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“OLTRE LA NORMA!”¹ Collaborating for the Reconstruction of Teatro Petruzzelli in Bari

After that fateful day, the State, the Region of Apulia and the City Council added a new item to their "to do" list: protecting public and private interests and getting the Petruzzelli Theatre up and running again. This was because the theatre remained under private ownership but its public essence was acknowledged by law: despite the conflicting opinions of some people in Apulia, it seemed only logical to expect solutions to be forthcoming from both sides².

A number of proposals were submitted by the owners of the Theatre to local public actors since the aftermath of the fire. These were punctuated with counterproposals by the Regional Government and the Municipality. In general, they all revolved around different attributions of tasks and duties around the reconstruction (especially regarding the subject that was going to take on the financial burden) and the related issue of the governance of the future managing entity (i.e. roles and representativeness of each actor within the new entity).

This case was an honorable mention winner in E-PARCC's 2012-13 "Collaborative Public Management, Collaborative Governance, and Collaborative Problem Solving" teaching case and simulation competition. It was double-blind peer reviewed by a committee of academics and practitioners. It was written by Ornella Larenza, Greta Nasi and Alex Turrini of SDA Bocconi School of Management, Bocconi University, Milano. This case is intended for classroom discussion and is not intended to suggest either effective or ineffective handling of the situation depicted. It is brought to you by E-PARCC, part of the Maxwell School of Syracuse University's Collaborative Governance Initiative, a subset of the Program for the Advancement of Research on Conflict and Collaboration (PARCC). This material may be copied as many times as needed as long as the authors are given full credit for their work.

¹ "Beyond the norm". The case title refers both to Norma, the last opera which was put on stage at Petruzzelli the night before the fire that destroyed the theatre, and to the need of going 'beyond rules and norms' in collaborative process.

² The theatre did not collapse entirely, thus the clause envisaged in the 1896 Convention, whereby the private owners would be responsible for its reconstruction in the event of the building collapsing (or they would be required to return the land to the City Council), was not applicable.

In 2002 the stalemate seemed to be close to a break. A possible solution to the dilemma of the management structure enabling the Petruzzelli to resume operations, was found in a Memorandum of Understanding between the Ministry and all the public parties involved (State, Regional Government of Apulia, Province and Bari City Council). The initiative came about as a result of the negotiations by the former Under Secretary to Cultural Heritage and Activities, who was an expert in the world of cultural institutions as well as a nationally prominent art critic, and who asked "everyone to sit around the same table together". The pragmatic spirit of the Under Secretary and his universally acknowledged expertise, were key to the successful outcome of the initiative and led to the signing of an agreement on November 21st 2002, which remained central in the subsequent developed of the story.

A Memorandum of Understanding signed between the public and private parties stipulated that "the public parties agree, without charge or reimbursements by the private owners, to undertake, by means of a specific Foundation (Fondazione Lirico Sinfonica) established between the Region, Province and City Council and any other public and/or private members, any work needed to complete the reconstruction of the Theatre, as indicated in the plans prepared by the Planning Group and approved by the private owners...". The Understanding stipulated that the owners granted exclusive use of the Petruzzelli Theatre, the parts of the Theatre used for theatrical activities, the business units, as well as granting the right to the exclusive use of the name, to the above mentioned Fondazione Lirico Sinfonica. The license was to come into effect on the date of completion of the reconstruction work and last for the next 40 years. If there was any delay in the starting date of the license for reasons beyond the control of the individuals or due to force majeure (i.e. if the reconstruction work lasted for more than four years), the owners would have the right to compensation. Starting from the first year of the license, Fondazione Lirico Sinfonica would pay the family a fee of €500,000 for the exploitation of the business operations linked to the Theatre. This amount was considered insufficient by the family in view of the reconstruction costs, now estimated at around 30 million Euros. Basically, the public authorities were to pay the initial investment costs for the reconstruction up front, whereas the family would pay their share over the 40 years of management by Fondazione Lirico Sinfonica by reducing its proceeds from the license. The agreement was finally signed, the public and private stakeholders agreed that the Foundation was the best way to balance public and private interests and finally get the Petruzzelli theatre back up and running.

