

PATH FOR NEW INSTITUTIONS AND URBAN COMMONS

**Legal and political acts for the recognition
of Urban Civic and Collective Use
starting from Naples**

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Premise

The path undertaken by social movements and the Municipality of Naples regarding the commons in the last ten years (2011-2021) comprises several administrative acts. The aim of this report is to illustrate some key passages of this journey. Our first aim is to encourage the transplantation and adaptation of this path in different European contexts. We are convinced that the hybridisation of “good practices” is not a matter to be developed only between local administrations; quite the contrary, true hybridisation will only occur if citizens themselves, in their social and associated formations, design, claim and build shared practices of self-government and direct actions on mutualism and solidarity. Claiming rights from grassroots beyond national borders and share this kind of alternative governance between cities of different countries is an important path for removing the barriers of mistrust and racism that are fuelled by nationalism in Europe because constitutes a pattern of joint living values and principles. These practices may include (but are not primarily formed of) administrative acts that enable the construction of urban and rural commons. In this

work, thus, we do not intend to illustrate an “exceptional” method that is better than others, but rather we try to show how a good practice was born and has been pursued not only by innovative administrative legal acts, but also by errors, uncertainties, and interpretative turns arising from interactions, and not infrequently the clash, between citizens and public institutions. This is the true value that has characterised the Neapolitan experience of the commons, and this is what we would like to highlight here.

The following text will be divided into six sections. The first section will be dedicated to an introduction to the theme of Urban commoning in a broad perspective. Sections 2 to 5 will be dedicated to the presentation of the “Institutional Path of the Urban Commons” in Naples. In this part, a first attempt to generalize the steps of the path will be presented. Section 5 will be devoted to the presentation of further Administrative Acts and to a brief presentation of other examples of Civic Use in Italy and abroad. Finally, the conclusions will attempt to answer a few but central questions about the Neapolitan model of commons articulation, and thus provide some urban policy.

In all the grey boxes the reader will find a translation of some parts of the cited deliberations; these extracts have been selected to accompany in understanding of the administrative process.

This work is the result of a personal study on the path of the administrative acts of the municipality of Naples, therefore it does not reflect neither the vision of the City Government nor that of the communities of urban

commons and activist-researchers who have made this experiment advance empirically and theoretically overtime. This work is part of the final output of the URBACT Civic eState project, and it was carried out with the collaboration of Ana Sofía Acosta Alvarado. The author would also like to thank Maria Francesca De Tullio and Maria Patrizia Vittoria for the precious comments and suggestions on this work •

INTRODUCTION

Urban Commoning

Usual pictures inside cities, big and small ones, are abandoned, derelicts or underutilised properties and spaces. Some of these urban areas and premises are reclaimed, occupied or reused as urban commons. First of all, the urban commons may be addressed such as ‘ex-places’, that is very old buildings, former prisons, abandoned convents, barracks, brownfields and other urban ruins. In most cases, these are public buildings, which are abandoned because of their great size and dilapidated condition, and because they are very difficult to renovate.¹ Hence, they are transformed from ex-places into the urban commons through a process of civic and social revitalisation, which re-functionalises them.

But talking about ex-places does not imply that they are simply empty spaces. In fact, each of these real estate and areas, before being abandoned were linked to the territory and performed a precise function, which conditioned not only the economic development (induced and commercial relations), but also the image and liveability of a neighbourhood. For

better or for worse, they were part of the city’s vision. So, when an ex-place is thought of as a common, it entails firstly a step of redesign after a crisis. Accordingly, what makes urban renewal through commoning different is mainly the subject who redesigns it. Usually the redesigning process is thought out by those who have the economic strength to do so, without any regards of whether they are public or private entities. In terms of substance, the decision-makers are primarily those who provide the funds to finance more often huge redevelopment projects. Obviously, this model can also include a form of citizen participation, to be shared with stakeholders and different social sectors. This aspect of shared even if is co-essential to urban renewal through the commons, puts the economic and accounting necessities in the front line, making experiences of citizenship essentially marginal, squeezed by the strongest actors in the state and the market. One antidote is to highlight the role of citizens as policy makers.

In the theory of the commons, there are constant references to the

¹ On the use of the concept of former places see from different perspectives Micciarelli, 2017 and Laino 2020

concept of self-organisation. Self-organisation can be declined in many forms. Stefano Rodotà suggest that if we want to find one of the historical antecedents of the commons, we should look at those experimentations of self-management and reversed nationalisation and plans for the gradual transfer of business ownership to the workers that have not been so successful since the 1970s (Rodotà, 2013). Here, the question is why have these experiences been “not so successful”? There are two reasons for this. Firstly, because those extraordinary experiences clashed with the difficulty of involving workers in democratic forms in a wider environment, such as the market in which they were embedded, which is not democratic, where the industrial and entrepreneurial tradition are instead deeply characterised by management and hierarchy. The second reason is that the self-management experiences were without valid public support; so their being outside the traditional logic of the market did not, however, ensure that they could survive in the market. There are numerous not-so “lucky” flashes in history that recursively attempt to achieve this goal: a social, political and economic democracy that does not only pool the means of production and a space in which to work, but also different relations between individuals, opportunities and conditions for obtaining greater rights than can be found in “normal” forms of production. This mutualistic

basis of self-organisation is one of the foundations of the challenge of the commons.

Now, since the management of the commons is crucial because it teaches a practice of democracy that we so desperately need, we must then find tools to support self-management *in* and *from* the State and the market, thus said both in the economic and legal realm.² From this second perspective, is no longer those that only question the level of co-governance and ‘political decision-making’, but also that of ‘community-making’, and of put in common means of economic and social (re)production (Caffentzis and Federici, 2013).

In order to make this perspective concrete, the commons should be differentiated into two macro-categories based on different types of participation and self-organisation involvement: the necessary commons and the emerging commons (Stavrides, 2014; Micciarelli 2014).

Necessary commons are goods that are functional to the exercise of fundamental rights. Their public ownership must be preserved. Where they are private, they should be subject to collective use, through easement or else exceptions should be made or licenses and/or patents granted to allow for be established for non-commercial purposes. In order to guarantee and reinforce their ‘common’ dimension, international treaties and laws must recognise participatory governance, which includes those for

2 This is what I called the first reasonable aporia of the commons (Micciarelli, 2021)

whom those goods are indispensable via their representatives, associations, groups or public and private institutions. They might be tangible, intangible or knowledge commons. Examples include water resources, vaccines and all life-saving drugs.

Emerging commons are goods that are functional to the direct exercise of social, economic, and political rights, used in non-exclusive forms and through collective governance that distributes rights between an open community of commoners in a non-rival and cooperative way. The legislative context must enable their special governance regime, encouraging and guaranteeing the establishment of collective civic management and popular assembly bodies, which constitute a new horizon of democratic self-government. Examples are ex-urban or rural places re-functionalized as spaces for the claiming and exercise of rights and of collective fulfilment.

As is evident from these definitions, the issue of qualifying rights of use and forms of governance of the commons has become crucial. There is no common without a commoning, however, this statement has very different weight depending on the distinction between necessary and emerging commons. Urban commons are a paradigm of emerging commons. An urban commons foster commoning practices and give the opportunity to create projects and propose activities that would be difficult to accomplish in the realm of the state and the market, because the

mainstream mentality of the *homo economicus* is not capable to grasp its contradictions. Indeed, urban commons are a testimony of a social revolution (De Angelis 2017).

In this sense, commoning practices of self-management are essential to qualify a common as such. But many other questions arise. Can only a public good be a common? Are the citizens who care for it public or private subjects? If a common good is behind the state and the market, its governance needs new instruments, hybrids between public and private law.

This legal-transformative capacity is distinctive of commons' theory; in particular, urban commons drive towards a transformation of the law and rights. Scholars have observed that private law - due to its autonomy and atypicality (Mattei & Quarta, 2018; Marella, 2017, 2012) - can be an important source of legal tools to improve the existing, expanding participatory bases and members of a private legal entity, for example: new Foundations (Vercellone, 2020), Community Land Trusts or innovative uses of inherited building rights and more horizontal corporate forms, such as the *Mietshäuser Syndikat* (Cafora, 2020; Vey, 2016). However, it is noted that private law instruments risk creating economic and governance barriers that reproduce proprietary positions within the commons themselves (Acosta Alvarado & De Tullio, 2020). Other scholars and many local administrations focused more on public law tools, experimenting on care and co-management of com-

mons. Think to the collaborative city is a commons-based city model, that have in the City of Bologna led to the “regulation on collaboration between citizens and the city for the care and regeneration of urban commons”.³ Another example are “temporary concession” articulated by placing goods at the disposal of social and civic organisations, for activities aimed at the care of the territory, art and culture (often with low costs, that are still too high for these kind of organizations).

It is important to move away from the logic of temporary use, which is another instrument that is being widely abused. The risk is that for a couple of years, citizens are granted the possibility of using a public or private space, and after two or three years when the property has increased in value, it adds up to a process of gentrification.

Although these tools (and others connected) are very different from one another, they share one standpoint in terms of perspective: «The study of commons institutions represents a fundamental transformation in the way we think about urban law and governance, and perhaps sheds new light on burgeoning forms of democratic experimentalism» (Foster and Iaione, 2016: 249). Horizontal subsidiarity (article 118, last paragraph of the Italian Constitution) is the cornerstones of legal framework about commons, even because a national legislation recognising the commons as such is still missing.

The lexicon of commons has been confused with that of “polite citizenship” who act as voluntary carpenters and masons to restore ‘decorum’ to cities. Commons are translated too often such as green areas and abandoned or underused places where citizens can help the public sector that is not able to provide public services or revitalize those goods. It should be the opposite. From our perspective, the commons have nothing to do with this imaginary. Indeed, it is the public authorities that have to act in support of citizens, providing them where possible with spaces outside the logic of rental. Even when we talk about relatively low costs, these are in an absolute sense just as many factors of exclusion of the weakest subjects who ask for access.

Moreover, using and managing goods in common is then an occasion, and not the objective, to create community and territorial cohesion, to claim new rights starting from the mutualistic satisfaction that citizens themselves are able to develop in autonomous and solidarity-based forms. The key approach used in Naples was to combine horizontal subsidiarity with policies of substantial equality (De Tullio 2020). In this way the abuse was countered. This gives local administrations the opportunity to support commoning experiences also economically. If this is not possible for budgetary reasons, these administrations have the duty not to repress them at least. In fact, due to a

3 comune.bologna.it/media/files/bolognaregulation.pdf

perverse idea of legality, local authorities are too often guilty twice over: firstly, by neglecting public space and being co-responsible for the degradation of private property; secondly, by repressing those who try to revitalise it through occupation practices. In this respect, Naples has certainly been in the vanguard.

