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Strategic Infrastructure and Administrative Challenges: From NIMBY to BANANA and other extremes

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Il dissenso rispetto ai progetti infrastrutturali è una questione complessa che coinvolge la resistenza delle comunità locali, le preoccupazioni ambientali e gli interessi nazionali. Movimenti come NIMBY e BANANA evidenziano la tensione tra gli interessi delle comunità locali e le politiche nazionali, in particolare nel settore dell'energia e della gestione dei rifiuti. Questo studio analizza tre dinamiche elaborate dalla migliore dottrina: il meccanismo del capro espiatorio, la tirannia dello status quo e la valvola di pressione. Il fenomeno NIMBY è spesso usato per scaricare la colpa sulle comunità di protesta, causando inerzia sistemica. Lo studio sostiene un'interpretazione più inclusiva della vicinitas, che consenta alle entità collettive di accedere alla giustizia indipendentemente dalla posizione geografica. Riconoscere e decostruire queste dinamiche è infatti fondamentale per ripristinare la partecipazione democratica ed evitare che la governance amministrativa si immobilizzi strutturalmente.

Opposition to infrastructure projects is a complex issue involving local resistance, environmental concerns, and national interests. Movements like NIMBY and BANANA highlight the tension between local communities' interests and national policies, especially in energy and waste management. This study analyses three dynamics developed by leading scholars: the scapegoat mechanism, the tyranny of the status quo, and the pressure valve. The NIMBY phenomenon is often used to shift blame onto protesting communities, causing systemic inertia. The study advocates for a more inclusive interpretation of vicinitas, allowing collective entities to access justice regardless of geographic location. Recognising and deconstructing these dynamics is in fact crucial for restoring democratic participation and preventing administrative governance from becoming structurally immobilised.

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1. Local opposition to infrastructure projects: the challenge of diverse syndromes

Collective dissent phenomena emerging at the territorial level in response to the implementation of infrastructure projects and public interest works represent one of the most complex challenges for contemporary administrative law. Local opposition, expressed through syndromes such as NIMBY (Not In My Backyard), BANANA (Build Absolutely Nothing Anywhere Near Anything), LULU (Locally Unwanted Land Use), NIABY (Not In Anyone’s Backyard), BIYBTIM (Better In Your Backyard Than In Mine), NIMTOO (Not In My Term Of Office), NOPE (Not On Planet Earth), PIMBY (Please In My

Backyard), and YIMBY (Yes In My Backyard), embodies a variety of motivations ranging from the defense of territory and quality of life to broader principles of environmental justice and sustainability. Despite their diversity, these movements share a common critique of a development model perceived as top-down, often lacking adequate participation from local communities^[1].

In this context, Pier Luigi Portaluri's reflections on the concept of *vicinitas* acquire particular significance. He proposes to transcend the traditional physical conception of *vicinitas*, understood as territorial proximity, in favor of a broader and more flexible perspective based on an axiological *vicinitas*. This new interpretation seeks to expand the notion of standing to act to include subjects that represent diffuse and collective interests founded on shared values, regardless of their geographical proximity to the area affected by the administrative decision. This proposal aims to address the need to guarantee more inclusive judicial protections capable of capturing the complexity of the interests involved in territorial disputes^[2].

The recent case law of the Plenary Assembly of the Council of State provides significant support for this vision^[3]. With its judgment the Plenary Assembly recognized the possibility of interpreting *vicinitas* not solely in terms of material proximity but also in axiological terms, thus broadening access to justice for the protection of meta-individual interests. This decision marks a significant step towards a conception of standing to act that transcends the dichotomy between individual and collective interests. Hence, paving the way for a more open and inclusive model of administrative justice.

2. Key issues in administrative governance: diffuse and collective interests, institutional conflicts, participation, and discretion

In this context, four key topics can be considered as further exploring this issue: (i) the standing in the protection of diffuse and collective interests, (ii) disputes between Public Administrations and conflicts between powers, (iii) Forms of participation involving both the plurality of Public Administrations and private parties, as structured through the instrument of the conference of services, and (iv) the distinction between administrative and technical discretion^[4].

Analyzing these aspects considering axiological *vicinitas* can provide a deeper understanding of the challenges and opportunities for a more inclusive and balanced approach to administrative justice.

First: Standing in the protection of diffuse and collective interests^[8]. One of the core aspects to consider is the issue of standing, that is, the ability of a party to assert rights or interests before a judicial or administrative authority. In the case of diffuse interests, often related to matters of general concern – such as the environment, public health, or consumer rights – the parties entitled to standing may represent collectives or groups^[6]. In such regard, the notion of axiological *vicinitas* has been proposed as a way to expand the concept of standing, by allowing entities – such as associations or public bodies – to act on behalf of the community even in the absence of a direct territorial link to the contested decision. This approach aligns with the need to provide broader access to justice for the protection of diffuse interests^[9].

Second: Disputes between Public Administrations and conflicts between powers. Another significant issue concerns the conflicts that arise between Public Administrations due to overlapping competencies or divergent views on the exercise of administrative powers. These disputes often revolve around how to balance various public interests, particularly in the context of infrastructure projects where local and national interests may clash. The principle of loyal cooperation is often invoked to resolve such conflicts, yet recent jurisprudence suggests a shift towards recognizing the primacy of strategic public interests when they serve broader national or European objectives. The interpretation of *vicinitas* in axiological terms could serve as a tool to mediate these conflicts, ensuring that diffuse interests are adequately represented without undermining the implementation of projects that possess strategic importance^[8].

Third: Forms of participation by administrations and private parties (Conference of services). The conference of services represents a crucial tool for ensuring dialogue and coordination among different Public Administrations in complex decision-making processes^[9]. By fostering transparency and enabling the participation of private parties, this mechanism seeks to balance local interests with broader public objectives. The challenges posed by NIMBY and related phenomena highlight the importance of strengthening these participatory tools to prevent local opposition from becoming an obstacle to the implementation of

essential infrastructure. Scholar's proposal to broaden standing based on axiological *vicinitas* could enhance the effectiveness of these participatory mechanisms by allowing associations and other collective entities to advocate in favor of diffuse interests more effectively.

Fourth: Administrative discretion and technical discretion. A common issue in administrative practice is the confusion that arises between administrative discretion – which involves balancing different public interests – and technical discretion, which is limited to technical assessments without considering broader public interests. This confusion often leads to disputes, especially in cases involving environmental assessments for infrastructure projects.

3. Reinterpreting *vicinitas*: axiological proximity and strategic interests

A perspective grounded in the notion of axiological *vicinitas* could offer a useful interpretive key to clarify these distinctions, allowing standing to be recognized not only for those with a narrowly defined technical interest, but also for actors representing broader diffuse interests. Such an approach may foster a more transparent and balanced exercise of administrative discretion, particularly in matters involving environmental or territorial concerns.

A critical aspect of the analysis is the need to balance the protection of diffuse interests with the imperative of safeguarding strategic public interests as identified by the State and the European Union. Strategic infrastructures – such as energy networks, telecommunications, and environmental projects – are often essential for national security and economic competitiveness, aligning with broader European objectives such as the Green Deal^[10]. Case law, including the Council of State's rulings on projects like the Trans Adriatic Pipeline (see below), has underscored the legitimacy of prioritizing strategic interests over local opposition when necessary^[11].

4. The complexity of local opposition to infrastructure projects

The NIMBY (Not In My Backyard) phenomenon describes a form of localized

opposition to certain projects or public facilities based primarily on their proximity to residential areas rather than an objection to the projects themselves. This opposition arises when infrastructure developments – such as waste disposal sites, nuclear power plants, mobile phone networks, high-frequency radio antenna, electric pylons or other facilities that may cause inconvenience or pose potential risks – are planned near communities. While these projects often provide benefits for society at large, the negative externalities, such as environmental degradation, health risks, or decreased property values, are directly experienced by the nearby residents.

