



Modern Slavery Act 2015 Committee

Corrected oral evidence: The Modern Slavery Act 2015

Monday 22 April 2024

3.35 pm

Watch the meeting

Members present: Baroness O'Grady of Upper Holloway (The Chair); Baroness Barker; Baroness Butler-Sloss; Baroness Hamwee; Lord Hope of Craighead; Lord Kempson; Baroness Shephard of Northwold; Lord Smith of Hindhead; Lord Watson of Invergowrie; Lord Watts; Lord Whitty.

Evidence Session No. 12

Heard in Public

Questions 147 - 153

Witnesses

I: Dr Kari Johnstone, OSCE Special Representative on Combating Trafficking in Human Beings; Professor Genevieve LeBaron, Director and Professor, School of Public Policy, Simon Fraser University; Elsa Heiner, Desk Officer, German Federal Office for Economic Affairs and Export Control (BAFA); Eike Wiesner, Desk Officer, German Federal Office for Economic Affairs and Export Control (BAFA).

USE OF THE TRANSCRIPT

1. This is a corrected transcript of evidence taken in public and webcast on www.parliamentlive.tv.

Examination of witnesses

Dr Kari Johnstone, Professor Genevieve LeBaron, Elsa Heiner and Eike Wiesner.

The Chair: Good afternoon. My name is Frances O’Grady and I chair the House of Lords committee looking at the Modern Slavery Act. This is our first oral evidence session of this afternoon. If for any reason we need to suspend proceedings, I will let you know.

Today, we look forward to hearing from Dr Kari Johnstone, the OSCE special representative on combating trafficking in human beings; Professor Genevieve LeBaron, director and professor at the school of public policy at Simon Fraser University; and Elsa Heiner and Eike Wiesner—please correct me if I get the pronunciations wrong—who join us on behalf of the German Federal Office for Economic Affairs and Export Control. You are all very welcome and thank you for attending today. You join us via Teams and we look forward to hearing your evidence.

Q147 **Baroness Shephard of Northwold:** Good afternoon. We have heard in evidence to our committee that recent immigration legislation in the UK has created a hostile environment for victims of modern slavery. One of the pieces of evidence described there being “a sharp disconnect between the UK Government’s stated commitment to tackling ‘modern slavery’ and its increasingly punitive migration agenda”. There has been quite a bit of evidence of that kind.

This is a terrifically broad question, but we need to learn something about how migrants are protected in other countries. We understand that you have a system of open work permits in Canada. We would love to know how successful that system has been. Can you give us a timescale? When was it introduced? How is it organised? How is it regulated? How is the success measured?

Professor Genevieve LeBaron: Sure, I would be delighted. It is wonderful to be with you all today. This is a very important question about the ways in which immigration law and modern slavery law intersect and can unintentionally undermine each other. It is also a very complicated one, as you note, so it is difficult to explore all the connections in this time.

Speaking from the Canadian experience, the thing that stands out is that Canadian immigration law has changed quite a lot over time, and there have been efforts already—there need to be further efforts, in my view—to try to introduce and maintain an immigration system that does not lead people into situations of labour exploitation and forced labour. You mentioned the open work permit programmes and style of legislation. That is certainly one programme. We have a points-based immigration system and we have temporary foreign work visas. We have a whole range of ways in which people can come to Canada.

It is a relatively good system to look to as inspiration for wanting to ensure that people have strong labour rights that are enforced, but it still has problems. Our Canada’s temporary foreign worker programme in

particular has close connections to human trafficking and modern slavery. As the UN special rapporteur on contemporary forms of slavery recently said during his visit here, it is an area of our immigration system that still needs a lot of work. There are other parts of it that would be useful to draw inspiration from, but I would flag that it is one where other countries would do well to look at the evidence that correlates it quite closely with problems of exploitation.

Baroness Shephard of Northwold: Can you say when in particular the open work permits scheme was introduced? You say that it leaves something to be desired, but how long has it been going?

Professor Genevieve LeBaron: I do not have the exact year to hand. I am not sure.

Baroness Shephard of Northwold: You say that it is good in parts. Is that because it is difficult perhaps to identify what I might call the offences? How do you measure success in it?

Professor Genevieve LeBaron: That is a great question. It would be a good question to ask someone who specialises in immigration. I specialise in forced labour and supply chain governance, so it is a little outside my realm of expertise.

