Council of Europe / CPT

Ending prison overcrowding: European perspectives and solutions

The German Experience: Prison Occupancy 2003 – 2025

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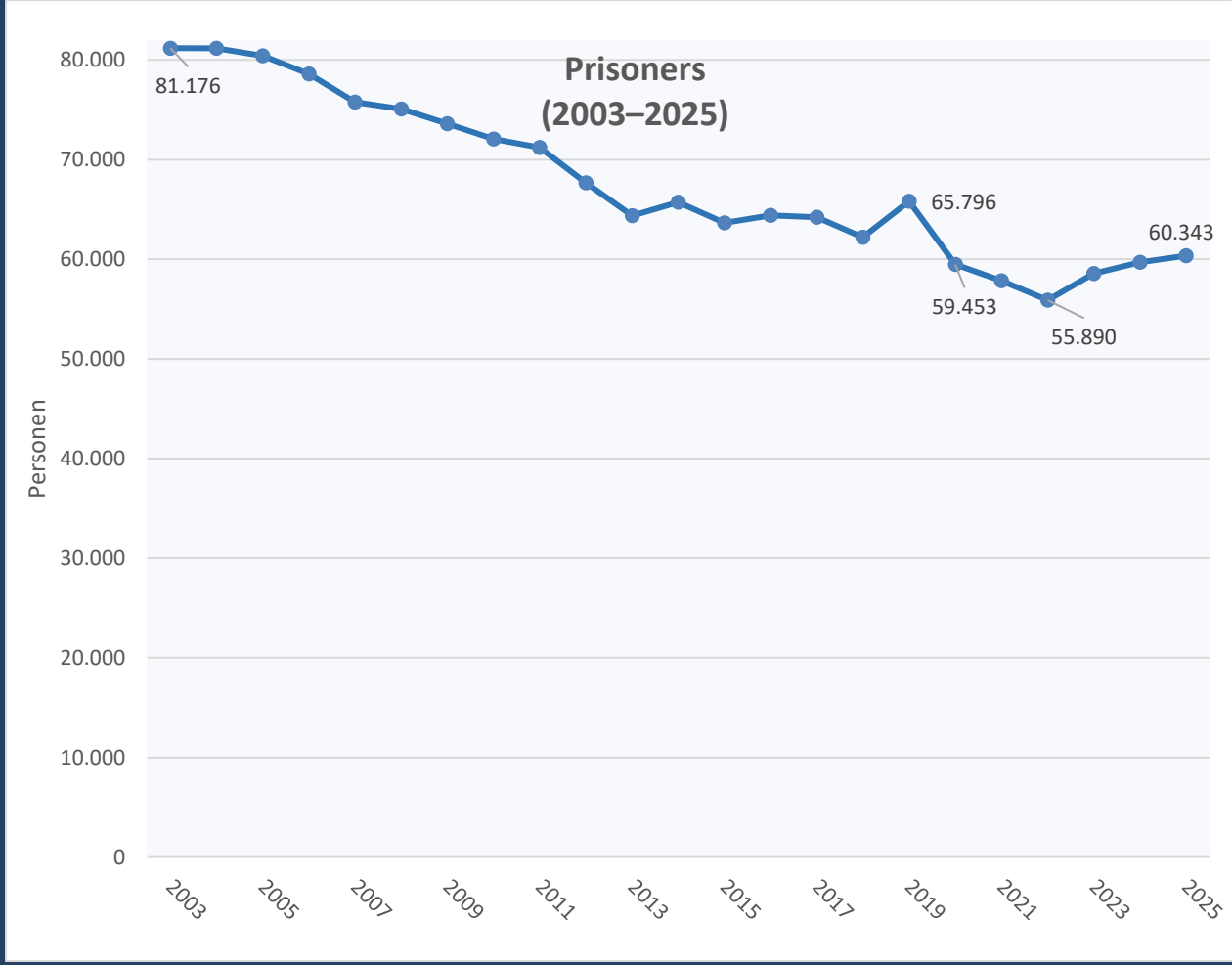
The German Experience:
prison occupancy 2003 - 2025

1. **Situation: occupancy in prisons**
2. **Possible explanations & causes**
3. **Latest reforms**
4. **Conclusions**

1.1 Prison Population since 2003



Strafvollzugsstatistik (Correctional Statistics), including convicted prisoners, pretrial detainees and persons held in preventive detention

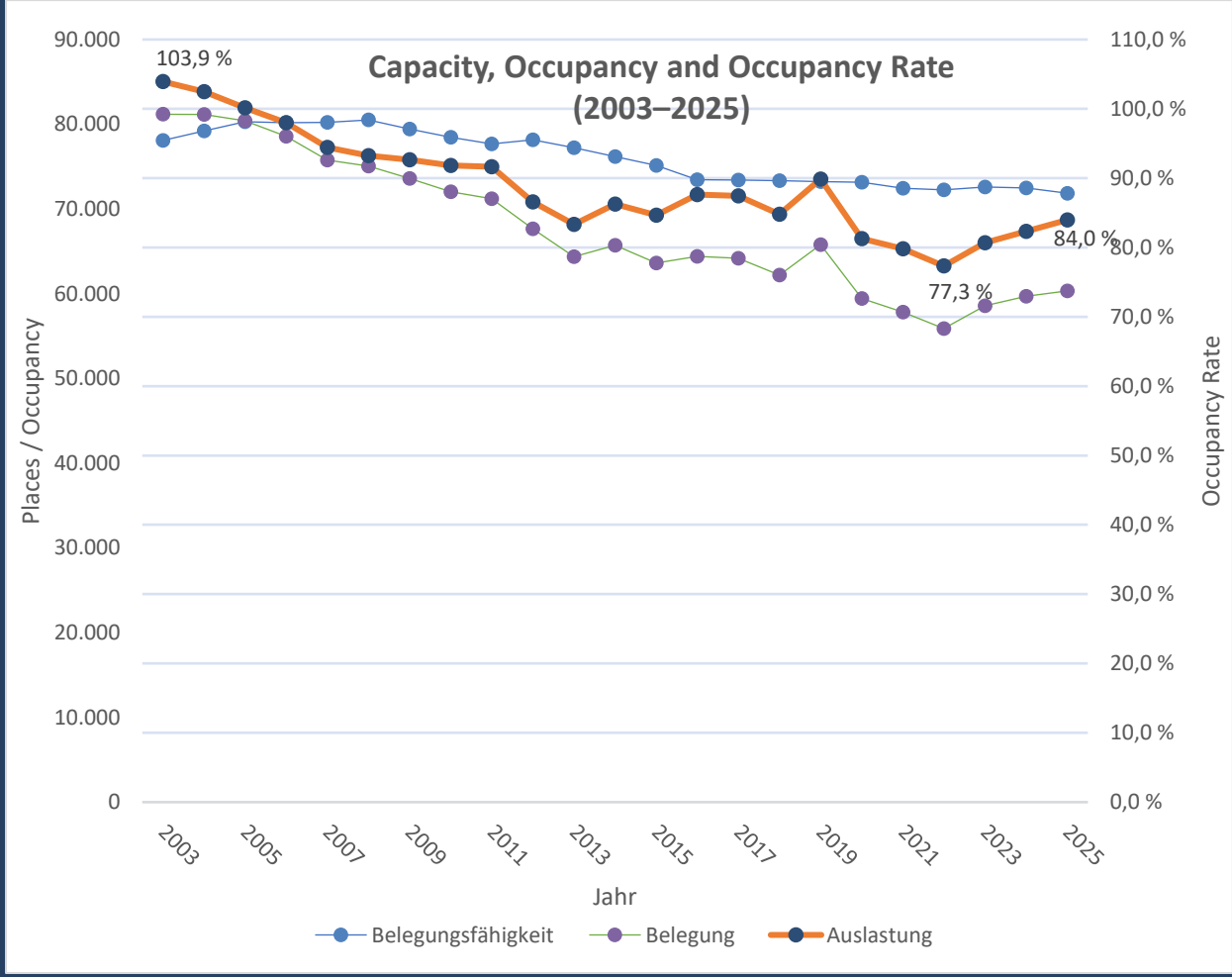
Germany lost more then a quarter of its prisoners:
Number of prisoners went down from more than 80.000 down to just about 60.000.
2003: 81.176 → 2025: 60.343; Loss of 20.833 prisoners, minus 25,7%

More or less steady decrease from 2003 to 2018:
2003: 81.176 → 2018: 62.194; Loss of 18.982 prisoners, minus 23,4%

"Corona Drop" 2020 to 2022:
2019: 65.796 → 2020: 59.453; Dropp of 6.343 prisoners just in one year (9,6%).
Lowest numbers in 2022: 55.890 prisoner, 25.286 less than in 2003

Since 2023 recovery of numbers, but until now not to the pre-corona-level.

