

WEDNESDAY 17 MARCH 2010

Present

Avebury, L.
Billingham, B.
Dear, L.
Garden of Frognal, L.
Harrison, L.
Hodgson of Astley Abbots, L.
Jopling, L. (Chairman)
Mackenzie of Framwellgate, L.
Mawson, L.
Naseby, L.
Richard, L.

Witnesses: **Meg Hillier**, a Member of the House of Commons, Parliamentary Under-Secretary of State, **Ms Emma Gibbons**, EU Section, International Directorate, Home Office; **Ms Emma Haddad**, International Policy, UK Border Agency; and **Ms Belinda Lewis**, Head of Information Policy, Ministry of Justice, examined.

Q1 Chairman: Minister, welcome. I think the last time you came before us you were about to have a happy event. We are delighted to see you again and hope all has gone very well. Thank you for coming to see us. A verbatim transcript is being taken and this too will be put on the parliamentary website. We will send you a copy of the transcript as soon as we can in a few days and would be most grateful if your officials could give us any corrections as quickly as possible. It is particularly important that we get it before the House rises for Easter. If, after you have left us, you wish to reconsider any of the points you have made we would be very glad indeed to hear of that or any additional points which you might like to give as supplementary evidence. Perhaps, first of all, you would like to ask your colleagues to introduce themselves. Naturally we should be delighted to hear from any of them to supplement what you have to say to us.

Meg Hillier: Thank you very much, my Lord Chairman. It is a pleasure to be back. It is amazing that my daughter was 11 months old yesterday, so in the time that a baby can be born and grow, progress can also be made in Europe. The Stockholm Programme has been delivered in that time as well, which is good news. First, before I introduce colleagues, I just want to underline an apology that I know has been made before in writing, but as I am here before the Committee today I would just apologise for the delays in getting things to you over the Christmas period. This should not have happened, it will not happen again and we are all very embarrassed that it did. I wanted to personally apologise to you for that. I hope that we can draw a line under it and make sure we carry on as we were before. I am delighted to be here. It probably is best if my officials introduce themselves.

Ms Gibbons: I am Emma Gibbons. I am Head of the EU Section in the International Directorate in the Home Office.

Ms Haddad: I am Emma Haddad. I am Director of International Policy in the UK Border Agency.

Ms Lewis: Good morning. I am Belinda Lewis. I am Head of Information Policy in the Ministry of Justice.

Q2 Chairman: Thank you very much. Minister, I am going to bowl you a fast ball first of all. Whilst you were waiting outside the Committee was considering various scrutiny items and it was the view of the Committee that we ought to ask you, if you can, to bring us up-to-date with regard to a letter you wrote to us on 3 March on the EU-US-PNR - Passenger Name Record - Agreement. We have not heard whether the Government has opted in to this. I think the date is imminent for us to opt in or not. I wonder if you could tell us before we begin whether the Government have done so. I see a certain amount of whispering among your officials and I am happy to go on talking for a little while.

Meg Hillier: I just wanted to make sure that my understanding was absolutely right. We are issuing letters today to opt in and PNR, in fact, has been one of the things that I have been pursuing particularly for the two and a half years or so that I have been in the Home Office. It is interesting, but when I mentioned the difference between having children and progress in Europe it was not coincidental because I always think Europe moves at two speeds, and we were going on a slow speed on PNR and now suddenly it is going very fast because of the incident in Detroit in December. Letters are being issued for opt in today.

Q3 Chairman: We have opted in. Thank you, I am most obliged. I do apologise for asking you a question like that. Let me start with the more formal questions. This hearing is with regard to the Stockholm Programme. Is it possible that the Programme's emphasis on 'solidarity' among Member States concerning asylum issues will be undermined if the UK does not opt in to major elements of the Common European Asylum Policy's second phase?

Meg Hillier: My Lord Chairman, I question really whether the emphasis on the asylum sections of the Stockholm Programme is about solidarity. The UK successfully argued for the Programme and for it to reflect the Migration Pact which was put forward during the French Presidency. That was particularly the commitments to provide quick access to legally safe and efficient asylum procedures for those who need protection as well as, of course, preventing, controlling and combating illegal migration, which is obviously a big issue for the UK, and in order to maintain the credible and sustainable immigration and asylum systems that we believe we have got in the UK and for the rest of Europe. We are committed to a Common European Asylum system but we have some way to go. We have had concerns, of course, about some of the measures in the Common European Asylum Policy. For example, the Procedures Directive and the Qualification Directive, particularly on the rules on which applicants should be granted protection. We are not in yet but are actively considering the draft Directives on Reception Conditions, Qualification and Asylum Procedures. We are

playing a very active role in the negotiations on those instruments and we can, of course, apply to opt in after they have been adopted. We have always said, and I think I have said to this Committee before, that solidarity for us is very much about practical cooperation. On the ground in Europe and in the Council when I am speaking to other ministers obviously we discuss policy but very, very quickly on these issues we get into discussing how we can share good practice, sometimes share personnel, share teams of people and pools of expertise. I think if there is solidarity that is where it really lies in a very practical way. I would not want to characterise it as such, but it is perhaps true that people see it as us having our cake and eating it on some of these issues. I think we have got it about right because we do need to protect our borders, but that does not mean we do not have solidarity in practical ways with our European partners.

