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## New Pact on Migration and Asylum and the rapid identification of vulnerable profiles: notes on challenges from the Spanish coasts

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### Abstract

In the framework of the new Pact on Migration and Asylum (2020), one of the actions proposed by the European Commission is the new legislation to establish a pre-entry screening procedure at the EU external border aiming a rapid identification of special needs and of persons in need of international protection. In this paper, some challenges for the implementation of this proposal will be addressed based on the experience of a comprehensive care programme for women and minors arriving on the Spanish coast. The strategies employed, and some results achieved by the ÖDOS programme (April 2018 to December 2021) will be presented. This innovative local experience can be useful when reflecting on more effective forms of protection in the context of arrivals at European level. ÖDOS' experience can be replicable and help to develop real procedures for the protection of vulnerable migrant populations.

### Keywords:

Children, women, human trafficking, intervention, cooperation.

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## I. Introduction

In the framework of the new Pact on Migration and Asylum (2020), one of the actions proposed by the European Commission is the new legislation to establish a pre-entry screening procedure at the EU external border including identification, health and safety check, individual assessment, and human rights monitoring. This proposal considers the rights of the child and the special needs of vulnerable persons, by providing more time and support in view of their physical and mental health. Additionally, the proposal envisages ensuring rapid identification of special needs and of persons in need of international protection. Spain is one of the EU countries that face the flow of people arriving by sea from Africa. Among the people entering by this route, particularly vulnerable profiles stand out: unaccompanied minors, pregnant women and women accompanied by minors. These vulnerable profiles may pass unnoticed during a screening due to failures in a) the identification of minors claiming to be of legal age; b) assessing the risk of being or fall victim of human trafficking networks; and c) assessing qualification for international protection.

The most vulnerable ones among these profiles are children, due to their invisibility. Until around 10 years ago, children and adolescents arriving to Spanish coasts in small boats accompanied by an adult were not registered in any database by the competent authorities. Only the adult would be registered. The invisibility of accompanied childhood on the move was total. Since 2013, by the *Defensor del Pueblo's* (High Commissioner of Parliament responsible for defending citizens' fundamental rights and civil liberties) recommendation, *Comisaría General de Extranjería y Fronteras* (General Police for Aliens and Borders) started registering the number of accompanied minors, who arrived in an irregular manner to Andalusian coasts by sea. Based on these data, available in the last *Memoria de la Fiscalía General de Estado* (Spanish Attorney General's Report, 2022), in 2018, 755 accompanied minors were registered, in 2019 a total of 509, 550 in 2020 and a considerable increase was recorded in 2021: 986.

Unlike the unaccompanied minors, these minors accompanied by an adult are not in ward of the child protective services. It is difficult not to consider that they are in a risk situation if we remember that they arrive to European area on a dangerous and unsuitable route, accompanied by adults in vulnerable situations (Arce, 2019). In accordance with the rights listed in Convention on the Rights of the Child (1990) ratified by Spain, these families cannot be expelled from the European area and are referred to the humanitarian reception system. Due to the fact that in most of the cases the accompanied minors have no documentation, they are subjected to DNA tests in order to confirm their blood ties between the minor and the accompanying person. This proceeding states that in case of negative DNA the minor is immediately separated from the adult and taken in ward by child protective services. This situation brings up at least two central problems: a) the necessity, to respect the child's best interests, of assessing the bond with the adult in case of a negative DNA and b) to consider that, even with a positive DNA, these minors might not to be de facto protected, since that profile of families is especially vulnerable to being exploited in their journey to Europe.

Spain is not usually the final destination for these families, but rather the door to countries like France, where they share the language and have contacts. Thus, it was identified that these families that arrive to Spanish coasts in small boats usually abandon humanitarian reception aids, sometimes before knowing the results for the DNA tests or before being able to assess the link between minors and women. That situation started to be identified already in 2012, when being registered in *Memoria de la Fiscalía General del Estado* and *Defensor del Pueblo's* report. As they are undocumented minors, their circulation through Spain remained invisible, just a number that is registered at the entry. Other than these statistics, there is no information about the whereabouts or situation of these moving minors. What has been identified is that "in the context of mixed migration flows, women and children are especially likely to fall victim to traffickers" (Scherrer, 2019). Scherrer's study showed that nearly a quarter of all human trafficking victims in the EU are children, with girls representing approximately 78% of them.