1.2 Capacity and Occupancy Rate



In 2003 Germany had a clear overcrowding situation:
With a capacity of 78.099 places and 81.176 inmates the occupancy rate was at 104%.

While the numbers of prisoners declined since then, the capacity rose gradually, but then also decreased, so that in 2025 Germany had roughly 8% fewer places than in 2003 (-6236).

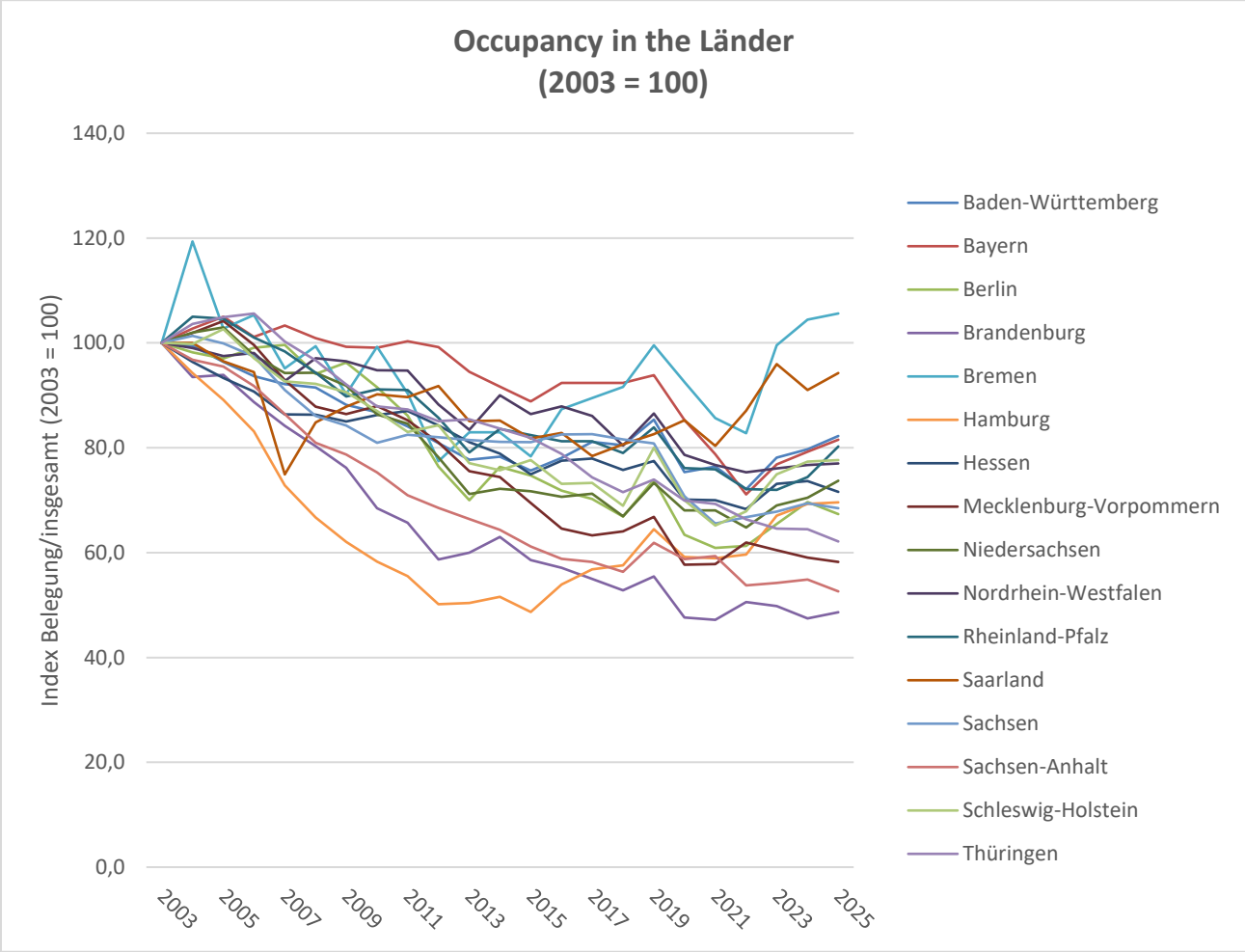
As a result, the occupancy rate also declined in this period, but not quite as strong as the numbers of inmates. In 2025 the occupancy rate was at 84%, about 20 percentage points less than in 2003.

Again: clear "Corona Drop" – lowest occupancy rate at 77,3% in 2022.

Since then, the occupancy rate did not quite recover to pre-corona-level (2018: 85%, 2019: 90%)

Strafvollzugsstatistik

1.3 Development in the Länder



Quite different developments in the 16 Länder:

The East German Länder have lost between 30% and 50% of their prisoners, Brandenburg more than half.
Brandenburg: -51,4%; Saxony-Anhalt: - 47,4%

Some "special effects", especially in small Länder

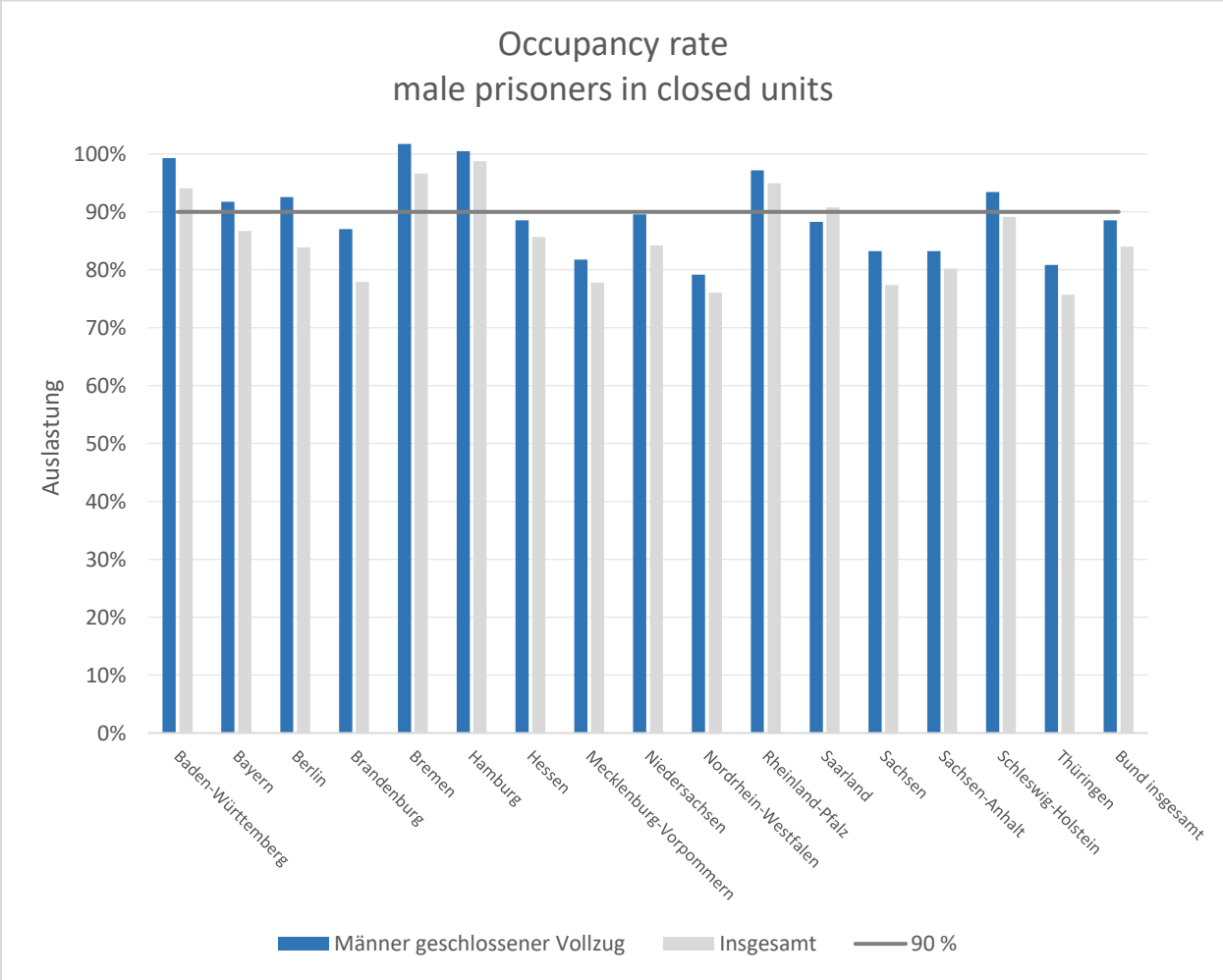
- Hamburg: lost half of its population by 2015, now: 70% compared to 2003
- Saarland: lost a quarter by 2007, now: 94%
- Bremen: now more prisoners than 2003: 106%

