand, bail remands and community remands with intervention. Since 2012, under the [Legal Aid, Sentencing and Punishment of Offenders Act](#) (LAPSO):

- 10- to 11-year-olds can only be on custodial remand in local authority accommodation
- 12- to 17-year-olds are remanded to youth detention accommodation
- A child or young person can only be remanded if the alleged crime committed is imprisonable

[Youth Justice data](#) reported that the proportion of children and young people (aged 10 to 17 years) placed on remand in custody in 2017 was 8.8% of the youth offenders population.

The majority of children and young people (aged 10 to 17 years) in 2017 were remanded on bail (86.6%). This means that a person is released from the police station, between arrest and sentencing in court, and possibly subject to certain conditions such as living at a particular address or not contacting certain people.

The remaining 4.6% were remanded to community intervention. Community intervention includes remand to local authority accommodation and bail with supervision and support.

8 . The sex and ethnicity of children and young people on remand in custody

In the year ending March 2017, 97.8.% of the children and young people (aged 10 to 17 years) on remand in custody in England and Wales were boys. This is a consistent trend.

Over half of children and young people (aged 10 to 17 years) on remand in custody in England and Wales in 2017 were from minority ethnic backgrounds (53.6%). This compares to 45.6% of children and young people who were “White” (aged 10 to 17 years) (see [Youth Justice Statistics](#)). It is important to note that there could be White ethnic minority groups within the “White” category. “Ethnicity not known” accounted for 0.8% of children and young people in the same year.

Due to the small numbers of children and young people on remand in custody, we are unable to disaggregate beyond the categories of “Ethnic minorities” and “White” due to disclosure issues.

9 . What is the UK government doing?

In a [consultation \(PDF, 600KB\)](#) in 2010, the Ministry of Justice (MoJ) identified that the use of remand needed rethinking. It was acknowledged that several thousand people each year were remanded in custody for offences that they are unlikely to receive custodial sentences (time in prison) for. At the time, the coalition Government made the intention to remove the option of custodial remand for people whose crime would be unlikely to warrant a custodial sentence.

The MoJ employs several practical ways to ensure that defendants and offenders are managed in the most effective and efficient way to support their rehabilitation and reduce reoffending in England and Wales. This includes improving the effectiveness of the use of remand and bail, focusing on those defendants currently remanded in custody, convicted, but who do not receive a custodial sentence.

In 2012, the Legal Aid, Sentencing and Punishment Act (LAPSO) came into effect and changed the way that people can be remanded to custody. It restricts the use of custodial remand, especially for people who would be unlikely to receive a custodial sentence. As a result, the prison population fell between 2012 and 2013. The Act also changed the way that children and young people (aged 10 to 17 years) can be remanded in custody. Children can no longer be unnecessarily remanded in custody, and the local authority is now responsible for the imprisonment of children.

Furthermore in 2016, in a [prison safety and reform publication \(PDF, 597KB\)](#), the MoJ committed to begin to improve how women prisoners were managed and included in the overall prison reform agenda. Based on evidence that shows that many women are housed in institutions that are a higher security level than is necessary and that few women have the opportunity to be in an open prison ¹ (and therefore access the same resettlement options), the MoJ stated that five small community prisons will be created. These prisons will mean that women can be held closer to home and given better support to address their needs.

The [Lammy review of 2017 \(PDF 6.94MB\)](#) was an independent review into the treatment of, and outcomes for, "Black", "Asian" and "Minority Ethnic" individuals in the Criminal Justice System. It was established to "make recommendations for improvement with the ultimate aim of reducing the proportion of ethnic minority offenders in the criminal justice system" – it makes recommendations to look specifically at youth offending.

More recently, in June 2018, the [Female Offender Strategy \(PDF, 363KB\)](#) was published. It sets out the Government's commitment to a new programme of work for female offenders across England and Wales. This includes a shift in focus from custody to the community, in order to see fewer women in custody, especially on short-term sentences, and a greater proportion of women managed in the community successfully.

The strategy included £5 million in cross-government funding over two years in community provision for women. The strategy commits to working with local and national partners. This work will develop a pilot to understand what could be effective, sustainable and scalable models for improving outcomes for female offenders. The aim is to reduce the numbers and frequency of women entering and re-entering custody on short custodial sentences.

Notes for: What is the UK government doing?

1. Open prisons are part of the resettlement programme to reintegrate prisoners back into society. Whilst Open prisons may have some workshop facilities, some of the prisoners will work in the community, returning to the prison in the evening.