Baroness Shephard of Northwold: Thanks for pointing us in that direction and for what you have told us. Dr Johnstone, could you describe to us how the OSCE combats trafficking along migration routes? What are the mechanisms? How is success measured?

Dr Kari Johnstone: Thank you so much for the opportunity to speak with you today. I really appreciate it.

To your broader question, migrants are one of the most vulnerable groups at high risk of abuse and exploitation, including human trafficking. The precarious situation that they often face is further exacerbated when there are no legal routes for migration and/or no protection.

To answer your second question, one of the things that we do to combat human trafficking on migration is work to raise awareness and bring together experts to deepen all our expertise. Last week, in Vienna, we held our largest annual conference, the alliance conference, and there we highlighted the lax protection efforts that many states have to prevent trafficking among migrants, whether they are people on the move due to economic reasons or for safety—fleeing conflict, for example—or other crises.

I note the importance of fulfilling many commitments, both within the OSCE and other broader international commitments, to keep everyone safe in one's country, whether they are migrants or nationals. We have several efforts to help participating states do that. A lot of our work specifically on migration started in 2016 with the influx of migrants fleeing conflict in Syria and Iraq seeking refuge in Europe. That is when my office developed our flagship simulation-based exercise to train

multidisciplinary stakeholders on identification of trafficking in mixed migration flows.

At the cornerstone of all anti-trafficking measures within migration is identifying the individuals who have already been or are being exploited in human trafficking and those who are most at risk. In parallel with the simulation-based exercise that builds the capacity of a broad array of government stakeholders, we have also developed two guidance papers to assist participating states in identifying trafficking victims and referring them to assistance. As was evident at the alliance conference last week, people on the move are at high risk of trafficking, and traffickers exploit those precarious situations.

One of the best ways to highlight the risks, and the efforts that Governments can take to mitigate those risks—there is also the role of the OSCE—is in the situation of Ukrainians fleeing the war against Ukraine. Since the war began in its current stage, we have been running a large-scale project to mitigate the risks of trafficking among refugees, through a variety of activities, including workshops to assess the preparedness of state agencies and social services to prevent and address human trafficking among refugees. We have also been conducting training on what we call the social path or identification of trafficking that promotes the identification of victims for the purpose of assistance rather than criminal justice and that takes a broad or inclusive whole-of-government and even whole-of-society approach to identifying trafficking victims.

We have partnered with the Thomson Reuters Foundation to raise awareness about trafficking risks and to arm Ukrainians and others on the move and fleeing conflict with information about how they can stay safe and where they can get assistance. That particular campaign, where we partnered with Thomson Reuters, was called Be Safe. Thank you.

Baroness Shephard of Northwold: Thank you for that full answer.

Baroness Butler-Sloss: Professor LeBaron, could you tell us something about supply chains? How does Canada deal with supply chains? I see that you are an expert on that.

Professor Genevieve LeBaron: Yes, thank you. Canada has been working hard to catch up when it comes to introducing legislation and governance to combat forced labour and child labour in supply chains. As you know, many countries, including the UK, have had legislation in place for coming up to a decade now. Canada has just this year put into practice its new legislation to combat forced labour and child labour in supply chains with the introduction of Bill S-211. That Bill echoes a fair amount of the approach that has been taken in the UK Modern Slavery Act, California's Transparency in Supply Chains Act and similar types of legislation. It includes child labour, which is a bit different.

My understanding is that that is a positive phenomenon because it takes up the challenge that is laid out in the ILO-IOM-OECD-UNICEF report in

2019 through the sustainable development goals about the need to have a unified approach to combating modern slavery and child labour in supply chains. That is the distinctive feature of the Canadian legislation. It has only just come into force. We have until next month for companies to publish their first statements under it, so we are waiting to see how it is taken up and how effective it is compared to other pieces of legislation. That is the main effort.

Baroness Butler-Sloss: Is it mandatory or voluntary?

Professor Genevieve LeBaron: It is mandatory for companies of a certain size.

Baroness Butler-Sloss: Good. Thank you.

Professor Genevieve LeBaron: Under the new trade legislation with the United States and Mexico, we also have an import ban on goods made with forced labour, which is a very important development for us, because since the United States has been enforcing their import ban, Canada, according to some media critics, has become a dumping ground for goods made with forced labour, in that a number of goods that are turned away from the United States market are coming to Canada. So we are endeavouring to address that. I hope the Canadian Government are in the final stages of figuring out how they will implement the import ban, but it will be enacted and enforced this year, as far as I understand.