At the core of the NIMBY mentality lies a perception of an unfair distribution of costs and benefits: the broader community reaps the advantages, while the local population bears the burdens. This sense of injustice leads to strong, at times emotionally charged opposition which takes the form of manifesting in protests, legal challenges, and the establishment of citizen committees dedicated to blocking projects perceived as threatening the quality of life and the local environment. The projects targeted by such opposition are commonly referred to as NIMBY facilities. The hostility towards these developments does not stem from a rejection of their utility or necessity in absolute terms, more so from their specific location. In other words, while residents might acknowledge the need for waste management systems or energy infrastructure, they reject the idea of hosting them in their immediate vicinity.

This dynamic brings into focus the concept of *vicinitas*, traditionally understood in public and civil law as territorial proximity, which serves as a basis for standing to act in legal challenges against administrative decisions. The traditional interpretation of *vicinitas* emphasizes a direct material impact on those living close to the proposed site of the project. However, the proposal to reinterpret *vicinitas* in axiological terms – as a form of proximity based on shared values rather than mere geography – offers an intriguing perspective on NIMBY conflicts. As mentioned above, some interpretations suggest that standing to act should not be restricted to those directly affected by the physical impact of a project but should be extended to subjects representing diffuse interests grounded in environmental sustainability, public health, and justice.

Such an axiological interpretation of *vicinitas* would allow associations and collective entities to challenge infrastructure projects not only on the grounds of

direct physical impact but also based on broader societal values. This approach could provide a more inclusive framework for addressing NIMBY conflicts, ensuring that the concerns of local communities are balanced with the strategic interests of the State and the European Union, particularly in sectors such as energy and waste management which are crucial for national and European policies.

Moreover, redefining *vicinitas* in this manner might help mediate the inherent tension in NIMBY conflicts between the need to implement strategic infrastructure and the legitimate desire of local communities to protect their environment and quality of life. Recognizing standing based on axiological *vicinitas* could facilitate a more transparent and participatory decision-making process by reducing the perception of top-down imposition, thus fostering a more equitable distribution of both the burdens and benefits of infrastructure projects.

Hence, the NIMBY phenomenon, when viewed through the lens of an expanded and axiologically enriched concept of *vicinitas*, reveals the potential for a more nuanced approach to administrative justice – one that accommodates the strategic imperatives of national and supranational interests as well as the legitimate concerns of local communities.

5. Escalating resistance: from NIMBY to BANANA and other extremes

The interpretation of *vicinitas* becomes even more complex when considering the escalation of NIMBY conflicts into more extreme forms of opposition, such as the BANANA (Build Absolutely Nothing Anywhere Near Anything) phenomenon. BANANA represents an uncompromising rejection of all development projects, irrespective of location. Unlike NIMBY, which focuses on the local impact, BANANA embodies a categorical opposition to infrastructure development as a whole, often reflecting deeper concerns about environmental degradation and the perceived threats of industrialization and urban sprawl. This evolution from NIMBY to BANANA suggests a shift from a localized perception of *vicinitas* to a more generalized and categorical rejection of proximity to any development.

Similarly, other forms of opposition provide diverse interpretations of *vicinitas*: LULU (Locally Unwanted Land Use) represents opposition to specific land uses deemed undesirable by local communities due to their negative externalities, such as pollution, noise, or increased traffic. LULU reflects a more pragmatic view of *vicinitas*, focusing on the tangible impacts of specific projects rather than a generalized opposition to development.

NIABY (Not In Anyone's Backyard) advances a more ethical or generalized rationale against infrastructure development, rejecting not only local projects but the idea of imposing such burdens on any community. Unlike NIMBY, which is rooted in local interests, NIABY reflects broader concerns related to environmental justice and sustainability, suggesting an axiological approach to *vicinitas* that transcends mere territorial proximity.

BIYBTIM (Better In Your Backyard Than In Mine) reflects a different interpretation of *vicinitas*, where opposition is not to the project per se but to its location in one's own territory. This phenomenon highlights a form of strategic displacement of negative externalities, favoring the relocation of projects to other areas perceived as less problematic or less valuable.

NIMTOO (Not In My Term Of Office) introduces a political dimension to *vicinitas*, where the opposition to infrastructure projects is driven by political expediency rather than genuine local interests. Politicians might resist projects to avoid unpopular decisions during their term, illustrating how the proximity of electoral interests can influence decisions on public works.

NOPE (Not On Planet Earth) elevates the opposition to a global scale, rejecting certain types of development anywhere on the planet. This form of resistance often emerges from anti-globalization or radical environmental perspectives, suggesting an interpretation of *vicinitas* that encompasses planetary concerns and advocates for alternative models of development.

6. Reconciling local resistance with strategic infrastructure needs

In contrast, other phenomena embody a more positive and constructive approach to proximity:

YIMBY (Yes In My Backyard) reflects support for the construction of

infrastructure or projects near one's own area, viewing them as opportunities for local development or improvement. In fact, YIMBY advocates argue that certain projects can bring economic, environmental, or social benefits to the community. This view embodies a proactive and participatory interpretation of *vicinitas*.

PIMBY (Please In My Backyard) actively promotes the construction of projects perceived as beneficial to the community, such as renewable energy plants or technology hubs. This phenomenon suggests a form of *vicinitas* based on a positive evaluation of the impacts of infrastructure, prioritizing the benefits of development over its drawbacks.

The spectrum of these phenomena reveals the multifaceted nature of *vicinitas* and its interpretations, ranging from strict territorial proximity to more abstract and value-based conceptions. As affirmed by the aforementioned Scholar, the proposal to broaden the notion of *vicinitas* so as to encompass axiological considerations may function as a conceptual bridge between diverse interpretative approaches, thereby fostering a more inclusive understanding of standing in administrative law.

In essence, the evolution from NIMBY to BANANA, LULU, NIABY, and beyond illustrates the complexity of balancing local interests with broader public policy objectives^[12]. An expanded concept of *vicinitas* that integrates both territorial and axiological elements could provide a more nuanced framework for managing these conflicts by ensuring that the voices of local communities are heard without compromising the imperative of developing essential infrastructure.

One of the fundamental obstacles that Italy has been facing for decades, which has now become a significant barrier to the implementation of projects under the National Recovery and Resilience Plan (NRRP), is the substantial resistance posed by local communities and public authorities to new infrastructure developments. This resistance is particularly problematic given that the realization of such projects – especially in the fields of telecommunications networks and energy infrastructure – is not only vital to enhance Italy's competitiveness on a global scale but also to ensure the resilience of its economic and industrial fabric.

7. Challenges facing private investment in strategic infrastructure development

The challenges encountered by private investors are multifaceted, ranging from bureaucratic complexities and regulatory uncertainties to deeply rooted opposition at the local level. The NIMBY (Not In My Backyard) phenomenon exemplifies this local resistance, especially in the energy sector, where projects such as wind farms, both onshore and offshore, solar parks, photovoltaic and agro-solar plants, as well as biomass facilities are among the most hotly contested. The opposition to these projects is often driven by concerns about their impact on the landscape, environmental integrity, and the traditional agricultural land use. For instance, despite their role in advancing renewable energy goals, wind turbines and solar panels are frequently perceived as a threat to the natural and cultural heritage of rural areas, leading to widespread mobilization against their construction.

Of even greater controversy are projects involving nuclear power plants, regasification terminals, oil pipelines, gas pipelines, and drilling operations, which face even stronger resistance due to fears related to safety risks, public health implications, and potential environmental hazards^[13]. The opposition to these infrastructures is not merely a matter of aesthetic or territorial concerns but often reflects more profound anxieties about the long-term sustainability of such projects and their alignment with local needs and values. Hydroelectric infrastructures, particularly small-scale plants in mountainous regions, also face significant opposition due to their perceived adverse effects on river ecosystems, biodiversity, and the landscape. Local communities frequently argue that the environmental costs of these projects outweigh their benefits, especially when the profits are perceived to flow disproportionately to external investors or urban centers rather than staying within the local economy^[14].

The complexity of these challenges is further exacerbated by the fragmentation of administrative competencies in Italy, where regional and local authorities wield substantial influence over the approval processes for infrastructure projects. This fragmentation not only slows the decision-making process, but also creates a fertile ground for local opposition movements to exert a de facto veto power over projects deemed necessary at the national level.