Occupancy rates range between overcrowding and relaxed:

- High rates above 90%
  Hamburg 99%, Bremen 97%, Rhineland-Palatinate 95%, Baden-Württemberg 94%
- On the other hand, low rates:
  Mecklenburg-Vorpommern: 78%; North Rhine-Westfalia: 76%; Brandenburg: 78%; Sachsen: 77%; Thuringia: 76%

Strafvollzugsstatistik

1.4 Occupancy Rate in closed units for male prisoners



The situation is less relaxed in closed units for male prisoners.

On the average across all Länder, the occupancy rate in closed units for male prisoners is five percentage points higher, at 89%.

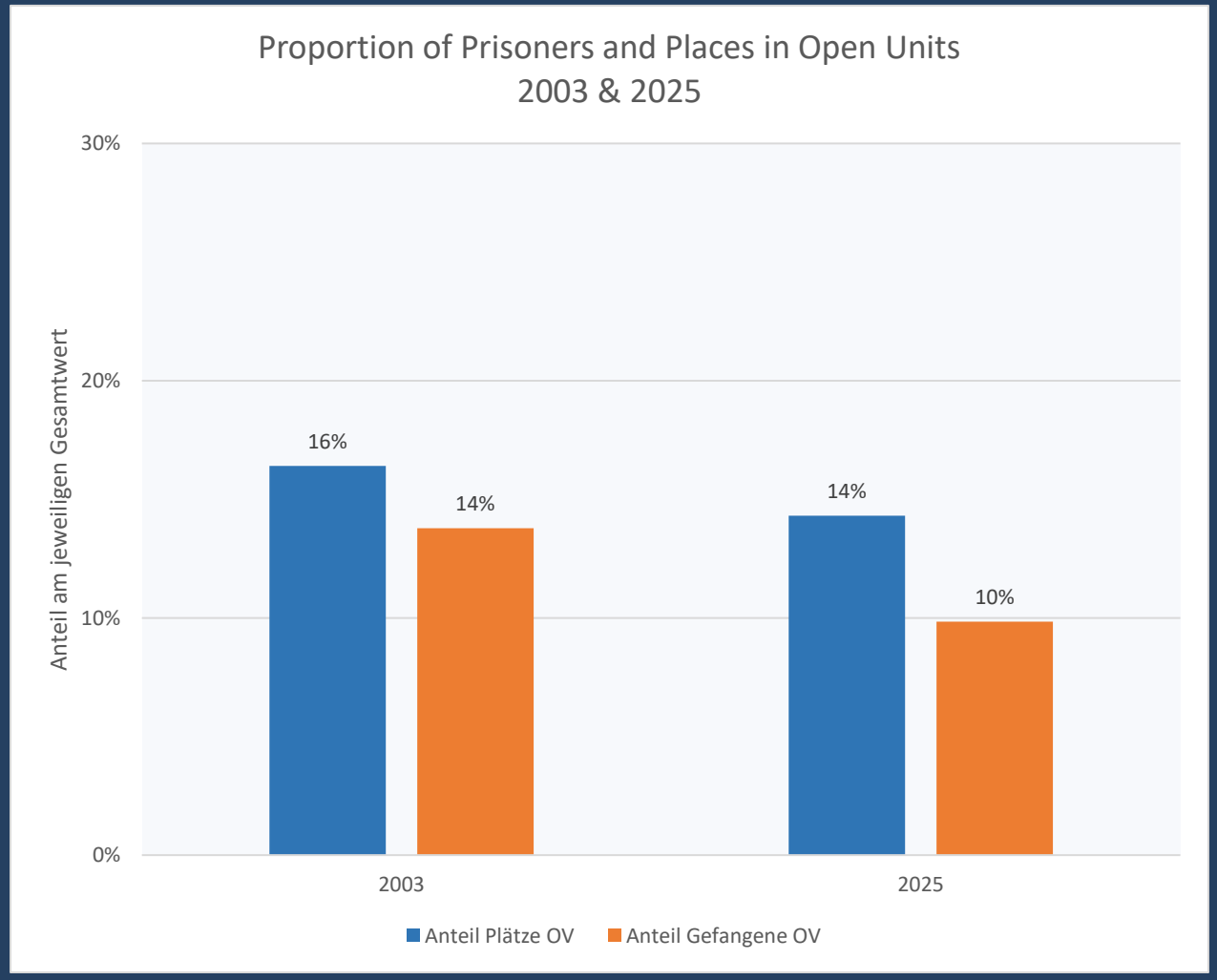
Overcrowding situations with an occupancy rate above 90% in such units can be observed in seven Länder:

- Bremen: 102%
- Hamburg: 100,5%;
- Baden-Württemberg: 99%
- Rhineland-Palatinate: 97%
- Schleswig-Holstein: 93%
- Berlin: 93%
- Bavaria: 92%

See also: Dünkel, Harrendorf & Geng 2026

Strafvollzugsstatistik

1.5 Decline of Open Prison



Strafvollzugsstatistik

The open prison units lost relevance.

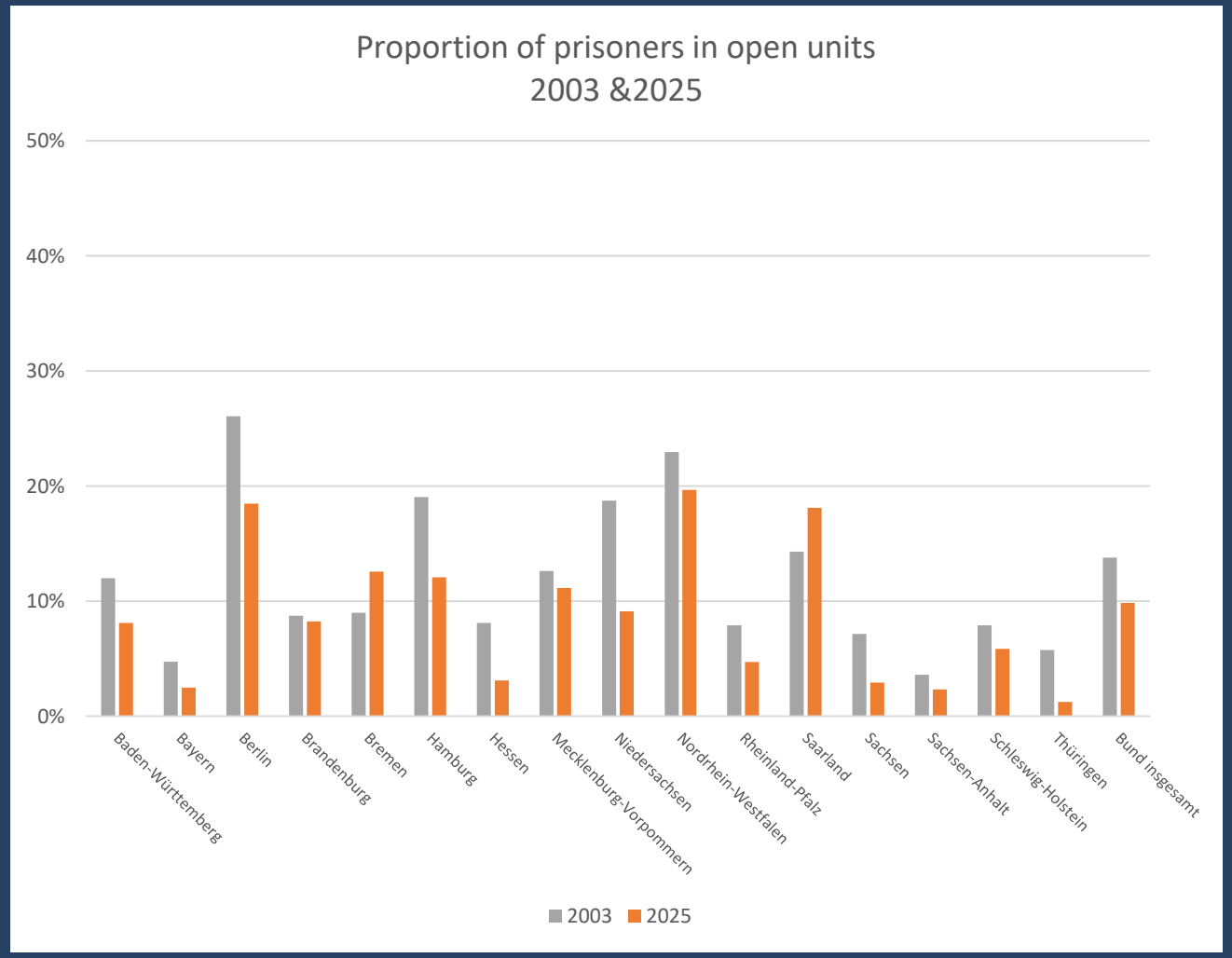
In absolute figures the number of inmates in open units was reduced by almost one half (-47%).
Hence, the – already modest – proportion of inmates in open facilities out of the total prison population fell from 14% in 2003 to 10% in 2025.