Q148 **Lord Whitty:** Following up on some of those points, when we introduced the Modern Slavery Act in the UK in 2015 it was seen as a breakthrough in best practice, but the actual follow-through has been somewhat disappointing. There have been developments in other countries, and you referred to the Canadian example. Are there other countries that have improved on the British situation or used the same terminology and structures as the British Act but pursued them more effectively? I will come on particularly to the EU legislation on corporate sustainability and supply chains in a moment.

More generally, have there been better legislation and better systems imposed in other parts of the world? Our German colleagues have not spoken so perhaps we could address that to them first.

Eike Wiesner: Thank you for the question. First, to give you an insight into our role as BAFA, the Federal Office for Economic Affairs and Export Control, we implement the so-called German Supply Chain Act or the German Act on Corporate Due Diligence Obligations in Supply Chains. It has a slightly different approach from the UK Modern Slavery Act, since we focus on the due diligence obligations of companies of a certain size, as the professor already said. The scope comprises companies, since 2023, with at least 3,000 employees, and, since 2024, with at least 1,000 employees.

As BAFA, as the competent authority, our role, first, is that we control the due diligence obligations of the companies falling within the scope of the law, and, secondly, we support them in implementing the due diligence

obligations under the law, which means that we provide very concrete information on sector-specific and sector-wide risks and other relevant information. As I said, we control the companies that fall under the scope, meaning that we examine reports from the companies stating what they did for their due diligence obligations. Secondly, we conduct risk-based controls in Germany. Thirdly, we receive and investigate, through our complaints channels and other channels, complaints from persons affected by possible violations of due diligence breaches of obligated companies.

That gives you an overview of our role and what we do. We can go deeper into that and our experience. We cannot, due to our role as BAFA, the competent authority, make recommendations on how to implement the UK Modern Slavery Act more effectively, but we have some good experience in our role.

Lord Whitty: What sanctions do you have, and what is the procedure for exerting those sanctions?

Eike Wiesner: With regard to sanctions, the law gives BAFA, our authority, a wide range of possibilities to enforce the legal requirements under the law. If a company does not conduct a risk analysis with regard to human rights and environmental risks, we can decide at our discretion whether they have fulfilled the legal requirement and then, based on that, we can lay sanctions on them. It depends on the degree of violation, of course, but we can do it up to 2% of the annual turnover of the company under the scope. That is one possibility.

Because it is a new law and the approach of due diligence obligations has been laid down since 2023, we are in constant conversation and contact with the companies involved or concerned. We listen to the challenges on how to implement those due diligence obligations. Of course, if they do not comply, we can use our sanctions regime.

Lord Whitty: What difference do you think will be made by the adoption by the EU of the due diligence aspect of modern slavery? Do you think it will make life easier within the European Union than if it relied solely on national jurisdictions?

Elsa Heiner: First, we have to say that, since we are just the office and not the federal ministry, we cannot go very much into detail about political decisions. We can say that we support a level playing field. We realise that the German Act raised awareness within the companies that are obligated. One of the advantages is that it will raise more awareness EU-wide. Of course, we hope that it will also lead to better protection of human rights under EU legislation.

Eike Wiesner: To add to that, we observe cases of cross-border violations where several companies from different member states or across the EU are involved. That is something that we have to keep in mind when we control the German companies falling under the scope.

Lord Whitty: Professor LeBaron, could I ask about the Canadian system, particularly the dimension you mentioned earlier of child labour? What success have you had in combating that?

Professor Genevieve LeBaron: Thank you for the questions. If I may, I will start by adding to what has been said about the different styles of legislation that have come out since the Modern Slavery Act was passed. I am an academic and I study the effectiveness of different models of legislation in terms of their impact in addressing forced labour and child labour. I do that largely through on-the-ground surveys with workers to look at how many workers are subjected to forced labour on different types of work sites covered under different types of legislation, as well as looking at features of legislation and institutional effectiveness.

Our researchers found that the more stringent the legislation is, the more effective it is. By that I mean: is it mandatory, is it well enforced, are there penalties, does it require more from companies than simply reporting, and does it require them to change their practices that we know lead to forced labour, modern slavery and child labour? Where there is higher stringency, we see higher effectiveness.

One of the challenges with the UK Modern Slavery Act is that it is low stringency or medium stringency when we compare it to other types of legislation of this genre. That is one of the reasons why we do not see the sorts of robust change to business practices and robust response to reporting—the types of action that we would hope to see for effective change in policy at the company level—that would lead to effective change on the ground in the actual use of forced labour in supply chains.

