

I am extremely pleased to welcome GEMME EUROPE in Athens following the formation of the Greek Section of GEMME .It is an honor for us that Athens has been chosen for the celebration of the twentieth anniversary of GEMME EUROPE.

My first contact with GEMME EUROPE was in 2007 during the first Congress on Mediation organized in Greece by Ioanna Anastassopoulou, where I had the opportunity to meet many of you bring present in this room today among whom the estimate Emeritus President of GEMME EUROPE, Professor Béatrice Blohorn Brenneur , the pioneer in Europe of Mediation having created in 2003 the Groupement Européen des Magistrats pour la Médiation – GEMME EUROPE , thereafter ,in 2008 , the ASSOCIATION GEMME-France and later on the International Mediation Conference for Justice, CIM called since May 2019 the International Council of Mediation .Her tremendous activities and contribution to the expansion of Mediation had as a result that she was attributed the grade of Officer of the Legion of Honor. Thank you very much Mrs Brenneur for being with us .

#### THE INFLUENCE ON MEDIATION OF THE BELIEFS OF ANCIENT GREEKS REGARDING THE AMICABLE SOLUTION OF DISPUTES.

Ancient Greeks and more particularly Athenians were in favor of peaceful resolution of disputes . .A highly respected adage was that « a bad compromise is preferable than a good trial».Actually,in a trial there is always a winner and a loser ,in a compromise a win – win result is generally possible.

Due to shortage of time ,I will stick only on two examples showing the preference of Ancient Greeks to compromise rather than fighting in Court.

#### THE ALTERNATIVE DISPUTE RESOLUTION IN ANCIENT GREECE

##### **1. THE ROOTS OF MEDIATION IN ANCIENT GREECE.**

In Ancient Greece, the resolution of dispute by means of a compromise was broadly applied ,but also by means of arbitration when the third person intervening in the solution of the dispute was rendering a decision at the end of the process .

In Greek Mythology , the first dispute resolved by Mediation appears to be the Mediation of the Goodess Athena between Orestes and the Furies, Greek Goodesses of Justice and revenge . Orestes having killed his mother Clytemnestra and her lover Aegisthus as a revenge for the death of his father Agamemnon ,who had been killed by the two lovers when he came back to Mycenae from Troy, was referred to trial before Areios Pagos ,the Supreme Court of Athens . The Court was presided by

Goodess Athena .Her vote was determinant since it made the balance tip in favor of Orestes ,who was thus acquitted.

Yet, in spite of his acquital,Orestes could not rest and live quietly since the Furies chased him permanently.

Goddess Athena decided to mediate between Orestes and the Furies.

She approached the Furies and asked them whether they would prefer that the Athenians respect and love them instead of heating them. After no long ,theFuries responded positively .Trust had been developed between them and the Goodess who taking advantage of the momentum told them that she had previously met with representatives of the Athenians ,who assured her that the Athenians were willing to change their attitude towards them, provided that from their side also they would promise-and respect their promise - to stop chasing Orestes .

The Furies ,realizing that a second chance would be difficult to be given to them to get rid from the hatefulness of the Athenians, accepted the proposition and -respecting the deal -they stopped chasing Orestes, while the Athenians renamed them as Eumenides or the Kindly Ones henceforth respecting and venerating them .

As of this episode ,in case there was a split vote at Iliaia , the major Tribunal of the Ancient Athenian State, the accused person was acquitted because he was considered to have «the vote of Athena».

## 2. SASMOS ( RECONCILIATION )

In the island of Creta since the Minoan era ( 3.000 -1.100 b.C.) an unfortunate bloody tradition called «vendetta» is said to have been the way the disputes between its inhabitants were solved.The vendetta is considered to be dictated by «the sense of the obligation of revenge ,which is meant to govern the feelings of someone having been-either himself or his family - the victim of an unjust act ». It is the vindictive murder which gives relief to the sense of the principle of reciprocation but also to the protection of the honor of the main «actors » and their families .This rule of payment back corresponds to the rule set forth by the Bible « an eye for an eye and a tooth for a tooth» .At this point, it is interesting to clarify that the Bible does not incite one having lost an eye or a tooth to pull out an eye or a tooth of his aggressor .It means that for Justice to be rendered and Equity respected the punishment ,the sanction should have the same importance as the unjust act,which is punished .

Aristotle mentions in his best-known work on ethics «ΗΘΙΚΑ ΝΙΚΟΜΑΧΕΙΑ» ( ETHIKA NIKOMACHEIA)as introducer of the « Law of payment back» Rhadamanthus,the wise brother of Minos ,who is said to have composed the Cretan Code .

Simultaneously with the vendetta, which for many centuries was a traditional way of granting Justice, it is almost sure – although there are no written relevant proofs – that in Crete a non formally structured kind of compromisory resolution of disputes called «Sasmos» existed since the 13th century A.C., which still exists constituting a conciliation, a Mediation to solve disputes.

The word « sasmos » comes from the verb « σιάχνω » or according to local dialects « σιάζω », which means « to repair », « to fix ».

Sasmos is the process in which, after a dispute is generated, a usually aged person, who is respected and benefits of the esteem of the local community ( a person who has the *cozi* as they say in Crete, ie a person who has social power and ability ) called «sastis» or conciliator or agent or mediator mediates between the conflicting parties in order to reach a compromise to solve the dispute. The *sastis* has the obligation of confidentiality and he must take care so as everything entrusted with him by the parties be not be spread in anyway whatsoever .

It is impressive that often the role of *sastis* was played by women. A characteristic example is the one of Maria Marangaki called Marangomirena from Galia who has done successfully dozens of mediations. Anyway, it is historically proven that as of the thirteenth century A.C. sasmos was applied more and more in Crete especially at the region called Anogia and the mountain region of the Island .

In short, the process was the following : As soon as the dispute became known and before the beginning of the sasmos, the *sastis* had preliminary private meetings with the parties in order to explore their positions and interest in respect to the dispute and to gather as many as possible relevant information. These meetings, which resembled very much to caucuses, could last for many days or even months. No joint meeting took place between the parties. When things matured, the *sastis* selected a neutral house – usually his own house. If both parties agreed to meet, they went at the house of the *sastis* and they all sat around the dining table, which had already been prepared for the dinner, at which the most socially powerful members of the two families were present. Nothing was said about the dispute. They started to eat and to drink and when they clinked their glasses and said «cheers» the parties were considered to have done peace !

It is most interesting to mention that at the end of the sasmos, the families of the conflicting parties signed an agreement before a Notary containing a statement that «the hostility would not continue». This is ascertained by 33 such documents of the period 1612-1639, which is said to have been found in the archives of the Notary Ioannis Kroussos, who used to call them «love instrumenta». Said agreements

resembled strongly to the agreements signed nowadays at the end of a successful Mediation .

The sasmos is broadly applied until now in the mountain region of Creta as the natives firmly believe that one goes to Court when he has used all available means and they add, with humor, that « the Court may solve financial disputes ,but it does not do baptisms» . Why do they mean ? They mean that often especially the women of the adversary families take steps so as, when the guilty ones and the victims are in jail or absent,spiritual links are created by means of the baptism of a child of the other family. When the adversaries come back the continuation of the vendetta is avoided thank to the spiritual links created by the baptism.Actually. the baptism may even ratify the sasmos reinforcing the reconciliation and the social peace in general.

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