Neapolitan experience it has a constitutive link with rights of civic use. These types of rights are still in force today in various parts of Italy, even though if they may seem anachronistic. Among these we find the right to collect wood, mushrooms, or water, and similar. These are, in a broader sense, rights due to an organised community settled on a territory and recognised to each of its members, *uti cives* and *uti singuli*; their content extends not only to the *uti* but also to the *frui* of the utilities of a common land. The history of civic uses (which take different names in different parts of the country) and their regulatory framework are troubled. They have recently been reformed by Law n.168 of 20.09.2017. Here, it suffices to point out that civic uses impose a relational coordination between the subjects who share the same bundle of rights. Goods ruled by civic uses may be pub-

lic or private, but their rights (and in many cases management) are collectively imputed to a community of reference territorially identified. Certainly, there are also civic use regulations that jealously guard, and sometimes even in an exclusionary manner, the right to access and exploit land. But this should not make us forget the precious potential of their history; the emergence of collective and in certain way participatory governance structures that are institutions functionalised by the conservation not only of the good, but even of the environment.

In Naples we have tried to reinterpret and adapt the civic uses into the sphere of urban space. From the right to collect wood in forest or livestock grazing (“traditional” civic uses), to the right to use spaces to perform like theatre rehearsals in an underused public building, among others. This was the output of a “creative use of law”: or in other words to “hack” the legal proposals made by local authorities or private owners (Micciarelli, forthcoming) To do this, we subverted the classic scheme where citizens pose claims and institutions provide solution, in alliance with researchers and activists⁴ •

4 exasilofilangieri.it/approfondimenti-e-reportage/

PHASE 1

From culture as commons to the recognition of the urban civic and collective use of the ex-Asilo Filangieri

From 2011 the new Mayor and City Council's determination to defend the commons was made explicit. This first phase impulse can be explained along two important patterns.⁵ The first is related to the campaign “water common good”, that aroused by the referendum campaign for public water in June 2011. After the referendum victory, the new city government adopted a resolution that created a special public law company for the management of the water service “Acqua Bene Comune Napoli” (Deliberation of City Government n. 740 16.06.2011, approved with deliberation of the City Council n. 20 of 15.7.11 and Deliberation of City Government n. 942 of 23.09.2011).⁶ The second pattern is exemplified by the Deliberation of the City Council n. 24 of 22.09.2011

which creates a link between water, a necessary commons, and emerging urban commons. This deliberation introduced in Title I, art. 3, of the Statute a statement dedicated to the “*Purposes and fundamental values*”, according to which “*the Municipality of Naples – also in order to protect future generations – recognises the commons as functional to the exercise of fundamental human rights in their ecological context and guarantees their full enjoyment within the scope of municipal competences*”.

This resolution was important, but only on a symbolic dimension and this should come as no surprise. The policies of a local authorities on commons encounter difficulties in being reflected on a concrete political level because these kinds of acts are more

5 The City Council (*Consiglio comunale*) has a political and administrative role. Its members are elected by citizens every five years, at the same time as the mayor. The Executive Board (*Giunta comunale*) is the City Government team chosen by the mayor. It is made up of councillors (*Assessori*) that have responsibilities (*deleghe*) linked to the different administrative sectors of the Municipality, and they work in connection with Municipal Officers. Deliberation of City Government (*Delibere di Giunta comunale*) are immediately enforceable, and in many cases do not need to be ratified by the Council. The Council's deliberations (*Delibere di Consiglio*) are necessary for all policy acts within its power. In general, while the mayor and the board have administrative powers, the City council is responsible for the fundamental acts of policy, programming and planning, control and verification.

6 Unless otherwise specified, the integral deliberations are available at comune.napoli.it/flex/cm/pages/ServeBLOB.php/L/IT/IDPagina/16783.

On the Neapolitan administrative path of the recognition of water company as a common good see, from different perspectives, Lucarelli 2011; Marotta 2019

often prerogative of other institutional levels. For this reason, in several cities there is an increase of deliberation of mere principle, which, while having a wide political resonance, risk emptying administrative acts of their meaning. Even in Naples the case of policies about commons was an example of this risk. So, even if the Council's determination to defend the commons had been clear, the shifting of the perspective arrived with a political struggle. The Occupation of the ex-Asilo Filangieri marked a turning point because it was part of this contradiction between proclamations and actions, giving the opportunity for both activists and citizens, on one hand, and institutions, on the other, to create a concrete administrative revolutionary framework. The ex-Asilo Filangieri is a former convent of about 5,000 square metres, in a three-storey building, located in the historic centre of the city of Naples. The structure was donated to the municipality of Naples by Countess Giulia Filangieri di Candida; which was used as a boarding school for young orphans, a vocation that was maintained throughout the years after the Second World War, accommodating thousands of children. The 1980 earthquake that destroyed a part of Irpinia region hit also the city of Naples, affecting the building and making it unfit for use for almost three decades, until a renovation project was completed in 2011. The building was then assigned as the headquarters of the foundation re-

sponsible for running the Universal Forum of Cultures over the next three years. In 2012 the building was occupied by a collective of workers in the arts, culture and entertainment.

The urban commons movement in Italy started thanks to the Citizens' Committee for Water as a Common Good, and it has found its main manifestation with the occupations of workers of the art, culture and the immaterial. The reason is indirectly, but decisively, connected to the welfare system dedicated to artists. In Italy their economic situation is particularly serious: few investments, practically no subsidy measures in case of unemployment (the proposal for a continuity income has only recently been elaborated with the pandemic crisis⁷), and a patronage system in the appointments of festivals and artistic directions (Allegri and Ciccarelli 2011). This gives rise to the need to use spaces where culture can be produced, from rehearsals of plays to halls where music can be produced. It is no coincidence that in Italy the intersection of these three points of crisis was manifested in the urban commons through the occupation of cinemas and theatres with the movement born in 2001 with the occupation of the Teatro Valle and the Cinema Palazzo. This is the genesis of the Italian movement of urban commons, urban commoners have since occupied around 20 theatres and cultural spaces in the national territory (Cirillo 2014). The ex-Asilo Filangieri is a

7 On this issue see D'Andrea and Micciarelli, 2020

key part of this history. The activists had called for a symbolic three-day mobilisation, which was initially limited to temporarily occupying the third floor of the building. The choice of that place, which was different from a theatre (as was the case with most experiences of that social movement) or an abandoned space (as happens in many other experiences), was due to its symbolic function: it represented a model of governance of private origin, a foundation, with a management chosen on the basis of a political mandate of trust that came at the end of the previous City administration. The main criticism was in the model of financing cultural policies by means of 'big events', in which the opportunity to have huge public funds was thought of as a fair, not designed to leave means of production and training in the territory. In the wake of the first assemblies, crowded with hundreds of people, and an ever-increasing number of requests for access to those hitherto underused spaces, the activists decided to stay. For about three years there has been a paradoxical situation, in which the offices of the Universal Forum Foundation and the political-cultural experiment renamed *l'Asilo* (the latter first limited to a small part of the third floor and then conquering more space room by room) coexisted in the same building, with little direct dialogue and continuous press controversy. The two antithetical models thus challenged the new City government, headed by Lui-

gi de Magistris, to take a stand: if it is true that they had inherited the public-private partnership of the Forum of Cultures, it is also true that it had decided to invest in the event, taking it on as one of the strong points of the city's cultural programming (De Tullio 2018).

After its occupation, a debate was opened on the fate of the building. So, the occupants decided, at the cost of long internal discussions, to challenge the municipal administration to really do something innovative. Two approaches thus surfaced. The first was that of the occupants, who had begun to imagine a new political and legal instrument for the commons: the urban civic and collective use, that drew inspiration and strength from the living law of civic uses. Using the commons framework was a strategy used by occupants to propose «a model of management of public goods reviving their social function, guaranteeing accessibility, impartiality and inclusiveness in the use of both spaces and instruments of production. Those who use public goods recognized as Common are the ones entitled to manage them, through democratic and horizontal decisions. We propose, therefore, a model of 'civic use' by re-thinking the very concept of sovereignty and transferring it to new, radically democratic institutions, thus eroding the authoritarian way of any political and administrative discretion».⁸

The occupiers were demanding

8 See the document later written by the commoners "Trilogia di un #apparecchio per: Ex-Asilo Filangieri", lavoroculturale.org/ex-asilo-filangeri

a public debate on the regulation of civic use, which they had begun to write in public meetings. The aim was to recognise the right to use a public space *in common*, through a regulation of public-communal use. Not the statute of private law of an association

that had the concession of the real estate; not an asset managed by the municipal bureaucracy. A common good where the right of use was recognised through a system of horizontal working-tables and assemblies qualified such as self-governing bodies.

Declaration of Urban Civic and Collective Use of ex-Asilo Filangieri⁹

Art. 1 Commons, declaration, community

Given that the resolution of the Municipal Council n. 24 of 22nd of September 2011, has introduced in the Statute of the Municipality the legal category of “common good” within the “Purposes and fundamental values” of the same Statute, and that in art. 3 establishes that: “The Municipality of Naples, also for the purpose of protecting future generations, guarantees the full recognition of the common goods as functional to the exercise of the fundamental rights of the person in its ecological context”; considering that the structure “Ex Asilo Filangieri”, hereinafter referred to as “l’Asilo”, located in Via Giuseppe Maffei n. 4, establishing a general strategy aimed at «fostering a path for the juridical and socio-economic recognition of culture as a common good», with the Council Resolution n. 400 of 25th of May 2012 was designed «as a place of complex use in the cultural sphere», and that the same, «in line with a constitutionally oriented reading of the art. 43 of the Constitution, in order to facilitate a constitutive practice of ‘civic use’ of the common good on the part of the community of workers of the immaterial”, is used to experiment and guarantee the expansion and development of participatory processes, articulated through a scheduling of activities that materialize from the use and direct management of the spaces by the workers of immaterial», hereinafter referred to as “workers of the art, entertainment and culture”; the community of reference thus identified assumes to encourage the creation of a “center of production and interdependent use” that places the spaces and resources of l’Asilo at the service of the workers of the art, entertainment and culture and of all citizenship.

The property of the building belongs to the Municipality of Naples, which in

⁹ The 23 articles are available at exasilofilangieri.it/wp-content/uploads/2016/01/dichi-razione-duso-civico-e-collettivo-urbano-dicembre-2015-.pdf

the full disposition of the property, qualifying it as a “common good”, binds it to the use of a “production center”, intended as a place entrusted for creation and enjoyment of the arts and culture, in which forms of participatory democracy that determine the conditions of collective use of the space are exercised and experimented, in the awareness that “there is a close connection between the interest of the community in the conservation of civic uses and the democratic principle of participation in decisions at the local level” (sent. Cort. Const. 345/1997).

The community workers of the art, entertainment and culture is committed to practicing shared decision-making methods that ensure inclusive management and free expression of art and culture, in opposition to a private and clientelist logic.

To this end, the community adopts this “Declaration of Urban Civic and Collective Use” as an instrument of self-government.

The “Preamble” is an integral part of the declaration itself.

Art. 2 Urban Civic and Collective Use

This declaration, inspired by an extensive interpretation of civic uses, regulates the use of the spaces of the Asilo and of the production tools contained therein, guaranteeing enjoyment, inclusiveness, impartiality, accessibility and self-government, in order to ensure the preservation of the good for future generations and the right of collective use by the community of reference.

It also determines the organizational structure and functions of the various self-governing bodies to allow experimental management of the good inspired by the most advanced models of participatory democracy and open to the creative dynamics of the self-government process.