When we compare it with other types of legislation, there are models that have more stringency built into them, and those are usually the models that have some due diligence provisions. They require not only reporting from companies but that companies map out the ways in which their practices lead to harm for victims of modern slavery or forced labour, and ideally some form of change to those practices. We see that more stringent types of legislation lead to better outcomes. Some of the most stringent pieces of legislation that have been passed are relatively new, so we are still waiting to build up the evidence base that shows that they lead to those types of changes in corporate behaviour as opposed to merely reporting.

What we have seen with reporting-style legislation is that companies tend to report on things that we know do not work to address forced labour, such as ethical certification and social auditing. There is a massive amount of academic literature, and companies have admitted themselves that those practices are severely flawed and limited in detecting modern slavery and addressing it, and they often contain loopholes around the portions of supply chains that are most likely to be full of things like modern slavery. We are looking for legislation that does not merely reinforce company reliance on those types of broken detection and remediation systems.

Turning to child labour, again it is a new piece of legislation that has been passed in Canada only within the last several months, so we are still waiting to see how it will pan out and what its impact will be. The legislation has some weaker features and some stronger features. Some of the weaker features are that it too falls towards the medium/low end of stringency compared to other types of legislation. That was disappointing to a lot of people in Canada who were looking to see a more stringent form of legislation that would have made new requirements on companies in their practices and new forms of liability, and that was not achieved. This is more of a reporting-style law, not unlike the UK Modern Slavery Act.

One of the positive features, I believe, is that it includes child labour, and that is important because, where companies make efforts around forced labour, sometimes those workers are merely replaced or substituted with other vulnerable workforces. The vulnerability of the workforce is something that we need to look at quite holistically; it can include migrant workers, refugees, children and adult victims of forced labour. I see the wider scope of this legislation and the more vulnerable groups that are included as a positive phenomenon. We are still waiting to see how the implementation goes. It will begin next month.

Lord Whitty: In your measure of stringency, could you very quickly point us to one jurisdiction that we ought to look at where the stringency is more effective than in the UK? Perhaps I will address that to all of you, starting with Professor LeBaron.

Professor Genevieve LeBaron: Yes. The two that come to mind are the French duty of vigilance law and the recent Norwegian law—2022, I believe—that incorporates features of due diligence legislation. Those are two that are held up increasingly as quite stringent models that Governments with a more transparency reporting-style legislation could build on to include more stringent provisions on due diligence following in the footsteps of that legislation.

Lord Whitty: Does anybody else want to add other countries that we should be looking at?

Eike Wiesner: We currently implement a very recent law that was adopted in 2021 and came into force at the beginning of 2023. The German Supply Chain Act is also a piece of legislation with a due diligence focus. As the competent authority, we are responsible for controlling the companies, and it involves a lot of information policy as well as a lot of other relevant aspects that should be considered. We offer a variety of information on how to implement the due diligence obligations under the law. We publish guidance. We publish frequently asked questions on how to implement it. We also publish a yearly report on how we conduct our risk-based controls. That may give you a good insight into how it is currently being done in Germany.

Lord Whitty: Dr Johnstone, do you have anything to add?

Dr Kari Johnstone: To reinforce what Professor LeBaron said about both the French and Norwegian laws, we think that the French law requiring companies to establish, publish and assess a vigilance plan, including actions to mitigate risks and prevent serious damage, is noteworthy. Similarly, the Norwegian law that requires companies to conduct human rights due diligence assessments on their operations and their entire supply chains, and to report on all their activities and publish an account of their due diligence assessments on their websites, is, we think, definitely promising.

To your earlier question about the EU directive, one of the things that we have all heard most frequently from companies is that, with the proliferation of different due diligence requirements and supply chain laws, having more standardised reporting and requirements will help all of us. It will not only make it easier for companies but, more importantly, it will make it easier for all of us to assess their impact.

Lord Whitty: Thank you all.

Q149 **Lord Watson of Invergowrie:** Thank you, and welcome to all our witnesses today. It is very good to have you with us. I want to look rather wider than just the supply chain issues and consider oversight of government policy within the wider context of modern slavery. My first question is to Dr Johnstone because of the OSCE's call for a national modern slavery co-ordinator—I think I am right in saying—in each member country of the OSCE. We are all aware that the UK is not one of the countries that has that. We have a rather weaker system than applies in Australia.