In this context, ÖDOS programme<sup>2</sup> emerges in 2018 as an innovative initiative within sheltering and human care services in Spain, specialised in women and minors. ÖDOS programme is structured into two

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<sup>2</sup> ÖDOS programme's structure is centralised in a group in charge that consists initially of four women specialised in gender, childhood, and human rights and with experience in social intervention. The group in charge designed the programme, implemented the residential resource of first reception (stage I) with an intervention team consisting of psychologists, educators, social workers, and lawyers. Additionally, the group in charge succeeded to get all ÖDOS Network member entities to join the programme, as well as key officials who work in coordination with the programme

stages: the first one is a residential resource of first reception in Montilla for women and children in their care for around 3 to 6 months, managed by Fundación EMET Arco Iris, Cordoba. The second stage consists of social entities (ÖDOS Network) that are committed to continuously offer alternatives for women and children inclusion in Spain following their release from residential care in stage I, with reception and support resources for an indefinite duration and adapted to the inclusive processes of each case.

The programme started from a private funding and had from its original foreseen plan an external evaluation in order to be transparent and to review its evolution in the face of the challenge of implementing a pioneering programme and that addresses an unfamiliar reality. From its launch, the programme was intended to become a public policy programme. In early 2020, the number of places in the residential resource of stage I was successfully recognised as humanitarian resource funded through a grant from *Dirección General de Inclusión y Atención Humanitaria* (General Directorate of Inclusion and Humanitarian Care), Ministry of Inclusion, Social Security and Migration. Nonetheless, ÖDOS' aims are more specific and the attention more specialised in relation to humanitarian reception programmes. ÖDOS programme is set as a specific resource, of comprehensive care towards women accompanied by minors in risk situation and that seeks to put the protection of children and adolescents in the centre of its intervention.

The external assessment of the programme was conducted by the Observatory of the crime control system towards Immigration (OCSPI) - University of Malaga and covered its first two pilot years (2018-2020)<sup>3</sup>. The results showed the value of ÖDOS for the secondary prevention of human trafficking, protection of children on the move and for the identification of vulnerabilities qualifying for international protection (García-España et al, 2021). The collaboration between the OCSPI and ÖDOS continues, aiming to systematise and make visible ÖDOS' strategies, challenges, and results after the pilot phase. The ÖDOS' strategies are composed of two fundamental actions: a) A comprehensive intervention (psychological, educational, and legal): because the experience shows that identification and individual assessment are a process and implies a bond between the intervention team and the women and minors; b) Reinforced inter-administration and multi-level cooperation: fluid communication and networking are the formula for achieving the necessary coordination for the protection of women and minors on the move.

In this paper, the strategies employed, and some results achieved by the ÖDOS programme (April 2018 to December 2021) will be presented. This innovative local experience can be useful when reflecting on forms of protection in the context of arrivals at European level. ÖDOS' experience can be replicable and help to develop more effective procedures for the protection of vulnerable migrant populations.

## II. Methodology

This paper is based on data collected during the external evaluation that covered from April 2018 to September 2020 (programme pilot period) and was mainly focused on aspects of relevance and implementation, which allows the strategies and programme's aims to be presented.

The assessment had a participatory approach, programme's workers and group in charge participated in the process of creation of assessment indicators and in interviews to know in depth programme operation. A total of 44 interviews took place: Group in charge (n = 3), Personnel Stage I and Stage II (n = 34), Key officials (n = 7).

Stage I's personnel and stage II's representatives have also participated in the interpretation of found preliminary figures. That bidirectional feedback between the assessing group, when submitting data, and the different ÖDOS programme's members, when stating their impressions and interpretations, was enlightening to elaborate on some programme's aspects that could be improved.

The assessing group also had access to the database and the programme's information registration documents. A qualitative content analysis of the documents and interviews and a quantitative analysis of the data collected in the database were carried out on the profile of the served population and the programme's actions. ÖDOS programme's results shown in this article were updated in December 2021, based on the programme's database and a report provided by the programme published in 2022.

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like National Police, Attorney's Office, health centres and education centres, IOM, ACNUR and an expert in childhood. Official website of the programme: <https://programaodos.org/>

<sup>3</sup> This research was conducted within the framework of an R&D project financed by the Junta de Andalucía and European Regional Development Fund (ERDF) during 11/2019 and 11/2021.

### III. ÖDOS Programme's relevance

In order to know whether ÖDOS programme is responding to a reality in need of attention, the starting point is to assess the relevance of the programme's intended aims. ÖDOS programme's aims, which focuses on migrant women and children, are as follows:

1. To prevent human trafficking.
2. To protect and ensure the rights of children on the move.
3. To detect the vulnerabilities qualifying for international protection.

Assessment results suggest that the three set goals by the programme are relevant. Following we will briefly outline a rationale of it.