Q4 Lord Naseby: As one who had the privilege of working very closely with UNHCR when I was on the Council of Europe, I would like to ask you does the Government consider that the views of UNHCR and the Commission, with respect to the integration of migrants under the proposed Joint EU Resettlement Programme, can actually be reconciled.

Meg Hillier: I certainly do. In fact, we have had quite a lot of discussion both bilaterally and at EU level with UNHCR. The Resettlement Programme is very important because we have had the Gateway Programme in the UK where we settled 750 people. A former Dutch Minister in relation to Iraq personally drove through a desire for Europe to take more resettled people from UNHCR camps around the world. I signed a letter - it seems like a long time ago - maybe in 2007, if not 2008, urging other European partners to take more people. We have got some really good work going on with UNHCR. The focus of the Resettlement Programme is on coordination and creating a political framework to develop resettlement further within the EU. It is quite a passion for me and I am quite pleased that we are very much on the same page as the UNHCR on this.

Q5 Lord Naseby: Was not one of the stumbling blocks really that the UNHCR proposed the place of settlement was the key issue and is that still a stumbling block, or not?

Meg Hillier: They have subsequently stated very clearly there are no issues in integration which they believe cannot be reconciled. Going back to what the policy says versus what practically happens, clearly as ministers we do sometimes discuss that if a country has a group of diaspora citizens, or former citizens of another country, there may be some sense in looking at resettlement across Europe and groups from particular camps and countries to come to particular EU countries so that you can get the integration. On a practical basis that tends to work quite well anyway. We are very much in the same place with the UNHCR. Certainly the discussions I have had with them bilaterally have been very positive and candid, and I think that is important. We cannot gloss over some of the issues, we need to be quite candid about which countries are better. On the other hand, we must not let European countries off the hook if there are issues about certain groups who are not well protected there. I can think of one country that is hoping to enter the EU where there are concerns about how refugees are treated, for instance. We need to keep our foot on the pedal to make sure that while we want to see resettlement and integration done very effectively we should not just allow it to be done by the countries that do it best, we need to raise the standard in every country in Europe so that integration becomes part of what we all do in Europe as very much a European mission.

Q6 Lord Harrison: Minister, will you forgive me a comment about solidarity that arises from your answer to the first question. I did represent this Committee in the European Parliament with the Commission and Council as well talking about the Stockholm Programme and was very impressed with the solidarity and the way everyone was looking forward to making this work. I do understand our sometimes halfway position, but if I report to you there was a member from an entirely different British party who sounded a very sour note, in

my opinion, sometimes it is useful to give a sense that solidarity can be a very good thing amongst colleagues and can help to drive our way forward. The Government supports the increase in information exchanges between the law enforcement authorities as called for in the Stockholm Programme, but how will they ensure that citizens' rights to privacy and data protection are taken into account during the expected evaluation of the existing data protection instruments by the Commission?

Meg Hillier: I would say, my Lord Chairman, that the issues around data sharing and data protection are very important but must be seen together. I have always believed that government is about data sharing, but it is absolutely essential that government is also about protecting the rights and data of citizens, and the same goes for the EU. This is a burning issue for the European Parliament, as we saw recently with the vote on SWIFT and some of the concerns about PNR from the LIBE Committee, and I am very alert to that. The Parliament is doing a good job, even though it can be challenging for those of us in Government at times, in making sure they are standing up for the rights of citizens. It is important that it is a package. It is necessary but it has got to be proportionate that we exchange information for public protection purposes; it has got to be done properly. When Phil Woolas was here back in October, just before I came back, he was very clear about what we were trying to achieve in the Stockholm Programme, and I think we have got there. We wanted a strategic EU approach building on the principles of data protection and data sharing. We are pleased that the Council Conclusions of November reflected the UK's position. In terms of data sharing there are huge benefits that can be achieved, for instance around child protection, sharing information about professionals such as GPs who are struck off, and there are also potential security benefits if we get it right. We are introducing the Privacy Impact Assessment, and Belinda may want to add a bit on this, which is an example of the UK leading the way, so that on every issue coming through right at the beginning of policymaking

Privacy Impact Assessment data issues are looked at at that stage rather than as an afterthought. If we are serious about saying to the British public and to EU citizens that we want to do this properly, it is right that we look at it that way round. I do not know whether Belinda would like to elaborate on that.

Ms Lewis: I think it is also worth adding that the UK has volunteered to chair a technical sub-committee to the Ad Hoc Information Exchange Working Group. One of the things that we would like to do under the chairmanship of this technical sub-committee is to promote the use of Privacy Impact Assessments. As the Minister said, the data protection safeguards that are built into existing instruments, but also going forward, looking at new instruments, are considered at the very start of the process so we can look at building things in as early as possible instead of trying to fix problems at the end of the process.

Lord Harrison: That is very helpful.

Q7 Lord Hodgson of Astley Abbotts: Impact assessments, which we see a lot of in Bills travelling through our House, are fine, although they are obviously quite judgmental in the way they are set up because they are anticipatory, but there is very little follow-through after the event. That is to say, whether the original impact assessment met what was planned for it and whether the effect was greater or lesser than was anticipated before the Bill began its process. When you talk about Privacy Impact Assessments, will those be subject to a further review subsequently to see exactly what the actual effect was?