The phenomenon of NIMTOO (Not In My Term Of Office) also plays a significant role in this context, as local politicians often oppose projects during their tenure to avoid liability in making unpopular decisions which could ultimately jeopardize their chances of re-election. This strategic opposition by local authorities, combined with the procedural delays and legal challenges that frequently accompany infrastructure projects, leads to what has been described as a tyranny of the status quo (*infra*), where the inability to build consensus in an effective manner stalls progress.

In the face of such resistance, the question of *vicinitas* – and its potential reinterpretation in axiological terms as proposed by Scholars – becomes even more crucial. The traditional notion of *vicinitas*, rooted in territorial proximity, may no longer suffice to address the diverse and value-driven nature of the opposition. An axiological reinterpretation of *vicinitas* could provide a framework for more inclusive decision-making processes, enabling broader participation in infrastructure planning that accounts for not only the local impacts but also the strategic interests of the State and the European Union. Such an approach would require the striking of a balance between the recognition of the legitimate concerns posed by local communities, and the certainty that infrastructure projects can, indeed, proceed in light of their alignment with national and European policy objectives.

8. The complexity of NIMBY: from effect to syndrome

NIMBY represents much more than a simple opposition to local projects; it embodies a complex web of contradictions and conflicts. Some refer to NIMBY as an effect, highlighting the tangible consequences that this attitude can produce, whereas others prefer the term syndrome, which attributes a more pathological connotation to the phenomenon^[15].

In modern societies, territorial conflicts have become more frequent and intense than social conflicts, often proving to be even more disruptive. The hallmark of these conflicts is the defense of the territory by local communities against what they perceive as embodying external threats. These perceived threats can manifest in the form of intrusive infrastructures – such as incinerators, highways, railways, power plants, and wind farms – or in the establishment of unwanted human

settlements, including nomad camps, immigrant facilities, or religious compounds.

Experts note that a common characteristic of these movements is the creation of ad hoc citizen committees, which present themselves as nonpartisan and as authentic representatives of the local community. Although these committees may receive support from environmental associations or political groups, they emphasize their independence as a direct expression of territorial interests. Local authorities, especially the smaller ones, oftentimes tend to align themselves with these protests, reinforcing the resistance to such projects^[14].

When politics enters public institutions following an electoral victory, it becomes a decisive force in driving opposition to projects associated with the NIMBY effect. This influence is particularly pronounced when the rejection of projects serves as a tool for advancing political, partisan, identity, or cultural agendas. In such situations, the opposition is not necessarily motivated by specific reasons underlying the projects themselves but rather by principles intended to promote broader political objectives.

This phenomenon is especially visible at the level of local authorities, such as municipalities and, in some instances, regional governments, which are more directly connected to the concerns of citizens. In addition to the political dimension, associations and citizen committees play an active role in these opposition efforts, frequently presenting cases before administrative courts. This often leads to significant delays or the outright blocking of the projects in question.

Opposition to the construction of new plants or infrastructure in the energy sector in Italy is a complex phenomenon fueled by various factors. Politics, especially when governing public institutions such as municipalities and regions, plays a central role in anchoring these resistances, which often manifest through the NIMBY (Not In My Backyard) syndrome or effect. In many cases, the veto to such projects is not merely a practical matter but becomes a tool for political, identity, or cultural claims. The rejection is frequently based more on matters of principle than on actual environmental or territorial concerns, and it is exploited by political parties and local administrations to gain consensus or consolidate their position. This attitude also leads to the NIMTO (Not In My Term of Office) syndrome, where opposition to certain projects is motivated by the desire

to avoid unpopular decisions during one's term of office, even when those same projects had been supported by previous governments. As a result, a political contrast emerges: those opposing the project may adopt a NIMBY stance, while those who were previously in power may have favored a YIMBY (Yes In My Backyard) approach, thus welcoming the same infrastructure that is now being contested.

9. The “Tyranny of the Status Quo”: How NIMBY and NIMTOO stall infrastructure development

The increasingly close connection between the NIMBY (Not In My Backyard) and NIMTOO (Not In My Term Of Office) phenomena has created a significant tendency towards deadlock, a situation that sociologists aptly refer to as the tyranny of the status quo^[17]. This term encapsulates the reality of a system where, despite the urgency and importance of infrastructure projects, decision-making processes witness a halt due to the interplay of localized resistance and political expediency^[18].

In a context characterized by high authoritative fragmentation and complex procedural requirements, it is not sufficient for political and governmental actors to merely make a decision. The opposition from minority interests, often highly organized and strategically placed at different stages of the decision-making process, can effectively exercise a veto power. Local politicians, motivated by the desire to avoid unpopular decisions that could jeopardize their re-election prospects, tend to align with this resistance, further complicating the situation.

The influence of NIMTOO highlights the role of short-term political calculations in obstructing long-term infrastructure development. By deferring or outright blocking projects to avoid electoral backlash, local administrations contribute to a form of institutional inertia that prevents any meaningful progress. This situation is exacerbated by the tendency of minority groups to leverage procedural mechanisms, such as appeals to administrative courts, aimed at delaying the projects indefinitely.

The consequence is a structural perpetuation of the existing situation, which is not only unsatisfactory but often detrimental to both local and national interests. Essential infrastructure projects, ranging from energy networks to transportation

systems, remain stalled. Thus, undermining efforts to improve economic competitiveness and sustainability. This stalemate reflects a profound crisis in the decision-making process, where the ability to balance local opposition with strategic national interests appears increasingly compromised.

Addressing this challenge requires a comprehensive rethinking of how opposition is managed within the administrative system, potentially through procedural reforms that streamline decision-making while still ensuring adequate participation for local communities. Without such reforms, the tyranny of the status quo is likely to continue posing a substantial obstacle to the effective implementation of critical infrastructure projects.

At the core of the problem are onerous and often irrational administrative practices, coupled with excessively complex decision-making procedures. These processes are frequently burdened by endless rounds of opinions, approvals, and consultations that significantly delay project timelines, sometimes indefinitely. Such delays risk extending far beyond the duration of legislative and council terms, thereby creating opportunities for shifts in political majorities to further complicate or derail ongoing projects.

10. Unresolved tensions in infrastructure decision-making

While reforming the decision-making process is undoubtedly essential, it alone is insufficient to resolve the broader and more deeply rooted issues underlying the NIMBY phenomenon. The heart of the conflict lies in a web of diverse and complex motivations – including environmental concerns, fears about public health, economic interests, and cultural resistance – that cannot be fully addressed merely by streamlining administrative procedures. A more rational and efficient approach to governance may help to mitigate some of these challenges. However, it cannot eradicate the fundamental disagreements and distrust that drive local opposition. Addressing these challenges effectively will require a more comprehensive strategy that combines administrative reforms with meaningful opportunities for public participation and a more transparent evaluation of the costs and benefits of infrastructure projects.

In Italy, the evaluation and authorization of renewable energy plants, such as photovoltaic and wind farms, largely depend on regional and municipal

authorities. This makes the process particularly prone to delays and blockages, often due to local resistance stemming from concerns related to landscape, environmental, or cultural issues. For instance, in regions such as Puglia, Basilicata, Sicily, and Sardinia, numerous projects remained stalled for years despite investments and efforts to increase green energy production capacity.

One of the main reasons why regions, municipalities, and even the Superintendencies for Cultural Heritage oppose renewable energy plants, such as those for wind or solar power, is their potential impact on the landscape and local environment. However, this opposition often conceals more complex motivations. In many cases, local administrations fear that the installation of large-scale plants could cause public discontent which leads to the undermining of political support. In other cases, regional regulations are so stringent that they obstruct even projects deemed essential for the country's energy transition.

Another emblematic example comes from another Italian region, where an agrivoltaic plant project was blocked due to concerns regarding the agricultural vocation of the territory and the impact on the landscape. This resistance from local communities is not an isolated case, but reflects a broader trend, with hundreds renewable energy plants awaiting authorization in Italy^[19]. This no at all costs, is particularly alarming, as it represents a serious obstacle to achieving the climate targets set by the European Union^[20].