However, in April 2003, the Superintendent asked for the keys to the theatre in order to get partial works underway, based on the schedule in the first Understanding (May 2002), arguing that the management of the reconstruction work should be transferred to Fondazione Lirico Sinfonica at the end of this first phase of work, as stipulated in the second Understanding. However, out of the blue, the public authorities established "Fondazione Lirico Sinfonica Petruzzelli e Teatri di Bari". What at first glance appeared to be a simple addition of a few names (from Fondazione Lirico Sinfonica to Fondazione Lirico Sinfonica Petruzzelli e Teatri di Bari), was actually far from the truth. It was actually a legal entity founded in its own right and with its own statute and, in hindsight, began the shift away from the goal of reconstruction. For example, referring to the November 2002 Memorandum of Understanding, it is significant that the statute states in a specific article (n° 3) on the Petruzzelli Theatre: "the Foundation promotes the completion of the reconstruction of the Petruzzelli Theatre in Bari." Nothing else. It is difficult to say what happened to the erstwhile "Fondazione Lirico-Sinfonica", as all trace was lost of it. In 2005, partial works were completed but the overall

works came to a standstill, and the responsibility for the reconstruction was not transferred to the Foundation.

The last act?

By August 2006, the restoration work was far from being finished; by the end of the fourth year after the signing of the Protocol, a new piece of legislation was added to the picture: law 286 issued on November 24th 2006, attached to the 2007 Budget Law. This law claimed possession of the Petruzzelli and evicted the Petruzzelli family: The State Property Agency will pay compensation, while "deducting any amounts already paid by the State and local authorities for the reconstruction until the date when the law comes into effect". Along with the building, the City gained possession of the brand, which had already been registered for advertising purposes, as well as the business units in the Theatre complex. The Ministry for Cultural Heritage and Activities was also to receive a contribution of €8 million for the completion of the renovation work. A few days after the law was issued, the Mayor invited the Petruzzelli family to a meeting in order to discuss the possible sale of the Theatre but they declined the invitation as they considered it inappropriate (the decree had already been passed). At the same time, they stated their intention to participate in a multi-party discussion attended by the Minister for Cultural Heritage and Activities to be held in Rome. A month after the dispossession order, a meeting was held with the Prefect of the City that the family was not invited to attend, the Minister refusing to speak with the heirs. He later agreed to a telephone conversation in very close proximity with one of them (in that the two parties were in adjoining rooms at the Palace of the Prefecture). The failure to obtain an audience with the Minister led to the theatre being occupied (in some of the rooms untouched by the 1991 fire) to protest against the dispossession.

The Prime Minister wrote one of the last chapters in this story: on December 22nd 2006, a Special Commissioner was instated for the reconstruction, with the justification that it was necessary to eliminate hazards for people and property due to the unsafe condition of the theatre, despite the earlier structural consolidation work completed in 2005. On May 11th 2007, after just 7 days, a special commission of experts declared the winner of the tender and the Minister for Cultural Heritage and Activities "fearlessly" went on site to visit the theatre and take part in the "opening" ceremony for the work, attended by the local authorities. The "usual" representatives of the family welcomed the Minister amid protests outside the theatre; once again, there was no room for a meeting with the family, also because a police cordon was holding back protesters in the foyer, preventing them from gaining access. The heirs representing 25% of the property, supported by the Committee against the expropriation formed in the aftermath of the decree, were kept out of the theatre that had been built by their own ancestors, and the occupation of the business units continued. The remaining 75% of the owners were not against the reconstruction work, although they did acknowledge the expropriation was unlawful.

It was now a sure thing that Bari would have its theatre again. After the long-awaited start to the reconstruction work on the theatre in June 2007, the people of Bari were becoming impatient for the moment when its doors would reopen. In the meantime, they had to be content to recall the Petruzzelli's glory years, depicted on panels surrounding the worksite, evoking the most salient moments of its major performances in pictures as well as the international artists who had worked at the theatre from its beginnings until the day of the fateful fire. The FAI (Italian Fund for the Environment) included the Petruzzelli Theatre in the list of buildings

open to visitors during its FAI Spring days and the response in Apulia was nothing short of enthusiastic: at least thirty thousand visitors came to see it.

However, a news began to spread during the special opening days of the building site. At first, it seemed to be just gossip but then the news was confirmed on April 30th 2008: the Constitutional Court had decreed the expropriation to be unlawful. So, the Petruzzelli family once again owned the theatre; the restoration work was ongoing with the goal of reopening the theatre on December 6th 2008 to celebrate the feast of St. Nicholas, the patron saint of the city.