Ms Lewis: In many cases I hope there would be. This is something that we are trying to address through the EU Information Management Strategy where we are trying to take a more workmanlike approach and continually review how well things are working. The only way we will know how well something is working and if we need to fix it is by looking back at what we initially set out to achieve and seeing how well we have managed to do that. That

review process, that more circular process, I hope will be built into the way we will be working.

Meg Hillier: That is a very important point and one that I shall definitely take away. I would also hope that through scrutiny those questions continue to be asked by committees because ministers come and go, officials indeed come and go, but it is important we get it right. Frankly, if we are going to get the European Parliament, now under co-decision, to back approaches that we want to put forward then we have to have that post hoc analysis and we have to do it well and be honest when things have not gone right. We have got to have that honesty or we will not make progress.

Q8 Lord Richard: I wonder if I could pursue this Privacy Impact Assessment a bit more. Whose privacy are we looking at? What impacts are we looking at on whose privacy, or is it the privacy as an impact upon something else? What sort of assessment do we make? How do we do it and what happens to it? They are all fairly practical questions, I hope, which clearly expose my ignorance but I would be grateful to have it satisfied.

Ms Lewis: In relation to the question about whose privacy are we looking at and what happens with one person's personal data - if it is used in order to protect somebody else, for example - the intention is that is looked at in the round. We take a holistic approach to Privacy Impact Assessments, so all different aspects of privacy, and the different groups of people whose privacy would be impacted upon by a particular initiative or proposal or project, should be looked at. We will not be looking, for example, just at certain data subjects: we will be looking more broadly than that. We will be looking at all the different groups of data subjects. It is not a case of who is most likely to be impacted upon, and therefore we will just look at them: we will be trying to look across the piece as well as we can.

Q9 Lord Richard: To do what? You say you will be looking across in order to achieve what?

Ms Lewis: In order to assess the likely impacts on those different groups of people to see if there are changes that we might want to make before we go ahead with any proposal to see if there are different, less invasive methods of achieving the same ends. If there are not better ways of doing it, we can look at things like Fair Processing Notices to make sure people are as informed as possible about how we would be using their data. It is to try and take an informed view as early as possible: is it worth going ahead with something in the way that we originally intended or do we need to make amendments?; how do we convey that information to people? You also asked what would happen to the impact assessments. From a UK perspective we hope that they would be published, insofar as they can be, although there may be security issues or commercial interests where it might not be appropriate to publish the full impact assessment, but we think that kind of transparency is very important to increase the public's confidence in what we are doing.

Q10 Lord Richard: Let me just follow this through. The Commission may propose something, or the Parliament proposes something, and then you have a Privacy Impact Assessment on those proposals to see how it affects the privacy of those different groupings. Is this done just by the UK or is it a joint exercise?

Ms Lewis: If it was a Commission proposal we would expect the impact assessment to be conducted by the Commission with Member States commenting on that.

Q11 Lord Dear: Minister, I wonder if I could give a background to the question I want to pose. At one end of a proposal cultural programme would be a pious hope that it will occur, but not much more, to give the energy or the momentum to it, and at the other is a real determination to make something happen. Against that spectrum I wonder if I could pose my

question, which is whether the Government supports the creation of a 'genuine' European law enforcement culture by organising joint training exercises and exchange programmes. If you do, what sort of momentum and weight do you give to that? Particularly, how many members of staff do you envisage going through the programme?

Meg Hillier: There absolutely has to be momentum and weight behind it because if we are looking at national security issues we have to have good international cooperation. Clearly the better we have it across Europe, the better it can be. It is interesting that a couple of years ago when I was visiting ministers in Budapest, even with that personal contact you picked up issues where you have potential good opportunities for collaboration and information sharing bilaterally, let alone within the European field. There has got to be mutual understanding, respect and cooperation based on the knowledge that we can share, and best practice, and there are examples of how well we have done this. On the issue raised about the number of people going through, we had quite a lot of discussion about how that part of the Stockholm Programme should be phrased because we felt to set specific targets for numbers of staff was not particularly helpful in its own right. We already find there is a lot of cooperation on a needs basis, so many of our agencies are already doing exchanges. Obviously we have the European Police College based at Bramshill, a virtual college where courses are provided via Bramshill. We have been reluctant to say a certain percentage of staff might need to go through this. It needs to be if they need it they should get it. We also need to be mindful about how long courses are. Some have been proposed at about 13 weeks, but is going on a course of 13 weeks going to be the answer or is it better that people cooperate practically, maybe with a short course. What we have found so far, and Emma can come in more on this if you want more information, is the operational officers on the ground will collaborate, cooperate and share very much when they need to and there are not barriers to that, but there is a political will to see this happen and it has been raised at the Council by ministers. There

is a drive from the politicians, but we have to be a bit wary of prescribing from the political level because a lot of this is about good operational practice where the UK leads the way and a lot of other EU partners want to come and learn from us.