To overcome these blockages, regulatory intervention would be necessary to simplify authorization procedures and engage local communities more directly. In fact, local opposition often arises from the perception that these projects do not provide direct benefits to the citizens. Measures such as reduced proximity tariffs for energy produced by renewable plants, crowdfunding projects to involve private investors, and the creation of renewable energy communities could foster greater engagement and acceptance from local populations.

The NIMBY effect, and especially political-administrative resistance, represent significant barriers to the development of renewable energies in Italy. However, addressing this phenomenon requires not only regulatory intervention aimed at accelerating authorization processes, but also the development of targeted strategies to create a more direct link between the benefits of renewables and local communities. This would allow for the overcoming of resistance based on matters of principle and political claims.

For instance, during the conversion of decree-law of 25 June 2024, n. 84, containing urgent provisions on critical raw materials of strategic interest (converted, with amendments, by law 8 of August, 2024, n. 115), an amendment was proposed providing a one-third increment of the penalty for anyone who, through violence or threats, attempted to prevent the implementation of public works or strategic infrastructure. Although the amendment was not ultimately approved, it nonetheless serves as an example of a proposed measure aimed at combating violent opposition, often linked to NIMBY movements.

11. Local oppositions: The LULU, NIMBY, NOPE, NIABY phenomena

In a small village nestled between green hills and rivers, a project for the construction of a new energy plant sparked mixed reactions among the population and local administrations. Some residents, organized into spontaneous committees, immediately voiced their dissent, sparked by concerns about the environmental impact of the new facility on the territory. These citizens, deeply connected to their natural and cultural heritage, formed a movement clearly aligned with the NIMBY (Not In My Backyard) syndrome, convinced that the project would harm their backyard, meaning the land they had lived on for generations. They argued that, having already endured high-impact facilities in the past, it was unfair to further sacrifice their environment and health.

On the other hand, there was a group of people in favor of the plant's construction, somewhat aligned with the YIMBY (Yes In My Backyard) approach. Unlike the former, they saw the project as an opportunity for the region's economic development, ultimately viewing the project in light of job creation and enhanced investment attractiveness. This group believed that the project would not only bring local benefits but would also contribute to the overall well-being of the community by improving the country's energy supply.

In the midst of this debate, however, a third stance emerged. Some residents, while sharing the concern about the plant's environmental impact, emphasized that their village had already borne enough in the past. In their view, they had been forced to accept other unwanted infrastructures, sacrificing their land for

the Common Good. These citizens aligned with the LULU (Locally Unwanted Land Uses) movement, a position expressing a sense of injustice: “We’ve already given” they said, referring to the many sacrifices made over the years. Their claims were based on the belief that imposing further burdens on an already affected community amounted to an unfair practice.

Another, smaller but equally determined group advocated for an even more radical stance, typical of the NIABY (Not In Anyone’s Backyard) movement. According to them, it was unacceptable to build such facilities not only in their own area but anywhere. They argued that projects of this nature, given their impactful nature, should not be imposed on any community, as simply relocating the problem was both unacceptable and unjust.

Finally, a small group of activists embraced the NOPE (Not On Planet Earth) syndrome, categorically rejecting any project that could have a negative environmental impact, no matter where it was constructed. Their opposition transcended local boundaries, addressing global issues as they advocated for bold and sustainable solutions.

This situation epitomized the various forms of opposition that can arise in response to infrastructural projects. The citizens’ positions ranged from the local rejection of NIMBY and LULU to the openness of YIMBY, passing through the total opposition of NIABY and NOPE. These conflicts, though complex and rooted in different interests, highlighted the delicate balance between collective well-being and the sacrifices imposed on a few local communities. As the citizens mobilized, politics sought a way to reconcile the general with the particular in a challenge that reflected the dilemmas of contemporary democracy.

12. Conflict between NIMBY and PIMBY-YIMBY among different Public Administrations

In a quiet Tuscan valley, three municipalities are debating a new infrastructure project: the construction of a road to reduce the congested traffic that has plagued the main routes for years. Although the project is designed to improve the quality of life, it has immediately divided the mayors of the involved municipalities.

The mayor of Colleverde, a small village famous for its green hills and rural

landscapes, has adopted a decidedly NIMBY (Not In My Backyard) stance. While recognizing the general benefits of the project, the mayor has strongly argued that the new road ought not to pass through his territory. His districts, he claims, have already endured enough traffic and noise. Therefore, he proposes that the vehicle flow be diverted to the neighboring municipality of Pianoforte. His position, though understandable, is clear: someone else should bear the burden of the problem, not him.

On the other hand, the mayor of Pianoforte, although supportive of the project, fears a further increase in traffic on his already congested roads. Therefore, he, too, is also attempting to shift the issue to other areas. In an attempt to protect his municipality, the mayor of Pianoforte exhibits an attitude similar to his colleague from Colleverde in suggesting that the road be built along less inhabited routes.

In contrast to these positions, the mayor of Vallefiorita is taking a PIMBY (Please In My Backyard) approach. Enthusiastic about the project, he sees the construction of the road as an opportunity to improve accessibility to his town and to boost the local economy. In his view, the new infrastructure would bring more visitors, promoting tourism and facilitating the transport of agricultural products. However, he overlooks the environmental and landscape concerns, underestimating the impact that increased traffic would have on the valley's delicate natural balance.

This story reflects the typical clash between two opposing mindsets: on one side, those who want to avoid the burden of an inconvenient project (NIMBY), and on the other, those who welcome it with enthusiasm (PIMBY), sometimes without due consideration of the long-term consequences.

13. The conflict between the NIMBY effect in regional laws and the principle of unitary of the State

The disposal of nuclear waste has been an ongoing issue in Italy since 1987, the year in which, following a referendum, the country's four nuclear sites were shut down. Since then, the problem has persisted, with approximately 95,000 cubic meters of radioactive waste still awaiting disposal. After years of delays, protests, and even a conviction by the EU Court for the failure to manage nuclear waste, it

was only on December 30, 2020, that Sogin, the state company responsible for dismantling nuclear plants, published a map of possible suitable sites for safely storing this waste for the next 300 years.

The critical aspect of this issue is the NIMBY (Not In My Backyard) phenomenon, which triggered a wave of protests stemming from northern to southern Italy as soon as the suitable sites were presented. Despite the need to manage radioactive waste safely, local communities, concerned about the environmental impact and perceived risks, oppose the presence of these storage facilities in their territories.

The Constitutional Court^[21] ruled on certain constitutional legitimacy issues concerning regional laws from Sardinia, Calabria, and Basilicata, which have declared their territories denuclearized and thus prohibit the transit and presence of nuclear materials with the exception of those used in healthcare and research purposes. These laws were challenged by the Government as they conflicted with state legislation.

The Court found that the regional regulations violated the principles of the State's exclusive competence in environmental protection, as enshrined in Article 117 of the Constitution. Furthermore, the Court asserted that territorial denuclearization cannot be unilaterally decided by a region, as environmental issues and radioactive waste management require a unified, national approach. Recognizing the validity of such laws could have led to a pass-the-buck scenario among Italian regions, where the least reactive ones would ultimately host the radioactive waste.

Additionally, the Constitutional Court reiterated the central role of the State in environmental protection, recognizing that this matter of national relevance cannot be fragmented among the regions. Specifically, the Court emphasized that while regional laws may impose stricter regulations, they cannot undermine national interests such as the proper management of hazardous waste and the protection of public health. The concept of national interest, although no longer explicitly mentioned in the reform of Title V of the Constitution, was revisited by the Court through the unitary principle which ensures legislative coherence on matters of national significance. This principle prevents local decisions, such as Sardinia's ban on the transit of nuclear materials, from compromising public safety or the free movement of goods between regions, invoking the importance

of Article 120 of the Constitution.

The Court also highlighted that it is not possible to address issues such as the disposal of hazardous waste by applying the principle of regional self-sufficiency as this would hinder the equitable distribution of responsibilities across the national territory. This approach, therefore, rejected the NIMBY phenomenon which is based on the idea of refusing potentially harmful projects at the local level while accepting the benefits at the global level. Ultimately, the Court reaffirmed that the State's exclusive competence and the need for centralized environmental management are essential to avoid territorial selfishness and ensure a fair distribution of responsibilities and risks on a national scale.