In this country, the Independent Anti-Slavery Commissioner has to submit her strategic plan to the Home Secretary, and we have just had a letter from her this week to say that that is what she has done. We have no idea how long it will be before the Home Secretary replies. In Australia, by comparison, Ministers are precluded from doing that. Are there more countries where there are genuinely independent anti-slavery commissioners, more like the Australian model rather than the UK model?

Dr Kari Johnstone: Thank you for the question. Related to your question, we have two recommendations for all participating states—or, as you said, member states of the OSCE—that we see as core parts of the anti-trafficking architecture that participating states should have in order effectively and efficiently to fulfil their anti-trafficking commitments. One is a national co-ordinator, who hopefully can be a high-level person able to co-ordinate efforts across government at national level. The other is a national rapporteur who is able to provide some independent assessment and oversight, as you said, of a Government's efforts to fulfil their commitments in domestic law as well as international commitments.

The Independent Anti-Slavery Commissioner in the UK is closer to the national rapporteur than a national co-ordinator in that they do not have the authority to co-ordinate government efforts but are meant to assess

those independently. It is still too early to assess the effectiveness of the new Australian modern slavery commissioner because it is such a new position. As we understand it, the mandate in Australia includes a co-ordination function. In many ways, it seems to combine the two recommendations that the OSCE has for participating states.

We think it is important to have distinct roles. A national co-ordinator should be based, hopefully, at a fairly high-level position so that they are able not only to provide oversight but to have the resources and convening power to bring together different aspects of the Government and ensure a cohesive, strategic approach across the Government. Hopefully, they can also help direct, or at least influence, resources across the Government.

For a national rapporteur, which is closer to the role of the modern slavery commissioner in the UK, to be effective they should be independent, as you noted. We very much agree with that recommendation. Importantly, in order to assess a Government's anti-trafficking efforts, they should have access to data. They should be able to understand at a more granular level what the Government are able to do and where their efforts on law enforcement, victim identification and protection, as well as prevention, are working and where they are not. They need sufficient financial and human resources, which is an ongoing question that you mentioned for the UK modern slavery commissioner.

Lastly, as the person in the role of national rapporteur makes assessments, hopefully, those usually come with recommendations so that there is some kind of formal follow-up by the Government in response to those recommendations and actions.

Lord Watson of Invergowrie: I am not certain how the OSCE operates, but I know that you as an organisation have noted that the UK does not have such a national co-ordinator, as you have just outlined. Does the OSCE write to countries and say, "This is what we believe should be in place. We are looking to you to implement this"? Do you know whether the OSCE has done that in respect of the UK, and, if it has, what response has it had, if any?

Dr Kari Johnstone: In fact, we do not have legal authority to sanction a Government if they do not fulfil their international commitments or recommendations from the OSCE, but we do indeed make formal recommendations. My predecessor, Valiant Richey, visited the UK for what we call a country visit, a formal visit, in late 2022 to assess the UK Government's efforts across the full range of their anti-trafficking commitments under the OSCE. One of the recommendations that was issued by this office as a follow-up to that visit was specifically to introduce a national co-ordinator of the UK Government's efforts to combat human trafficking.

Lord Watson of Invergowrie: Was a response received?

Dr Kari Johnstone: It is an ongoing discussion between the Government and the OSCE.

Q150 **Lord Watson of Invergowrie:** We find that both understandable and unsurprising. Thank you.

I have another question that I would like to aim at our German witnesses and to ask either Frau Heiner or Herr Wiesner about the situation. Given what you said about the Bundesamt für Wirtschaft und Ausfuhrkontrolle and its work on supply chains, that is obviously very narrowly controlled. Is there within Germany an anti-slavery commissioner or some post that performs similar functions to those that I have just been discussing and Dr Johnstone has outlined?

Elsa Heiner: To my knowledge, there is no such position. If I am informed correctly, in the French Act that we mentioned there is no real authority controlling the companies. In Germany, even though we do not have a specific anti-slavery commissioner, the German Act covers forced labour and slavery among other human rights risks and environmental risks. It is more that we as the competent authority are somehow representing an independent co-ordinator or rapporteur, but it is not specifically on forced labour yet. EU legislation is planned on forced labour, but I am not aware of the details and whether it foresees such a co-ordinator position. For now, it is just us. There are about 100 people here controlling the Supply Chain Act. We are also looking at forced labour, but not specifically just that.