Q12 Lord Dear: Can I drill down just a little on that. In my experience there is a temptation frequently to say, “We need a course and it will be six weeks, eight weeks, two weeks, five days, how do we fill it?” In other words, you do it back to front. I wonder what degree of evaluation there is because it is the evaluation of what it is you are going to achieve and how you work up to it and, surprise, surprise, it is X days or weeks. That way round is the right way, yet so often it works in reverse.

Meg Hillier: I completely agree with that point, my Lord Chairman, and that is why I do not think we want to prescribe exactly what happens. It needs to be on a needs basis. It is a challenge. It is always going to be an issue that if a course is available people will want to fill it, which is why we do not want to have overlong and worthily worked up courses that are not delivering for operational officers. We need to hear from the operational officers what it is they need and where those gaps are. As far as I remember, we are talking about 70 per cent of some staff: all police involved in European police cooperation, half of the judges, prosecutors and judicial staff involved in the European judicial cooperation as well as half of all other professionals involved in this area. Happily, the UK won the argument and we got the word “could” be offered European training schemes rather than “should” or “must be”, because that is a lot of people to go through a course that has been designed and that needs to be filled rather than the other way round.

Q13 Lord Dear: It is the same approach to saying, “We will have a 13 week course, how do we fill it?” I wonder if somebody has actually got a target of, “This is what we want to achieve. We want a country to be able to respond in a certain way with certain levels of

aptitude and in certain directions”, working from that declared objective and then sorting out the numbers that go through.

Meg Hillier: I will ask Emma to come in on the detail, but I would hope that is the case because when we talk about issues such as FRONTEX, and we have presentations from time to time at Council and as ministers discuss bilaterally issues around cooperation, we do identify needs even at that political level, and I know much more goes on at operational level. I would hope the European Police College then meets those requirements rather than the other way round. I do not know if Emma wants to add anything.

Ms Gibbons: Having got in the Stockholm Programme the removal of the arbitrary targets and rather a sense that this is a good thing to pursue, but on a sensible basis, we will use that to argue the needs-based approach. I understand the police college, CEPOL, is working up some proposals with the Commission on what that might be. They have run some exchange programmes in the past on a fairly small scale, but where they have been targeted on specific subjects are very well planned and evaluated. I think there are evaluation reports on the success of those. We will want to look at those proposals to make sure, as you say, they are needs-based rather than simply target-based, “We need X number of people”.

Meg Hillier: Once again, I would say that scrutiny of this is always very welcome because it could become a European bureaucratic animal if we are not careful. We want results, not just more bureaucracy and box ticking. We have had a good record so far on getting results, partly because it has been those people on the ground who have been in the driving seat and we have got to be wary of trying to take it over as politicians.

Q14 Lord Mawson: I just want to pick up on the point Lord Dear was making. Certainly my experience in this country is there has been lots of rhetoric about joined-up thinking and joined-up actions, millions of pounds spent on training, et cetera, but when I get on the ground in Oldham or Manchester or Glasgow or Bradford, it is not happening. The reality is

the only way to make that happen is through very practical pieces of engagement, Pathfinder projects, and clear leadership to share that. The very structure of the Civil Service and the structures in which many of these people operate are not geared up to what this means, so they will tick boxes, they will join committees, they will write policy papers, but the basic learning is not happening. What are you actually going to do about that? What investment is going to go into this? In the projects I have been involved with where it has happened it has meant real investment and leadership in the public sector at the top to make that happen, and in the middle and on the ground. Unless that is happening it does not work.

Meg Hillier: If I can touch slightly off the subject, my Lord Chairman, on the domestic situation because parallels can be drawn. If you look at the way that local politics works now in the UK with the whole issue around leadership of place, that is where at the top level, whether it be the elected mayor, the leader or the executive of a council, their job is to look at that broader picture. I always think that is a great strength of an elected politician, that you see the big picture and not just the silo, and that is how it ought to be. Hopefully we will not get too siloed in time. That then feeds through. With examples in the UK, such as Neighbourhood Policing, you have people working together very closely on the ground at operational level. I would like to believe that is what we have been achieving at the European level. As I said, I do not want to see politicians so over-egg it that we lose that detailed working on the ground. If you look at what SOCA do around Europe, for example, and the work we are doing with the Irish and Italians on organised crime and seizure of assets, there is real cooperation that leads to good practice. Sometimes to codify that means it can weaken. When I am talking to ministers, very often we find those who are not interested are not interested because they have not had an issue. When we deal with terrorist issues, sadly, the reality is as soon as there has been a terrorist attack in a country an alliance springs up between the UK, that country and the other countries that have suffered that. We have

interesting relations, for instance, with some of the Balkan states because of their issues with some of the challenges they are facing which mirror some of the challenges in the UK, but other countries, for instance in the Mediterranean, have different challenges. We need to keep working on a needs basis, and sometimes overdoing it, if you like, at a political level and setting tick box targets is not going to achieve a lot. I think we are doing quite well at European level.

Q15 Lord Mawson: One thing I have been involved in this week is a very tough estate where there has been quite a lot of violence and a major project has been developing over three years and the safety bits of it and another bit of the council had no idea any of this was going on. There is a rhetorical level and a reports level involved. There is a reality under the surface and unless we get under the surface we are not tackling the real issues. It is more than a course.