14. The role of the conference of services in infrastructure planning

In Italy, numerous energy infrastructure projects have been halted due to local, bureaucratic, and regulatory opposition. A significant example is the Ionio Gas regasification plant in Priolo, Sicily, which was stalled for years, resulting in a multimillion-euro loss. Similarly, British Gas was forced to abandon the project for a regasification plant in Brindisi, Puglia, after a lengthy bureaucratic battle from 2001 to 2011, which cost tens of millions of euros. These examples are emblematic of the NIMBY syndrome, which manifests when local communities oppose projects considered necessary but unwanted in their own territory.

The same holds true for renewable energy, where opposition appears in various forms. Despite the importance of these projects in achieving European climate targets, many local and regional administrations, supported by the Superintendencies for Cultural Heritage, have raised objections that slowed their development. For instance, in Puglia, as previously mentioned, local regulations and population resistance have hindered the development of new plants, while in the Marche region, an agrivoltaic project was rejected due to concerns related to the landscape and the agricultural vocation of the territory. Similar blockages have also been observed in Veneto, Lazio, Molise, and Abruzzo.

These obstacles highlight the need to streamline authorization procedures and improve dialogue with local communities to promote the development of renewable energy, a sector crucial to the country's energy transition.

In developing strategies to manage NIMBY conflicts, it is of crucial importance to adopt a preventive approach that carefully considers social dynamics. Research and simulations have consistently shown that timely intervention and effective communication with local communities are key elements in preventing conflicts from escalating. Addressing concerns early on not only helps to mitigate tensions but also provides valuable lessons for refining territorial management policies and designing more effective conflict-resolution mechanisms^[23].

In the context of NIMBY related disputes, the most successful strategy for authorities has proven to be early intervention which is characterized by a prompt response to residents' concerns. Engaging with communities at the initial stages can prevent dissatisfaction from escalating into deeply rooted and unmanageable opposition. This proactive approach fosters a constructive dialogue by enabling a more collaborative decision-making process from the outset.

Furthermore, studies highlight the fundamental role of communication within communities in shaping their ability to organize large-scale protests. Where social cohesion is weak and interactions among residents are infrequent, it becomes significantly more challenging for local groups to coordinate effective opposition. As a result, enhancing communication channels and promoting transparency can serve as powerful tools to moderate the impact of protests and facilitate a more balanced consideration of local and strategic interests.

The regulatory framework offers a range of tools designed to support democratic participation, starting with the general law on administrative procedure. These tools include the right to participate in administrative proceedings and access public documents through various forms of access: documentary, civic, and generalized. Additionally, the involvement of Public Administrations through the conference of services plays a vital role in ensuring coordination and coherence in the decision-making processes. This mechanism not only promotes dialogue among different administrative bodies but also helps reconcile conflicting interests by providing a structured platform for discussion.

Within this framework, the management of dissent among administrations – often triggered by phenomena like NIMBY and YIMBY – becomes a litmus test for the acceptance or rejection of infrastructure projects by local communities. Ensuring that these participatory tools are effectively implemented is essential for

balancing local concerns with broader public interests and for preventing localized opposition from evolving into a structural impediment to infrastructure development.

In the field of urban and environmental planning, regulatory frameworks are designed to manage the complexity of decisions regarding the siting of waste disposal and recovery facilities. These regulations aim to balance local needs with those of the broader public interest in order to avoid the so-called NIMBY effect, where local communities refuse to accept infrastructures perceived as harmful within their territory.

One of the key regulatory mechanisms designed to address conflicts in infrastructure planning is the conference of services, which brings together multiple administrative bodies to facilitate coordinated decision-making. This procedure allows local administrations to voice their opinions on projects with significant territorial impacts. However, the ultimate decision-making authority is vested in a higher level of government, ensuring that national or regional priorities can prevail over strictly local interests when necessary. The objective of this mechanism is to prevent local communities from blocking projects of public interest solely to protect their own narrow concerns^[23].

Legislative reforms have redefined the balance of powers in planning decisions by granting greater authority to the lead administration while still safeguarding local interests through participation in the conference of services. According to established jurisprudence, this process enables the removal of exclusive decision-making power from local administrations regarding the siting of potentially contentious facilities. As a result, it helps mitigate the NIMBY phenomenon by ensuring that decisions reflect a broader consideration of collective well-being, rather than being swayed by localized opposition alone.

15. Legitimacy and conflict resolution in administrative decision-making

In this context, the fact that final approval may override objections raised by municipalities does not constitute a breach of legality. On the contrary, such dissent is thoroughly examined and weighed during the conference of services, which serves as a vital tool for balancing local concerns with the need to advance

projects of broader public interest. This approach not only reinforces the legitimacy of the decision-making process but also helps to prevent procedural deadlocks that could jeopardize strategic infrastructure developments. In the context of major public works and infrastructure, public debate plays a fundamental role as a tool for transparency and participation, as provided for by the Public Contracts Code (legislative decree 36/2023)^[24]. This institution allows citizens and stakeholders to express opinions and proposals on projects of territorial and environmental relevance, seeking to balance the general interest with local concerns^[25].

Although not explicitly provided for in the European public procurement directives (2014/23/EU, 2014/24/EU, 2014/25/EU), public debate finds an indirect basis in Recital 122 of Directive 2014/24/EU, which recognizes the legitimate interest of citizens in the proper management of procurement procedures. This institution also has well-established roots in French law with the Barnier Law of 1995 and has had an impact in Italy starting with the Tuscan Regional Law of 2013 and, subsequently, the Puglia Regional Law of 2017^[26]. However, the Constitutional Court has limited the application of regional public debate to only national-level works^[27].

The New Public Contracts Code (legislative decree n. 36/2023) reaffirms the centrality of public debate as a tool for dialogue, simplifying procedures and ensuring greater participation in the decision-making processes for major infrastructure projects.

16. Conflicts between Public Administrations in conferences of services and the NIMBY effect

In a judgment of the Council of State^[28] concerning a power line project in a northeastern region of Italy, the former Ministry of Cultural Heritage and Activities (MIBAC) played a decisive role, particularly regarding landscape protection. The project involved the construction of a high-voltage power line across areas recognized for their environmental and cultural value, raising significant concerns among local authorities and environmental organizations.

Initially, the regional Superintendency expressed a negative opinion on the project, highlighting the potential harm to protected areas and recommending

alternative solutions, such as underground routing of the power line to minimize its visual and environmental impact. This opposition was supported by various local stakeholders, who emphasized the need to preserve the natural and cultural heritage of the territory.

While the Ministry initially upheld the Superintendency's negative stance, emphasizing the importance of safeguarding the landscape, it later revised its position. Ultimately, the Ministry issued a favorable opinion, but with a significant condition: the power line had to be relocated outside areas of high landscape value to mitigate its impact. This shift was presented as a compromise, aiming to balance the need for infrastructure development with the imperative of protecting the region's environmental and cultural assets.

This case highlighted the complex interplay between local opposition, environmental protection requirements, and the strategic interests linked to energy infrastructure development. It also underscored the challenges involved in finding balanced solutions that can reconcile the need for modern infrastructure with the preservation of the landscape and cultural heritage.

This shift in position was strongly criticized by the Council of State, which noted an abuse of power by the MIBAC. Rather than limiting itself to assessing the landscape impact of the project, the Ministry conducted a balancing of the public interest related to the energy infrastructure with landscape protection, which falls outside its competencies. According to the court, the MIBAC should have confined itself to a technical assessment of landscape compatibility without considering other public interests, leaving that role to the other administrations involved in the conference of services.

This interference undermined the dialectical exchange between administrations, compromising the validity of the entire procedure. The ruling emphasizes that the role of the MIBAC is limited to landscape protection and that its technical discretion does not permit balancing other public interests, under penalty of an excess of power and the jeopardization of the legitimacy of the procedure.

17. NIMBY Syndrome in Public Administrations: local opposition vs. national interest

In the ruling of the Council of State ^[29] concerning the construction of the TAP

pipeline, a significant conflict emerged between the various Public Administrations involved. On the one hand, the Municipality of Melendugno and the Puglia Region sought to block the project by invoking the precautionary principle, arguing that the environmental risks and the safety of the pipeline's reception terminal had not been adequately assessed. In particular, the Municipality highlighted potential environmental risks, calling for the application of the precautionary principle to halt the project, which, in their view, presented unexamined uncertainties.