In order to make this management practice effective, the Administration considers the related rights of use of the building not only in the sense of mere “access”, but in the broader sense of full availability on the part of the community of reference, in the sense of including the rights of direct management of the good itself.

The “self-governing bodies” described in the declaration constitute the management entity of the building.

On the other hand, there was the political and theoretical vision of the City | government. Originally it proposed two solutions. The first, was to sign

a contract granting part of the building where the occupation was placed (limited to the third floor) to a cultural association to be ad hoc set up by the occupants.

The second proposal, was to make the assembly mechanism, practised by the occupants, part of the decision-making procedures of a deliberative democracy experiment called 'Naples Laboratory for a Constituent of Common Goods'.¹⁰

According to this perspective, the municipality would manage the building directly; the councillors would use l'Asilo as a space to convene citizens and associations, to discuss and listen to proposals from both sides.¹¹

Both proposals were rejected by the occupants, that (after an important internal discussion) dissolved

the original structure of the group that started the occupation, aiming to create an open, heterogeneous and porous community based on a self-regulated assembly system. The occupiers became commoners, who claimed for the immediate recognition of a regulation of civic use, to be acquired.

As a result of this tug-of-war, the Deliberation of City Government n. 400 of 25.05.2012 found itself divided into two souls, often opposed. To be very clear, with this I do not wish to criticise the participatory setting of the "Naples Laboratory" at all, but only to point out that it was incompatible with the model of commoning that was beginning to be developed in the ex-Asilo Filangieri. This is clear in the following passages:

10 See Deliberation of City Council n. 8 of 18.04.2012 comune.napoli.it/flex/files/9/2/6/D.abcba-33de4c52506c669/delibera_n.8_del_18.4.2012.pdf

11 This participatory model was very structured, and was replicated later, but without success because it re-proposes outdated schemes of dialogue between citizens and institutions

Deliberation of City Government n. 400 of 25.05.2012

... considered,

- that the necessary management measures to entrust the building to the 'Universal Forum of Cultures 2013 Foundation' have not been concluded;
- that, therefore, the said property is still fully, legally and materially at the disposal of the Municipality of Naples;
- that it is appropriate to identify in a participatory manner, while waiting for the definition of the project destination of the property (also in relation to available resources), conditions and methods of use, shared rules, to protect the best accessibility and usability of the structure itself;

- that the location of the complex is strategic for a cultural and social project that takes into account the community in which it is inserted, with particular reference to the area of the historic centre and the cultural, artisan and artistic activities represented therein;
- that, in line with the aforementioned desire to recognise culture as a common good, the administration intends to encourage the development of new ideas and proposals, participatory processes, gender democracy, experimentation, and intends to give opportunities to young talents, to those who are not already included in the existing circuits according to a logic that, once and for all, does not grant a space to a group or an association, excluding many other significant realities due to the limited number of available public spaces
- that it is the aim of the administration to facilitate the use of the aforementioned spaces, according to a logic which, by recognising the processes in progress, guarantees new paths of elaboration such as to determine the best pursuit of general interests;
- that within this context the Municipality has the function:
 - to recognise and guarantee participatory processes, since this function is closely linked to the intended use of the aforementioned property, i.e. to guarantee the accessibility and direct use of the good by the reference community (workers of the immaterial)
 - to ensure a democratic form of management of the monumental common good called the ex-Asilo Filangieri, in accordance with a constitutionally oriented reading of Article 43 of the Constitution, in order to facilitate the formation of a constitutive practice of “civic use” of the common good, by the community of workers of the immaterial;
 - to ensure that the management and programming of the activities are carried out in shared and participated forms and modalities, in compliance with the function strictly related to the intended use of the aforementioned building, i.e. to guarantee the direct use of the good by the community of reference (immaterial workers);
 - to take care of the management of the space inside the building, ensuring its usability - guaranteeing effective access to the community of reference - and its decorum, respecting the social and urban context in which the structure is inserted, taking into account the sustainability of management costs;

Deliberate

- to establish that the building forming part of the San Gregorio Armeno complex, known as the ex-Asilo Filangieri, located in Via Maffei no. 4, is to be designated by the administration as a place for comprehensive use in the cultural sphere, which, in accordance with the spirit of this resolution by means of a shared and participated specification, will guarantee the accessibility and use of the asset to citizens, associations, groups and foundations, in the sphere of culture, understood as a common good and a fundamental right;
- to this end, to guarantee the development of paths, cultural processes, meetings, conventions, events and other artistic-cultural expressions through which, in line with Article 3 of the Statute, the issue of the recognition of culture as a common good is affirmed, to be realised in a shared and participated manner between public institutions, the community of reference, the local community and active citizenship, as well as an element of revitalisation of the territory, within a process of social and cultural development of the city. For this purpose, the premises located within the aforementioned building may be used;
- the comprehensive use of the monumental property shall be established through the elaboration of a specific project, after consulting the thematic council of “Laboratorio Napoli - Costituente per i beni comuni”;
- pending the definition and approval of the project, in compliance with the purposes indicated in the introduction, the building will be used in accordance with the provisions of the first and second paragraphs of this provision and in the manner indicated below;
- the calendar of processes and events referred to in paragraph 2 shall be drawn up, on the basis of the requests coming from the artistic, intellectual and intangible workers, as well as from citizens and groups with a participatory method through the procedures of the *Laboratorio Napoli* councils, in harmony with the guidelines of the administration, establishing that activities and projects, directly proposed and usable by citizens, are in line with the specific nature of the monumental property in question and are ascribable to the following characteristics:
 - are clear about their aims, method and intended outcomes;
 - are non-for-profit;
 - are carried out in accordance with the established rules and with respect for the needs represented by other users;

- they favour processes that propose artistic and cultural activities open to the public
- are supported by new ideas and proposals, enhancing experimentation and elaboration also by young talents, and by those who are not already included in existing circuits;
- demonstrate the value of excellence and contribution to the community in terms of cultural production, study, research and critical and cultural elaboration;
- are consistent with the location of the complex and with the reference community, favouring an action of cultural promotion that becomes value for the territory;
- the functional activities of custody and guardianship are entrusted to the Direzione III Patrimonio, which will provide them through the S.p.A. Napoli Servizi;...

This part of the final resolution, which included the use of the Naples labora- | tory as a decision-making tool, was severely criticised by the commoners.¹²

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 12 See for instance: [exasilofilangieri.it/assemblea-pubblica-ex-asilo-filangieri-7-giugno-2012-report](https://exasilofilangieri.it/assemblea-pubblica-ex-asilo-filangieri-7-giugno-2012-report) and [exasilofilangieri.it/continuiamo-a-scrivere-il-regolamento-duso-civico-dellex-asilo-filangieri-le-nostre-condizione-per-andare-avanti-comunicato-181-2](https://exasilofilangieri.it/continuiamo-a-scrivere-il-regolamento-duso-civico-dellex-asilo-filangieri-le-nostre-condizione-per-andare-avanti-comunicato-181-2)

## ! POLICY SUGGESTION

Before working together, citizens and institutions must also have the opportunity to exchange views and dialogue (and even clash) on supposedly irreconcilable options. The administration for its part must shed the image of the dominus of administrative decisions, formulating ‘take it or leave it’ formulations through its technicians. Citizens, especially when they are organised groups, associations and social movements, should be able to seize the opportunity to launch a transformative challenge: they not only have the possibility of ‘taking’ a proposal, but also of radically reshaping it.

Social conflict comes before collaboration and is what makes the conquest of new rights possible.

In the meantime, the Municipality approved other useful acts to better define the legal framework. This is the case of the Deliberation of City

Government n. 17 of 18.01.2013 which provided some principles for the governance and management of the common assets of the City of Naples.

### **Deliberation of City Government n. 17 of 18.01.2013**

(...) the expression ‘common goods’ is to be understood as those goods of non-rivalry, non-exclusive but exhaustible consumption, which express utilities functional to the exercise of fundamental rights and free development of people. which are functional to the exercise of fundamental rights and the free development of people; that the common goods can be qualified as ‘goods with widespread ownership’, for which greater protection and the need to provide greater protection and ensure their collective use; and preservation for the benefit of future generations; that at the heart of the current debate on the common the current debate on the commons focuses on the issue of their self-sustainability”;

“the municipality of Naples has property that is often unused or underutilised and/or in a state of neglect, deterioration or unsuitable use and which, therefore, could be enhanced and used in a way that is more convenient for the community as a whole, by establishing rules, procedures and responsibilities” and, furthermore, it is The opportunity to “activate a process through the municipal offices and, in particular, those of Patrimony, for an initial list of municipal property not for income or public property that can be identified as potentially manageable” according to the principles for the governance and management of the common assets of the city of Naples adopted with the same resolution;

Another important act is the creation of the Observatory of Common Goods, that emerged from the Decree of the Mayor of Naples no. 314 of 24.06.2013 establishing the first “permanent Observatory on the Common Goods of the City of Naples” with the functions of study, analysis, proposals and control of the protection and management of the assets themselves, con-

sisting of the President and eleven members; and the Decrees of the Mayor of Naples n. 318 of 25.06.2013 and n. 26 of 20.01.2014, which appointed the President and the eleven members of the Observatory, chosen from professionals with specific technical skills and experience in the areas covered by the Observatory’s activities.

This observatory only met until

2015. The first members had a mapping and study function. As we will see later, the Observatory was only reborn in 2018, changing its composition, functions and shifting to an activity that was also supportive of the commoners and “legal hacking”.

This (first) Observatory was not successful in mediating between in-

stitutions and citizens, partly because it was perceived as a direct expression of the City Government, since its president was also a councillor.

The relations between commoners and the City administration reached a critical point with the approval of the Deliberation of City Government n. 258 of 24.04.2014.

### **Deliberation of City Government n. 259 of 24-04. 2014<sup>13</sup>**

#### **(...) Deliberate**

- To propose that the Municipal Council approve a process that, at the initiative of the Mayor of Naples, is aimed at identifying, also by means of participatory democracy tools, privately owned properties and land that are in a state of actual abandonment and that are likely to be acquired by the Municipality of Naples. This process will be carried out in the following stages
  - identification, also on the basis of reports from the communities concerned, of privately owned real estate and land in a state of actual abandonment, which is also likely to compromise the decorum and the health, hygiene and environmental conditions of the area concerned, with the creation of a mapping of the same;
  - having ascertained the actual state of abandonment of privately owned property, the Mayor of Naples, by means of a deed notified by a municipal envoy, invites the relevant owners to adopt all the measures necessary for the pursuit of the “social function” of the property in question, within a peremptory term of 150 (one hundred and fifty) days. If this deadline is not met, the Mayor warns the owners to submit their observations within 60 (sixty) days;
  - if the owner of the property fails to respond, the municipal administration, also through the instrument of the Civic Councils, will decide on the destination of the assets and proceed to their acquisition into the municipal heritage. These properties will be used, as a matter of priority, as venues for municipal initiatives and activities, while in the case of new

13 [salviailpaesaggio.it/blog/wp-content/uploads/2014/06/Napoli\\_dgc\\_240414\\_0259\\_beni-privati-beni-comuni.pdf](http://salviailpaesaggio.it/blog/wp-content/uploads/2014/06/Napoli_dgc_240414_0259_beni-privati-beni-comuni.pdf)

building complexes that have remained unsold, the mayor will convene the owner-builders in order to agree on a sale price in line with the cost of production and the average asset capacity of Neapolitan citizens. If the agreement is not reached, the property is acquired, after a further warning, as part of the municipal heritage;

- abandoned private property acquired by the Municipality may also be managed outside the Municipal Administration, by entrusting the property to parties (individuals and/or legal entities) who have expressed an interest in doing so by submitting, following the publication of a public notice, “Management plans” that will be assessed by a special technical committee. Lastly, the Municipal Administration will ensure that the rules contained in the Agreement are complied with, given that any asset management activity that does not comply with the purposes and conditions contained in the Agreement may lead to the cancellation of the Agreement itself.