Meg Hillier: I agree. Can I suggest, my Lord Chairman, not wishing to create work for Emma and her team, but I will, I think it would be helpful if we were able to provide the Committee after this with a list of some of the very practical projects on the ground. We are never going to get it perfect and, as has been highlighted, in local government it is not always perfect but there are good examples of that practical cooperation and we will happily share that with the Committee. It also would be helpful for you in scrutiny if you could see where there has been good practice and to keep an eye on whether it is progressing.

Q16 Chairman: Minister, we would welcome that. Thank you very much. It may be that Lord Mawson may wish to send you a list of enterprises that are not going so well and perhaps you can match one with the other.

Meg Hillier: I will happily take that on behalf of Government and pass it on to the relevant people.

Chairman: That might be helpful to you as your document will be helpful to us. Thank you.

Q17 Lord Avebury: Minister, can I ask you about the European Criminal Records Information System and its impact on preventing access by certain individuals to jobs which involve children and also the proposal that the Commission should assess the networking of criminal records as a means to that end. Has the Government got any view on that?

Meg Hillier: This is a very complex area, my Lord Chairman, and one that I am dealing with as chair of the ministerial group on criminality and information sharing as well. From the pure ECRIS point of view, I would say it is a good step but would caution that it is not a complete solution. Sometimes you can see newspaper headlines that scream we are going to solve everything by delivering this, but it does not solve the problem of criminal records checks because it does not change the information that is exchanged and, of course, some Member States, because of their constitution, cannot provide certain information. What it does is make the exchanges that happen quicker. It will not create proactive exchange but it does speed it up and interconnects the national systems that already exist. It is not a brand new system but it does that interconnection, which I think is helpful. We are making some progress on this area but we have got a number of hurdles that we need to approach with caution because of some of the legislative constraints that some Member States have. There is a Directive coming on combating exploitation of children due to be published later this month and that will offer steps towards the goal of combating some of the issues around children and personal safety, but it is going to be an issue overall in terms of data sharing on criminal records that is going to be quite a challenge. We are doing better on bilateral arrangements with countries currently than we are across Europe because it is much easier to have a bilateral exchange. What we are also doing, if I can slightly digress, in the criminality information group is assessing what information other countries can provide, and I can provide the Committee with a list of the countries we are working with so far, that will give

some guidance to employers about exactly the worth of criminal information from other countries. For example, if you take country X and a police check there would reveal only a certain level of information it is important that the employer knows that and it is not the same as the Criminal Records Bureau check in the UK, which is the gold standard as far as I am concerned. No other country does what we do in that way. It is good progress but it is not going to solve everything.

Q18 Lord Avebury: When they talk about networking, does that mean that people in foreign countries would have access to the CRB information and, conversely, we would have access to their criminal records?

Meg Hillier: Certainly they would not be able to mine the information, it would be about links. I will get Emma to come in on that and explain in a bit more detail.

Ms Gibbons: I may have to write with a bit more detail, but my understanding is that what it does is create a standardised format for information that is already exchanged. At the moment, if it were a paper exchange or old-fashioned exchange we give information to Member States on convictions of their nationals in the UK, and vice versa, and can request information on nationals for specific purposes. What ECRIS will do is create a standard format for that information to be exchanged through an electronic mechanism, so it will speed up and simplify the exchange. I can write and give a bit more detail on how that would work in practice, if that would be helpful.

Meg Hillier: I think it would be fair to say, my Lord Chairman, that none of us are IT specialists here. We will get back to you.

Q19 Lord Avebury: That would be very useful. As a supplementary to that, I wonder if you can say anything about the development of the Independent Safeguarding Authority checks and the register it is going to establish which will go even further in preventing

unsuitable people from having access to jobs involving children and vulnerable adults. If we feel that system is necessary as an addition to the CRB then will the same thing not happen in Europe?

Meg Hillier: This is, again, when we hit interesting issues about what different countries' constitutions allow. Some believe very much, even in cases of paedophilia, when someone has served a sentence there is a period after which that record is removed from their data. The Independent Safeguarding Authority, for which I am also the responsible minister at the Home Office - we have had lists of people not suitable with vulnerable adults or children since the 1920s - pulls those together but with a much more continuous approach. It is very much a gold standard. We wait to see if other countries want to take on the same approach. Approximately there are a third of European member countries - I perhaps should not quote a figure - that would have constitutional difficulties in even going anywhere near what we are doing with either CRB or the Independent Safeguarding Authority. In terms of European information sharing, the Independent Safeguarding Authority has no legal basis to require employers in Europe to provide information, but under British law if you are a British employer and you investigate somebody for something against a child or an adult then you would have to notify the Independent Safeguarding Authority by law. We always know that there is a difficulty in ensuring people about past criminal behaviour of people who have not always lived in the UK and that is not just foreign nationals, of course, that includes British citizens who may have worked abroad. We would always say that the risk we try to mitigate against with both CRB checks and the Independent Safeguarding Authority is not an absolute green light to employ somebody, an employer still needs to make their own checks. That is why the criminality and information sharing group is very particularly looking at the issue of making sure employers know what they are getting when they get foreign nationals to provide their police checks. There is one airline, for example, which I will not name, that requires

people who want to work for them to get a police check from their own country before they will even consider them for a job. Employers are doing this already, but we wonder if they know exactly what they are getting and we do not want people to think it is the same as the CRB, but nor do we want them to think the CRB gives someone absolutely the green light because there are bits of their records missing if they have not always been in the UK. An employer should see gaps in a CV and do the normal checks. I know I am a bit off the subject, my Lord Chairman, forgive me, but I am quite passionate about this. I cannot stress enough that government does not take the risk on itself completely, people's commonsense and normal due diligence need to take place as well.