#### *Prevention of human trafficking*

The prevention of human trafficking was the aim that powered the creation of ÖDOS programme. The strategy designed for this purpose regarding the creation of a national grid that offers women and children possibilities to not continue in the exploiting network and to set in Spain. However, ÖDOS programme's starting point was the idea that the women would be aware of being a victim of human trafficking offence as set out in the Article 177 bis of the Spanish Criminal Code. Nonetheless, none of the women attended by the programme in the first two years of implementation have recognized themselves as victims of human trafficking.

There are three reasons for women to not recognize themselves as victims of human trafficking: One, they are not actually being trafficked; two, they are being trafficked, but either they are scared and will not talk, or three, they do not know they are being trafficked because they are not yet exploited (García-España et al, 2021). This last assumption can easily occur if we consider the criminal type in the Art. 177 bis of Spanish Criminal Code. As shown in its wording, stated below, the criminal offence is produced merely by inducing, transferring (...) for purposes of exploitation and through violence, intimidation, deceit, or abuse. This precept is drafted as a process conducive to a situation of exploitation (Villacampa, 2011). The deceit is the contributory means most frequently used by the dealers in the cases known by Spanish courts (Salat, 2020). The victim, that is induced and transported in a migratory context through deceit, is unaware of being in the process leading to exploitation, and is, therefore, unable to recognise herself as victim of trafficking.

In Spain, however, only the victims who recognise themselves as so are referred to specific resources for their protection. High levels of protection are achieved with foreign women when they, after a period of recovery and reflection, decide to cooperate with justice in order to catch their dealers (Art. 59 bis of Law Organic 4/2000, of 11 January, on rights and freedoms of foreigners in Spain - Immigration Law). It is only on the basis of this cooperation that the women, who entered the country illegally, will be able to obtain a residence permit in Spain.

The number of migrant women with signs of trafficking who avail themselves of the offer of reinstatement and reflection under Article 59 bis of the Immigration Law is very low according to official data in Spain. This is a reality at the European level. The European Parliament resolution (2021) on the implementation of Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims' states that "almost 10 years after the Anti-Trafficking Directive's adoption, obstacles to its full implementation at Member State level remain, with most victims remaining undetected and the prosecution and conviction rates of perpetrators remaining low". Another symptom of the lack of capacity of the criminal justice system to deal effectively with this phenomenon is that it is the victim herself who, in most cases, informs the authorities of the exploitation that has occurred (Salat, 2020). This means that the system does not have the necessary tools or means to detect victims already exploited nor immersed in processes leading to exploitation. Thereon, the European Commission (2018) has outlined that Spain is one of the countries with less victims identified. On the other hand, the majority of trafficking networks are small and informal and proliferate rather easily (Bouhours, Broadhurst, Keo & Bouhours, 2014; Shen, 2016). For all that, it is ineffective to continue to maintain the criminal prosecution perspective of crime of the Art. 177 bis of the Criminal Code and 59 bis of the Immigration Law in the fight against trafficking. Hence, this necessitates the approach this reality from a different perspective, focused on the prevention of exploitation.

From this approach, ÖDOS programme is relevant insofar as it addresses a reality that is invisible to the public authorities and to the welfare resources for victims of human trafficking. However, the invisibility of

this reality leads to a constant questioning, by the public institutions and potential programme funders, of ÖDOS as programme dealing with human trafficking.

If we adopt a victim-centric perspective, the moment of commission of the crime is not the determined in the description of criminal type of the art. 177 bis of the Criminal Code (inducing, transferring...), but the moment the victim is subject of exploitation (that from the deceived women's point of view is when the crime is committed). From this approach, the prevention strategies prior to the moment of exploitation are of secondary prevention. The women are not feeling victimised, but they are put in a risk situation if that was to happen. That is, the crime, from their perspective, has not been committed. Hence, criminal persecution operations are proving ineffective. Aiming to address this problem, ÖDOS programme design is part of a secondary prevention strategy (Crawford, 1998) of the victimisation of human trafficking, from a criminological perspective.

### *Protection of children on the move*

A second aim of the ÖDOS programme is the protection of children and adolescents on the move. While women are an invisible group at risk, even more so are the children who accompany them. Currently, the mobilities that affect children and adolescents keep being invisible to the society and to the administration responsible of their protection (Manzanedo, 2019).