10 . Comparisons of “unsentenced detainees” in EU countries

England and Wales had one of the lowest proportions of people on remand in the EU in 2016 (9.2%).

Looking at data compiled by the [UN Sustainable Development Goals \(SDG\) global database](#) out of the EU countries in 2016, England and Wales had one of the lowest rates of people on remand (unsentenced detainees) (9.2%). Countries that were lower were Bulgaria (8.6%), Slovenia (8.5%), Poland (7.3%) and Romania (5.4%).

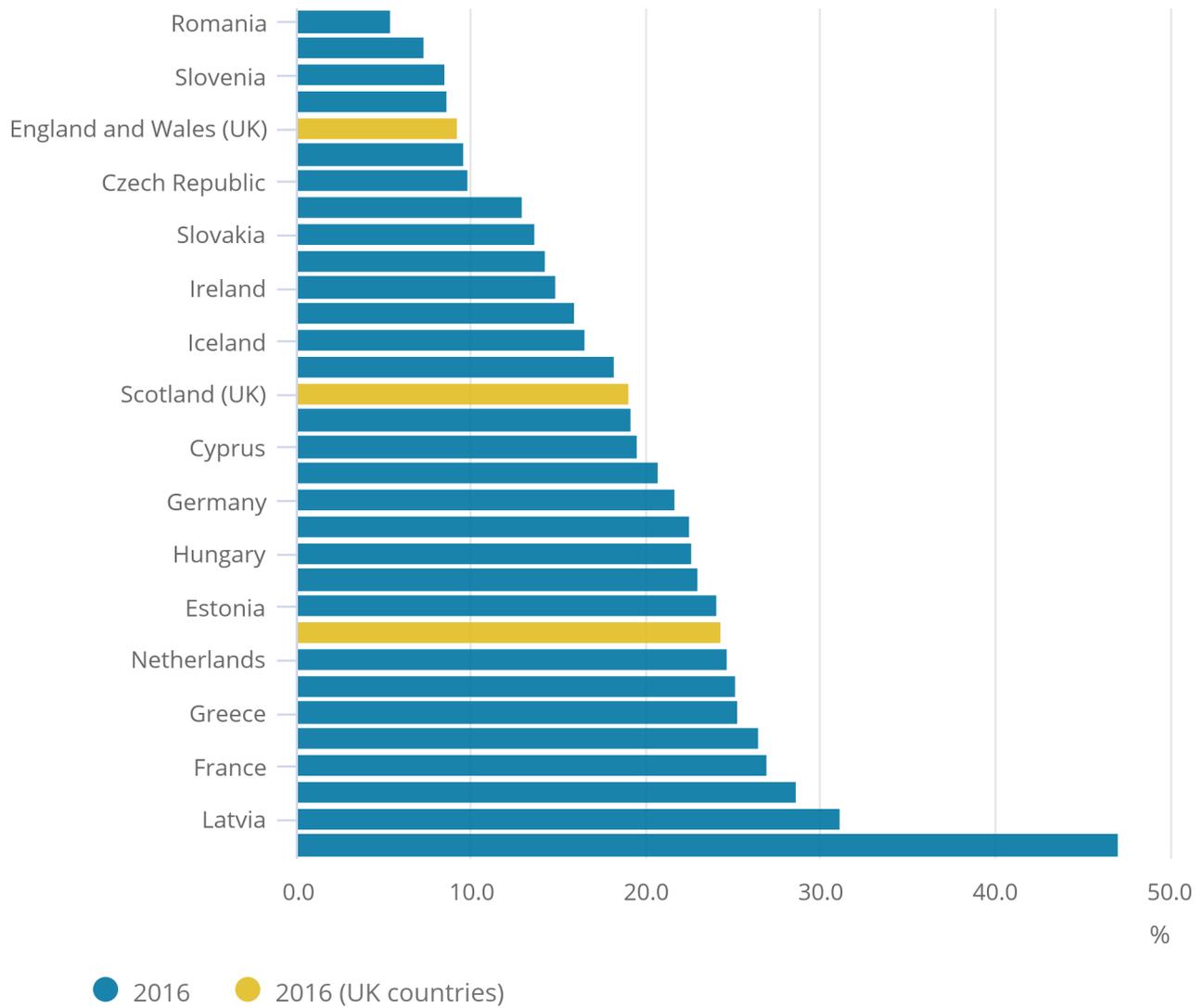
Luxembourg (47.1%) had the highest proportion of unsentenced detainees.

Northern Ireland had 24.4% of unsentenced detainees and Scotland had 19.1%.