The theatre looked ready by October but the new Minister in charge (who had replaced the previous Minister when the government changed hands in April) cooled the souls of the more impatient people when he postponed the handing over of the keys. In a meeting with the representatives of the family (which the Mayor was not invited to attend), the Minister announced his intention of dispelling any doubts as to the ownership and future management of the theatre before the inauguration by organising a special technical committee composed of public and private stakeholders. Another reason for the delay was also the need to complete the inspections and fire fighting simulations to guarantee the theatre was fit for purpose. The intention of the Petruzzelli family was to gain reassurances that it would not be called upon in any way to pay the 13 million for the extra work carried out to complete the restoration and to get the running of the theatre back on track according to the Memorandum of Understanding signed in 2002. On November 4th, the Minister asked to cancel the date of December 6th, stating his intention to visit the theatre and inspect the progress on a day at his convenience: not surprisingly on December 6th 2008.

The news spread of yet another delay, and the city once again began to despair that it was about to witness yet another farce staged by the Central Government, the Petruzzelli family and the local government. The *Corriere del Mezzogiorno* newspaper organized a public petition that was signed by over 2000 people in its early days, soon becoming well over 7000 when it went live on Facebook. The City Council was stalling for time, inventing fake openings complete with ribbon cutting and free souvenir photos, letting the public sign up online to play Mayor and wear the tricolour flag for a few minutes. Meanwhile, a third interpretation of the delayed opening was making headway, and there was already talk of the Petruzzelli theatre being held hostage to the forthcoming local elections”.

After the inauguration of the newly rebuilt theatre on October the 4th 2009, the next date on the events calendar was pushed back to December 6th with the start of the Foundation’s first opera season at the Petruzzelli (2009/2010), namely a performance of *Turandot* by Puccini. Mayor Emiliano promised that December 6th “would be a regular event”: St. Nicholas is for the Petruzzelli what St Ambrogio is for La Scala, making assurances that a great season would follow at the cost of one opera. Once again, the expectations of grandeur were soon downsized. Fondazione Petruzzelli accessed FUS Government funding for entertainment from 2009, but only got around 6 million Euros: it aimed to stage productions of quality with that, but had to cope with the tentative financial and human resources available. For example, the Province took part in the Foundation with a contribution in kind by providing the services of its orchestra. Unfortunately, the relationship between the two institutions was bumpy and there was no lack of skirmishes between the leaders of the two local authorities (who, unsurprisingly, belonged to different political parties): Emiliano complained of the Province’s indecision because, although it chose the Vice Chairman of the Board of Directors of the

Foundation, it did not assure reliable and long-term support to the orchestra. Nevertheless, in January 2010 the Petruzzelli had an orchestra composed of professors from the provincial orchestra and young talent including some players from Maestro Muti's Cherubini, the Italian Youth Orchestra and Teatro Regio of Parma.

The 2010 and 2011 seasons were embellished with several high quality productions but counted no more than nine dates per season on their programme (including opera, ballet and concerts). The theatre was also staging special events such as pop and rock concerts (including Fiorella Mannoia, Paolo Conte, Morgan, Ligabue and Alex Britti), the international film festival (Bif&st), the Christmas concert held by the State Police Band, shows by local comedians and trade union conferences; it even sheltered the homeless during the emergency when there was heavy snowfall in early 2011. The Director of Fondazione Filipponio ironically emphasized the theatre was so multifunctional that "sometimes even opera performances are held there". Conductors Ughi and Accardo blamed the Foundation for allowing the theatre to stage pop and rock concerts (which actually were also held in its glory days, before the fire) as they said this would ruin the acoustics of the newly renovated theatre. However, two years since the restoration work was completed, the state of acoustics is not the only source of concern. Surveys have revealed structural damages, caused mainly by rising damp (patches of damp that are formed at a maximum height of 50 cm off the ground) seen in the form of chipping paint and plaster and uneven floors.