Q20 Lord Avebury: There is a loophole in the system of protecting children and vulnerable adults in that, one, you say systems in foreign countries are such as to prevent the sharing of this information and, two, the employers are not obliged when they are undertaking the checks that are mandated by the Independent Safeguarding Authority to obtain the same degree of information from a foreign worker as they would from a British citizen.

Meg Hillier: We have always said that the Independent Safeguarding Authority is a very major step forward but we cannot find out every bit of information about everybody. Within the UK, if you have only ever worked within the UK, it is pretty stringent now. Clearly that is why an employer would have to take normal due diligence. References still matter and I am shocked that across my desk I see examples where people do not think they need to take up a reference perhaps because they have got the CRB check. Actually, a former employer abroad can give you a lot of information about somebody even if you cannot get all the information you would normally get through the UK system. I cannot stress that enough. Government cannot create perfect systems every time. We have not said we are doing that, but I think we have got it about right within the remit of UK law.

Q21 Lord Mackenzie of Framwellgate: Just a quick question on a related topic. Is there any work going on to create a European-wide sex offenders register as we operate it here?

Meg Hillier: Yes, there is. This has been a particular passion of both my Home Secretaries. Emma, can you update on where we are on this because I think something is coming forward next month?

Ms Gibbons: As things stand there is not a proposal for an EU sex offenders register per se, something that would mirror the UK system, but what the Stockholm Programme calls for is a programme of measures on how we can improve information exchange on disqualifications. Everybody recognises that is a long-term goal, it is not going to happen quickly for the reasons the Minister set out. In negotiating the Stockholm Programme we were very clear this was an area that we wanted further work on, and we have got that commitment. As the Minister mentioned, the first step in that will be a proposal out later this month on a mechanism for exchanging information on disqualifications but it will not be a central sex offenders register per se.

Q22 Lord Richard: Just one point that I do not quite understand. As I understand it, ECRIS is now going to be a computerised system to replace the existing system, which is, I do not know, files passing between countries or faxes or whatever. Can somebody tell me who decides what information goes into the system? Who decides what information is going to be exchanged?

Ms Gibbons: There is an existing EU instrument, a framework decision, that has laid down what must be exchanged and within certain deadlines. I do have the date. I believe that was adopted last year. That places the requirements of what must be exchanged and in what form. ECRIS will turn that into an electronic format to be exchanged.

Q23 Lord Richard: I understand that, yes.

Ms Gibbons: In deciding what should be exchanged all the Member States had discussions at a technical level and came to the conclusion that certain types of information were needed. I would have to retrieve the framework decision to tell you exactly what those are.

Q24 Lord Richard: Give us an idea anyway.

Ms Gibbons: You have to exchange information on the conviction but, to be honest, I have not read the framework decision recently, I would have to get the format and send it to you. We are going to write, I can add that to that letter.

Q25 Lord Hodgson of Astley Abbotts: I just wanted to raise the other side of the argument. Obviously there are the hard cases that my colleagues have been raising, but in our discussion of all this we do bear in mind that the two major reasons for people reoffending are the absence of a home and the absence of a job and our rehabilitation of offenders is some way behind other countries in the EU. If we are to break this cycle we do need to make sure this is not creating a structure that makes it harder and harder for people to get jobs.

Meg Hillier: I have been having discussions with the Justice Minister responsible for the Rehabilitation of Offenders Act very recently and there is recognition that it needs to be updated, renewed, whatever. I know that the MoJ is actively looking at that. I have not got a timetable but I am sure the MoJ could provide more information. I can pass that on to my MoJ colleague.

Q26 Lord Dear: My question was largely asked by Lord Richard a moment ago. I was simply going to pose a question, which I think you have already answered largely, on the exchange of information. I wonder whether you have experienced difficulty in terminology, different actions being classified as crimes in different ways or, indeed, not being classified. “Serious sex offenders” might mean different things in different countries. “Very serious

road traffic offences” might mean different things and be classified or not. Has that presented a problem?

Meg Hillier: My Lord Chairman, this is something that has been quite well worn, for instance, on extradition issues where the crime has to be the same in both countries. Yes, there are differences. If the legal age for sexual activity is 14 in a country and 16 in another then there is quite a difference. It has been a well worn argument. There are good protocols in place, for example, on extradition and what tends to happen is that we translate the agreed crimes that are the same in all countries from that protocol, if you like, through to other areas. I am happy to write further on that unless Emma wants to add anything.

Ms Gibbons: Just in the context of ECRIS, I understand there is a pilot project called the National Judicial Register which we are joining which is a smaller group of Member States to test out some of these issues because I think language has been one of the key questions. What they want to achieve in ECRIS is some mechanism which makes terminology more accessible across the various countries. Some of that work is being undertaken by this pilot project to try and make that work more effectively.