On the other, the Ministry of the Environment and other state authorities defended the legitimacy of the project, emphasizing that the Environmental Impact Assessment (EIA) had been conducted in accordance with current regulations and that the terminal did not fall under the so-called Seveso directive on high-risk industrial plants. According to the court, the Ministry had correctly exercised its administrative discretion by balancing public interest and infrastructure needs with environmental protection.

The ruling thus rejected the claims of the Municipality and the Region, highlighting how, within the context of the NIMBY (Not In My Backyard) syndrome, local authorities often oppose large projects perceived as harmful to their territories even though they serve national public interest. In this case, the Council of State ruled that the decision to proceed with the TAP project was legitimate, as it complied with regulations and ensured the required safety and sustainability, rejecting the local authorities' invocation of the precautionary principle.

This conflict between local and national administrations reflects one of the typical dynamics of NIMBY conflicts, where local entities tend to protect their own territories from unwanted projects, while central authorities seek to promote works of strategic interest to the country^[30].

17.1. Technical discretion and the precautionary principle

In the ruling of the Council of State^[31] concerning drilling in the Adriatic Sea and the use of the air gun technique, one of the central aspects of the debate was the invocation of the precautionary principle by the contesting Regions. This principle, as provided by environmental law, is applied when there is scientific

uncertainty regarding possible risks to public health or the environment. The Regions, particularly Abruzzo and Puglia, argued that the use of the air gun could have harmful environmental impacts which have not been fully assessed, especially on marine fauna and fishing activities.

The core of the dispute revolved around the use of the air gun, a technology that generates sound waves in the seabed to detect the presence of hydrocarbons. The contesting Regions argued that this technology could have a negative environmental impact, particularly on marine fauna, plankton, and fishing activities. However, the Council of State upheld the technical opinion expressed by the Higher Institute for Environmental Protection and Research (ISPRA), which had demonstrated that the negative effects of the air gun on marine fauna were not as severe as claimed by the contesting parties.

The ruling of the Council of State on the issue of drilling in the Adriatic Sea addressed several points related to technical discretion and the application of the precautionary principle. In assessing the administration's technical discretion (exercised through the Environmental Impact Assessment - EIA), the court determined that this discretion does not merely involve a technical verification of environmental compatibility but also requires a broader comparative analysis of the project's environmental impacts. This evaluation includes the zero option (*i.e.*, the non-implementation of the project), considering both the environmental benefits and sacrifices in relation to the project's socioeconomic utility.

The discretion exercised by the administration in the EIA process is broad and is not limited to objective technical criteria. It involves a balancing of public and private interests, making the final decisions difficult to challenge legally unless there are manifest errors of unreasonableness or abnormality. This means that the administrative judge can only intervene in cases of evident errors and not as a replacement of the administration in evaluating the appropriateness of technical decisions.

The ruling also emphasized that the application of the precautionary principle, invoked by the contesting parties, cannot be used generically. The principle requires a detailed risk assessment based on reliable scientific data. In the absence of concrete and well-documented risks, the precautionary principle cannot be invoked to block a project. In this case, the court found that the technical

requirements imposed, such as the prohibition of simultaneous seismic surveys and other mitigation measures, were sufficient to ensure the protection of the environment and marine fauna.

In summary, the decision confirmed the legitimacy of the EIA and the authorizations granted for the drilling, rejecting the criticisms raised by the Regions.

In conclusion, the ruling reiterated that the precautionary principle must be supported by clear scientific evidence and that the NIMBY syndrome, while representing the legitimate concerns of local communities, cannot block projects of national public interest, as in the case of drilling.

17.2. The punitive judgment case

In a judgment by the Administrative Court of Lazio concerning the installation of the regasification plant in the port of Piombino^[32], the appeal filed by the Municipality of Piombino was rejected. The court found that the objections raised by the municipality were insufficient to halt the project. Specifically, the Municipality contested the lack of an adequate environmental and health impact assessment for the project, as well as the inadequacy of the safety measures. However, the TAR deemed the procedure followed to be legitimate and highlighted that the Special Commissioner, appointed by the government, had acted appropriately.

The Municipality of Piombino argued for the application of the precautionary principle, requesting a rigorous assessment of the potential environmental and health risks associated with the regasification plant. The judge, while recognizing the importance of environmental protection, took into account the need to ensure the country's security energy-wise, and thus ruled that the measures taken were adequate. The ruling emphasized the exceptional and urgent nature of the project, which justified the application of simplified procedures.

A particularly punitive aspect of the judgment was the ruling that the Municipality was to bear the legal costs, a sanction that sparked criticism. The mayor of Piombino accused the court of wanting to set a precedent in order to deter similar future opposition by other local administrations, asserting that the municipality had nonetheless obtained significant concessions in terms of safety

and environmental protection.

In the ruling concerning the Piombino regasification plant, the court not only condemned the Municipality of Piombino but also other appellants to pay the legal costs. The imposition of legal costs is significant because it reflects a punitive aspect of the ruling. The judge found that the appeal filed by the Municipality and the other parties lacked sufficient grounds to justify the opposition to the project. This resulted not only in the rejection of the appeal but also in the obligation to cover the legal costs incurred by the opposing parties, a measure intended to discourage further legal actions without a solid legal basis.

In detail, the judgment ordered that the Municipality of Piombino and the co-appellants pay substantial sums to several parties, including the Special Commissioner, the Ministry for Ecological Transition, and the companies responsible for implementing the project. This condemnation not only reflects the court's decision to reject the grounds of the appeal but also serves as a warning to other local administrations considering opposing future projects of national strategic interest.

In the ruling regarding the Piombino regasification plant, one of the crucial aspects was the precedence of national and supranational interests over local opposition. The court emphasized the strategic importance of the regasification plant, particularly in the context of the European energy crisis exacerbated by the war between Ukraine and Russia. The war has led to a sharp increase in demand for alternative energy sources to reduce dependence on Russian gas supplies, making the regasification plant an essential infrastructure for both Italian and European energy security.

National and supranational interests were therefore prioritized over local concerns. The judge highlighted that, within the framework of the needs arising from the conflict in Ukraine, the construction of the regasification plant was not only a matter of utility for Italy but also responded to pressing European needs for energy diversification. This led to a decision that justified the acceleration of the project despite resistance from the Municipality and other local parties.

18. Implications for the protection of collective interests

The issue of standing to act in the protection of collective interests resonates

closely with the reflections of scholars on the evolving concept of *vicinitas* and the need for a more inclusive approach to judicial protection. Scholars' proposal to reinterpret *vicinitas* in axiological terms – based on shared values rather than mere territorial proximity – aligns with the notion that standing should not be restricted to those directly and materially affected by a decision. Instead, it should extend to associations and collective entities genuinely representing diffuse interests, particularly in cases involving environmental protection and public health.

The Scope of Standing for Associations: statutory purposes and unified collective interests

In the judgment of the Council of State (Ad. Plen. n. 9/2015), the standing of associations is strictly limited to cases where there is a direct connection between the effects of the contested decision and the statutory purposes of the association. This interpretation seeks to prevent the misuse of legal action by associations whose interests do not genuinely align with the collective interest at stake. Scholars' reflections reinforce this view by arguing that the legitimacy of standing should derive from the ability to represent shared values and diffuse interests effectively rather than being confined to a rigid and territorial interpretation of *vicinitas*.

According to Scholars, the traditional territorial approach to standing risks excluding many associations that, while not directly impacted by a decision in a geographic sense, have a genuine interest in the protection of collective values such as environmental sustainability and public health. This perspective finds support in the Council of State's rulings, which emphasize the importance of ensuring that the interest represented by associations must be collective and shared by all members, rather than a mere aggregation of individual interests. The alignment between statutory purposes and the collective interest, as required by the Council of State, reflects an axiological interpretation of standing, where the focus is on the values represented rather than on the immediate territorial impact^[33].