Despite the complaints about the artistic direction, the scarcity of resources and the emergence of small structural faults, the Petruzzelli's new life continues, even if it is an uphill struggle. The Foundation's management was standing on a hotbed of all of the outstanding issues, most notably the relationship between the theatre's owners and its management and the question of the attempted "eviction of *Circolo Unione*³", just another attack of the City Council to the earlier agreements signed between public and private parties. The theatre complex also included some business units and outbuildings, including premises that had been leased out to the city's historic social club for years. A few days after the inauguration, the Mayor, who was also the Chairman of the Foundation, gave the order to the social club to vacate the premises, claiming that the City Council had the right to decide how to dispose of them since they were covered by the agreement in favour of the City Council, also because "it is not conceivable that activities run by private parties should open up there"; neither was it conceivable that "a theatre rebuilt with public money was returned or rented out to private parties". The eviction was halted by several representatives of the club and the Petruzzelli family, but a new attack on the Memorandum of Understanding of 2002 was inevitable, defined by Emiliano to be "an absurd act," so much so that the City Council was considering a legal procedure for rescinding the City Council Act that ratified the Understanding. The age-old question of ownership has passed to and fro between the City Council and the Petruzzelli family, and now has involved an association of citizens, founded in 2008 and led by a group of lawyers with the goal of promoting a class action to defend the public right to the Petruzzelli Theatre which should remain at the disposal of the community through public ownership. After attempting yet another attack to the Memorandum of Understanding signed in 2002, the Region of Apulia joined the class action in the summer of 2009. However, the Court of Bari ruled against it on December 18th, 2009 when it confirmed the validity of the Understanding. By then, 27 judges had pronounced in favour of the validity of the Understanding and finally, in July 2011, the Constitutional Court declared that the new motion of

³ Gentlemen's social club.

constitutional legitimacy raised by the Court of Bari, to determine whether the Foundation had the obligations as well the rights stipulated by the Memorandum of Understanding of 2002, was inadmissible (we should remember that the law ordering the eviction had annulled the provision linking the Petruzzelli to the Foundation as a result of the 2002 Understanding).

In 2012, Fondazione Petruzzelli engaged Lorin Maazel to conduct its opera season. The French American conductor signed a contract with the Foundation to direct "*Carmen*", opening the season, followed by "*The Barber of Seville*". However, it was not the prestige of the programme that made the headlines, but the Foundation's financial troubles. The Board of Directors had terminated its mandate on 17th December the previous year, but by the beginning of February 2012 there still was no agreement as to the name of the new Superintendent or the next Artistic Director. Furthermore the 2011 Financial Statement had not been approved and, what's worse, there was no budget for 2012.

The season had already got off to a start in January, with the blessing of St. Nicholas, and the spending commitments for *Carmen* were signed off without proper notification to the Board. Government Minister Ornaghi (in office since November 2011) took note of the irregularities and asked for a change in the management of the Foundation, with the appointment of two new directors to the Board. Given the Minister's request, there was no way the old Superintendent Vaccari could be reconfirmed, but there was no other candidates. Emiliano claimed he didn't have the support of the Province and the Region, both represented in the Board of the Foundation, for the appointment of the new Superintendent. In the meantime, the Board of Directors continued to postpone decisions and issue were still unsolved. Longo, the Administrative Director, was reconfirmed until February 10th, but if the Budget was not immediately forthcoming, the Foundation would lose 80% of its allocated FUS funding (the first tranche paid by the Ministry for the start of work). The Mayor, and President of the Foundation, suggested extending the Administrative Director's role until March 2nd, calling a meeting of the Board on February 20th. Laterza and Filipponio, the two new Board Members appointed by the Minister in January, with the remit of leading the new management, immediately started to put pressure for the changes demanded by Rome to be put in place. Since they thought February 20th was too late, they called a special meeting of the Board *ad horas* with the Board Members representing the Region, the Province and the Chamber of Commerce, and the name of Vaccari was definitively ousted from the list of possible candidates during this session. Meanwhile, the Board continued its operations until March 2nd without a Superintendent, without a provisional budget and so without the advanced payment of the FUS funding.

