



Department of Thessaloniki: Ptolemaion 35 & Siggrou, 54630,
Tel. & Fax: 031 526 150
Email: arsisthe@compulink.gr
Greece



ANCORA MATILDE PROJECT

**FIRST PHACE OF ANCORA MATILDE PROJECT
FROM ARSIS IN GREECE**

**THESSALONIKI
MARCH 2002**

I. Reasons for joining the project

Arsis, a social organisation for the support of youth, is a Greek non governmental organisation working for the social support of disadvantaged young people, the prevention of youth marginalization and the defence of youth rights.

Arsis cares for young people aged over 15, who experience serious difficulties in the process of their social integration, and are faced with hard life conditions such as deprivation, poverty, insufficient support and security in their family, homelessness, neglect or abuse, school failure, conflict with the law, confinement in prisons, prejudice and unemployment.

Arsis approaches young people of both sexes through referrals by social and penal services, but also directly in its **Youth Support Centres**, as well as in care institutions, prisons and detention centres for young people. The services that provides are:

- **Psycho-social support:** counselling (individual, team and family), group work, legal advice, information, liaison with social services, support to deal with personal, social, housing or other problems and needs,
- **Preparation for employment:** assessment, orientation, basic skills development, placements in vocational training programmes, job search, support of work placements, productive workshops and social enterprise initiatives,
- **Temporary housing and food services** for young people without home or in major difficulty,
- **Social and recreational mobilisation:** participation in group and leisure activities, art and creative workshops, exhibitions, social and cultural events, communication, visits, youth exchanges.

Arsis decided to participate in the *ANCORA MATILDE* project for a variety of reasons, focusing on a micro as well as a macro level:

Micro level

As explained above, **Arsis** is an organisation for the support of young people. An important number of its beneficiaries are young people who are or have been experiencing interfamily conflicts and for whom the organisation through the provision of a variety of services attempts to find solutions to the emerging problems deriving from the parents' separation. This acquired experience could be utilised, exchanged and further enriched via the transnational partnership resulting from the implementation of the current project.

Macro level

Arsis through its experience with adolescents considers of high priority to point out the importance of the institution of family mediation to the relevant actors (teachers, agencies, authorities etc). This could be done via the organisation of a seminar in Greece where the relevant actors will be invited and the results of the field research will be demonstrated. By such way, the dimension of the issue will be revealed and a discussion and a social dialogue amongst the relevant actors will be initiated, aiming to impose pressure on the

equivalent national authorities for the institution of the family mediation to become a reality.

Last but not least, at the same macro level of analysis, *Arsis* is interested to acquire knowledge of how the tool of family mediation is implemented in other European countries, where there is already an adequate legal framework and how this tool has been evaluated once implemented. By this way, the valuable experience of partners will contribute to the best possible effective implementation of family mediation when adopted in Greece.

2. The normative description

The existing legal framework

Within the framework of the Greek Law, the issues concerning the relationships between parents and child are being settled by the devices of the Civil Law and especially by the chapters of Family Law (article 1346-1709).

According to the above devices, underage children stand under the custody of the parents until the age of eighteen years old (article: 1510 C.C.).

Parental custody signifies the right but also the obligation of the parents to look after their children (care, upbringing, education etc), to manage their property and to represent them.

Judicial entrusting of the parental custody arises in cases, such as:

- a) Disagreement of the parents concerning the custody of the children (1512 C.C.),
- b) Divorce or temporal separation of the parents (1513 C.C.),
- c) Removal of one of the two parents' custody rights (due to attempts against the child's life or neglect of the child (1510 C.C.), or finally
- d) In cases of children who were born, outside a marriage.

In all aforementioned cases, the court makes all efforts to prevent any negative affects on children, due to their parents' disagreements.

The Civil Law provides a fore-judgement stage, before the issue of entrusting custody goes to the court. During this stage, the department of minors of the court's social services investigates the family environment of the underage, in order to intervene for the reconciliation of the parents. In case, that reconcilative attempts fail, the department of minors submits a report to the court, where the best possible solution for the child is being recommended. Within the same reconcilative framework, the hearing of the child by the judge is also being provided.

Though, since the above hearing depends also on the judge's free will concerning the maturity of the underage, the omission of the hearing does not cancel the procedure. Most of the times, the courts tend to ignore the hearing device.

On the other hand, according to the European convention “For the exercise of the children’s’ rights” in 1997, the contact of the child with the judge is obligatory, not during the conciliative stage but also during the main procedure.

The institution of the above services is being provided by the 2447/96 law (article, 49 ep.). However, since the introduction of those services is suspended for the time being, the above possibility is restricted.

The same social services provide support to the parents, who have problems in exercising their custody, after their making the relevant request to the court. By this way, through the contact with family counsellors, the parents have the opportunity to confront the problems they are faced with (e.g unemployment, drug addiction, or abandonment of one of the parents etc.). However, similarly to above, those services have not yet been established.

This existing gap is attempted to be covered by several social institutions, public or not, where the parents or the underage can address to. Nevertheless, the lack of an organised, accessible and comprehensive network results to the exercise of a fragmentary and incomplete social intervention.