The aforementioned deliberation, regarding commons on private property; it was not followed up despite having aroused great interest. Another

‘twin’ deliberation was approved in the same day by the City Government, regarding commons on public property.

### **Deliberation of City Government n. 258 of 24.04. 2014**

(...)

d) stipulation of an agreement signed by the Municipal Administration and the managing entity selected following the publication of a suitable public notice defining, *inter alia*, the following essential aspects of the relationship for entrusting the management of the asset;

- the duration of the Agreement (*Convenzione*);
- the object, consisting in the temporary entrusting of the management of the asset, as indicated in the approved “Management Plan”;
- the charges to be borne by the operator (any ordinary and extraordinary maintenance work to be carried out and functional to the uses for which the property is requested), cleaning costs, utilities (electricity, water, gas,

telephone and Internet connections, etc.), condominium charges, fiscal charges (taxes and duties) and any other charges;

- the obligations of the operator, such as the obligation to safekeeping of the property and to maintain it in a good state of repair, as well as to take the spaces and equipment it contains
- forms of control of the respect of the Convention by the Municipal Administration and the Observatory;
- forfeiting of the Agreement in the event that the performance of the aforementioned monitoring activities reveals non-compliance with the rules contained in the Agreement.

The outline of this deliberation was in direct contrast to the claims and especially the practice of the commoners. Indeed, deliberation n. 258/2014 (essentially proposed by the first Observatory) could have led to an irrecoverable clash with the commoners. But, the clash was also the occasion for a new dialogue. In the year following its approval, a round table was set up between the administration and the municipality, with the participation of the new Councillor for the Common Goods and Urbanism, Carmine Piscopo, and the councillor on the Public Heritage, Alessandro Fucito that gave an important revival to the dialogue. It was no longer only the community of the l'Asilo that took part in this round table, but a network of other self-organised spaces (some of which were occupied) that claimed collective use

in the framework of the commons.

The mentioned deliberation of City Government had to be ratified by the City Council; in this step, the City Council had the authority to modify it with modifications to be voted by a majority. The round table between movements and institutions aimed at overcoming the structure of the deliberation n. 258/2014, hacking it with an amendment that would open up a structure governance different from the one initially planned. This strategy was crucial and necessary because otherwise the regulatory framework of the municipality of Naples would have definitively precluded the achievement of civic use. This dialogue led to a year-long stalemate. In the end, an amendment was tabled and approved by the City Council with the deliberation n. 7 of 09.03.2015.

**Amendments n. 10 and n. 11 of the Deliberation n. 7 of 09.03. 2015,  
that modified and approved deliberation of City Government n. 258/2014**

c) publication of specific public notices, addressed to individuals or groups of individuals (associations, foundations, social cooperatives, de facto committees, which are inspired by the constitutional values of solidarity, social and non-discrimination of religions, gender and ethnicity, etc.), for the submission of expressions of interest aimed at managing the property identified as a “common good”. Specifically, interested parties will be required to submit a “Management Plan” which must contain, among other things, the methods of participatory management of the good, the purposes, the expected benefits for the community, the description of the activities to be carried out, the methods of self-financing (e.g. “social” tariffs for the and possible forms of financing (contributions, crowdfunding, etc.) to cover both the costs of managing the asset and any ordinary and extraordinary maintenance that may be necessary and which will be borne by the owner of the good;

In the spirit of the above, the Municipal Administration may proceed with a specific regulation for the possible compensation of management costs, where justified by the high social value created, by providing for civic use regulations or other forms of civic self-organisation to be recognised in specific agreements.

These amendments should be interpreted in the sense of opening up two new hypotheses: the first, to provide for a regulation of civic use to be recognised the formal attachment of the declaration of urban civic and collective use, written by commoners and approved by municipal officers; the second, to provide for “other forms of civic self-organisation”, which could have been

recognised in specific agreements (*Convenzioni*), different from those regulated in the rest of the deliberation.

A long phase of political struggle and dialogue followed. After these deliberations came the crossroads: to recognise or not the urban civic and collective use, starting with l’Asilo. In the end, a new resolution was approved.

## **Deliberation of City Government n. 893 of 27.12.2015**

(...)

“There are already, in the municipal area, some properties and/or areas owned by the Municipality of Naples that are currently used by groups and/or committees of citizens according to the logic of experimentation of the direct management of public spaces, demonstrating, in this way, to perceive those assets as places susceptible to collective use and to the advantage of the local community; experiences that in their factual expression have been configured as “houses of the people”, i.e. places of strong sociality, thought processing, inter-generational solidarity, deeply rooted in the territory;

(...) that the structure owned by the Municipality of Naples, called ex-Asilo Filangieri and designated to the category of common good “in a possible or accidental sense” and collective use, falls within the systemic framework outlined by Article 826, co. 3 of the Civil Code, as it is intended to perform activities of public service and, therefore, applying to it the set of public rules governing the non-disposable assets and whose use is directed to the satisfaction of fundamental rights with the direct participation of the artistic, cultural and entertainment community in its administration;

### **Deliberate part**

1. to recognise and include the spaces of the building of the San Gregorio Armeno Complex known as the ex-Asilo Filangieri in Vico Maffei street, henceforth known as “l’Asilo”, in the list of structures and spaces intended for civic and collective use;
2. to confirm the commitment of the Administration to support the activities that take place in the monumental building formerly known as ex-Asilo Filangieri as an environment of civic development, and to provide, within the limits of available resources, the coverage of management costs, with related equipment and facilities necessary to make possible and to assure the collective use as a “centre of interdependent production of workers art, cultural and performing arts” open to all members of the community through the definition of a mode of use that is the result of inclusive, self-defined and self-managed decision-making processes and subject to periodic reviews with the procedure under Article 18 of the autonomous regulation;
3. the Civic Administration, in order to protect the community of reference, reserves the right to verify, in accordance with the procedures of

Article 12 of the autonomous regulation, the respect of the principles of inclusivity, impartiality, accessibility, usability and self-governance, as well as the cultural and artistic use of the space, the respect of democratic principles, the respect of the non-profit nature of the initiatives carried out for which a donation or voluntary contribution or form of social pricing is permitted (integrally and publicly reported through forms of participatory budgeting), or the self-sustainability of the projects through the use of public and private funds in compliance with tax regulations. The Civic Administration, in line with what is stated in the premise and within the limits of its competence in the matter, facilitates these self-financing and crowdfunding initiatives promoted by the community of reference, as they are primarily aimed at providing the necessary means of production, in any case always for common use, and to support artistic production activities.

4. to take into consideration the attached set of rules generated by a process of self-regulation and, at the same time, to adopt the generative mechanism with its system of guarantees of free access (to use, to formulate decisions, to structure decision-making processes), of democratic choice, of respect for constitutionally guaranteed principles;
5. to recognise in the envisaged Committee of Guarantors a stable body which, in terms of competences and composition, will be structured as indicated in the attached document;
6. to mandate the competent offices to include the ex-Asilo Filangieri *ratione materiae* in the municipal organisation as for supporting the managerial and logistic aspects and in all respects the accessibility and usability according to the needs of the planned activities, the 24-hour surveillance of the structure and its inclusion in the public wifi network.

In this deliberation there was innovative and essential elements: the recognition of collective use as a legal source (inverting the property paradigm, Capone 2016); the direct reference in the decision-making part to the capacity of self-government bodies as new participatory institutions; the acknowledgement of the right of the community of reference (workers

of art and culture) to write the rules of use and management, subject to verification of their democratic nature by the City administration. This resulted in the insertion of the 23 articles of the declaration of urban civic and collective use as an integral part of the administrative act. In addition, two further documents were inserted: a time line of activities in the dif-

ferent spaces, and the calendar of activities<sup>14</sup> (about 200 pages) from the first day of occupation. These documents (dossier) were crucial for the issue of economic sustainability was detected through a system of dossiers that included the calendar of activities. The great numbers of activities, as well as artists and work-

ers that crossed and used l'Asilo presented in this dossier showed two evidences. The first: the absence of exclusive use by a single group; the second: the so-called "civic profitability", as illustrated by the important accompanying report written by one of the managers who was in charge of the accounting audit.

14 On the issue of the social impact of emerging commons in Naples see M. P. Vittoria, 2020

### **Accompanying report to the deliberation n 893 of 29.12.2015, by the Office Manager of the arts and cultural heritage Department and of the Section on Commons**

(...) the so-called "inhabitants of l'Asilo" submitted the numbers describing the performance of the civic use of the structure measured over a period from 2 March 2012 to 31 August 2015 with a detailed calendar of activities. In 1,277 days, more than 3,800 activities and public initiatives were carried out, involving more than 145,000 users. A detailed analysis of the activities carried out shows the realisation of rehearsals for performances, trainings, debates, seminars, meetings, performances by musical groups and theatre companies, projections, exhibitions, book presentations, initiatives for children and adolescents. However, I will not elaborate further on the **qualitative profile of the copious number of activities fulfilled**, but will refer to what the press and specialised critics have produced on the subject, which is, moreover, easily available on the web. **From a purely quantitative point of view**, these figures testify to an intensive "**civic profitability**" of the structure, which is not easy to find even in similar structures requiring similar costs to the Civic Administration.

**From an internal point of view**, the same generative mechanisms of self-regulation and the overall autonomous and self-regulating result expressed in the form of the "Declaration of Civic and Collective Urban Use" give the dimension of a real self-managed and self-powered process (in continuous improvement tension demonstrated by the versions of the "Declaration of Civic and Collective Use" that have followed one another in time on the site) of activation and promotion of a model of proactive and responsible citizenship. In this sense, it is enough to read the numbers provided, which almost speak for themselves: management and steering assemblies and 580 working tables. It is appropriate

to remind that the **Management Assembly** (*Assemblea di gestione*) Art. 8 No. 1) discusses the ordinary management of activities and in particular deals with the planning of activities, the use of available spaces, the calendar of activities, as well as sets up thematic working groups if necessary, discusses and publicly approves expenditure commitments relating to self-government. The **Steering Assembly** (*Assemblea di indirizzo*) discusses the general guidelines for the activities carried out in l'Asilo and decides on a whole series of specific issues, as Art. 8 No. 2 of the "Declaration of Civic and Collective Use" states. With the **Working Tables** (Art. 11), which examine the project proposals received, and the **Committee of Guarantors** (art. 12), which acts as a last resort guarantee, a horizontal and inclusive management model/system is completed, based on the sharing of choices and the shared management of group paths, a true laboratory of active citizenship in the artistic and cultural sphere.