Children suffer from the migratory track severity, witnessing and suffering physical, psychological and sexual abuse. Some are born on the way, during the mother's migratory journey. In various occasions there is no registry of this fact, as there is no supporting documentation of where the birth took place nor the first place to stay or the minor's residence. The lack or impossibility of recognition of nationality by any of the States makes those minors to be de facto or functionally stateless (Bhabha, 2009). Therefore, minors born on the track are invisible and remain in the shade of any rights while they are refused any right to identity. Without identity they have no right to having rights (Bhabha, 2009). Thus, one of the ÖDOS programme's aims in the protection of childhood on the move is the visibility of the problems minors born on the track face before the public authorities for the ultimate purpose of fighting for the right to identity of minors born on the track and avoiding their statelessness (Manzanedo, 2019).

Since these are undocumented minors, another central action of the programme is to be able to verify the consanguinity of the minors and women accompanying them and to prevent situations in which minors are used as "anchors" to avoid the expulsion of women arriving in an irregular situation.

There was a very striking case once because two women arrived with a boat, each with a child, and were referred to a humanitarian reception centre. Two days later, one of them left the centre and the other woman became hysterical. When the workers asked her what happened, she told them: "She left with my child, because I left her one of my children so that she wouldn't enter a CIE<sup>4</sup>" [...] We have noticed that there are many women who disappear from the centres after two days. They disappear voluntarily with a child and without the results of the DNA tests. The results take a short time, around 20 days or a month. But if the adult has taken the child in 2 days, because it is an open humanitarian centre and the woman is free, then the child disappears. In 2018 we have had 91 cases of minors with negative DNA who went missing (National Police Officer)<sup>5</sup>.

As it is a stop in their migratory track, during the stay of the families in ÖDOS, there is enough time to receiving the results of DNA tests conducted by the National Police as a pre-entry procedure. In addition, there is enough time for the ÖDOS intervention team in stage I to assess, in a safe environment for the child, the relationship between the woman and the child. This is fundamental to avoid traumatic separation from the accompanying woman, even when the DNA test is negative, as long as the relationship between them is positive and the woman is an adult reference for the minor.

The programme's personnel are aware that women's conditions during the migratory track can lead them to a situation of post-traumatic stress that makes it difficult for her to take proper care for her child. Thus, alongside the restoration of women, work to strengthen the mother-child bond is a primary child protection strategy. If the bond is considered positive, even when the woman is not the mother, a report for the

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<sup>4</sup> Detention centres for foreign migrants in an illegal situation.

<sup>5</sup> The interviews were conducted during 2020, in Spanish. The English version is a free translation carried out by the author of this article.

Public Prosecutor for Minors is carried out to demonstrate the benefits of such a relationship being maintained. These social reports that accredit the need to maintain the relationship can be considered in the rest of the administrative or judicial decisions, aiming to comply with the principle of the best interests of the child.

Migrant children accompanied by their mothers are also a source of concern from the perspective of victimization, since they are in a clear risk situation due to their legal invisibility and their uncertain social environment of destination. The legal form known as “declaration of risk situation” is underdeveloped in the social intervention, although it is legally provided (Law 26/2015, 28 July, modification of the system of protection for children and young persons). The declaration of risk situation allows a specific intervention project to be set up by the city councils, ensuring minors’ protection in case women want to leave the resources without guaranteeing the child’s safety. However, this type of proceeding with municipal social services is unexplored at the national level and its use regarding the childhood on the move is inexistant, for the series of risk indicators that are envisaged to materialise such a decree does not include the specific risk factors of these minors, i.e., lack of documentation or risk of human trafficking. Again, their specific situation of vulnerability remains invisible to the system. Therefore, the ÖDOS programme is working in coordination with the social services of the municipality to identify specific risk indicators of children on the move. In the case of young children, one of the risks they run is that their mothers could be or become involved in a process of exploitation during the migratory journey. In the case of adolescents, especially African girls who may be mistaken for women of legal age, they are especially vulnerable to human trafficking and sexual exploitation.

#### *Detection of vulnerabilities qualifying for international protection*

During the assessment, the relevance of the ÖDOS programme in identifying vulnerabilities and violence qualifying for international protection was also highlighted. Updated data published in the latest programme report “*Mujeres y niñez africana en movilidad: La llegada a España a través del Mediterráneo*” (2022), shows that a considerable number of women (47%), during the initial interview, refer that their main reason for leaving their country was gender-based violence. 18% mentioned financial issues and another 18% mentioned reunification with family members or partners already in Europe. One percent cited political reasons for fleeing their country.