Lord Watson of Invergowrie: Well, I can tell you that 100 people are considerably more than are on the case in the UK. Thank you.

Lord Watts: Obviously, Germany does not have anyone who negotiates separate deals for it; that is done by the EU. In Canada and America, does the commissioner have any formal role in negotiations that take place between nations and America and Canada?

Dr Kari Johnstone: Was the question to me? I am sorry if I missed something.

Lord Watts: We know that Germany does not negotiate trade deals; that is done by the EU. In the two other nations, I am just wondering what role the commissioner plays in negotiating trade deals with America and with Canada, if any.

Dr Kari Johnstone: Do you mean the modern slavery commissioner in particular within the UK context or in other national—

Lord Watts: In your context. I am trying to find out whether in America the commissioner for slavery and forced labour is involved in any way with trade deals that are being negotiated, and the same with Canada.

Dr Kari Johnstone: In the United States, there is no modern slavery commissioner. The US anti-trafficking co-ordination body is called the President's Interagency Task Force. It has 20 different federal agencies

and departments as part of it. There is no commissioner or one national co-ordinator per se. That co-ordination body includes the US trade representative, and there is a lot of co-ordination between the rest of the federal Government, including through the anti-trafficking taskforce, at the Cabinet level on how to build strong protections against human trafficking and labour rights into trade negotiations. The trade negotiations are led by the US trade representative, not the person who co-ordinates anti-trafficking efforts, but co-ordination takes place within the broader anti-trafficking co-ordination mechanism.

Lord Watts: And Canada?

Professor Genevieve LeBaron: The full details of the Canadian approach are still being worked out, but as of now my expectation is that it will more closely resemble the approach of the United States.

Baroness Butler-Sloss: I recently gave lunch to the United States anti-slavery ambassador. What sort of role does she play in all this? I could not really understand it, and the OSCE representative does not refer to her.

Dr Kari Johnstone: I would be happy to clarify. That is, in fact, the office that I worked in for the last nine years before I came to this role. I believe you met with my former boss, Ambassador Cindy Dyer.

Baroness Butler-Sloss: Yes.

Dr Kari Johnstone: She is the lead of the co-ordination mechanism that supports the President's Interagency Task Force. It is like a national co-ordinator but without the official title, in that it is based in the State Department, and the President's Interagency Task Force is a cabinet-level co-ordination body. The senior policy operating group, which meets about three or four times a year to co-ordinate at senior policy level, is chaired by Ambassador Dyer, the ambassador-at-large for combating human trafficking.

Lord Whitty: Going back to Lord Watson's point about the link with trade, Canada, the United States and Mexico are all members of the same free trade area. You referred earlier to a problem with Mexico-originating goods. Does that organisation have any cross-reference to trafficking or modern slavery?

Dr Kari Johnstone: I can jump in first, and then perhaps Professor LeBaron may want to jump in after that. In the trilateral agreements between the United States, Canada and Mexico, there are many commitments related to human trafficking, including a trilateral working group under the North American Leaders' Summit specifically focused on human trafficking.

One of the issues that that group tackles—I am taking off my OSCE hat and putting on my previous US hat, as this is not part of my current role—is looking at the importance of things such as responsible recruitment, in order to address human trafficking at the source, not only

where it may happen if you have migrant workers working on the temporary work visa programmes that Professor LeBaron referred to, which are known to have risks of human trafficking. There are commitments between the three countries under the USMCA specifically to work together in a formal working group to combat human trafficking.

Q151 Baroness Barker: Hello. Thank you for being with us this afternoon. I want to look at modern slavery and trafficking in the care sector. My first question is directed to Herr Wiesner and Frau Heiner. Perhaps when you answer it you might explain to us very briefly how care is purchased in Germany. Is it bought by public authorities or is it primarily bought by individual people using insurance? What is the contractual nature of the purchasing of care? How successful have measures such as your certificate programme been in private healthcare recruitment? My understanding is that, as Germany is a comparatively wealthy country surrounded by countries in which there are a lot of people who have far lower wages, there has historically over the last 20 years been quite an influx of labour into its care sector from surrounding states.

Eike Wiesner: Thank you for those questions. From our view and from our competency, it is very hard to give you a detailed overview. Perhaps I could start with this. Care is purchased privately and publicly. The system is based on contributions you make during your working life, but you can also pay for some care services through private organisations and through your private purse. It is really not our competency to describe how it is done in Germany. There are other public authorities that can tell you that way better than us. Regarding the certificate programme, I refer you to our authorities that deal with public health and social affairs.