**From an external point of view**, an intense and delicate activity of penetration and dialectical insertion in the relational dynamics of a difficult neighbourhood and territory has been and is being carried out. It is a meticulous work that is still ongoing, with ups and downs. What is certain and civically profitable is the fact that the community of the ex-Asilo Filangieri performs a valuable "proximity function", offering multiple opportunities for identity development through, among other things, numerous cultural activities and laboratories of artistic expression.

It is appropriate to note that the municipal administration does not bear the costs of providing the facility with the equipment necessary for programming activities that is provided directly by the community. Nor does the Civic Administration bear any costs for the remuneration of specific professional figures who, moreover, would not even be available among the employees. Instead, it limits itself to guaranteeing maintenance (ordinary and extraordinary), supply of consumables, cleaning and sanitation, utilities and surveillance. Furthermore, with this measure, the municipal administration is not changing the financial commitment it has made to date for the structure. In addition to that, if we consider all the elements that emerged from the above analysis, the costs incurred to guarantee the opening and use of the facility appear to be fully compensated for by a significant civic profitability. All that has been described, argued and analysed encourages the adoption, for the facility, of the management system of urban civic and collective use according to the above-mentioned regulation and suggests evaluating its exportability to situations that, similarly, involve the community of citizens in urban regeneration processes.

In view of the foregoing, and having considered and discussed the above, I hereby express my opinion: *APPROVING*.

## PHASE 2

### **Pooling the commons: from the deliberation of the seven spaces to the creation of the new institutions - the new observatory of the commons and debt civic audit**

**T**he path to the recognition of the commons did not stop with l'Asilo. The enlargement of the process was a decisive step towards the “creative use of law”, because claiming rights never served only one subject, the importance of claiming rights is the potential it holds to benefit many others.<sup>15</sup> This has been possible thanks to the networking made by different commoning experiences. The first is the ‘network of the commons’ that was born in the city, and which today has a common platform: [commonsnapoli.org](http://commonsnapoli.org) and even a national network.<sup>16</sup> This network focused on relations, mutual help and solidarity between the different occupied or self-managed social spaces in the city, exchanging practices and mutual actions aimed at the action of creating.

In the city of Naples there are sev-

eral space regenerated with occupations or informal uses. In the struggle of commons, in particular, we are referring to seven abandoned spaces that were subsequently “liberated” (but firstly occupied) by activists from the world of social movements: Former Filangieri Juvenile Prison (now Scugnizzo Liberato); Former Schipa School, Villa Medusa, former Lido Pola, former Opg (now ex-Opg Je So’ Pazzo), Former Teresiane Convent (now Giardino Liberato di Materdei), former Santa Maria della Fede Convent (now Santa Fede Liberata). Altogether we are talking about 40,000 square metres of public heritage, largely lost to the city’s memory after decades of neglect.

These “emerging urban commons”, that call themselves as “liberated spaces” at the beginning,<sup>17</sup> carry out a number of social activities and

15 This is the strong point, but also the greatest limit of the Neapolitan experience. The extension of the model of *usi civici* should have empowered somehow also more traditional associative experiences, cooperatives engaged in the reuse of confiscated properties and third sector organizations. This is not an easy path of contamination for any of these realities, which are also divided by a legal system and the allocation of spaces that fragments and isolates them from each other.

16 Naples was also the place of birth of this network [retebenicomuni.it](http://retebenicomuni.it)

17 The distinction with the traditional term ‘occupied spaces’ is by no means a political distancing from that tradition, but should rather be read as its evolution into a key of larger openness to citizenship and other groups and association, make that kind of experiences less identity-based and more social-communitarian based.

have a significant presence in their neighbourhoods. This is the reason that has legitimised the path towards their recognition. The commons are not created either by local government or by law (even if it is a creative and bottom-up one): they are such because they are perceived as such, and because they consistently develop a form of use and management that is not exclusive and collective, participatory, horizontal, and open. The liberated spaces were present in different neighbourhoods all around the city, and developed different internal practices and activities, but in a certain sense they were complementary to an alternative model of society, based on new forms of economy, caring relationships and the pooling of means of production to meet needs and desires. However, this network was created not only through this exchange of practices, but also on the claim of the legal recognition of urban civic and collective use. After the deliberation of the City Council n. 7/2015 and the deliberation of City Government n. 893/2015 the stakes were raised for the recognition of other spaces.

To achieve this, firstly were produced “dossiers” or “numbers” of the activities made daily in these emerging commons as previously done by l’Asilo community. These are the “materials (such as self-produced dossiers, press passages, social networks, etc.) that provide news on the regeneration paths, care activities for the

whole community and other cultural and social initiatives: “the huge numbers shown the system of self-regulation of access, programming of activities and operation developed by the relevant civic communities and the relevant inspiring principles” (see deliberation of City Government n. 446 of 4.06.2016).

These seven dossiers were then received, while certifying their veracity, by the administrative offices. The acquisition by means of a resolution of documents relating to activities carried out in illegally occupied spaces may appear to be a legal stretch. However, this is first and foremost a civic recognition process, which is necessary and legitimate for a local authority to understand what is happening in the sites it owns. Putting one’s head in the sand might be formally more correct, but it would not be so from a substantive point of view. It does not matter whether the goods in question are occupied, because they focus on the type of activities carried out. This is very important in order to overcome objections, and obstacles, in the case (like the one under consideration) of those goods that are occupied without title.

The second step is therefore the presentation and acceptance of the dossiers, and the starting of the civic reconnaissance process. This was done by the just mentioned Deliberation n. 446/2016, of which some excerpts follow:

## **Deliberation of City Government n. 446 of 27/05/2016**

“A listening process for the recognition as emerging common goods and perceived by the citizenship as environments of civic development and as such strategic” of seven properties, “capable of generating social capital, manifested as factors of aggregation (...) generators of systems of self-government and self-regulation inspired by freedom of access and participation and in any case by the system of values sanctioned and protected by the Constitution.

“Considering also that in the context of a dense system of interlocutions the communities of inhabitants have produced summary documents summarising the paths and initiatives taken in relation to the places and spaces that by their very vocation (territorial location, history, physical characteristics, etc.) have become of civic and collective use due to their value as common goods. (...)”

Having read and noted the following in the preparatory file for this measure:

- Salita San Raffaele, 3 - ex Convento delle Teresiane;
  - Via Nisida, 24 - ex Lido Pola;
  - Via di Pozzuoli 110 - Villa Medusa;
  - Via Matteo Renato Imbriani - ex Monastero di Sant’Eframio Nuovo - ex-Opg;
  - Salita Pontecorvo, 46 - ex Convento delle Cappuccinelle - ex Carcere minorile Filangieri;
  - Via San Giovanni Maggiore Pignatelli, 5 - ex Conservatorio Santa Maria della Fede;
  - Via Salvator Rosa, 195 - ex Scuola Schipa
2. Communicate to the Municipal Council the results of the recognition contained in this deliberative act so that it may be aware of them in accordance with the provisions of Resolution no. 7/2015 of the Municipal Council;
  3. To entrust the General Manager with the adoption of the consequent organisational measures aimed at implementing the provisions of this resolution;
  4. In the meantime, ensure, by the UDP “Identification and valorisation of public and private spaces likely to be identified as common goods, according to the principles contained in the Deliberation of the Municipal Council 17/2013”, in active listening to the paths of civic profitability:

- the drawing up of one or more draft regulations for civic use or other forms of civic self-organisation to be recognised in specific collective agreements;
  - the care and support of processes implemented by communities of inhabitants that generate participatory paths of direct management and the related social and relational capital;
  - the identification of sustainability paths in view of the high social value;
  - the creation of full and effective dialogue and operational exchange with the administrative machinery;
  - the promotion of implementation paths (in synergy with the competent offices and services) of the appropriate conditions of safety and usability of the spaces in question for the management of the same safety as a value and factor shared and participated in with the community of collective use.
5. to establish that the identification carried out with this measure is not exhaustive and that it is part of a process of constant active listening and monitoring of the territory and its needs in order to identify spaces (ascribable to the list of common goods as indicated and prescribed in the current measure) capable of creating social and relational capital in terms of collective uses with the value of common goods”.

The impact of this deliberation has been enormous. First of all, it recognised a process in place, started from an illegal act such as the occupation formally was; secondly, it gave the go-ahead to allow these spaces to experiment with the collective writing of their own rules of use and management, through a creative use of law that started not from an abstract municipal regulation, but from their own principles and practical experience.

After the approval of deliberation n. 446/2016 there were elections for the Municipality of Naples, which saw the reappointment of the Mayor de Magistris. From their side, the movements of the commons network be-

gan experimenting with writing declarations of use. This produced a wide debate that included even those who were sceptical, or harshly critical, of the idea of formalising through a document that could have legal value informal and spontaneous practices proper of the commons.

In two years, a first collective draft with some cardinal principles shared among all the different commoners – used in the next different declarations of civic and collective use – was written and signed by the seven spaces, which served as the basis for the development of the individual declarations.

One of the keystones of urban civic and collective use is to go beyond a

model of agreement between a group of citizens designated by a particular legal entity. The reason for this is on the one hand to break the potential competition between social organisations, and on the other, to rethink the relationship between civil society and political institutions. This is not an easy task, because it could have been subject to countless risks of instrumentalization, subsumption and often outright blackmail. In Naples, the

positive relationship that has been developed over time was not due to a political alliance between movements and institutions in the traditional sense, indeed in this experience there has been no electoral or patronage convergence. The secret is that councillors and officials took up the challenge by allowing themselves to be permeated by the ideas of a group of the citizens, even though at first these may have seemed crazy or hazardous.

### **! Policy suggestion**

There is no real innovation without an appropriate administrative machine. It is essential to build offices dedicated to citizen participation and the commons; as well as to delegate suitable managers to engage in a process that is not merely “dialogue” or “collaboration”, but institutional transformation: this can only happen through the interaction between those who work in institutions (understanding its difficulties) and citizens who risk being subjected to the decisions of those same institutions every time they are not actively involved.<sup>18</sup> But contrary to the mainstream thinking, more important than the dialogue between isolated citizens and institutions, is the one within the context of civil society: between social organisations, grassroots realities, movements and groups of which single citizens are members. This is a political project, which in Naples started with an attempt to remove the hostilities between groups into which the world of social movements is often fractionated. Although still insufficient, attempts have been made to develop pathways for the depatriarchalisation of politics and the care of relations between different communities and the citizens. This is an important step, which needs to be implemented in order to create the right humus for open and horizontal practices.

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18 The commitment of the mayor Luigi de Magistris himself and the Councilor for common and urbanism Carmine Piscopo was measured in the involvement with some of the best managers, in particular Fabio Pascapé and Andrea Ceudech, as well as reference officials such as Giovanni Sarria, Raffaele Gagliardi and Chiara Abbate. This dialogue then spread like wildfire to other sectors. It is difficult to mention them without doing someone wrong, but it is useful to give some examples: the administrative sector connected to urban planning and URBACT with Roberta Nicchia and Nicola Masella, or even the law offices with Fabio Maria Ferrari, up to the staff composed of scholars like Daniela Buonanno.