However, as women participate in the intervention strategies of the ÖDOS Programme (psychological, social, and medical care, as well as workshops on human rights, literacy...) and build trust with the programme’s personnel, many of them begin to tell their life stories in greater depth, which reveal the varied motivations that led them to make the decision to migrate. Thus, 18% of the total number of women reveal that they began their migration journey to avoid female genital mutilation (FGM) of their underage daughters. 20% report having escaped from forced marriage or gender-based violence (13%), while 10% mention family problems as a trigger for the decision to migrate. Family reunification and improved living conditions are cited by 11% of women. If one considers together those women who migrate to avoid genital mutilation of their underage daughters, those fleeing forced marriages or other gender-based violence, the number of women fleeing from gender-based violence rises to 51%. Many of the women who have migrated to avoid FGM of their underage daughters admit to having suffered it themselves. They report that, despite having opposed it being performed on their daughters, they were unable to prevent other family members, usually their father’s family, from carrying it out.

The relevance of the programme in aiming to identify vulnerabilities qualifying for international protection seems evident. The process of intervention with the women during their stay in the programme’s residential resource points to the fact that a considerable number of women arrive in Europe fleeing situations of violence while seeking to protect their daughters from living the same experiences.

#### **IV. ÖDOS programme’s strategies**

##### *Comprehensive intervention*

The first major difference of ÖDOS programme within the Spanish humanitarian shelter system is that it is not a massive and generalist reception centre, but a centre specialized in a very specific and minority profile among the people arriving irregularly to the Spanish coasts. Pregnant women and/or women accompanied by minors usually leave the humanitarian reception centres within a few days of arrival. In order to prevent the families from disappearing to continue their migratory journey, ÖDOS is proposed as a stop along the way. Programme’s workers manage to convey to the women that on their arrival in Spain they need to make a stop before continuing to their destination in Europe. The location of the residential resource helps

to make the stay a moment of pause and reflection. Unlike other shelters, the ÖDOS residential resource is far from the city centre and allows for a period of tranquillity, recovery, and reflection<sup>6</sup>.

In order to achieve the acceptance of the woman to pause her migration plans, the programme uses first reception strategies that have proven to be effective in most cases. The process of referral to the residential resource, when the families arrive by boat in the ports of Spain, is carried out with the presence of one of the women served by the programme.

The women organise a welcome for the new family, they cook African food... It is quite a nice day to see. It is the day that there is a "boza"<sup>7</sup>, they celebrate it a lot and they celebrate a lot that new women come, and they try to make a welcome as familiar as possible. During the trip, the veteran woman comes to talk to her (new woman) in her own language, to explain where they are going, with whom, what we do a little bit... She tells the new one what our project consists of and then when they arrive here, they have the warmest welcome possible (ÖDOS' worker).

Once a new family arrives at the residential resource, the time of the woman and children is respected. Formal strategies such as first interviews or training activities are employed but getting to know the details of the migratory journey to Spain, their plans, and the victimization they have suffered in their country or on the way is very complicated and requires time. The experience at ÖDOS points out that identifying situations of risk of exploitation or profiles qualifying for international protection implies a process and requires building trust between the intervention team and the women. Building this trust requires time and approach women in their language.

The intervention is based on a horizontal approach and the team support for the women's decisions. Women are provided with medical and psychological care and training through group workshops, so that they themselves can make informed decisions. One of the most important training strategies are the "psycho-legal workshops", which are shared spaces where women are offered information about their rights. It turns out to be a space to share, among them and with the intervention team, and become aware of the violence they have experienced, often normalized, and to get to know the tools they have available to assert their rights.

Informal moments of socializing together and casual conversation are also fundamental for the generation of a bond between the women and the intervention team. This comprehensive, horizontal, and unhurried intervention is the key to identifying profiles at risk. The identification of potential victims of trafficking, of minors who declare themselves to be of age or of cases of international protection is a process and requires time and coexistence between the women and the intervention team. During a formal interview at the time of arrival it is not possible to access the complexity of information that is accessed during the intervention process.

Another important part of the intervention strategies is that, for the duration of the time they stay in the residential resource, on average three months, a process of integration of families as neighbours of the locality is provided: schooling of children, participation in neighbourhood life, training, leisure, health care... The programme works with the idea of normalizing the family stay, so they are not in a situation of temporariness.

In addition to the comprehensive intervention, the programme also aims to generate knowledge about the reality of women and children on the move. From its initial plan, an external evaluation and advocacy actions were foreseen to make visible the situation of vulnerability of these invisible groups. To this end, the programme's workers collect information resulting from the intervention in a database. There is a concern with recording the information so that it can be analysed a posteriori. This is another differentiating aspect of the programme: the intervention is a way for research and knowledge generation.

### *Multi-level cooperation*

<sup>6</sup> An important aspect of this stop is the formal acceptance, by the woman and in front of the social services of the City Council, of the social and educational family intervention project that is developed during the stay. After the arrival, the woman is called to the social services of the City Council to be informed about the time and procedures required for her itinerary in the programme. Social services explain to her that because she has arrived accompanied by an undocumented minor requires waiting for the results of the DNA tests and compliance with a series of requirements to ensure the safety and best interests of the minor.