Also, the proportion of places in open units declined from 16% to 14%.

As a result, in contrast to the high occupancy rates in closed prisons, open prisons are operating at below 60% capacity.

See also: Dünkel, Harrendorf & Geng 2026; Obergfell-Fuchs & Schaffer, 2024.

1.6 Open Prisons in the Länder



Länder use open prison systems quite differently.

Relatively high proportions of prisoners in open facilities:
- North Rhine-Westfalia (20%)
- Berlin (18,5%)
- Saarland (18,1%).

Low proportions of prisoners in open facilities:
- Thuringia (1,2%)
- Saxony-Anhalt (2,3%)
- Bavaria (2,5%)
- Saxony (2,9%)
- Hessia (3,1%)

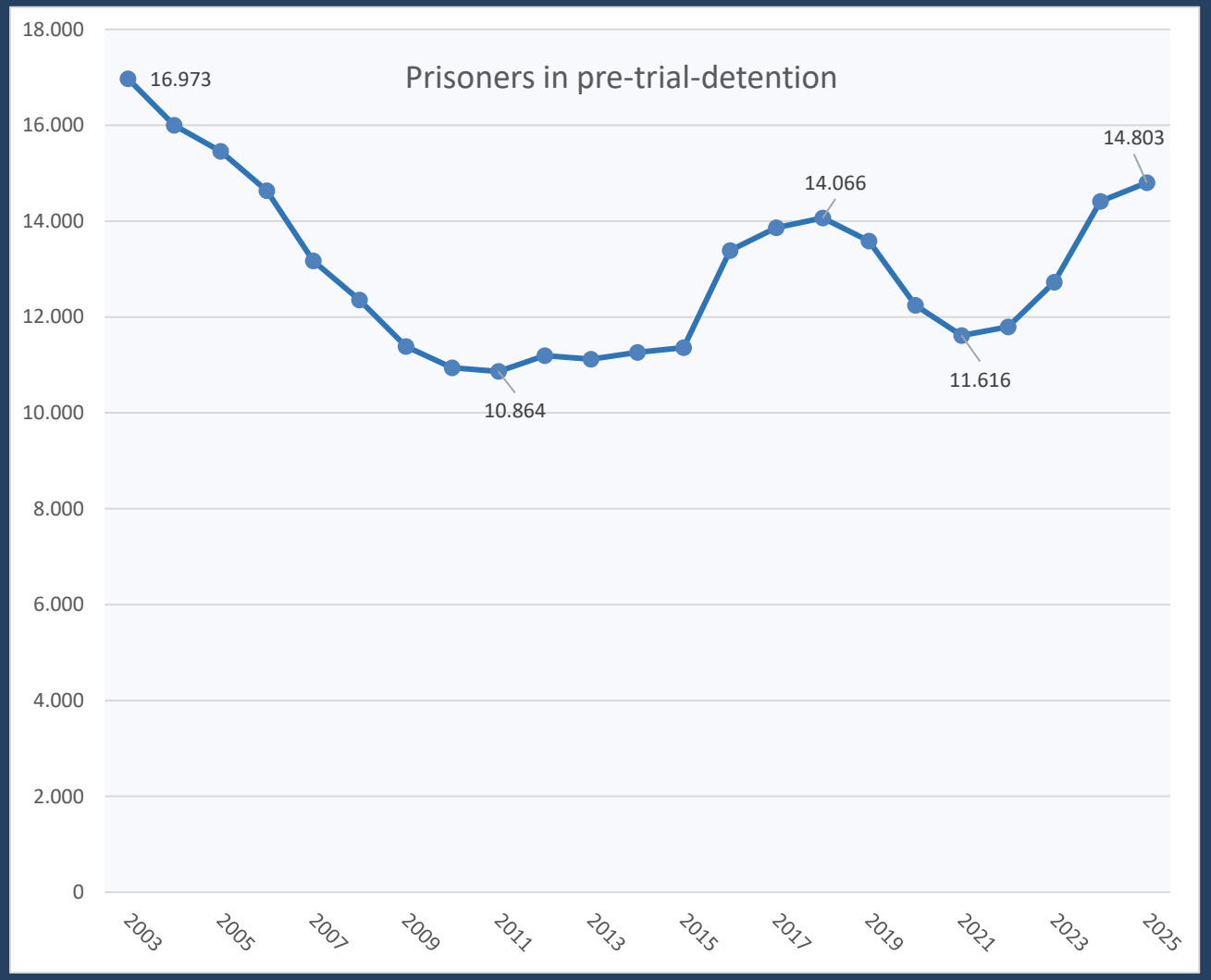
In almost all Länder the proportion of inmates in open facilities declined compared to 2003.
Dramatic decline in Lower Saxony from 18,7% in 2003 (then one of the Länder with a rather high proportion) to 9,1% in 2025.

Only in Bremen und Saarland the proportion of inmates in open facilities has increased.

See also: Dünkel, Harrendorf & Geng 2026; Obergfell-Fuchs & Schaffer, 2024.

Strafvollzugsstatistik

1.7 Pre-Trial Detention



Strafvollzugsstatistik

There is a "curvy" development in the figures of pre-trial-detention form 2003 to 2025.