The innovative way was to break out of the traditional pattern of dialogue between social movements and institutions, with the former posing claims through conflict and the latter finding political solutions. The City government has learned from the collective intelligence of its citizens; the citizens stopped waiting for someone else to find solutions, started to worry even about the administration's perspective (and problems). This has brought about co-creation. Thus, what was missing was exactly the formalisation of this dialogue. The network of commoners did not demand (as it could have) political roles in the City Government, but the creation of new participatory institutions.¹⁹ The first of these new institutions was a renovated Observatory of the commons, formalized after a long confrontation both between social movements and with the City Government.²⁰ One of the aims of the new Observatory was «to inaugurate an experiment in institutional creativity that can shape direct administration and other in-

novative experiments in civic self-organisation and popular control» (Decree of the Mayor n. 55/2018). To do so, the initial ambition was to impose an aggravation of the administrative procedure by imposing a mandatory (but not binding, of course) opinion on the acts of the conferring council. This has not been achieved, both because of the fear of loss of decision-making authority led by the City Government and because of the lack of provision in the City Charter (*Statuto comunale*). A proposal for an amendment to this effect has been filed in 2021. Even the composition of the Permanent Observatory and its new integrated tasks were renovated, in order to carry out functions of study, analysis and proposal on the protection and management of commons, providing the possibility for this body to also express evaluations on the proposed resolutions of the City Council, having as key subject common goods, participatory democracy, neo-municipalism and fundamental rights. Some extracts follow:

19 This of course does not mean that any particular social movement has legitimately obtained support for the nomination of its members to City Government positions, or that these have been joined by young activists who have matured in those very social movements.

20 Nomination through a public screening procedure based on the application and the evaluation of CVs

Decree of Mayor (Naples) n. 58 of 08.03.2018

New Permanent Observatory on Commons, Participatory Democracy and Fundamental rights

(...) the forms of participation must be adequate and effective, both in the case

of necessary common goods for the fulfilment of fundamental rights such as water and in the case of emerging common goods, such as public goods that are taken care of, managed in public forms, and regulated directly by citizens through appropriate declarations of use; democratic participation today must allow the observations of citizens and inhabitants to guide the democratic government of the city, consolidating and strengthening the process of self-determination from the grassroots in which the Administration has always strongly believed and now wants to make a widespread administrative practice; the political innovation to which the city of Naples tends is precisely in the sense of promoting a model of government based on democracy and participation, i.e. cooperation, accessibility to goods and comparison with civil society, a new model of widespread administration that makes possible the initiative and direct decision-making of citizens on issues that affect them; only through full popular participation in collective life is it possible to build a model of self-government that places the will of the people at the centre of decision-making processes, a political and economic model that is closer to local communities, which can promote self-determined development that is consistent with their history and vocation; (...)

- may also express evaluations on proposals for resolutions of the Municipal Council, concerning common goods, participatory democracy, neo-municipalism and fundamental rights;
- may also express assessments, at the request of the Council Committees, on the resolutions within the competence of the Municipal Council relating to the above-mentioned subjects;

The tasks of the new Observatory include: contribute, where required, to the elaboration of the declarations of civic use, supporting the self-training process that the reference communities of the commons are adopting in a public and participatory manner, carrying out a guarantee function, where required by the aforementioned declarations of civic use; promote public discussion between associations, voluntary and social realities that are protagonists of urban regeneration

to listen to their needs and jointly develop proposals for deliberation on the social and collective use of public goods; collect together with the competent departments the requests for the temporary use and civic use of the goods to be valorized; express evaluations on the proposals for resolutions both within the competence of the municipal council and proposed to the council, concerning common goods, participatory democracy, neo-municipalism and fundamental

rights such as the right to housing and housing; become a place of permanent confrontation both in the city institution and in the city as a whole, in order to facilitate shared visions on methodologies and practices for reactivating citizenship in a democratic and horizontal sense.

This institution is given the authority to review proposed deliberations on specific issues after preliminary approval by the City Council, but before final adoption. The Observatory uses this short evaluation period to promote public sessions and meetings involving citizens as beneficiaries of those regulations. This is an attempt to produce better administrative acts before their approval, thus mitigating the risks of potential conflicts that may arise from the communication deficit and the hyper-rapid time frame of the political decision-making process.²¹

The second new institution arose after, and with the support, of the Observatory of the Commons, was the 'Council of Audit on Resources and Public Debt', (Decree of the Mayor n. 228 of 11.07.2018) currently chaired by the former vice-president of the Italian Constitutional Court, Paolo Maddalena. In order to avoid a foreclosure on a relatively small share of the budget, such as in traditional participatory budgeting, this civic audit has disclosed and presented along public

meeting 1) structure and functions of the Municipality accounting system; 2) causes of the Debt, and 3) main criticalities and bias of the inherent system. After two years of work, studies, public meetings with experts and citizens, the Council delivered a comprehensive and accessible report together with a proposal for debt restructuring and cancellation.²² From the City Government perspective "The Public "Audit of the resources and debt of the city of Naples", is the first example in Europe of an institutional body on debt related issues. The Council is made up of twenty members, eleven of whom were appointed by the Mayor, including those from outside Naples, with proven expertise in the legal, economic, social, environmental, labour and social activism fields, while the remaining nine were chosen by public notice. With the establishment of the 'Public Audit Consultation on the Resources and Debt of the City of Naples', the Administration intends to bring the institutions closer to the citizens and inhabitants. Promoting 'grassroots democracy' means, in the Neapolitan experience, creating spaces that make it possible for citizens to take the initiative and make direct decisions on the issues that affect them most closely, first and foremost the administration of the city One of the issues on which the implementation of this choice of

21 The members of the Observatory are: Micciarelli Giuseppe, Maria Francesca De Tullio, Lorenzo Coccoli, Massimo De Angelis Andrea de Goyzueta, Barbara Pianta Lopis, Luca Recano, Antonello Sannino, Roberto Sciarelli, Ilaria Vitellio, Maria Patrizia Vittoria

comune.napoli.it/flex/cm/pages/ServeBLOB.php/L/IT/IDPagina/38205

22 Il Bilancio che abbiamo in "Comune" Consulta di Audit sul debito e le risorse del Comune di Napoli, at comune.napoli.it/flex/cm/pages/ServeBLOB.php/L/IT/IDPagina/39860

“proximity” had to be made concrete concerns the issue of resources and, more specifically, the issue of the debt of the Municipality of Naples which, despite its different origins, objectively conditions the ability to carry out policies to support the development of the city and the full satisfaction of civil and social rights recognised by our Constitution. The “Public Audit Consultation on the debt and resour-

es of the City of Naples” is therefore assigned the functions of studying, investigating and drawing up lines of action concerning the resources on which to base the city’s development and strategies to prevent the “unfair” debt, because it matured in large part during the various commissioners that have affected the City of Naples, from continuing to produce heavily negative effects on our city”.

! HOW TO EXTEND URBAN CIVIC AND COLLECTIVE USE

The scheme is as follows:

1. Presentation of the dossier of activities, written by commoners.
2. Acceptance of the Dossier by City administration.
3. Deliberation of the City Government, that starts the civic recognition process.
4. Writing of declarations of urban civic and collective use by the commoners in an open and public process with the involvement of all the citizens interested.
5. Experimentation of the declaration’s rules in the daily commoning activity. Exchanges of practices with other experiences (inside and outside the City) and with the Permanent Observatory of Commons. This experimentation process is carried out while the Declaration is still under discussion and its supported by a “creative use of law” and “legal hacking” methodology.
6. Dialogue between self-governing bodies of the different common spaces, the Observatory of the Commons and the Administration for the process of recognition of the final draft of a declaration of urban civic and collective use.
7. Recognition of the declaration, which may be supported by a specific deliberation. This act recognises, the citizens’ right of civic use and the self-government assembly ecosystem, entitled to the direct management the space as comunitarian-civic bodies, ensuring their organisational autonomy.

PHASE 3

Civic use and the pooling of the emerging commons

Among the many tasks of the new Observatory, there was that of following the numerous and inevitable legal-political questions connected with the concrete life of complex spaces such as the commons, in an even more complex city. Thus, the dialogue with the councillor's office on the one hand and with the spaces on the other has thus created a triangle that has constructed a terrain in which they try to break them down, tackle and understand the many bureaucratic difficulties, even though not every attempt has been a successful one.

The first declaration of fully recognized after l'Asilo, was that of Villa Medusa, a small villa located in front of the sea in the district of Bagnoli. This district carries out a struggle for the decontamination of a vast area polluted by industrial factories for many decades. This is one of the exemplary cases of intergenerational Commons, and represents a very active and important territorial experience. The building was occupied in 2013 and it was in an early state of degradation (as many others ex-places). Having claimed it as a 'people's house' (*Casa del Popolo*) and an urban common,

the activists took the steps (as in many other spaces) to carry out self-help activities. However, the arrival of substantial renovation funds, worried the community as it would normally represent the danger of eviction. But in this case, thanks to the legitimacy of the commoners and the dialogue between them, the entire commons network, the observatory and the administration, a completely different approach was taken. The commoners released the building gradually, because the renovation works were planned to be modular. The commoners were officially consulted also regarding the works as they were familiar with the structure. Finally when the intervention in the building ended, the space was handed back to the community in its new life as a common good. The Network of the Commons, assisted by the Observatory, accompanied the long process of writing declarations of use of other spaces also (inside and outside the City). With Deliberation of City Government n. 297 of 27.06.2019 the City Administration acknowledged the Declaration of civic use of the estate called "Villa Medusa", recognised with Municipal Council Resolution n. 446/2016:

Deliberation of City Government n. 297 of 27.06.2019

Villa Medusa (Bagnoli)

an emerging common good, perceived by the citizenship as an environment of civic development and as such strategic

(...)

“that the Declaration of Civic Use of Villa Medusa, in compliance with the deliberative process on Common Goods, represents an innovative and participatory management act that serves as a guide for the work of the Community in respect of democracy, inclusion and accessibility and as a model for all communities operating in the Common Goods

Regarding the recognition of “Villa Medusa” the Councillor Alessandra Clemente (public heritage) and the vice-mayor Carmine Piscopo say: “The Declaration of Civic Use, assessed and approved also by the Observatory for Common and Participatory Democracy is the result of a long process of discussion and participation with the community of inhabitants and the tenth District Council (*Municipalità di Bagnoli-Fuorigrotta*). The recognised social value of the intergenerational and socio-inclusive activities that the community carries out within it led the Administration and the City Council to exclude the building from the privatization plan in 2013, to recover the resources already allocated to restore it and return it to public use. “This”, continue the two councillors, “is another important step in the affirmation of paths of social valorisation

of public property”.²³

One of the strategies has been to set up an administrative presidium in the various spaces recognised as common goods, in order to contribute from the accessibility of the property to the smooth running of the activities carried out by the Community, respecting its autonomy and the principles for the direct governance and management of the common property of the City. The presidium gives the opportunity to consider the space as a ‘neighbourhood equipment’, that does not affect in any way the management autonomy of the spaces, which is explicitly referred to the right of use and the right of direct management, recognised bodies of self-government. So, the space is not assigned to legal entities that manage it, but it is the space itself that is qualified as an emerging common, as a space for civic and col-

23 ilmattino.it/napoli/cronaca/napoli_restaurata_e_riaperta_villa_medusa_sia_adesso_un_bene_di_tutti-4593826.html

lective use. A new type of public space is thus recognised: a common space characterised by a mode of collective management through self-governing bodies.