There could be many reasons why some countries have "lower" or "higher remand" or "unsentenced" rates, such as having a higher proportion of longer sentences or some less likely to give out or not give out custodial sentences.

Figure 5: International comparisons of 'people on remand' in EU countries

Figure 5: International comparisons of 'people on remand' in EU countries



Source: United Nations Sustainable Development Goals Database

Notes:

1. Data refer to three-year average 2014 to 2016.
2. [UN SDG Database](#).

11 . Things you need to know

[The United Nations metadata \(PDF, 209KB\)](#) for [global indicator 16.3.2](#), “Unsentenced detainees as a proportion of overall prison population” specifies that countries should be report on this by measuring:

“The total number of persons held in detention who have not yet been sentenced, as a percentage of the total number of persons held in detention”.

For the UK, this means:

“The total number of persons held on remand in custody as a percentage of the total prison population”. Being on remand means that a person is in prison before either their sentencing or their trial in court.

UK Government’s Bail Act 1976

In the UK, the decision to remand an individual in custody or to grant bail is solely a matter for the courts acting in accordance with the law.

In England and Wales, the procedures for considering bail or remand are set out in the Bail Act 1976. Scotland and Northern Ireland are not governed by this Act. Data in these countries are collected slightly differently, both [Scotland](#) and [Northern Ireland](#) data are based on average daily prison population, whereas England and Wales report a monthly headcount.

The Bail Act creates a presumption in favour of bail for all defendants involved in criminal proceedings. This recognises that a person should not be deprived of their liberty unless that is necessary for the protection of the public or the delivery of justice.

The court is not bound to act as recommended by either the defence or the prosecution, or on the historic past recommendations of another court. It must decide, on each occasion, whether the defendant presents such a bail risk as to warrant custody. The court may decide to grant bail, but only under certain conditions and, should these conditions be broken, the defendant would be liable to immediate arrest. The court has to make a risk assessment against the consideration that it is a serious step to remand in custody.

Treatment of people on remand

When people enter the criminal justice system, they are assessed by the risk they pose (likelihood to escape, harm to the public, safety of the prison) and are assigned a prisoner category, based on risk. Those on remand in custody who are either awaiting trial or convicted and awaiting sentence (convicted unsentenced) are not subject to this categorisation process.

People on remand who are awaiting trial are not treated as convicted prisoners and therefore can have further rights in prison such as wearing their own clothes or having more visits. They are treated as innocent until proven guilty. However, a convicted unsentenced prisoner on remand is not entitled to the same privileges and is treated like a sentenced prisoner.

Difference between a Magistrate Court and Crown Court

There are two types of court in England and Wales: magistrates’ and Crown Courts.

Magistrates' courts handle high volumes of less serious ('summary') offences such as TV license evasion or driving offences.

Crown Courts see the more serious "[indictable offences \(PDF, 919 KB\)](#)", for trial and sentencing such as theft, robbery and murder. "Indictable only offences" can only be tried on indictment in the Crown Court by a judge and jury and there are "triable either way" offences which can be heard at either magistrates' or Crown Court, depending on the seriousness of the offence.

People are more likely to be remanded in custody for more serious offences, therefore rates of people remanded in custody at Crown Courts are higher than at magistrates' court.

[The Female Offender Strategy \(PDF, 363 KB\)](#) shows that on average women commit less serious offences than men (often committing nonviolent, low-level offences such as shop theft) and pose a low or medium risk of harm to the public. Therefore, many offences committed by women are more likely to be handled at magistrates' courts.

Data sources

MoJ's [Offender Management Statistics](#) is used to produce the headline data for this analysis. This is administrative data, recorded in prisons in England and Wales, it gives an annual headcount of all those, aged 15 years and above, who enter the prison system and includes those on remand (as reported on the [ONS National Reporting Platform](#)).

MoJ's [Crown Court data \(XLS, 29.8MB\)](#) are used to disaggregate by ethnicity. Crown Court data has better coverage of ethnicity because defendants need to physically appear in Crown Court, unlike magistrates Court, where a person doesn't have to appear (because of the low summary of offences). It must be noted that there are still 16.9% whose ethnicity was not stated.

MoJ's "[Youth Justice Statistics](#)" are used to look at children and young people. These data provide the proportion of children and young people (aged 10 to 17 years) on remand in custody in England and Wales, and is recorded as a monthly headcount.

Data from the [UN SDG global database](#) is used to compare the position of the UK's four constituent countries within the EU and this uses the description of "unsentenced prisoners". Data for England and Wales, Scotland and Northern Ireland are sourced from the United Nations Survey of Crime Trends and Operations of Criminal Justice Systems.