ALTERNATIVE SCIA AND IMPLEMENTATION PLAN IN MILAN: THE TAR DRAWS A CLEAR LINE

With judgment **TAR Lombardy – Milan, Section II, 20 January 2026, no. 284**, the administrative court addresses one of the most controversial issues in contemporary Milanese urban planning: the correct classification of building works and the limits on the use of the **SCIA alternative to the building permit**, against the backdrop of the well-known ongoing criminal investigations.

The ruling provides systemic clarifications that are likely to have significant effects both on administrative action and on high-impact real estate developments.

The case

The claimant company had filed a **demolition SCIA** and an **alternative SCIA pursuant to Article 23 of Presidential Decree no. 380/2001** for a demolition and reconstruction project involving the consolidation of several buildings, aimed at constructing a building with **seven above-ground floors and two underground levels**.

The Municipality of Milan inhibited the project, considering it:
- taller than **25 metres**;
- exceeding **3 cbm/sqm**;
- not compliant with the municipal morphological regulations.

The project was therefore classified as **new construction**, with the consequent requirement for an **implementation plan**, rather than as building renovation.

The decision

The TAR rejected the appeal in its entirety, addressing three key issues.

1. Implementation plan: an obligation imposed by law

According to the Court, the obligation to adopt an implementation plan **does not stem from discretionary choices by the Municipality**, but arises directly from **Article 41-quinquies, paragraph 6, of Law no. 1150/1942**, which imposes mandatory limits in the presence of intensive building interventions.

Not even the alleged "complete urbanization" of the area is sufficient to exclude the need for a plan: what matters is the achievement of a **definitive layout of the entire urban area**, a condition not achieved in the present case, which is characterised by continuous building transformation.

The TAR also clarifies that Article 41-quinquies has not been superseded by Ministerial Decree no. 1444/1968: the two provisions operate on different levels and in a logical sequence, with qualitative limits applying first and quantitative limits thereafter.

2. Not renovation, but new construction

The intervention cannot be classified as building renovation. Referring to the Council of State (judgment no. 8542/2025), the TAR reiterates that renovation presupposes:
• a **single pre-existing building**;
• continuity between demolition and reconstruction;
• **neutrality of the urban-planning impact**.

The replacement of several buildings with a single, large-scale new structure instead constitutes a **significant urban transformation**, typical of new construction.

3. Municipal policy guidelines deemed lawful

The claims of misuse of power were also rejected: the change in interpretative practices was held to be legitimate in a context of **objective legal uncertainty**. City Council Resolution no. 199/2024 and Service Directive no. 4/2024 do not introduce new rules, but provide guiding criteria, leaving technical-discretionary assessments of individual cases to the competent offices.

Why the judgment matters

The decision:
• **narrows the scope of the alternative SCIA**;
• reaffirms the **mandatory nature of the implementation plan** for projects with a strong urban impact;
• legitimises the use of **policy guidelines** as tools for managing interpretative uncertainty.

A crux that contributes to clarifying the administrative framework and inevitably interacts with the ongoing criminal investigations, representing a pivotal momenti in the complex current phase of Milanese urban planning.

Laura Sommaruga, Partner
Email: *laura.sommaruga@grplex.com*

Federico Ianeselli, Senior Associate
Email: *federico.ianeselli@grplex.com*

Abdurrahman Gad Elrab, Associate
Email: *abdurrahman.gadelrab@grplex.com*