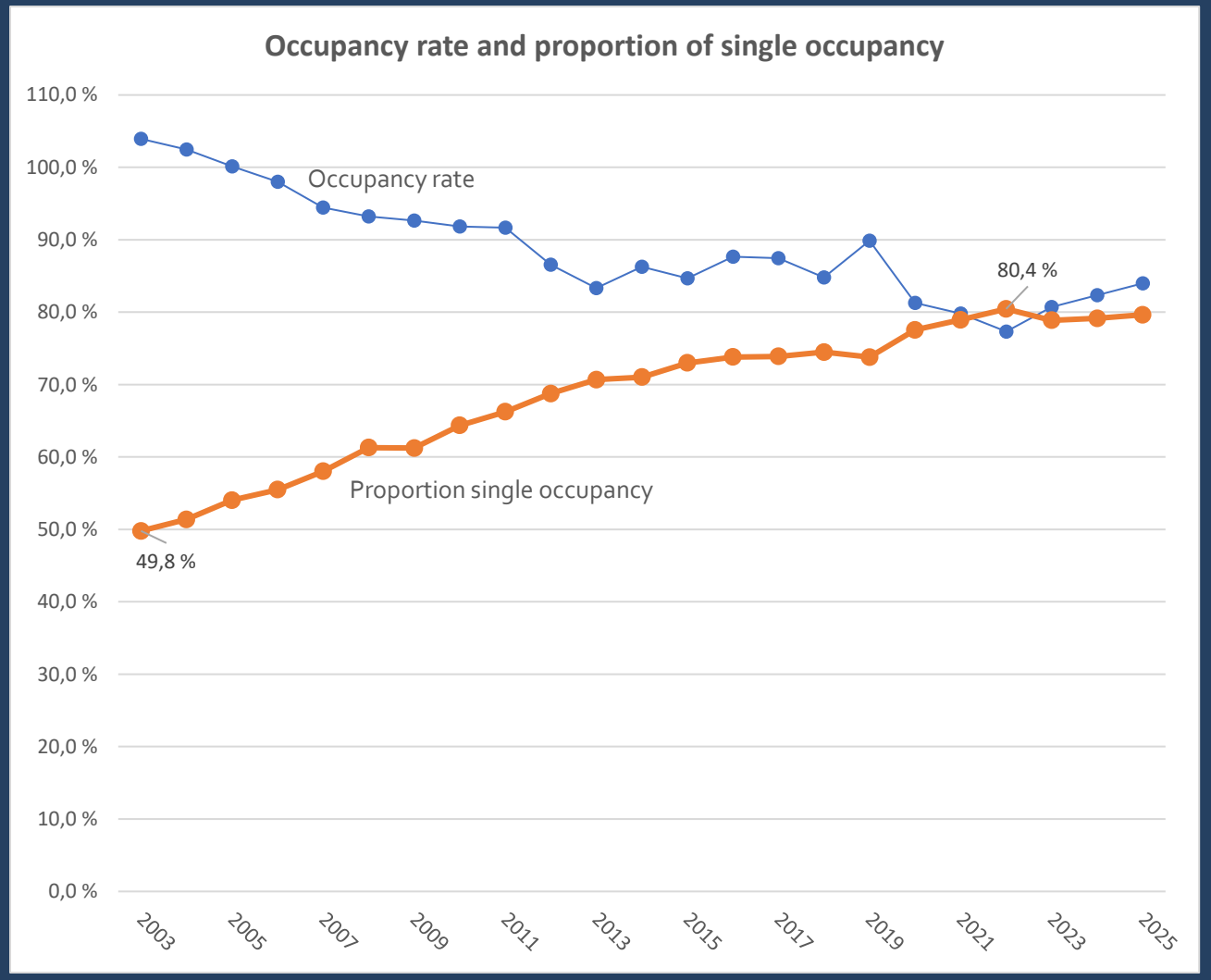
Overall, still a reduction of prisoners form 16.973 in 2003 to 14.803 in 2025, a reduction of -13%.

From 2003 to 2011: clear and steady reduction form 16.973 prisoners to 10.864, a decline of 36%.

Form 2011 to 2025: overall an increase of 36% again, from 10.864 in 2011 to 14.803 in 2025, with a temporary high in 2018 (14.066 inmates) and a low point due to corona in 2021 (11.616 inmates).

See also: Dünkel, Harrendorf & Geng 2026; Obergfell-Fuchs & Schaffer, 2024.

1.8 Proportion of Single Occupancy



The proportion of single cell accommodations increased.

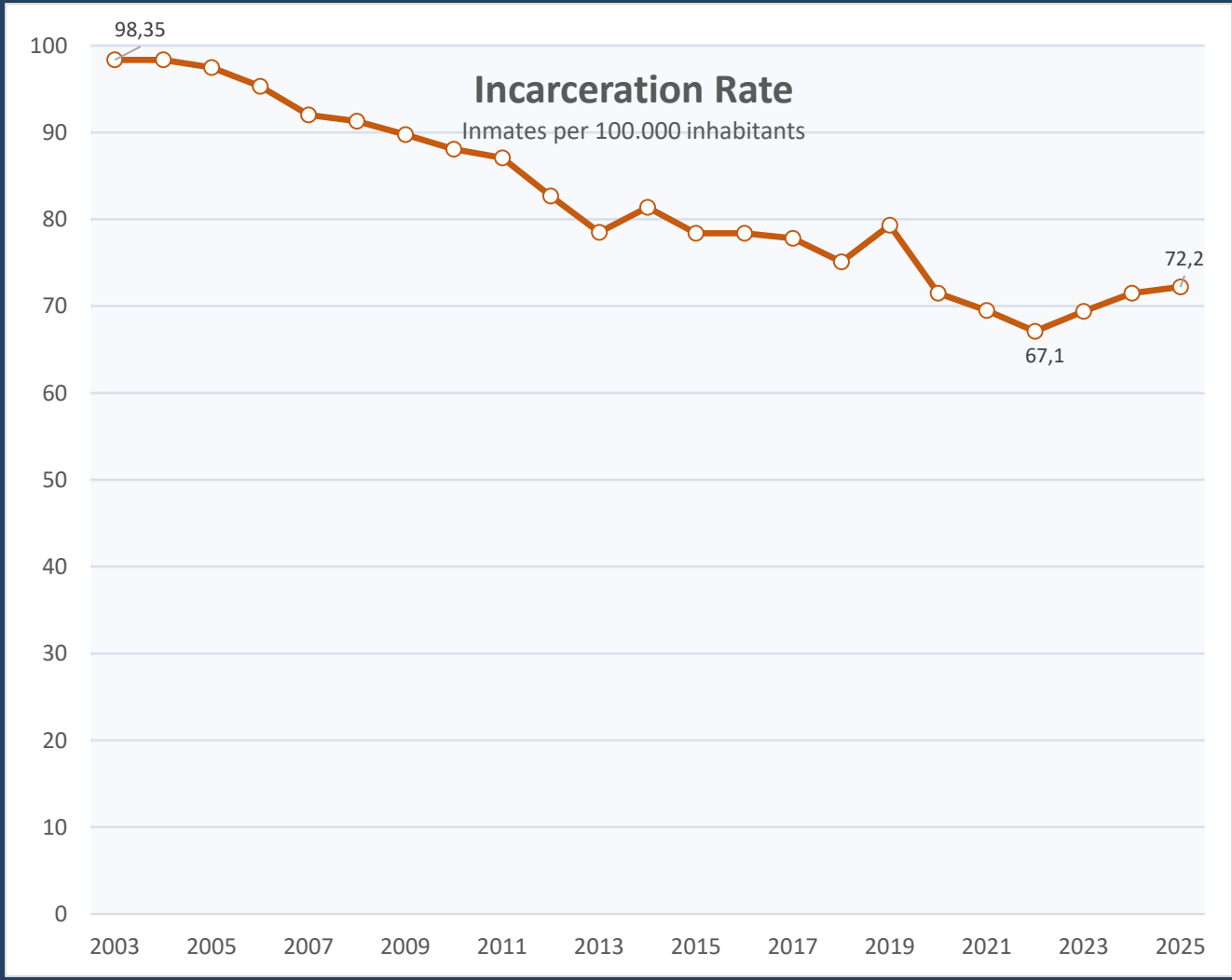
In 2003 only half of the inmates were lodged in single-occupancy cells. Regrettably, there are no statistics on how many prisoners were housed together in shared cells.

The proportion grew up to 80% in single room occupancies and is stable at this level for the past five years.