<sup>7</sup> "Boza" is an expression of joy and celebration usually chant when African migrants manage to cross the border. It can be translated as something similar to "rebirth" or "victory!".

Along with to the intervention strategies that make it possible to identify situations of risk and vulnerability, it is essential to have tools for the real protection of these families. A fundamental aspect of the program is the capacity for coordination and cooperation with key agents at local, regional, national, and international levels, in addition to networking with the entities that make possible the phase II of the programme. The program's group in charge works as an agent of communication and coordination with key officials and agents, leading the strategies, contacts, and agreements.

At the local level, coordination with the City Council stands out. As a general rule, undocumented persons are not usually registered in the Municipal Register of Inhabitants in Spain, but this registration is fundamental for guaranteeing the rights of women and children, making it possible for minors to attend school and for women and minors to have access to the health card. Meetings and coordination with the City Council made it possible guaranteeing the families registration. The Municipal Register of Inhabitants accepted the document provided to the families by the National Police after their irregular arrival to the Spanish coasts. This register means access to rights and make these families visible as neighbours of the locality. This action at the local level opens precedents so that other municipalities in Spain also comply with this recognition of these women and children as neighbours.

They (the families served by ÖDOS) are automatically registered in the municipality, it has been a political position supported by the secretary of the town hall. When families leave the ÖDOS residential resource and go to other municipalities we contact with social services and the fact that they have been registered in Montilla makes it much easier for them to be registered in other municipalities (Social services worker of the City Council).

Coordination with the City Council, through the social services, also makes it possible to formalize the intervention plan with the women, so that they respect the timeframe for checking the results of the DNA test and the evaluation of the minor's situation. Detailed reports are being worked on regarding the risk situation of these children when they leave the ÖDOS's residential resource. The program demonstrated the need to adapt the risk indicators traditionally used by social services, focused on abused minors, to indicators related to foreign, undocumented, and migrant minors. When the women decide to remain in Spain and move to another resource in another locality, communication is also attempted with the Social Services of this new locality of residence of the family, so that they are informed of the situation of vulnerability and need for accompaniment of the new neighbours.

Another fundamental aspect at the local level is the legal attention and support received by the families served. Members of the ÖDOS Network specialized in immigration legal issues study the cases that come to the program, while the group in charge and the program's director, also qualified in legal issues, give indications to the intervention team so that they can identify situations of importance for legal strategies related to the documentation of minors, family reunification, international protection applications, etc.

At the regional level, the program coordinates with the health system and schools, with meetings to bring together the specific attention that the families served may need. The program has met with all the schools in Montilla to facilitate schooling and explain the rotation needs of the minors who stay in the residential resource for an average of 3 months. Coordination is also important with the Child Protection Services, for cases of family reunification, when a woman refers to have a child in Spain and who is sheltered in a reception centre. Between the ÖDOS and the Child Protective Services the required procedures are carried out to evaluate the possibility of family reunification. In cases where minors declare themselves (or/and are identified by the authorities) to be of legal age and are taken in by the programme, coordination with Child Protective Services and Public Prosecutor for Minors are carried out. The program is always in communication with the Prosecutor's Office regarding the results of the DNA tests and for making decisions of non-separation when the DNA is negative but the bond between the minor and the woman is positive.

At the national level, there is coordination with the National Police and the Ministry of Inclusion, Social Security and Migration, for family referrals, as a specialized resource for women and minors in vulnerable situations, information on risk situations, DNA test results, avoiding separations when the DNA is negative but the bond between the minor and the woman is positive. The National Police department, where the registration of accompanied and unaccompanied minors arriving at Spanish coasts is carried out, values the communication and coordination with the ÖDOS programme. As expressed during the interview, "the gears" need to work for the protection of minors to be effective:



This is like a gear, we are the ones who detect (the vulnerable families), but then the follow-up must be done by them (humanitarian resources) and for example with the ÖDOS Programme we have very good coordination. Not only between the police and the programme, but between the programme, the police, prosecutor's office, and social services. We are all working like in a gear, each one has its own functions, but we are coordinated, and we all know that what is most important is the minor's best interest (National Police Officer).

By functioning as a stop along the way, and unlike other humanitarian reception resources, the ÖDOS programme allows families to be located during the time necessary for the results of DNA tests and to assess the bond between women and minors. The National Police recognizes that it is not possible to make a proper assessment during the few hours that they remain in the police facilities after arrival.