Meg Hillier: Certainly we are very alert to it. You are absolutely right, it is a very challenging area.

Q27 Baroness Garden of Frognal: Minister, we note that the first meeting of the Committee on Internal Security (COSI) took place on 11 March 2010. I wonder if you could tell us who represented the UK at that meeting, what was on the agenda, what matters were discussed, and whether the Government considers that this is going to be a useful forum to discuss the first meeting matters but also other international security matters in general?

Meg Hillier: Certainly we do agree it is going to be a very useful committee. The UK was represented by Peter Storr, who is head of the International Directorate at the Home Office, and he was there alongside police and policy experts from different countries. It is a mixed

committee in that way. The UK is very keen to have organised crime as one of the key items on the agenda there and that has been something that has been agreed with the UK looking to bring forward a proposal on priorities for future work particularly looking at that area. I should say that Paul Evans of SOCA was also there, so we had our own police representative as well. Serious and organised crime is one of the main benefits, in our view, from having this organisation. What we are very clear on is that it should not duplicate other work. Member States are still very much forming their positions on things. We are very clear, and I do not think I can say this too often, we are not after this committee to set up new legislative change, we believe practical cooperation is the way forward. The committee, of course, cannot require Member States to do anything, it is not set up on that basis, it is a consensus-based committee. We are also doing some important work bilaterally on asset recovery. There is some EU legislation on this but that has not been universally adopted and it may be that this committee will look at that as well. Overall, we think it is a good thing. The first meeting was a wide-ranging discussion, as I understand, and we hope that the second meeting will be able to focus in on some of the detail partly picking up on some of the work the UK is doing to develop the briefs.

Q28 Baroness Garden of Frognal: Will the committee itself decide its agenda for future meetings?

Meg Hillier: Yes.

Q29 Chairman: I understand at that meeting the UK was represented by officials. Would it be the intention in the future for it always to be represented by officials or would there sometimes be a ministerial presence?

Meg Hillier: As it stands, my Lord Chairman, I cannot see any reason that a minister would attend, it is an official level meeting. Partly the reason a lot of the police experts are involved

is because they would tend to have met anyway so it builds on existing work. It does report to the JHA Council, so we know what is going on. It is probably best to have experts. As politicians we always like to think we can do everything, but in this case I am very content to leave it to expert officials and have reports back, both UK officials reporting to me but equally the committee reporting to the Council.

Q30 Lord Mawson: Does the Government anticipate that the EU Internal Security Strategy, once adopted, will have any substantive impact on our interaction with the UK's National Security Strategy?

Meg Hillier: If I can reassure the Committee, we do not see it having a negative impact in any way. It is a statement of high-level principles. It does not set up EU bodies. We are very pleased that organised crime and counter-terrorism are both equally important, as outlined in the Stockholm Programme. There is no European Union competence on national security services issues. It is really important that we stress that. It might be worth the Committee knowing, my Lord Chairman, that the Secretary of State for Defence, the Home Secretary and Lord West, a Security Minister, are giving evidence to the Joint Committee on Security on Monday. There may be some interesting things that will come out of that. In terms of legislatively where it fits, Article 4.2 of the Lisbon Treaty specifically confirms that national security remains the sole responsibility of Member States. While we welcome the broad approach and, of course, national security depends on international cooperation, at the moment they fit well together but there is not penetration, if you like, by the EU security programme into domestic security responsibilities, which I think is the right balance. I am sure Lord West will elaborate on that with enthusiasm on Monday, and the Home Secretary too.

Q31 Lord Mackenzie of Framwellgate: I was delighted to hear the Minister stress the importance of organised crime in its impact on internal security as is evidenced by the recent events in Mexico for example. Can the Minister explain what she foresees as the main elements of the EU Organised Crime Strategy which is to be adopted within the framework of the EU Internal Security Strategy?

Meg Hillier: This is a very important area for us and we are very pleased that it is a big focus. We are formulating some work, as I mentioned earlier, possibly for the Commission to take over. The strategy will consider how better to co-ordinate the work of the different agencies using tools already in operation such as EUROPOL, EUROJUST, the Crime Prevention Network, FRONTEX and OLAF, and it will also consider what practical action could be taken regarding the priority geographical areas. These have been highlighted, as the Committee may be aware, by the Organised Crime Threat Assessment. They include the North West Drugs Hub, that is the UK, Belgium and the Netherlands; the South West Drugs Trafficking and Illegal Immigration Hub, Iberia; the North East Illicit Flows Hub for Commodities, that is ranging from smuggled cigarettes to synthetic drugs and that includes the Commonwealth of Independent States; the Southern Criminal Hub, that is Italy; and the South East Counterfeiting and Cocaine Hub, that is the Black Sea region. By the time you have done that geographical tour of Europe it covers pretty much everywhere. It will also consider what further practical co-operation needs to take place in the areas highlighted in the Stockholm Programme. That is trafficking in human beings, obviously a key UK priority there; sexual exploitation of children and child pornography, something that both Home Secretaries with whom I have worked are particularly keen to pursue; cyber crime, which is a huge challenge, which I do not think the EU can solve overnight but it is going to be looking at that as well; economic crime and corruption, and I think we mentioned we are doing some interesting work with Italy about asset recovery from the Mafia; and drugs, which, as you can

see, is a focus of quite a lot of the geographical areas. There is quite a lot to do but every Member State has some very direct interest in it.