The Court via the hearing process, where the parents, the underage or the experts, who are appointed by the court due to the lack of social services, have the chance to express their views, and by taking into account all the aspects of the issue, the court can conclude to the following:

- a) entrust the custody to one of the two parents,
- b) propose shared custody,
- c) allocate the custody between both parents,
- d) entrust the custody to a third person, usually a relative, or a guardian, if the court judges that either the parents are unsuitable or when the parents declare that they are unable to look after their children.

As long as the Court removes the custody from a parent, is committed, after the parent’s request, to settle the communication with the child, either by verifying agreement between the parents, or in case of a disagreement, by defining specifically the duration, frequency, place, time, place of spending the night, collection and deliverance of the child. Before and verdict, the court is committed to take the child’s opinion into account (2447/96 law).

The Greek Family Law does not, in any case, reject the contact rights, and suggests only the restriction of the contacts, for the best interest of the child.

Holding

A. Parental custody

The Greek legislator has not set up specific and obligatory rules for the Greek judge concerning the entrusting of the parental care of the underage, in case of variance or divorce between the parents.

In general, the court has to choose amongst the following options:

- a. to entrust the parental custody to one of the parents (or shared custody in some cases),
- b. to share out custody between the parents,
- c. to entrust the custody to a third person.

The main criterion for the decision making on behalf of the court is the best interest of the child. The court decides which is the most suitable environment for the upbringing of the child. However, the court, is committed to take also into account the up to then bonds of the child with his/her parents and brothers/sisters and also the possible arrangements that parents promoted concerning custody. In general, the minor's custody is entrusted to the mother, since it is considered that a child in such an early age is still very much attached to his/her mother. However, there are cases where the court entrusts the custody of a child before adolescence to the father, which are indeed rare. Before reaching to a decision, the court estimates also the underage's opinion, but only when the underage is mature enough to understand his/her interest. This judgement does not depend on his/her age. Furthermore, the court, before any verdict, is committed to respect the equality between the parents, free of gender, racial, linguistic, religious, political, social, or any other bias.

B. Contact rights

Related to the above subject, is the right of a parent to keep contact with his/her child, when the latter lives with the other parent. It is self-evident, that a parent has contact rights, only when the court has recognised those rights. Not only the parent, who doesn't live with the child, has contact rights, but also the grandparents, unless there is a serious reason to avoid those contacts, for the interest of the child.

It is a fixed **holding ground** for the Greek courts, the fact that a child should keep regular contacts with both parents after the marriage is ended, for his/her normal emotional and physiological development. An example, that shows the willingness of the Greek courts to protect the rights of a child to keep contact with both parents, is a last decade's verdict, when AIDS was a taboo issue for the Greek society, and the Greek court recognised contact rights to a father, who was **seropositive**. The only limitation was that the child could not stay at her father's place for the night, in order not to be at risk of her health. The Greek courts are very strict concerning the protection of the contact rights and in case where a parent prevents the other one from seeing the child, this can result in losing the custody.

The regulation process of the parental custody and the contact rights begins with the request of one of the parents or of a third person who has a lawful interest. The court chooses between either the common and rather time-consuming procedure, or the safety measures, that is a short procedure, which is being applied only in cases of emergency. The court has the right to impose a monetary penalty or detainment in cases where one of the parents prevents the other one from seeing the child.

Family Mediation in European Legislation

Within the framework of the European legislation there is no regulation, which commits the state-members to officially institute family mediation and to provide the appropriate structures for the implementation of the institution.

The institution of family mediation is provided by the Introduction of the Ministerial Committee of the state-members of the European Council, during their meeting on the 21th of January, 1998 (616th meeting). The introductory script, even if it is not committing, clearly provides the institution of family mediation and it's basic aims (such as: improvement of communication between the members of a family, reduction of the conflicts between them, resolution of their differences and reduction of the requested time for solving the problem, reduction of the social and economical costs from the separation of the family). The best interest of the child and the maintenance of the relationship with both parents is the focal point of the introduction.

A script of great importance, although it is not obligatory, is the Charter of the Fundamental Rights of the E.U., which was written, in the Inter-governmental Conference of Nice. The Charter of the Fundamental Rights is not so far included in an E.U. convention, but it reflects the common values of the State-Members.

In article 24 (paragraph 1), it is provided that children have the right for the adequate protection and care that is requested for their living conditions and that they may freely express their opinions. Furthermore, all the issues that concern them should be seen according to their age. Finally, it is stressed that the actions of public authorities and private organizations should primarily take into account the best interest of the child.

In the second paragraph, it is clearly provided that *every child has the right to maintain regularly personal relationships and direct contacts with both parents, unless such a thing is against their interest.*

We perceive therefore, that the tendency towards the support of the family and the interest of the child is being also introduced in the European policy and indicates the future policy of the state-members on the subject.