Strafvollzugsstatistik

2. Possible Explanations and Causes

2.1 Changes in Population



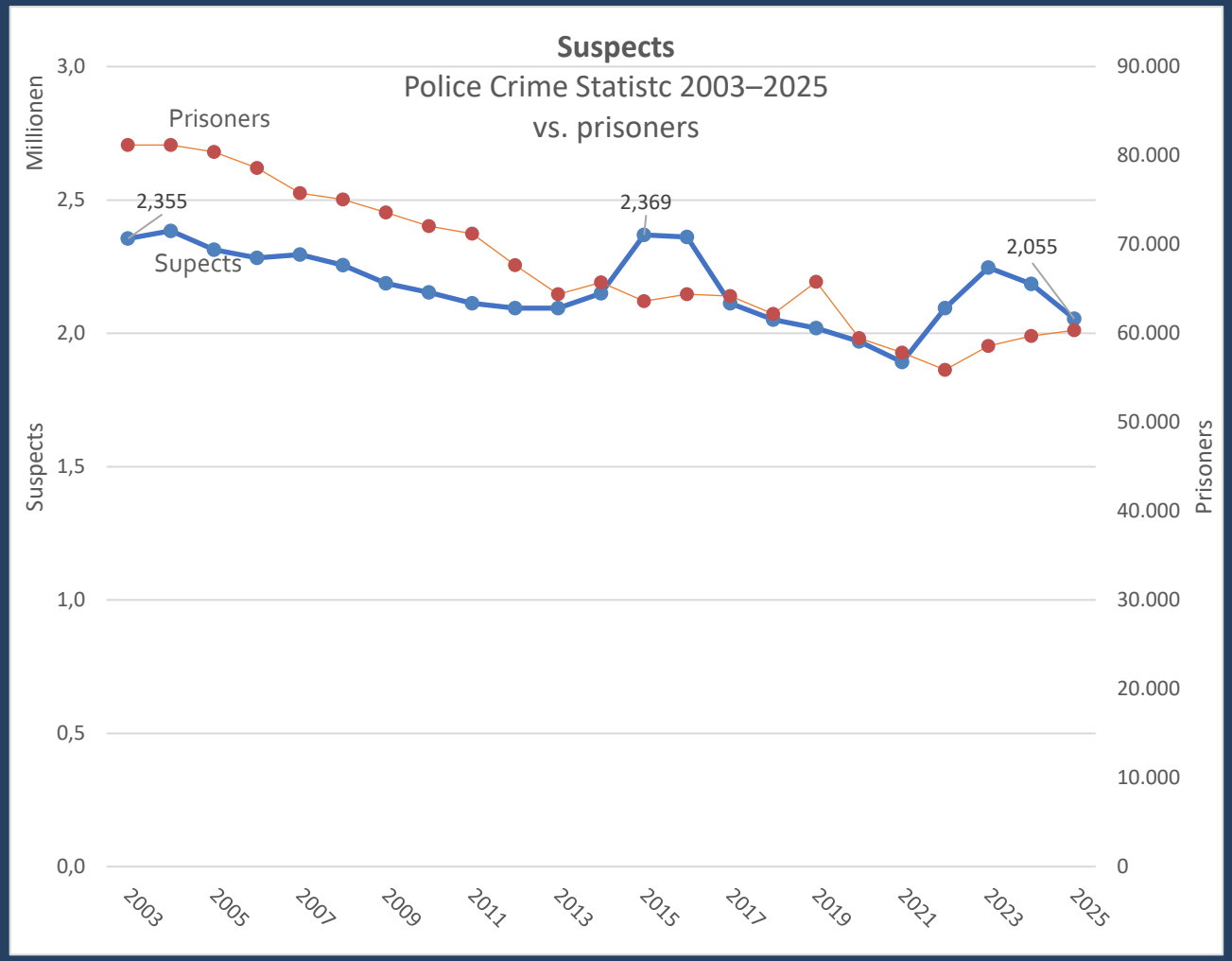
Numbers by Dünkel, Harrendorf & Geng, FS 2026, 198.

The decline of the number of prisoners was not caused by spectacular changes in the population.

The incarceration rate dropped from 98,35 in 2003 to 72,2 in 2025, that is 27% less (compared to the reduction of absolute figures of 25,7%.

The incarceration rate follows the same curve as the absolute figure of all prisoners as well as for prisoners in pre-trial detention

2.2 Decline in Crime



Suspects: Polizeiliche Kriminalsstatistik (Police Crime Statistic); prisoners: Strafvollzugsstatistik

Part of the reduction of prisoners aligns with a reduction in crime numbers, but also fewer suspects are being detained.

According to the Police Crime Statistic the number of cases went down by 16% from 6.6 million in 2003 to 5.5 million cases in 2025.
The incident rate (cases per 100.000 population) decreased by 17% (8000 → 6600). The number of suspects fell by 13% from 2,36 million to 2,05 million.

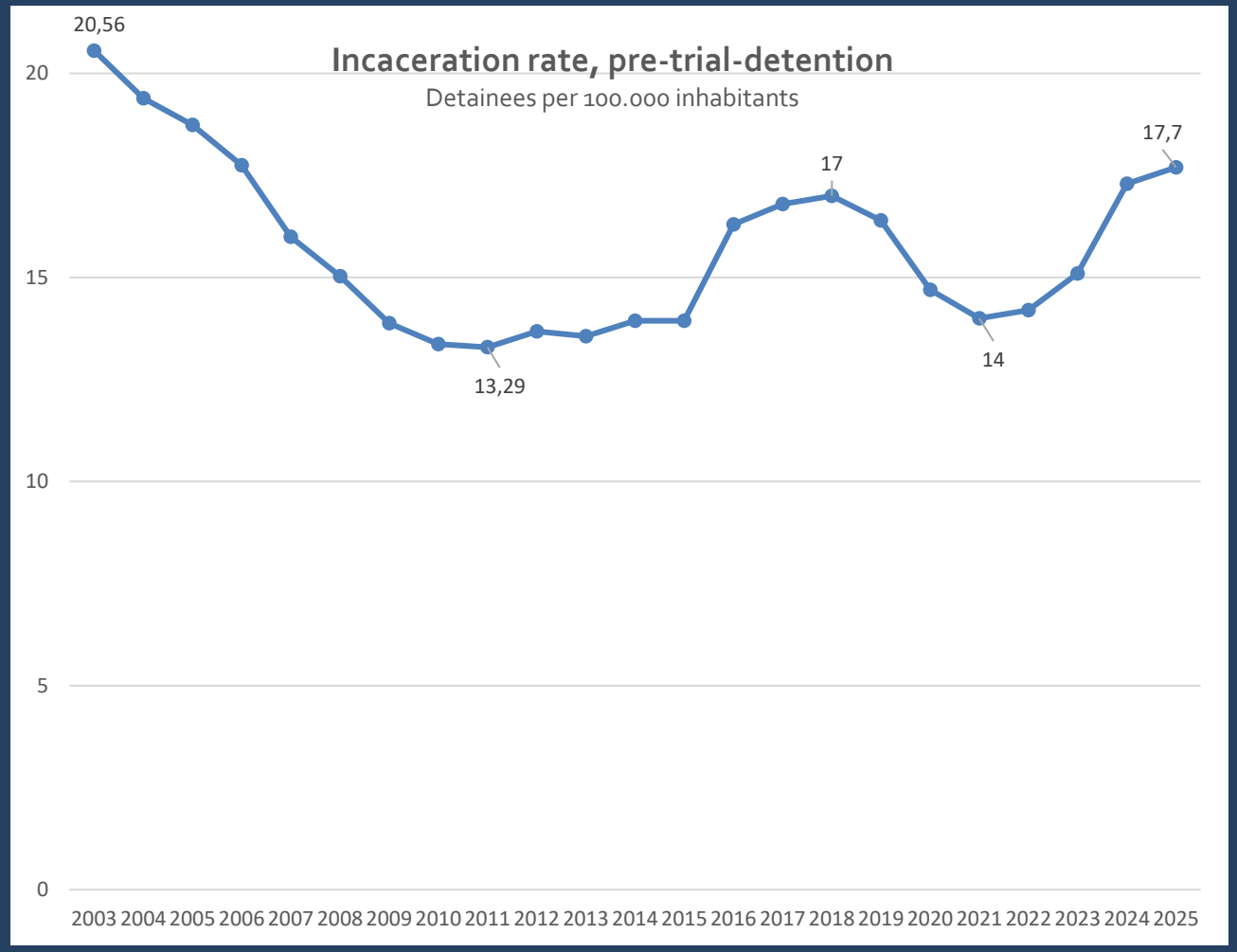
In addition to the drop in crime, it appears that suspects are being detained less frequently.

Over the period between 2003 and 2025 the ratio of prisoners as a whole to suspects (prisoners / 100 suspects) went down by 14,8% from 3,45 in 2003 to 2,94 in 2025.
Especially n the first decade between 2003 and 2013 the numbers of prisoners dropped faster then the number of suspects. [1]

This could indicate that there have been changes in judicial practice.

[1] This is a rough correlation. The Police Crime Statistic and the Correctional Statistic use different methodology and are not interlinked.

2.4 Pre-trial-detention



Numbers by Dünkel, Harrendorf & Geng, FS 2026, 198.

