

MILAN, TURNING POINT IN VIALE PAPINIANO: CONSTRUCTION SITE RELEASED FROM SEIZURE. "LEGITIMATE TO RELY ON THE MUNICIPALITY"

The Milan preliminary investigations judge (GIP) has annulled the emergency seizure of the construction site at Viale Papiniano 48, which had been ordered by the Prosecutor's Office on 12 November. The project — involving the demolition of a building used as a workshop/commercial space and the construction of an eight-storey residential building plus two underground levels, in an area subject to landscape restrictions — had been deemed unlawful because it required a building permit and an implementation plan, not a simple SCIA.

Despite this, the judge recognized the good faith of the site manager and the company, who had followed the indications provided by the Municipality, described as an "*institutional, qualified, and competent interlocutor*." Palazzo Marino had in fact initially supported this procedure, but then changed its position after the beginning of the investigation.

The decision is based on the absence of the subjective element: the private parties are considered victims of "*fluctuating municipal practices*." The suspension order issued in May 2024 was also declared unlawful and now ineffective, making the emergency nature of the seizure unfounded. Nevertheless, it is still necessary to proceed with a remedial implementation plan to bring the project fully back into compliance.

The ruling could affect the other strands of the investigation, which involve municipal officials, entrepreneurs, and public administrators. The key point of the decision is the recognition of the legitimacy of the private party's reliance on the Municipality's consolidated practices, even when these later turn out not to comply with the law. A ruling that weighs heavily on the balance between the responsibility of technical professionals and the role of the Municipality in urban planning procedures.

DISCLAIMER

The sole purpose of this *Client Alert* is to provide general information. Consequently, it does not represent a legal opinion nor can it in any way be considered as a substitute for specific legal advice.