The situation had become untenable, so Minister Ornaghi refused to see Mayor Emiliano, as requested, and decided to place the Foundation under administration. On March 2nd, Commissioner Carlo Fuortes arrived in Bari and scrutinized the accounts of the Foundation, finally managing to obtain the Foundation's first tranche of FUS funding, amounting to € 5.5 million, but the situation remained serious. Remarks passed by Regional Councillor Godelli (a member of the Board until December 17th, 2011) and the lawyer Persichella (a new Board member representing the Regional Administration) revealed a startling lack of transparency in how the Foundation was managed. Councillor Godelli, in particular, who had been a Member of the Board of the Foundation for six years, stated: "*in the six years I was on the Board, the members were not shown the minutes of a meeting. We were never able to know for sure the specific costs of each production, we never got a report on recruitments, contracts... Each (vain) attempt to discuss the use of public money was criminalized and presented as a "political attack". Just the other day, I learned about the curious term of "antagonistic block",*

meaning those who have always demanded transparency, by simply wanting access to papers and documents in advance before the Board had to vote on them. Now I am asking: if the official organization consists of 171 people, how many workers are there really with contracts in place? How are the extra contracts justified and what costs do they generate? What are the staffing costs? What is the cost of the individual contracts? How many ticket collectors are there working at the theatre? Who chooses the staff? Why don't the names of the employees appear on the Foundation's website? What criteria were used to choose which musicians are employed long-term, without any public procedure?"

The debts in the balance sheet, which in preliminary accounted for about 8 millions, made it untenable to keep the current staff who, according to the Board Member Filipponio, were excess to requirements given the number of shows on the programme. Meanwhile, the workers occupied the theatre and organized a protest concert broadcast on the internet. Musicians, technicians, members of the choir and office staff held a meeting coordinated by Antonio Fuiano, the local Slc CGIL Trade Union Representative (the Trade Union of Media Workers), in protest against the Foundation's management, which had caused the upset, and the Commissioner, who wanted to do away with some contracts in order to safeguard the future of the Foundation. Some centre-right city councillors took advantage of this, joining the chorus of dissenters and condemning the "nepotism at the Petruzzelli". Compared to the planned staffing of 171 people, the data issued by the Chamber of Commerce as regards the contracted staff in the first quarter of 2011, revealed that apparently 555 people worked for the Theatre with named contracts of employment. In some cases, it was even possible to superimpose the family tree of some families from the city with the staffing plan of the theatre, getting a perfect match. The news reached the Public Prosecutor who got hold of the articles and reports by the Board Members from the PDL party⁴ and opened yet another file to ascertain any episodes of nepotism at Fondazione Petruzzelli. Even the engagement of conductor Lorin Maazel was covered by absolute secrecy; the Vice Chairman of the Foundation declared they would have spent 120 thousand euro per show for Maazel. Emiliano denied this, but refused to reveal the exact amount of the cachet, arguing that the conductor would have accepted a much lower amount and it would be indelicate to reveal the exact amount. Meanwhile, the Commissioner issued the Financial Statement for Fondazione Petruzzelli: since 2009, the Foundation had accumulated operating losses for just under 4 million and had debts for 8.5 million, and its staffing costs had more than doubled (from € 3 million in 2009 to 7.5 million in 2011).

The Mayor defended himself during a session of the City Council called to discuss the question⁵. He pointed out that the Foundation's financial statements were available from the Chamber of Commerce to anyone requesting them and the named staff appointments had been necessary due to the Ministry's continual refusals to carry out public competitions to go ahead with recruitment processes using the standard public procedures. Emiliano also recalled the limited resources allocated to Fondazione Petruzzelli di Bari which obtained 6.5 million funding from FUS in 2011 as an ordinary contribution, compared to 8.2 million given to Fondazione Lirica di Cagliari, coming above it in the league table of Foundations based on FUS contributions. Nevertheless Chairman Emiliano reassured about the fact that 2.5 million of the 3.9 million operating losses were already covered by the City Council and reaffirmed that similar action by the other Foundation members would be appreciated.

⁴The centre-right party opposing the Mayor Emiliano.

⁵ <http://www.youtube.com/watch?v=0HpaPUOF30w>

Unfortunately, 3 years since it reopened, it cannot be said that the Petruzzelli affair is on its way towards a final solution. 21 years since the fire, the issue of who owns the theatre is back unsolved, and according to Emiliano it has a significant impact on the economic equilibrium of the Institute and its assets: the theatre is not part of the assets belonging to Fondazione Petruzzelli (unlike all other opera foundations) thus putting it into a weaker position for negotiations of bank loans. As a result, the President of the Regional Government Vendola suggested setting up a committee of experts to settle the question of ownership once and for all, and Commissioner Fuortes was reviewing the case with the Court of Auditors. All hypotheses are under consideration. Nothing is excluded, not even that this Odyssey may carry on for many more years to come. Who knows if Homer would have appreciated the name of his greatest work being used to refer to this dreadful public-private muddle.

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