THE NETWORK OF SOCIAL SERVICES IN GREECE

In Greece there is a series of agencies that provide social services where citizens could address to, in order to seek solutions to various problems that they might face. The legal status of the organisations that offer such services varies. They might be services offered by¹:

- State specialised agencies, which are supervised by the relative ministries, such as: “The National Organisation of Family Care”, supervised by the Ministry of Health, “The Association for the Protection of Minors”, supervised by the Ministry of Justice, “Research Centre for Gender Issues” supervised by the Secretariat of Equality, of the Ministry of , and finally, the relevant social services of the hospitals.
- Local agencies which are supervised by the respective municipalities i.e.: counselling centres in a specific community for the needs of the people of the community itself,
- Social, non-governmental organisations, Philanthropic organisations and other voluntary associations that offer various services, depending on their aims, objectives and approach. They all have a similar legal status, that of a Non profit organisation and in general they maintain an element of volunteer work. Indicatively, we mention: “Arsis, Social Organisation for the Support of youth”, “Artos Drasi”, “Voluntary Work”, “Social Solidarity” and others.

Given the above context, parents could be addressed to one of the above services when they face problems in their coexistence. It must be said that the above organisations by no means constitute specialised centres of family mediation. Simply, they focus on the provision in a broad sense of social and psychological support (counselling) for various issues and as such, they provide, amongst others, some general support and advice in cases of interfamily conflicts and divorces. Thus, as these agencies are not centres that exclusively deal with the problems of family separation, they are not known to the people who really need them.

Furthermore, since as already explained above, family mediation has not yet been institutionalised, appropriate structures for the implementation of such an institution have not yet been established. Thus, it remains in the discretion of each organisation to which extent it will introduce and implement family mediation.

¹ An analysis of the Greek model of social services could be provided in: G. Amitsis, Principles of Organisation and Function of the System of Social Welfare, 2001, Papazisi.

5. The voluntary situation in Greece

Civil Society and Non Governmental Organizations

Lately in our country, there is an increased interest in Non Governmental Organizations, given the general disappointment towards the traditional forms of political expression. Politics is not only a matter of power but mainly is a matter of modulation of a civil consciousness. NGO's have an important role to play in this field, since through them the civil society is being expressed.

During the last decade, more and more people discuss about the term of civil society. Civil society refers to all kinds of collective action that are being developed voluntarily and unite the social dimension of the individual making a clear distinction from the state and the market economy's institutions. Civil society aims at the closer examination of the democratic institutions and processes as at the broader defense of the people fundamental rights.

In Greece, the chart of civil society is consisted of approximately 3000 NGO's, which work in field such as the environment, health, welfare, human rights, education and culture, without though a unified legal framework, which will regulate the volunteers and NGO's status.

NGO's working in the field of human rights and especially against social exclusion are being rapidly increased within the expanded European Community. Today, these organizations need to fulfill a very important work. Actually, they need, through their work, to undertake or even substitute part of the state responsibilities and services.

Voluntarism

The organized voluntary actions constitute an important dimension of civil society and also one of the basic principles of the work of an NGO. Voluntarism is being born and also justified by the state's inadequacy to satisfy major social needs. Lately in Greece, voluntarism acquires new dimensions and philanthropy has been replaced by unselfish solidarity.

According to the Voluntary Service Chart that was written by the Social Affairs Committee of the European Council, the terms Voluntary Action and Voluntary Contribution refer to those actions and roles that are being freely undertaken and implemented by the citizens for a social cause and without any economic benefit.

Genuine voluntarism constitutes a form of participation and factual social solidarity on behalf of sensitized citizens. Voluntarism is based on health motivation and is being developed provided that offers satisfaction to the volunteers. In cases of state inadequacy, voluntarism establishes terms of gradual solving of important social problems. It constitutes an on going process that brings the people closer, promotes communication and participation and produces networks of social support and solidarity.

In Greece, in spite of all the efforts being made to enforce voluntarism, there are many things to be done. Most importantly, the relationship between the State and the NGO's or the volunteers should be clarified. Moreover, the facilitation of a horizontal communication and networking and the on going sensitization and mobilization of the Greek public opinion are very important factors.

An important part of voluntarism within the Greek ground, though it is less developed compared to other European countries, is working in the field of health and welfare services, mainly providing services to socially excluded people. This form of voluntarism, which is more focused in providing services for people in major difficulties, is known by the term "social voluntarism".

Voluntarism, through the work of the NGO's, provides support services in various special social groups. Unfortunately, those organizations have to cope with an already established social problem and also to reduce the harm that young people undergo, due to problematic family conditions. Since family mediation is not provided by a state service, it would be useful if an NGO could implement family mediation services having the specialized staff and the appropriate knowledge.

Arsis focuses on the support of youth and whenever necessary on the support of the family as a system, always working for the best interest of the juvenile. Thus, arsis, in a wider sense of family mediation, intervenes into a family, in cases of abuse or serious neglect of the underage.

Furthermore, Arsis and other NGO's as the Red Cross organize direct interventions, supporting voluntarily that are living in welfare institutions, due to inadequate family environment. The welfare institutions have the authority to examine whether the family conditions have improved and to see for the potential return of the child to his/her family.