At the international level, the program's connections are beginning to develop. The families served by the ÖDOS programme are families on the move. It is not possible to think about the intervention and the objectives of the program if we ignore this fact. Of all the women and children who enter the program, most of them continue their journey to other destinations. According to updated records as of December 2021, although 17% of the women decided to stay in Spain, the majority (57%) went to France. The program seeks contact with social entities in France, in order to get a follow-up, since most of the families are looking for this destination. Social entities in Morocco, the country through which most of the women and children who come to ÖDOS pass through, are also coordinated with the programme to exchange information and experiences to try to provide a better response to women on both sides of the border. Of all the coordination mechanisms, at the international level it is clearly the most complicated. Despite the challenges of balancing a local-level initiative with working in a coordinated manner with different countries, the program is aware of the transnational nature of the phenomenon, as it points out the European Parliament resolution of 10 February 2021 on the implementation of Directive 2011/36/EU: "trafficking in human beings is a complex transnational phenomenon that can be tackled effectively only if the EU institutions, Member States, third countries and EU and international organisations work together in a coordinated manner."

## V. Results: ÖDOS programme's emblematic cases

During April 2018, until December 2021, 388 people have been hosted in the programme: 219 women and 169 children. The following cases are emblematic of the relevance of the programme for the prevention of human trafficking and for the protection of children on the move.

### *Identification of a trafficked adolescent prior to exploitation*

A minor is identified by the authorities (and identified herself) as an adult when she arrives on the Spanish coast and is referred to the ÖDOS programme for humanitarian care. The intervention team accompanies her and identifies that her attitudes are not compatible with those of an adult woman. She behaves like a child, despite claiming to be of legal age. Comprehensive accompaniment over a period of months makes it possible to build trust and a bond between the intervention team and the minor being assisted. This bond enables to identify signs that she had arrived in Spain immersed in a human trafficking network. Attempts to contact the minor by a man who threatens her and charges her for the trip are identified. The trust built between the minor and the intervention team made her feel comfortable to assume she is underage. A report is made to the Public Prosecutor's Office and the police regarding her situation of vulnerability. Following an interview, in September 2021, the trafficking unit of the National Police recognised the unaccompanied minor as a victim of trafficking and guaranteed her the protection to which she is entitled, in accordance with article 59 bis of the Spanish Immigration Law.

In this case, child protection and prevention of exploitation come together, but identification was only possible after the bonding process and the time spent in the residential resource, which was longer than in other cases because women usually decide to continue their migratory journey after three months. This result is representative of the fact that in some cases the identification of minors and/or victims of trafficking is a process and depends on the time and the trust generated between the intervention team and the person assisted.

The challenge is that in most cases it is not possible to clearly identify that the families assisted by the programme are immersed in a process leading to exploitation. Maybe because some of them are not yet immersed in it. But it is possible to identify profiles of women and minors at risk of exploitation, due to their situation of vulnerability. In these cases, which are the majority, the programme works on prevention through information and training so that the women can become aware of their rights and the risks they run. This

process of comprehensive intervention and trust building can be crucial in the future, because if something happens to them, they can contact the programme and ask for help.

### *Recognition of Spanish nationality to a stateless child*

One of the central problems concerning children on the move that ÖDOS programme brings to light is their invisibility due to the lack of birth registration. Children born during the mother's migratory journey are related to at least three countries: the mother's country of origin, the country of birth and the current country of residence, when they arrive in Spain. However, these relationships present impediments to the recognition of their nationality for different reasons:

a) Birth during the migration journey does not usually occur in hospitals and therefore there is no record or proof of the relationship between the country of birth and the child. Furthermore, b) the countries on the track do not recognise the nationality as a place of birth (*ius solis*), but as an affiliation to a national of the country (*ius sanguinis*). c) Registration with the consular authorities of the mother's country requires either proof of birth (non-existent) or additional procedures requiring travel back to the mother's country of origin (without documentation, returning to the mother's country of origin is impossible). Finally, it is the country of residence of the child, in this case Spain, that is responsible for finding a response to these children's requests for birth registration and acquisition of a nationality, especially given the situation of violation of children's fundamental rights, the right to identity and nationality, but also access to education and health care (Navarro and Manzanedo, 2022).