Lord Mackenzie of Framwellgate: That is a very gratifying answer, thank you.

Q32 Chairman: You mentioned cyber crime. This Committee's report on cyber attacks is going to be made available from midnight tonight. I am sure we will be very glad to present you with an advance copy so that your officials can see that.

Meg Hillier: My colleague Alan Campbell, the other Parliamentary Under-Secretary, deals with this issue, and it is an issue which we all recognise is a huge challenge and we welcome contributions and ideas from any quarter to see what we can do to protect the British public in that respect.

Q33 Lord Hodgson of Astley Abbotts: My question takes us back slightly to the data protection issues we were discussing before. Now that the European Parliament has refused to adopt the SWIFT Agreement does the Government support the inclusion of strengthened data protection provisions in any new short-term agreements which may be reached?

Meg Hillier: Yes, we do need to make sure that we have the adequate data protection controls. I mentioned earlier the European Parliament - and I should be generous to them as politician to politician - and their aim really is to protect the interests of the European citizen. They were also making it clear that they now have co-decision responsibilities and so therefore took the decision that they did. Clearly we were very disappointed it was voted down. At the Council of Ministers there was a general feeling of gloom around the table and we were urging the new Commissioner, Cecilia Malmström, to take this forward and she was explaining how she would be doing that, because it is very important that we have the transfer of personal data to the US Terrorist Finance Tracking programme and clearly around the table ministers believed that it was a necessary and proportionate measure. It has been used

successfully in the fight against terrorism. We support the interim agreement which had stronger data protection safeguards. We thought that would make it acceptable to the Parliament; clearly it did not, so we will do everything we can to make sure that we get progress on this, and there was a strong feeling around the table that we do need to get progress quickly otherwise there is a risk that European citizens become in effect second-class in security terms and we need to make sure that is there. We have to listen to what the Parliament has said and we are working to try and get some resolution on this. I have quite a lot of confidence in the Commissioner and I spoke to her personally as well as in the round in the JHA Council and she is very personally committed to getting a solution. She is clearly a woman in a new job with a bit between her teeth determined to sort this out.

Q34 Lord Richard: Is it the Government's view that the interim agreement remains to apply provisionally in any event or has it gone?

Meg Hillier: Parliament voted it down. There are negotiations going on between the Commission and the Parliament.

Ms Gibbons: My understanding is that the interim agreement no longer exists and therefore data is no longer being shared and therefore there is pressure to bring forward a negotiating mandate for a new agreement as soon as possible.

Meg Hillier: Let me be clear: we are waiting for that mandate from the Commission. Cecilia Malmström was clear and she got a clear steer from ministers. It was the end of last month that I was at the Council and there was a very clear mandate that it needed to be done soon. There was quite a strength of feeling around the table and a strong feeling that we do want a permanent agreement implemented because we have got to get moving on this to protect the citizens of Europe.

Q35 Baroness Billingham: As a relative newcomer to this Committee, it is interesting for me to reflect back 15 years when I was in the European Parliament when many of the issues that you have talked about so clearly today were more or less in their infancy and not high on the list of priorities. What a change, and you have already touched on it, where the urgency and the priorities really have been forced on us by events. The question is terribly important. Does the Government support the proposals stated in the Stockholm Programme for the creation of a framework model agreement which would contain core data protection provisions to be applied to any future agreements concluded with third countries involving the exchange of information for law enforcement purposes?

Meg Hillier: Absolutely in principle, yes, we agree. We know there are challenges. For example, the main area I have been working on over the past couple of years in terms of data protection and data exchange issues has been passenger name records, to which I alluded earlier, and there we have constitutional challenges. It is interesting, as has rightly been said, that events have driven things. The bombing attempt in December in Detroit has meant that from something which had been very slow going through, despite growing support, and was just not hitting the priority list, there is suddenly going to be produced, we hope, an outline proposal in April of this year. We think it is sensible to have an overarching third country agreement and at the very least that helps with bilateral arrangements and means that we can make sure that those bilateral agreements are hanging off a sensible similar framework. Of course there is no detail yet and the EU cannot promote its own security in isolation. It is important that we co-operate effectively with key partners, including the US, which does mean we need to have something in place. We have a lot of intense work to do with the European Parliament, the LIBE Committee, and also other MEPs. Once an agreement is reached between the EU and the US we would envisage the principles would then extend to other countries such as Australia for example. We have an interest in getting this right, but I

would not want to under-estimate the challenges. I have spoken to MEPs quite a bit (probably not enough, there is always more you can do) over the last couple of years and the strength of feeling is intense among some of those Members about not wanting to share data. We are going to have to overcome or persuade them that we need to move forward.

Baroness Billingham: Thank you for what I consider to be a very realistic response to my question. Thank you, Chairman.

Chairman: Minister, you have given us very full and very frank answers. Thank you so much. I must say, speaking for myself, I very much admire ministers who give answers out of their head rather than off a script, and you have certainly done that and we appreciate it and you have helped us a great deal. Thank you very much.