A fluctuating trend can be observed in pre-trial-detention – two phases are to be distinguished:

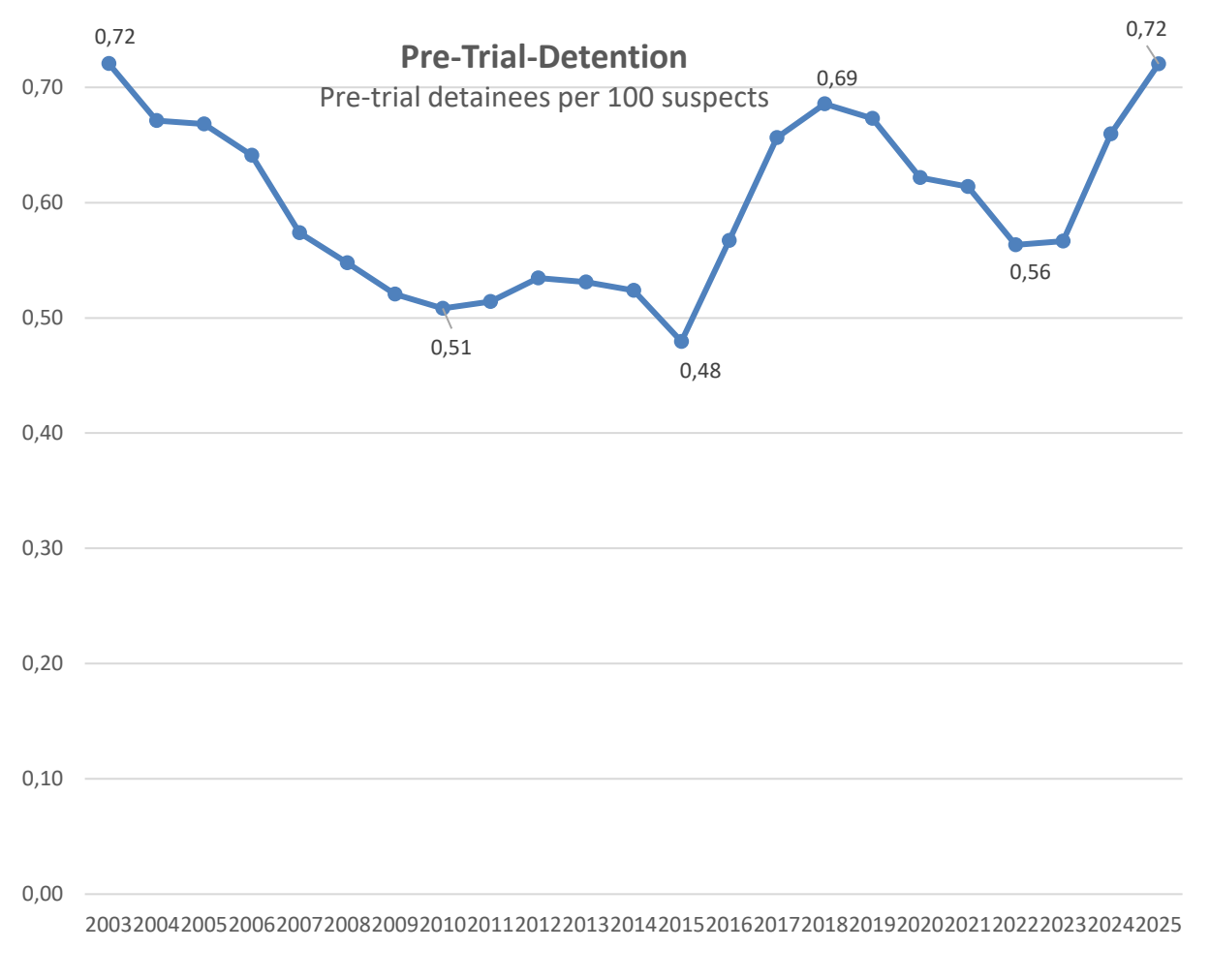
2003 – 2011: Steady decline

- Absolute numbers of pre-trial-detainees decreased from 17.000 to 10.800 (-36%)
- Incarceration rate fell from 20,6 to 13,3 (- 35,4%).

2011 – 2025: Fluctuating growth:

- low plateau 2011 – 2015; new height 2016 – 2019; corona gap 2020 – 2022; catch up growth 2023 – 2025.
- Absolute numbers of pre-trial-detainees increased from 10.800 to 14.800 (+36%)
- Incarceration rate went up from 13,3 to 17,7 (+ 33,2%)

2.4 Pre-trial-detention



Suspects: Polizeiliche Kriminalsstatistik (Police Crime Statistic); prisoners: Strafvollzugsstatistik

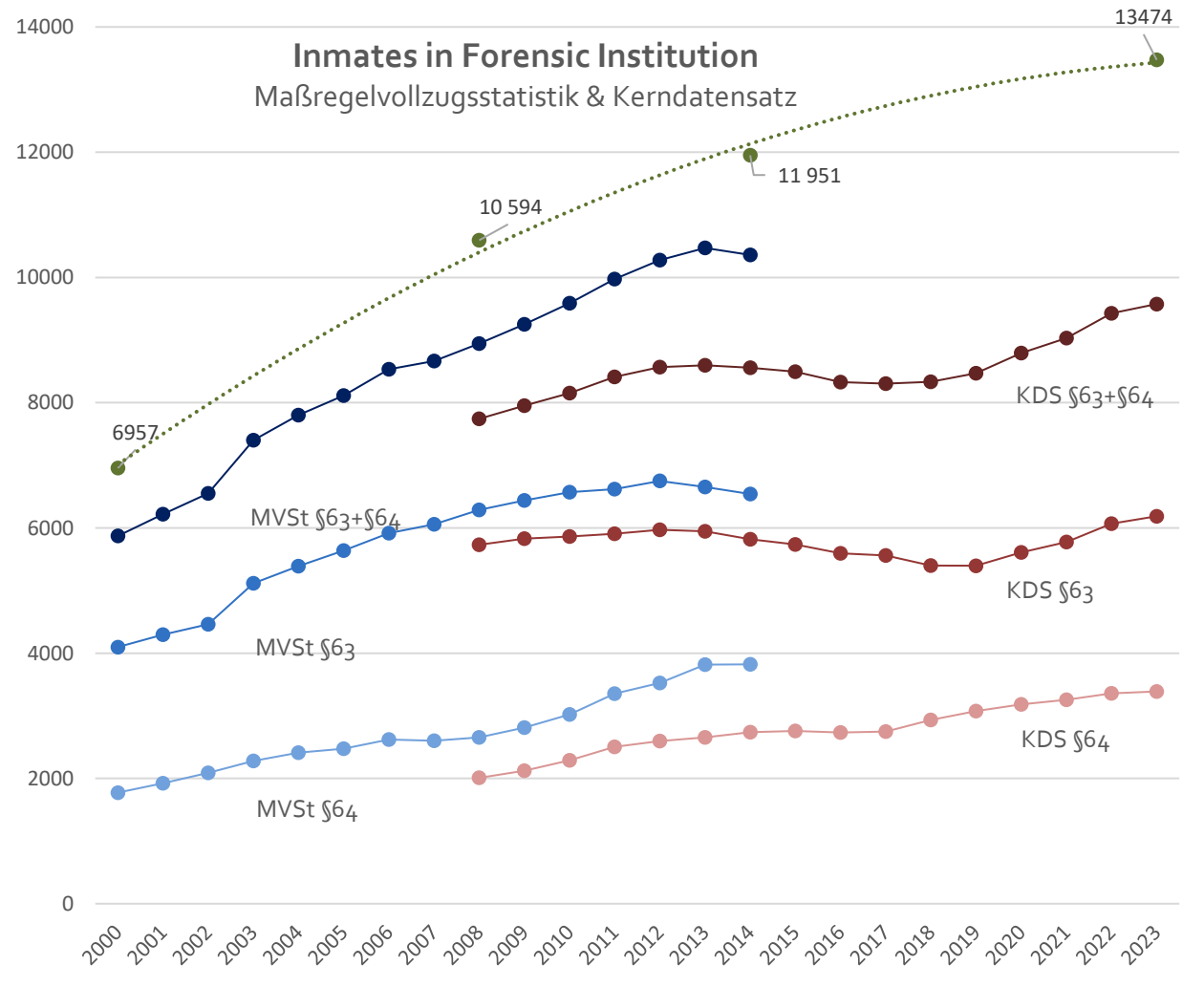
Accordingly the correlation between suspects and pre-trial-detainees changed:

In 2025, the ratio of pre-trial detainees to suspects [1] reached at 0,72 the same level again as it was in 2003. It had fallen to 0,51 in 2010 and was even lower in 2015 at 0,48, but then rose again, with the typical dip during the COVID-19 pandemic (2022: 0,56).

Neither the decline in crime nor the changes in the ratio between prisoners and suspects and between pre-trial detainees and suspects can be explained by changes in law, since criminal law reforms during this period either expanded the scope of criminal laws or increased the severity of penalties.

[1] This is a rough correlation. The Police Crime Statistic and the Correctional Statistic use different methodology and are not interlinked.