By advocating for an axiological approach, scholars emphasize that associations genuinely representing shared values should be empowered to act, even if they do not meet the traditional territorial criteria for standing.

This broader interpretation would allow associations to bring actions in defense

of collective interests such as environmental protection, public health, and sustainable development – interests that are inherently diffuse and not limited to a specific territory. The rationale behind this approach is to prevent local opposition from becoming an obstacle to projects of strategic importance, while still ensuring that diffuse interests are adequately represented in the judicial process.

The case at hand in paragraph 17 illustrates the practical application of these principles. The intervention *ad adiuvandum* by a trade union was declared inadmissible due to the lack of alignment between the association's statutory purposes and the subject matter of the dispute. In contrast, the interventions by two environmental associations were deemed admissible precisely because their statutory purposes – which focused on environmental protection and public health – were directly connected to the issues raised in the appeal. The court's decision underscored the importance of ensuring that associations seeking standing must demonstrate a clear and direct connection between their statutory objectives and the specific interests they seek to protect in litigation.

This distinction highlights the importance of aligning statutory purposes with the collective interest at stake, a requirement that scholars' reflections suggest could be expanded to include associations representing diffuse interests based on shared values. The fact that environmental associations were granted standing reflects a partial application of the axiological approach advocated by scholars, recognizing that associations with a genuine commitment to protecting collective values should be allowed to act in defense of those interests.

The distinction drawn by the court between admissible and inadmissible interventions underscores the importance of aligning statutory purposes with the subject matter of the dispute. Associations whose objectives are directly connected to the public interest concerns at issue are seen as legitimate representatives of collective interests, thereby reinforcing the integrity of the legal process.

The criteria for standing established by case law have significant implications for the protection of collective interests, particularly for what concerns environmental and public interest cases. By requiring a clear alignment between the statutory purposes of associations and the interests at stake, the courts aim to prevent the dilution of collective legal actions and ensure that such actions

genuinely represent a unified collective interest.

However, this approach also raises questions about the accessibility of judicial protection for diffuse interests, especially in cases where no single association's statutory purposes fully align with the collective interest at stake. Striking a balance between preventing the misuse of standing and ensuring adequate protection for diffuse interests remains a complex challenge for administrative law.

The standing of associations to act in defense of collective interests is governed by a nuanced set of rules designed to safeguard the integrity of the legal process. The emphasis on statutory purposes, unified collective interests, and the prohibition of procedural substitution reflects a cautious approach to standing aimed at ensuring that only associations genuinely representing the collective interest at stake are permitted to act. As collective interest litigation continues to grow in importance, particularly in the fields of environmental protection and public health, these criteria are likely to play an increasingly central role in shaping the landscape of administrative justice.

A recent case offers a concrete application of these principles, shedding light on the judicial assessment of standing in environmental matters. The Council of State^[34], ruled on the appeal brought by the environmental committee "Lasciateci respirare" (Let Us Breathe) against regional decrees authorizing the expansion of a landfill. The court upheld the inadmissibility of the appeal, affirming that informal committees not registered under Article 13 of law n. 349/1986 must demonstrate, both at the time of filing and throughout the proceedings, (i) a direct link between their statutory activities and the challenged project; (ii) actual or potential environmental damage to the area where their members reside; and (iii) effective territorial representativeness^[35].

In the case at hand, the committee failed to meet this burden of proof, as its registered office was located more than ten kilometers away from the landfill, and no specific environmental harm to the local area was substantiated. The ruling thus confirmed that *vicinitas* operates as a prerequisite for legal standing and is not presumed but must be clearly established.

However, concerns arise regarding the criteria adopted to exclude standing. The judgment appears to rely primarily on a spatial parameter – the physical distance between the committee's seat and the location of the project – as a decisive

factor. This approach risks introducing a notion of *vicinitas* that is overly rigid and not anchored in precise legal definitions. In the absence of clear normative benchmarks, the use of fixed geographic thresholds could lead to inconsistent or even arbitrary outcomes, undermining legal certainty and potentially restricting access to justice in cases where environmental impacts extend beyond narrowly defined territorial boundaries^[36].

19. Concluding remarks: between “Scapegoat”, “Tyranny of the Status Quo”, and “Pressure Valve”

This concluding section proposes a final synthesis between three dynamics: the scapegoat mechanism, the tyranny of the status quo, and the pressure valve. As highlighted throughout the analysis, the presence of the NIMBY phenomenon itself often functions as a rhetorical shortcut – a way to shift blame from procedural inefficiencies and political responsibility onto the protesting local communities. In this sense, citizen dissent is turned into a symbolic scapegoat: it absorbs the institutional discomfort, deflects accountability, and justifies inertia. As Scholars have argued, this delegitimization of dissent reveals an institutional preference for symbolic containment over structural reform – an attempt to vent social pressure through participation without actually redistributing power or reconfiguring decision-making processes^[37].

The result is a procedural framework that simulates openness through participation (the pressure valve) while simultaneously resisting substantive change.

This mechanism feeds directly into what Scholars described as the tyranny of the status quo: the systemic tendency of institutions to preserve existing equilibriums even in the face of pressing structural needs. When combined with short-term political incentives – as in the NIMTOO syndrome – and the strategic avoidance of contentious decisions, this convergence of scapegoating, stagnation, and symbolic inclusion creates a self-reinforcing cycle of immobility.

As Emiliano Frediani observes, this narrative can become a functional scapegoat within administrative systems. When confronted with delays, procedural paralysis, or contested decisions, public administrations may externalize responsibility by attributing the failure not to internal dysfunctions or planning

deficits, but to the oppositional behavior of citizens, associations, or informal committees. In doing so, the administration not only avoids confronting its own limitations, but also neutralizes the democratic function of participation, reducing it to an obstacle or nuisance.

This rhetorical operation is far from benign. It produces a symbolic inversion, whereby instruments designed to ensure deliberative quality, accountability, and openness are reframed as liabilities.

Participation becomes inefficiency; dissent becomes obstruction; and citizen engagement is transformed into the main barrier to progress. The NIMBY figure, in this construction, is no longer a concerned stakeholder, but a convenient adversary – an administrative antagonist whose presence serves to legitimize managerial closure and procedural expedients^[58].

Recognizing this dynamic is crucial. It calls for a more nuanced reading of public opposition – one that resists simplification and acknowledges the political, environmental, and territorial stakes at play. At the same time, it demands an institutional culture capable of distinguishing between defensive blame-shifting and constructive conflict management. If the NIMBY discourse continues to serve as a mask for structural inertia or as a tool of exclusion, the very credibility of democratic planning and administrative legitimacy risks being undermined.

In this light, the NIMBY phenomenon must be reinterpreted not as a pathology of localism, but as a mirror of systemic fragilities – and perhaps, more importantly, as a litmus test for the maturity and responsiveness of public institutions.

Breaking this cycle requires more than legal adjustments or procedural streamlining. It demands a cultural and institutional shift: one that values participation not as a pressure management tool, but as a genuine opportunity to reconfigure authority, incorporate diverse knowledges, and redefine legitimacy.

Without this transformation, the administrative system risks perpetuating a model in which dissent is punished, opposition is pathologized, and progress is immobilized by design.

1. The present contribution, revised and expanded for publication, originates from a lecture delivered during the Energy Law Summer School, held at the Faculty of Law of the University of Ljubljana on 12-13 September 2024. The Summer School was jointly

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organised by the University of Ljubljana, the European Union Agency for the Cooperation of Energy Regulators (ACER), and the University of Trieste, with the support of a scientific committee coordinated by Prof. Bruna Žuber and Prof. Bruno Nikolič, alongside Assist. Matevž Bedič, Assist. Prof. Marjan Kos, together with the undersigned. Conceived as an interdisciplinary and cross-border initiative, the programme brought together scholars, institutional representatives and regulatory professionals to discuss current and future legal challenges in the energy sector, with particular attention to administrative procedures, environmental impact, and European market integration. Within this framework, the lecture entitled “*The NIMBY syndrome in energy infrastructure in Italy: case studies*” was delivered as part of the session on contemporary and future regulatory, policy and governance challenges, exploring the legal implications of infrastructural opposition in light of administrative dynamics and participatory conflict.