Furthermore, urban civic and collective uses hybridize with the “private” dimension. Indeed, the bodies of

self-government can delegate private legal entities to take on specific functions (e.g. to participate in a call for tenders or sign a contract to pay for utilities), thus facilitating the process of civic use. See for example this article used both in the case of Villa Medusa and l’Asilo.

Operational functions for urban civic and collective uses (l’Asilo Art. 13, art. 14 Villa Medusa)

The Steering Assembly may commission legal entity involved in the process, to conduct of operational functions. These entities act subordinately to what was decided by the self-governing bodies and do not have independent decision-making powers concerning the activities....

These entities can act as follows: they can carry out by way of example the following functions: management and updating of the site and all the services connected to it; support and enforce more utilities than those provided by the City Administration; participation in public and private tenders and notices aimed at finding resources for cultural production; organization of self-financing initiatives and events.

In no case shall they be subject to organization costs or responsibilities not included in the functions strictly assigned.

In this way, for example in l’Asilo, two relevant national founding projects were won. The *Culturability spazi da rigenerare* (spaces to be regenerated) call by the Unipolis foundation²⁴ and the *Fermenti* (Ferments) call - launched by the Presidency of the Council of Ministers and managed by the Department for Youth Policies to finance social initiatives - presenting a project to improve the existing library and expand activities and ac-

cess to the third floor of the building, where it is located.

To date, the recognition process started with the deliberation n. 446/2016 is almost complete. In fact, a new resolution for the recognition of other four spaces (Ex-OPG, Scugnizzo Liberato, Santa Fede Liberata, Giardino Liberato) is expected to be approved in August 2021, with a comprehensive evaluation opinion by the Observatory that explain the

24 culturability.org/stories/lasilo-mezzi-senza-fine

political and legal process that took place.. The respective declarations of use that will be recognized in the aforementioned deliberation were written from 2016 to 2020. What seems to be a long process, entails a more complex dynamic of discussion among the communities of reference, the Neapolitan commons network, the Observatory and the City administration. During this period, many propositions were drafted and tested in their daily practices. The sense of experimentations reveals a *On the type of Community of reference*

mutual learning process for all the actors involved.

The writing of declarations is a long process because it is not a matter of copying and pasting of the same statute; it is a collective reflection and questioning on how the edges of a community are built (in practice before the formal rules). So, it is a political awareness and community building. Below, some passages from the declarations of civic and collective use of the different emerging commons.

From some Declarations of Urban Civic and Collective Use

- (...) the heterogeneous, changing, supportive and open community of women and men living in the Phlegraean area of the Metropolitan City of Naples, temporary workers, students, parents, professionals, unemployed, on which the process of political, community and cultural experimentation taking place at **Lido Pola** - Common Good.
- (...) the heterogeneous, changing, supportive and open community of women and men living in the Materdei area of the Metropolitan City of Naples, temporary workers, retirees, housewives, students, parents, children, professionals, the unemployed and immigrants who live in the neighbourhood and on which the process of political, community and cultural experimentation taking place at the **Giardino Liberato di Materdei** - Common Good. (...) are committed to the repudiation of all forms of fascism, racism, homophobia and sexism through active policies of inclusion and self-organisation of individuals and the community; to the liberation from the logic of capital, profit and the market; to the interdisciplinary approach and the sharing of arts, knowledge and know-how, with a view of freeing work by enhancing a cooperative and non-competitive vision of human relations according to the principle "from each according to his possibilities and abilities, to each according to his needs and wishes"; in the independence of political, community and cultural

organisation from interference outside the practice of self-government; in interdependence, understood as the community's dependence on the collaborative capacity of the individuals who identify with it; in the search for consensus in decision-making, in order to build a shared decision-making process through an inclusive and non-authoritarian method;

- (...) that the community of the **Scugnizzo Liberato** recognises itself in collective practices of inclusion, cooperation and mutual aid that actively repudiate all forms of fascism, racism, sexism, homophobia, exploitation, loneliness and marginalisation; in the right of re-appropriation of cities and territories - as well as their transformation through practices of collective care of goods, places and people - by the and inhabitants; in interdisciplinary and the sharing of arts, knowledge and know-how with the aim of freeing work from the accumulation-oriented economic paradigm through a cooperative and non-competitive vision of human relations; in mutualism as a means of enhancing social cooperation, solidarity and the power of common action, in the coexistence of all cultures and religions, in order to meet the needs and wishes of all people according to the principle "from each according to his possibilities and capacities, to each according to his needs and wishes"; in the autonomy of political, community and cultural organisation, independent of interference from outside the practice of self-government; in the search for consensus in decision-making in order to build a horizontal and shared decision-making process through inclusive and non-authoritarian dynamics.
- (...) that the heterogeneous, changing, supportive and open community of young and old, residents, workers, temporary and casual workers, the unemployed, foreigners and natives, on which the process of political, community and cultural experimentation taking place at the **ex-Opg "Je So Pazzo" - Casa del Popolo** is based, recognises itself in the defence of freedoms and in the democratic values born of the struggle for liberation against Nazi-fascism, values that are fully affirmed in the Republican Constitution and have their roots in the history of mutualism and solidarity".

The importance of these declarations is both theoretical and practical. They define, among other things, the rights and duties of participation, regulate the way in which the Communities carry out their activities, define the bodies

of self-government and their respective roles, as well as the guarantees of access and collective use. Moreover, the collective writing of the declarations represent a constituent practice of a horizontal and democratic deci-

sion-making method. A process of political self-reflexivity that questions | the reasons and difficulties of being in common and of interdependence.

On Self-Governance

Declaration of civic use of the Giardino Liberato of Materdei (Naples)

Art. 2

“In order to make this management practice effective, the Administration considers the related rights of use of the property not only in the meaning of mere “access”, but in the wider meaning of full availability by the community of reference, in the sense of including not only the right of use but also the rights of direct management of the property itself. The planning of activities, the proposal of writing, modifications and verification of the Declaration of Civic Use and any other decision concerning the powers of management are the responsibility of the “organs of self-governance” provided for by the declaration, within which the deliberative participatory process takes place (by way of example: any activity or initiative through the spaces, the logistical structuring of the places, adhesions to projects prepared by public bodies and private entities, the authorisation to participate in calls for tenders, extraordinary works or hosting events, etc.)”.

These self-governing bodies therefore perform a dual function: firstly, they are a “mode” of relationship that allows for the self-management of citizens who have the right to use these spaces in a civic manner; and secondly, the self-governing bodies represent

the collective subject where there is the right to take decisions pertaining to the ordinary care and management of the space. Thus, continuing to follow the declaration of civic use of the Giardino Liberato of Materdei in Naples, art. 6 notes:

Declaration of civic use of the Giardino Liberato of Materdei (Naples)

Art. 6

“The Self-Governance Bodies are organised through a deliberative and relational participatory mode by which the planning of activities, the ordinary

management of the space and the writing of the Declaration of Civic and Collective Use are defined.

The Declaration aims to guarantee the development and rationalisation of shared decision-making practices that ensure the objective of effective participation in the decisions concerning the use of the spaces of the Giardino Liberato - Common Good. To this end, the management practices of the community of reference will be articulated in the following bodies:

- The Steering Assembly is the space for reflection and decision-making of a more general nature, of sense, political/social, of orientation, of analysis, of decision and verification of paths/interventions/campaigns, opened and to be opened inside and outside the Giardino, of alliances and connections to be built, of organisation and division of labour necessary to carry out the proposed objectives.
- The Management Assembly is the space for discussion and organisation that is essentially dedicated to the internal management of the Giardino, the care, improvement/recovery of spaces, the scheduling of events and, obviously, their organisation. In this assembly the events are presented, assumed and organised, as well as the proposed activities.

Santa Fede Liberata, Art. 10 Principles of cooperation and co-management

- The civic use of the Common Good, as an Emerging Common, is inspired by the principles of self-management, self-organisation, cooperation and mutualism, and tends to strengthen individual and collective responsibility during the process of planning activities

PHASE 4

Urban civic and collective use inside and outside Naples

The reflections of these resolutions on commons and civic use were also significant in other acts of the administration, which indirectly touched on related issues. It is worth

mentioning, just as an example, the resolution n. 458 of 10.08.2017 on promoting actions of valorisation for social purposes of the municipal heritage.

Deliberation of City Government n. 458 of 10.08.2017

CONSIDERING

(...) that therefore the valorisation of goods owned by the municipality cannot be limited to the economic dimension, in relation to the positioning of the asset on the market, but must be understood as a process through which it is possible to give a greater social value to the asset, increasing the level of use by the community.

(...) that the Administration recognises the high social and cultural value as well as the positive economic externalities generated by the civic use of an unused public goods, which involves not only the users of the space, but the neighbourhood and the whole city;

That numerous experiences have started to develop since the deep economic and social crisis, taking heterogeneous forms in which urban regeneration is interpreted as an innovative practice that needs spaces in which a new form of collective planning can take shape and be implemented;

(...) that, in particular, some authors note how the crisis has pushed towards innovative and creative forms of recovering unused spaces in the public city, stimulating their physical recovery and developing new forms of social inclusion and active citizenship;

that these experiences are often characterised by light and reversible interventions, defined through forms of shared 'bottom-up' design and implementation of urban spaces'. It was decided that temporary reuse

projects could be carried out not only by associations, but also ‘through the construction of forms of “urban civic communities (...) which constitute a group of citizens and integrated activities with participatory management, characterised by predominantly social aims, which may be included among the facilities of common interest’.

An equally important step, which unfortunately could not be followed up to the extent of the premises, concerned the housing emergency. Many spaces in the commons network were in fact linked to movements for the right to housing.²⁵ That is to say, the enunciation of “lines of action for valorisation” relating to the “new forms of living” and in particular the promotion of new forms of collective living, and the increase and innovation of the forms and spaces of reception and temporary living, identifying and making available spaces for temporary social residences or for the reception on a rotating basis of persons or families experiencing a phase of transition, for economic-professional reasons or linked to temporary personal difficulties, according to the indications outlined above.

In the same metropolitan area of Naples, however, there have been also some failures: some commons that were not recognised. Among these,

the most painful case is that of the Monachelle, in the Pozzuoli area. This is an property donated to the municipality of Naples, which is bound by a clause in a will to perform social functions. Despite the numerous activities that have revitalised the property since its occupation in 2013, the community was evicted and the place walled up in the wake of the Pozzuoli municipality’s securitarian drive. The reason for the inability to implement the civic use in this place was mainly due to two factors: the serious situation of habitability of the property on the one hand, and the lack of inter-institutional dialogue between the municipality of Naples and the municipality of Pozzuoli, where the property is located. Thus, the result entailed the closure of the space, a failure. However, a citizens’ committee has been set up with the aim of reopening the Monachelle, and is engaged to continue activities in the green area surrounding the building.