2.5 Shift to Forensic Institutions



Situation in forensic institutions:

In Germany, offenders may be sentenced to placement in a psychiatric hospital or a rehabilitation facility instead of a prison term if they committed the crime as a result of a psychiatric disorder or drug use/ addiction (measures for rehabilitation and prevention, Sections 63 and 64 of the German Criminal Code (StGB)).

It can be assumed that the number of patients in forensic institutions almost doubled between 2000 (ca. 7000) and 20025 (ca. 13.500). [1]

Although there are no statistics on the capacity of these institutions, we do have reports of situations of severe overcrowding. [2]

If the assumption is correct, the reduction of prisoners (-20.800) is partially a result of a shift into forensic placements (+ 6500).

[1] This is an estimate. There are no reliable data covering all Länder and the whole period. The Maßregelvollzugsstatistik (statistic on forensic psychiatric care) covers the former West German Länder and was discontinued in 2014. The Kerndatensatz (core dataset) is an unofficial set of statistics compiled by the Länder since 2008, so far excluding Baden-Württemberg and Bavaria. The estimate is based on a combination and interpolation of both sets of statistics. Concerning the occupancy in forensic institutions see also Lindemann & Lesting 2025; Jehle 2024.
[2] Acosta Schulze & Décarpes 2026; Nationale Stelle 2026; Zeidler et.al. 2024.

2000-2014: Maßregelvollzugsstatistik, MRVSt (Statistic on Forensic Psychiatric Care), former West German Länder, occupancy per 31.3.
2008-2025: Kerndatensatz, KDS (Core Dataset), without Baden-Württemberg and Bavaria, average daily occupancy per year

3. Latest Reforms

3.1 Reform on the Law of Sanctions, 2023

I.a. changes in the Substitute Prison Sentence and the measure of placement in a rehabilitation facility (Section § 64 StGB)

1. Substitute prison sentence

Substitute Prison Sentence (SPS) may be imposed if a fine is not being paid. In German criminal law a fine is made up by two elements: the number of daily rates, reflecting the severity of the offence and the guilt of the convict, and the amount per daily rate, reflecting his financial capabilities. In the past the conversion factor was one daily rate – one day in prison.

The law changed this conversion factor (section 43 StGB): now two daily rates – one day in prison. This has reduced the number of prisoners concerned at a given day by 50% from around 4800 (January 2024) to 2353 (31.12.2025). [1]

But: changing the conversion factor does not reduce the number of entries / persons affected (only the time spend in prison).

If the average fine has 60 daily rates [2], it can be roughly estimated, that in the course of the year around 25.800 persons would be imprisoned.

[1] Lippert 2026. Bundesregierung, BT-Drs. 21/7170 v. 14.7.2026
[2] For Berlin: Meier & Bögelein 2026a; Meier & Bögelein 2026b. Lippert 2026: average 52,5 daily rates, median: 40 daily rates.

Background:

Before the reform the number of prisoners in SPS and their proportion of all prisoners increased steadily. [1] Due to their short period they cause a lot of administrative burden, but have no rehabilitative effect.

High proportion of those affected are poor, homeless, use drugs or are addicted to drugs, or suffer from mental disorders.[2]

Substitute imprisonment is most commonly applied in cases of minor offenses and typical poverty-related crimes, such as riding public transportation without a ticket or petty theft.[3]

In the prosecution of these offenses, the summary judgment procedure (Strafbefehlsverfahren) is frequently used, a purely written procedure: the court serves the defendant with the indictment filed by the public prosecutor, which becomes the judgment if the defendant does not object. Many of these defendants are not able to comply with these procedures.

Other solutions discussed were: decriminalization of certain petty crimes, changes in the procedures, abolition of SPS... [4]

[1] Bund-Länder-Arbeitsgruppe 2019.
[2] Meier & Bögelein 2026a; Meier & Bögelein 2026b.
[3] Meier & Bögelein 2026a; Meier & Bögelein 2026b; Kinzig 2025.
[4] Kinzig 2025; Bund-Länder-Arbeitsgruppe 2019.

3.1 Reform on the Law of Sanctions, 2023

2. Placement in a rehabilitation facility (section 64 StGB)

The reform provided for stricter requirements:
- stricter requirements regarding the severity of the drug use,
- closer link between drug use or addiction and the crime committed and
- higher expectations regarding successful treatment.

The reform made the placement less "attractive":
Previously, it was possible to suspend the accompanying sentence already after serving half of the sentence, if the treatment was successful, compared to two thirds without the placement.
By the reform this was "harmonized": now a suspension of the sentence after a successful treatment is only possible after two thirds are served.

The reform seams to be quite effective:
- Criminal courts have become significantly more cautious when ordering this measure. The placement orders dropped in the year after the reform (2023/2024) by 50,4% [1]
- Subsequently, there are reports stating a strong drop in patients in rehabilitation facilities. [2]

This means a "shift backward" from placements in a rehabilitation facility to prison terms. [3]
The law appears to have significantly eased the burden on forensic institutions. However, it is doubtful whether it promotes the rehabilitation chances of convicted persons having drug issues. [4]

[1] Baur et al. 2025. Koller 2025; Kahnt et al 2026: Berlin -50%.; Strafverfolgungstatistik
[2] Regarding Bavaria: Groß & Stübner 2026. Regarding Brandenburg & North Rhine-Westfalia: Lesting & Lindemann 2026.
[3] Groß & Stübner 2026.
[4] Baur et al. 2025; Dünkel, Orlob & Thile 2025.

3.2 Decriminalization of cannabis use, 2023

Law on the handling of recreational cannabis ("Konsumcannabisgesetz") 2023

The "*most significant decriminalization in the history of the Federal Republic*" [1]

Partial legalization of Cannabis: i.a. permits adults to possess up to 25 mg of cannabis for personal use.

Before: strong increase of investigative procedure into drug offenses (2009 – 2023: +60%), mainly due to an increase of minor drug offenses (+66,8%); minor drug offenses account for over 90% of all drug related investigative procedures. [2]

Sharp drop of Cannabis resp. drug offenses [3] :

- On the police level: cases of Cannabis offenses dropped by 80% or (173.000 cases) from 215.865 in 2023 to 42.823 in 2025
- From 2023 to 2024 the prosecution of drug offenses fell by 26% and the convictions by 25%

But little effect on prison population, since the law aimed at light forms of drug offences.
Prisoners convicted of drug offenses 2023 → 2025: -355 (-5,4%) [1]

[1] Manthey et al. 2026.
[2] Manthey et al. 2026; Rebmann et al. 2026.
[3] Rebmann et al. 2026.

[1] Strafvollzugsstatistik

4. Take home messages & conclusions

4. Take home and conclusions

Prison Situation 2003 – 2025:

- Reduction in prisoners: - 25%
- Occupancy rate: - 20%
- Single occupancy: 50% → 80%
- High occupancy rates in closed units, decline of open prisons
- Mixed picture in the Länder

Possible causes:

- Development was ***not*** triggered by legal reforms
- Reduction in crime: suspects -13%
- Likely: Changes in practice of judicial system
- Shift to forensic placements:
  number of patients doubled, ca. +6600 patients;
  severe overcrowding in forensic facilities

Current reforms and possible future developments:

- Reduction in prison time of substitute prison sentence, but no significant change in entries
- Less placements in rehabilitation facilities
  → more prisoners with drug issues
- Currently trend to more pre-trial-detention, possibly leading to more prison sentences again

4. Take home and conclusions

- "*Ending prison overcrowding*": The best way is to reduce prisoners – rather then building up capacities or even lowering standards.
- A comprehensive system of alternative sanctions that allows for diversion and the avoidance of imprisonment should be established and expanded.
- In addition to legal reforms the practices of prosecution offices and courts are a key driver of change; professional values and mentalities of prosecutors and judges, traditions and cultures of sanctioning are important drivers, therefore they should be addressed independently.
- Social reintegration should be stressed as a main motive throughout the criminal justice system, not only while executing sanctions.
- The effort to address overcrowding must not be limited to prisons but must also include forensic facilities (and maybe other institutions of imprisonment).
- Good, valid statistics are necessary (Germany: esp. statistics on forensic placements are urgently needed).

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Bio

Professional Background:

- Public Prosecutor in Schleswig-Holstein
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** This input reflects my personal views – I am not speaking on behalf of the Federal Ministry of Justice and for Consumer Protection.*

Hobbies:

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