In terms of the Supply Chain Act, we control all companies in all sectors in Germany, including the care sector, the transport and logistics sector and the electronics sector. We look at those companies first under the scope; secondly, on whether they comply with the due diligence obligations; and, thirdly, on how they report to us on how they implement those obligations. It is a slightly different approach from the one you have in mind, because the Supply Chain Act in Germany does not say anything about certification schemes. It is a different matter in the public health sector. Sorry for maybe not answering you in the way that you wished.

Baroness Barker: You said that for companies to come within the scope of your organisation they have to have 1,000 employees. Am I correct?

Eike Wiesner: Yes.

Baroness Barker: Are there large-scale care providers employing over 1,000 people across Germany whose activities you would analyse and assess from the point of the due diligence legislation?

Elsa Heiner: There are, because the terms "enterprise" or "company" that the law uses are very broad. In the EU due diligence directive, the term "company" is not as broad in its understanding, but in the German

Act a company can also be a hospital as long as it is trying to be in an economic market. I do not know how to say this. If it is somehow participating in the market, we look at it, so in some parts, yes, the care sector is under our scope, but mostly it is smaller companies providing individuals with carers from eastern Europe, and in those cases it is sometimes more difficult because there may be smaller agencies.

Baroness Barker: And you do not see them—they do not come within your scope.

Elsa Heiner: Yes. As far as I know, the care sector was not really within our scope until now. As my colleague said, we looked into the transport sector more because there is a high risk of forced labour. Unfortunately, as my colleague said, we cannot really answer your question.

Baroness Barker: Do you think that in future, over time, you will be able to see what effect the legislation and the activities of your office have on larger-scale care providers in Germany?

Eike Wiesner: It depends, because, as I said, the Act covers all sectors in Germany, so it can happen that in our annual report on our enforcement mechanisms and enforcement measures we relate to the care sector, but it is hard to foresee the future. In Germany, there are several different enforcement regimes that also look at the care sector and not only us.

Baroness Barker: Professor LeBaron, I do not know whether the situation in Canada is comparable. We have a shortage of supply of staff, of workers, in the care sector, and that has led to the introduction of a change in our immigration laws—a waiver for care visas for people working in the care sector. As a result of that, we would like to know what the effect has been of your temporary foreign worker scheme. You said in your opening remarks that you found that it played into modern slavery and trafficking.

Professor Genevieve LeBaron: Yes, that is right. It is a very important question. I am glad you are looking at care. The Canadian example is instructive. It is a little bit outside my expertise, but I will try to share the basics as I understand them. We have in Canada a temporary foreign worker programme. We previously had the live-in caregiver programme specifically, and it was reformed relatively recently because it was found to have a high incidence of problems, ranging from more minor forms of exploitation to more severe forms of modern slavery and human trafficking.

The programme was very restrictive about allowing people to change employers; they were tied to one employer and that was one of the reasons why they became vulnerable to mistreatment. There was no permanent path to citizenship. It was a short-term labour market need-filling programme, but it led to unintended consequences perhaps in what happened when the visas expired. My understanding is that there have

been changes to that programme recently to try to deal with the challenges.

In our broader landscape of temporary foreign worker programmes, they have high incidence of forced labour and human trafficking specifically. Some years ago, I interviewed the person who was at the time one of the heads of the human trafficking office in my home province of British Columbia, and they told me that about 75% of the trafficking cases they dealt with actually came from the state-sponsored programme. Those are programmes that are known to have extremely high risk. Again, it comes down to some of the features of the programmes, which I think it would be good for the UK to be conscious of as it charts its path forward.

The attributes of programmes that we know give rise to high incidences of the problems are when a person's right to work and right to be in a country are tied to a specific employer and when they do not have access to basic goods and services, except sometimes through that employer. Migrants might face predatory fees around the provision of housing and the provision of food or transportation, and those fees can often be used to put them in situations of debt bondage. We see that as a common way in which workers can face exploitation in these programmes, and then there is very little ability for them to access remediation or justice, especially where they are in a private home that does not have the same types of workplace regulation, minimum wage laws and other sorts of labour protections that we might see in other workplaces.

Again, it is a bit outside my area, but I hope that it at least points you in the right direction of some of the things to look at in terms of how Canadian policy has evolved over time to try to deal with these problems. Thank you.