25 One of the properties recognised by resolution n. 446/2016 was among them, and the strategy adopted in that case was to start the recognition procedure on only part of the building, the first floor. The aim was to adopt an innovative form of cooperative housing, or ‘social accommodation’, for the guests and families living there, as described in another important deliberation of City Government 1018/2014. However, experimentation in this field was interrupted because of the difficulty of preparing a structural renovation of the properties involved. For a critic see the interview to Alfonso De Vito, at napoli.fanpage.it/albergaggio-sociale-il-fallimento-di-comune-e-regione-in-6-anni-non-e-stato-fatto-nulla/. On this topic see Ferreri 2020.

! Policy suggestion

In the case of goods over which more than one public authority has regulatory competence, it is essential to open a steering committee to establish (and enforce) inter-institutional dialogue. This governance structure should be entitled to include, on an equal footing, representative subjects of the reference community. Thus, the presence of commoners in the steering committee becomes an opportunity to open up the process to other interested citizens, rendering it a real participatory process.

There are other examples of civic use in other Cities. For instance, the Deliberation of City Council of Chieri (Torino) n. 105 of 24.11.2014 borrow Chapter 5 “Management of Commons” (in particular from art. 20 to art. 26) from the declaration of l’Asilo.²⁶

Another example comes from Palermo in Sicily, where with the council resolution no. 74 of 13 April 2017, acknowledges the Neapolitan experience of alternative management and governances of spaces under the practice of civic and collective use as virtuous.

26 comune.chieri.to.it/chieri-aperta/regolamento-beni. See also “Distretto della Creatività di Alghero”, where a declaration of collective and civic use was written for the former police barracks (ex *Caserma dei carabinieri*) in 2018, and formalized with Deliberation of City Government n. 35 of 14.02.2019

Council resolution no. 74 of 13 April 2017

(...) taking a cue from what has already happened in Naples with reference to the management of some goods, and in line with the experiences already implemented...

(...) recognises the model of urban civic and collective use as a new institution that...

(...) does not provide for forms of assignment to individual subjects but allows several subjects to share a good through a declaration of use inspired by the principles of democratic self-governance and direct management according to a constitutionally oriented reading of art. 43 of the Constitution.²⁷

27 In this case, this resolution has not been followed by coherent actions, and this has contributed in a decisive way to the dissolution of the important cultural and political experience of the “Teatro Montevergini”. See labsus.org/2016/12/teatro-montevergini-storia-di-occupazione-intervista-assemblea/

The process of recognition of civic use in Turin was also very long, particularly because the city had to take in consideration the status of UNESCO heritage site of the Cavallerizza Reale. This space that was born from an occupation and at some point

managed to be animated by workers and artists in self-governance. Today this site is close for restorations plans. Thus, on 25 September, the City Council of the city of Turin approved motion no. 69 the path of “civic self-regulation”.

Deliberation of City Council n. 69 of 25.07.2017²⁸

(...) the emerging commons as a heritage not only material but connected to practices of collective government (...) and in the urban civic and collective use a tool for a non-exclusive, plural and multifunctional use of spaces open to all those who wish to participate, inspired by democratic principles, horizontality, anti-racism, anti-fascism and anti-sexism.

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28 [comune.torino.it/cittagora/primo-piano/il-consiglio-per-luso-civico-della-cavallerizza-reale.html](http://comune.torino.it/cittagora/primo-piano/il-consiglio-per-luso-civico-della-cavallerizza-reale.html)

Subsequently, the “Regulation for the Government of Urban Common Goods in the City of Turin” was approved by resolution of the City Council on the 2<sup>nd</sup> of December 2019, executive as from the 16<sup>th</sup> of December 2019, in force as from the 16<sup>th</sup> of January 2020, which in articles 15 (urban civic and collective use) and 16 (collective civic management) provide for two

institutions directly inspired by civic use.<sup>29</sup>

The urban civic and collective use is not an exclusively European experience. The Feminist Space “Plaza Las Pioneras” in Montevideo, Uruguay, is a common space collectively managed by different feminist collectives and women’s organizations, inspired by the civic and collective uses.<sup>30</sup>

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29 The substantial difference from the Neapolitan experiment is that the city of Turin does not recognise the declaration of civic use as a form of public-communal regulation of a public space.

30 [cotidianomujer.org.uy/sitio/attachments/article/2250/Estatuto%20Pioneras%20\(1\).pdf](http://cotidianomujer.org.uy/sitio/attachments/article/2250/Estatuto%20Pioneras%20(1).pdf)

CONCLUSIONS

Learnings from Civic eState network and from commoners: suggestions for the government of the cities

It is legitimate to conclude by asking why the model of urban civic and collective use is relatively less widespread than other forms of commons management based on collaborative governance. Indeed, commoning practices often arise from a clash against the public administrations or private powers, and not in collaboration with them. A usual reason for this clash is the privatisation or selling of a space. The self-organisation of the commons deal with rules of use and forms of decision-making daily; however, the issue of law is rather marginal: only if it is required commoners discuss and choose a legal form, that are often inadequate for more horizontal forms of collective self-organisation. In our case the topic of law has become important because it has been experienced as a political challenge. Thus, one of the largest and most interesting acts of “legal insubordination” was the fact that commoners in different cities decided to write self-governance charters and declarations of civic use, demanding to their city governments the recognition of their legal value as forms of public-communal regulation. Occupants coming up with a regulation of a not recognised legal institution has

baffled many administrations. There will always be a political tension, which would often be insurmountable in cases where there is hostility from some City governments. Indeed, the urban civic and collective use is not a neutral governance model. Notwithstanding, the principles of anti-fascism, anti-racism, and anti-sexism, do not stand as ideological criteria of access but are operationalised by this model to guarantee the real openness and horizontality.

Another difficulty is linked to the commitment required from the part of public administrations, which consider investing in a different type of profitability other than the traditional accounting one. This civic profitability (*redditività civica*) is much more difficult to assess, and public administrations may fear the risk of being exposed to investigations and sentences by fiscal courts for inefficient use of public property. This fear would translate in a major conundrum: if the Municipality keeps the buildings in a state of abandonment, it must assume direct and indirect economic and social costs of this decision, because the abandonment does not exempt from the fiscal damage. If instead the municipality decides to declare the civic

and collective use of the space it must guarantee the free use of it, along with a (minimal) management budget allocation (like a public park), waiving any income as a rent.

Nonetheless, we must consider that in the calculation of the cost of keeping the buildings in abandonment it must also account for the cost of services that the state (in this case, without the direct intervention of the commoners) must provide because they are linked to fundamental rights. Hence, a more social and economic cost-effective intervention would be to declare the civic and collective use of the space, allocating a management budget to cover ordinary maintenance (utilities), that could also include the cost of an insurance and liability coverage for self-recovery projects. This minimal budget allocation would instead guarantee the development and provision of the projects of social interest carried out by the commoners. To this effect, the allocation of a few thousand Euros a year do not seriously impact the public budget but conversely it could be very onerous if it would have to be provided by the commoners.

Accordingly, the civic use has a different attitude towards the issue of asset liability compared to the model of the Collaboration Pacts started in Bologna, because the choice of having a single responsible legal subject would eminently condition the use and users of the space in a restrictive manner. Instead, the choice of not having a single responsible legal subject serves to avoid burdening costs

that would lead to a crippling prudence from assembly in the process of providing the space to any potential user. A mechanism that has emerged to tackle this issue is the signature of disclaimers and/or liability protocols by the organizers and participants of the different activities developed in the commons spaces. Like this the protection of any third parties participating in the activities can be ensured by a mandatory insurance. As a result, urban civic and collective use tend to pluralise the responsibility.

The core difficulty of recognising the civic use stems from its greatest ambition: to overcome the idea that citizens who collectively manage a public good should necessarily be considered as legal subjects under private law, which only carry out the partial interests of their group and/or association. In other words, the recognition of commoners (other than as conventional legal subjects) breaks away from the usual mechanisms of competition that confronts different associations in need of a space. Indeed, “repositioning the value of use of a public space means undermining the idea – rooted in the current cultural and administrative practices – that to make available public goods it is somehow unavoidable to entrust them to a third party, the latter being not included in the civic administration or in the general community of citizens. (Capone, 2017:126)”.

The Neapolitan case shows that the commons are neither opposed to nor indifferent to the public and the private. They represent a dimension

of the ‘common’ which coexists with the other two and transforms them in a participatory way. This means that the management of a common good should follow neither the bureaucracy of the public nor the solitary choices of a private individual. It is achieved through new popular institutions, in which individual citizens emerge from their passive role precisely because they are called upon not only to use a good, but to collectively manage it. This is certainly not an easy and quick path to follow, as it must respect the pace of decision-making processes. Thus,

the aim of the commons has nothing to do with a relentless pursuit of productivity at all costs, the concept of ‘civic profitability’ it’s clear in this regard. Therefore, the dialogue between institutions and social movements should not be confused as a negotiation, quite the contrary; it is a transformative challenge for both.

We can finish this technical and historical narration of the “Institutionalization Path of the Urban Commons in Naples” with some **policy suggestions** that arise from this experience extraordinary, but surely imperfect.

Policy suggestions

- The role of local administrations changes according to the ownership of the property claimed as urban common:

If *the property is private*, the duty of the local administration is to favour its social function (as for example described in art. 42 of the Italian Constitution); If the good is abandoned, this implies favouring its re-use, both by supporting economically social subjects that could manage it (thus acting as a mediator for short and fair term rents), and by trying to reacquire it from the public heritage where possible.

This, let it be clear, only concerns the case of those private assets that are monuments, of historical and artistic interest, or that over time have acquired such importance as to characterise the image of a city. In these cases, we are dealing with a private asset, but one that is potentially functional to the exercise of fundamental rights. In these cases, forms of easement (*servitù di uso*) in order to make that asset crossable and usable by citizens in precise forms.

If we refer to *public property*, the local authorities’ possibilities to operate are considerably greater. In these cases, more experimental forms of reuse can be dared. To the moment, the most widespread are forms of temporary reuse. However, these forms do not seem to be sufficient, because if on the

one hand they increase the real estate value, on the other hand they do not guarantee its social function for the future; on the contrary, they may increase the real estate value of the property, making it more attractive for the market. The strategy of granting the property through traditional calls for tenders is also a problem, because it encourages competition between associations that need spaces to organise their activities and projects. One of the reasons is the criticality of the methodology of selection of who is entitled to use and manage the common. If citizens have to compete with each other, local authorities will be led to choose “the highest bidder”, as in a sort of “civic auction”. In this way they will exploit the need for space among citizens by fuelling competition between social formations, and thus their fragmentation.

On the contrary, forms of collective use and management between several social subjects should be encouraged: the right of collective use together with the right of self-organisation represent the most relevant discourse of the commons both necessary and emergent ones. The local Governments must therefore focus on creating new participatory institutions, setting up citizens’ chambers (along the lines of townships, participatory budgeting procedures or popular assemblies) that can be recognised as governance bodies of the commons. The objective is not only collaboration between citizens and institutions, but between citizens themselves.

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PATH FOR NEW INSTITUTIONS AND URBAN COMMONS

Legal and political acts for the recognition of Urban Civic and Collective Use starting from Naples

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