The legal team of the ÖDOS programme and members of the ÖDOS Network specialised in legal and immigration issues study the cases of statelessness of the minors assisted by the programme, seeking solutions to guarantee their rights. In October 2021, the first positive result of the efforts made in this regard was achieved: the registration in the Civil Registry of a baby girl, whose mother was Cameroonian, and who was born in Algeria during the mother's migration journey, without the existence of documentary proof of the birth (Navarro and Lozano, 2021). Having ascertained the impossibility of registering the minor in her country of birth and in the mother's country of origin, a situation that imposes legal invisibility on the minor, the judge's order states that the immediate registration of the birth should be carried out in Spain. The order cites the Universal Declaration of Human Rights (article 6) and the Convention on the Rights of the Child (article 7) regarding the right to birth registration and nationality, the Spanish state being obliged to enforce these rights. This case opens precedents for the fight against statelessness and the guarantee of rights for children who live in Europe, but do not have access to nationality and therefore to an identity and the right to have rights.

## **VI. Conclusions and challenges**

The ÖDOS programme serves as a laboratory to study the situation of women and minors arriving to European territory through Spain. Before the implementation of the programme, there was no data available on this reality. The vulnerable situation of these families went unnoticed at Spanish borders, Spain being a transit country to other European countries. The programme's vocation to collaborate with universities to generate knowledge through the recording of data and external evaluation allows a local intervention experience to be shared with other social organisations, civil society, and national and international authorities, contributing to the understanding and action for the protection of vulnerable profiles arriving in Europe.

However, one of the challenges faced by the programme is to combine intervention and data collection. Often the daily dynamics of intervention consume time and take the focus away from data recording. People working in the intervention sometimes do not understand the importance of data collection and naturally put the intervention at the centre. Some data is often missing when the intervention is the means by which the information is obtained. The key to get more accurate information is a good data collection strategy that is simple and does not place a heavy additional workload on the intervention workers. The external assessment of the programme was also important in this respect, helping to improve data collection tools and demonstrating to the intervention team the importance of registering data.

In the framework of the new Pact on Migration and Asylum (2020), when rethinking border strategies for the rapid identification of vulnerable profiles, the experience of the ÖDOS programme alerts us to the need to respect the time and the need to build links in the process of identifying particularly vulnerable and difficult to identify profiles such as victims of human trafficking, profiles qualifying for international protection or minors who are identified as adults. In addition, ÖDOS experience invites us to consider acting in terms of prevention, focusing on potential victims who have not yet been exploited and on minors at risk to guarantee their rights. To this end, multilevel coordination is essential.

But working from a prevention approach, before exploitation occurs, points to challenges faced by the programme. One of the conclusions of the evaluation was that the ÖDOS programme is a secondary prevention strategy for trafficking (Garcia-España et al, 2021). However, it is important to note that ÖDOS is currently funded as a humanitarian care programme and not as a specific trafficking prevention resource. However, ÖDOS is a pioneering programme that aims to respond to the crime of trafficking from a secondary prevention and victim-centred perspective.

The result achieved by the programme with the recognition of the minor as a victim of trafficking before the exploitation occurs points to the fact that it is possible to address the issue of trafficking in a preventive way and not only when the exploitation has already occurred. Prevention actions with such a specific target group as ÖDOS give meaning to anti-trafficking prevention, because they materialise in concrete strategies the idea of prevention that usually appears in treatises and conferences on human trafficking. The word prevention is embodied in ÖDOS and that is why sharing its strategies is fundamental so that other contexts can learn from this experience.

But the difficulty in understanding the role of ÖDOS as a specific human trafficking resource is exemplified in its incorporation into generalist humanitarian reception resources. This is due to the difficulty of establishing a victim-centred and prevention-oriented perspective on the part of public agencies. The criminal-centric perspective focused on the prosecution of crime is the most widespread when addressing the issue of human trafficking. Therefore, to be considered a resource to fight against human trafficking, it is necessary that there are clear indications that the woman is being exploited and/or is recognised as a victim.

The programme also takes an innovative approach to guaranteeing children's rights by bringing the issue of statelessness of children born in transit to the forefront. Comprehensive intervention strategies allow families to make a stop along the way, which means a precious time to implement a series of actions for the protection of minors: DNA tests, assessment of the link with the adult, risk assessment, medical and psychological evaluation... All this in coordination with multiple key actors at local, regional, and national level, which is what allows access to rights.

Other challenge faced by the programme lies in follow-up and coordination at the international level. Being a local level programme, how to achieve a long-term follow-up and impact analysis of the programme, considering that most of the families continue their migratory journey to other countries? One of the suggestions for improvement resulting from the evaluation was the formalisation of the follow-up system for families once they leave the programme. The programme currently records information obtained from contact with women arriving in other European countries. Future research focused on the impact of the programme should take these data into account and seek to understand the situation of the families assisted by ÖDOS in other European countries, with the aim of identifying whether the time spent in the programme and the training it offers serves as a protective element for women and children.

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