Baroness Barker: Thank you. Danke schön.

- Q152 **Lord Kempsell:** This question is specific to prosecutions. We have noticed in evidence to this committee that there is a relatively low rate or incidence of successful prosecutions for modern slavery offences under the Act relative to the number of assumed victims. Could you outline for us in Germany, in Canada and then across the whole OSCE how you have developed your prosecutions regime, what the relative rates are, and what you have found successful in promoting successful prosecutions? Maybe we could go to Germany first and then Canada, if that is okay.

Eike Wiesner: Yes, thank you for the question. With regard to what we were saying, under the law of the German Supply Chain Act, we have a different approach. In terms of prosecution, we control the companies that fall within scope. When it comes to prosecution rates and so on, there are different control regimes—customs, the federal police and so on. We are unable to give you indications on this question. Sorry.

Lord Kempsell: Thank you. And Canada?

Professor Genevieve LeBaron: As I mentioned, the first series of reports for our new supply chain legislation in Canada will be given in

May. This is a very new law and I am not aware that prosecutions have taken place under it. We have a criminal code that spells out trafficking in persons offences, and that might be worth looking at, but unfortunately it is a bit outside my expertise.

Lord Kempsell: Maybe the representative from the OSCE could give us a picture of what the position is on prosecutions across the OSCE countries.

Dr Kari Johnstone: Yes, thank you for this question. Part of it comes back to what I referred to earlier as the basic architecture that states should have to fight human trafficking. Having a comprehensive anti-trafficking law that is updated and aligned with current trends and current forms of the crime, including forced criminality, is critical, but implementation is even more important. Part of what we find is key throughout the OSCE is that, where there are effective prosecutions and criminal justice efforts, it is the countries that put victims first and that take a truly victim-centred, survivor-informed approach where you have strong victim identification and protection—where victims are identified and get the care that they need. They are much more likely to be willing and able to help criminal justice and law enforcement identify, investigate and effectively prosecute their traffickers once they have had some care, get their immediate needs met and get some help for the trauma that they have endured.

Wherever we see effective law enforcement prosecutions for human trafficking crimes, those are states that have not only a strong, comprehensive anti-trafficking law but very strong victim protection. They recognise that getting that piece right, ensuring that victims feel empowered to come forward, that there are many ways for them to get access to care and that the care is not dependent on their co-operation with law enforcement, leads to much more effective law enforcement outcomes. We find that putting a lot of effort and resources into developing the technical capacity of law enforcement officials, including newer tools and technology, and using tech tools to combat online exploitation and recruitment as well as financial investigations, are some of the areas where the capacity for law enforcement leads to more effective outcomes as well.

Q153 **Lord Kempsell:** Maybe I can close by asking each of the witnesses if they have a single recommendation that they would make, taking all these matters into account, that this committee should consider relevant to the UK. Maybe our German colleagues could go first.

Eike Wiesner: Thank you. One recommendation is that we have had very good experiences with our co-operative approach, meaning that we talk to all the important stakeholders, from companies, associations and NGOs to national and international bodies. We have had very good experience in controlling companies and encouraging them to fulfil their legal requirements.

Professor Genevieve LeBaron: My recommendation would relate to the provisions on supply chain in the Modern Slavery Act. It is critical that the

UK builds on those to include much more effective provisions that actually spur companies to change the practices that we know lead to incidences and in some cases very widespread use of modern slavery in UK supply chains, and that they include new forms of liability and enforcement around those provisions so that they are effective. Thank you for having us.

Dr Kari Johnstone: I would again say that putting victims first and centre of all anti-trafficking efforts, whether that is legislation or policies and practices, is critical, as is creating an environment where victims feel safe that they can come forward and that they will get the care that they need for the amount of time that they need it. Part of that is listening to people with lived experience. The UK is fortunate to have an increasing number of fantastic survivor leaders who have themselves gone through the experience of human trafficking and resiliently risen above it, and their expertise could be crucial to further improve and enhance your anti-trafficking laws and practices. Thank you.

The Chair: That is such a great note to end on. Thank you indeed. I am sure I speak for the committee. You have given us some fantastic steers in thinking about our recommendations to make the UK Act more effective and maybe shifting from reporting to taking action.

There may be details we would like to come back on about some of the thinking on due diligence and how stuff works on the ground, and what companies' reaction to that has been. Some strategising on that might be useful. Thank you all so much.