The session also featured Giacomo Biasutti, who addressed the application of the Espoo Convention to transboundary environmental impact assessments concerning electric power lines; Denis Mancević, who examined energy diplomacy in the context of EU-Russia relations; and Patrick Luickx from ACER, who presented a case study on market monitoring and manipulation in energy markets. The programme further included contributions from ACER officials such as François Beaudé, Ernst Tremmel, Christophe Gence-Creux, Csilla Bartok, and Giuliana d’Andrea, who collectively offered in-depth insights into the evolving Union legal framework for electricity and gas markets, including the REMIT regulation and new market design models in response to the gas crisis and decarbonisation goals.

The Energy Law Summer School provided a valuable opportunity to reflect critically on the institutional tensions, regulatory transformations, and social opposition that shape the legal architecture of energy infrastructure development. The present paper retains the core themes developed during that event while expanding them through further research and theoretical elaboration.

2. P.L. Portaluri, *Immagini da un futuro possibile: il paradigma della legittimazione ad agire*, in *CERIDAP*, 2, 2023.
3. Cons. St., Ad. Plen., 9 December 2021, n. 22.
4. The position taken by the case law of the Council of State (as mentioned at the end of this Paper, Cons. St., IV, 7 August 2024, n. 7033) – particularly in the rulings concerning standing of environmental associations not enrolled in the official register under law n. 349/1986 – demonstrates a cautious and structured approach to the protection of diffuse interests. While the judiciary acknowledges the need for a more flexible standard when assessing collective standing, it nonetheless maintains key thresholds: proximity to the contested project, representative capacity, and the allegation of a potential or actual harm. The judicial reasoning thus remains anchored, albeit with attenuated criteria, to a predominantly territorial and factual understanding of *vicinitas*. In contrast, Scholars’ theoretical contribution advocates for a conceptual evolution of *vicinitas*, one that moves

beyond territorial proximity toward a value-based (*axiological*) interpretation. His proposal aims to recalibrate standing to act by focusing on shared ethical and social commitments rather than on geographic contiguity. This would allow a broader range of actors – particularly those engaged in defending environmental, cultural, or generational goods – to access administrative justice, even when they are not physically located near the area affected by a decision.

The recent jurisprudence of the Plenary Assembly of the Council of State appears to signal an opening in this direction, recognizing that *vicinitas* may include axiological dimensions. However, this convergence between theory and practice remains partial. While the court gestures toward a more inclusive notion of standing, it still operates within the institutional logic of procedural legitimacy and legal certainty, imposing structural filters that Portaluri's framework would instead relax.

This tension reflects a broader issue in administrative governance: how to balance the need for coherent decision-making processes with the imperative of representing a complex constellation of diffuse and collective interests. The debate over *vicinitas* is, therefore, not merely technical – it touches upon foundational questions of democratic access, legitimacy, and the evolving role of participation within the administrative state.

5. In this paper, the term standing will be used to refer to what is known in Italian as *legittimazione ad agire*, encompassing both the right to act in legal proceedings and the conditions under which such right is recognized.
6. Among the most significant studies on standing to bring claims in defence of diffuse interests are: A. Romano, *Il giudice amministrativo di fronte al problema della tutela degli interessi diffusi*, in *Il Foro it.*, 1978, n. 1, pp. 8 ss.; R. Ferrara, *Interessi collettivi e diffusi (ricorso giurisdizionale amministrativo)*, in *Dig. pubbl.*, vol. VIII, Utet, Torino, 1993; F.G. Scoca, *La tutela degli interessi collettivi nel processo amministrativo*, in AA.VV., *Le azioni a tutela di interessi collettivi*, Cedam, Padova, 1976, pp. 78 ss.; G. Santaniello, *La tutela degli interessi diffusi dinanzi al giudice amministrativo*, in *Riv. amm. Rep. it.*, 1980, n. 12, pp. 821 ss.; M. Nigro, *Giustizia amministrativa*, il Mulino, Bologna, 1983, pp. 138 ss.; G. Berti, *Il giudizio amministrativo e l'interesse diffuso*, in *Jus*, 1982, pp. 68-81; R. Rota, *Gli interessi diffusi nell'azione amministrativa*, Giuffrè, Milano, 1998; G. Alpa, *Interessi diffusi*, in *Dig. civ.*, vol. IX, Utet, Torino, 1993, pp. 611 ss.; R. Donzelli, *La tutela giurisdizionale degli interessi collettivi*, Jovene, Napoli, 2008.
7. The topic of judicial protection of diffuse and collective interests has been addressed by a vast literature, which traces its historical and conceptual development from the Roman popular actions to contemporary debates on administrative standing and class action mechanisms. Among many, without any claim to completeness, the following authors are cited: B. Brugi, *L'azione popolare romana in materia di opere pie*, in *Arch. Giur.*, XVII, 1881; C.G. Bruns, *Le azioni popolari romane per Carl George Bruns*, traduzione di Vittorio Scialoja, con prefazione e note del traduttore, Bologna, 1882, in *Studi giuridici I*, Roma, 1933; F. Cammeo, *Commentario delle leggi sulla giustizia amministrativa*, Milano, 1910; C. Assanti, *Osservazioni sul contenzioso popolare amministrativo e sulle azioni popolari*

elettorali, in *Riv. dir. proc.*, II, 1951; F. Casavola, *Studi sulle azioni popolari romane*, Napoli, 1958; G. Branca, *Le cose "extra patrimonium humani iuris"*, in *Annali triestini di diritto, economia e politica*, XII; S. Pugliatti, *Diritto pubblico e diritto privato*, in *Enc. dir.*, Milano, XII, 1964, p. 696; R.H. Coase, *The lighthouse of economy*, in *Journal of law and economist*, 17, New York, 1960; M.S. Giannini, *Ambiente: saggio sui diversi aspetti giuridici*, in *Riv. trim. dir. pubbl.*, 1973, p. 15; M.S. Giannini, *La tutela degli interessi collettivi nei procedimenti amministrativi*, in *Le azioni a tutela di interessi collettivi*, Atti del Convegno di studio (Pavia 11-12 giugno 1974), Padova, 1976, p. 23; M. Cappelletti, *Appunti sulla tutela giurisdizionale di interessi collettivi e diffusi*, in *Le azioni a tutela degli interessi collettivi*, in *Giur. it.*, 1975; F. Bricola, *Partecipazione e giustizia penale, le azioni a tutela di interessi collettivi*, in *Questione criminale*, 1976; AA.VV., *Le azioni a tutela degli interessi collettivi*, Cedam, Padova, 1976; AA.VV., *Rilevanza e tutela degli interessi diffusi: modi e forme di individuazione e protezione degli interessi della collettività*, Giuffrè, Milano, 1978; B. Caravita, *Interessi diffusi e collettivi*, in *Dir. soc.*, 1982, p. 187; G. Berti, *Il giudizio amministrativo e l'interesse diffuso*, in *Jus*, 1982, p. 68; P. Maddalena, *Giurisdizione contabile e tutela degli interessi diffusi*, in *Cons. St.*, 1982, p. 291; M. Nigro, *Giustizia amministrativa*, Il Mulino, Bologna, 1983, p. 135; N. Trocker, *Gli interessi diffusi nell'opera della giurisprudenza*, in *Riv. trim. dir. proc. civ.*, 1987, p. 1114; M. Nigro, *Le due facce dell'interesse diffuso: ambiguità di una formula e mediazioni della giurisprudenza*, in *Foro it.*, 1987, V, p. 9; M.S. Giannini, *Diritto Amministrativo*, I, Milano, 1990; M. Cresti, *Contributo allo studio della tutela degli interessi diffusi*, Giuffrè, Milano, 1992, p. 94; R. Ferrara, *Interessi collettivi e diffusi*, in *Dig. pub.*, VIII, Torino, 1993, p. 482; G. Alpa, *Interessi diffusi*, in *Dig. civ.*, IX, Torino, 1993, p. 611; A. Caratta, *Profili processuali della tutela degli interessi collettivi e diffusi*, in L. Lanfranchi (eds.), *La tutela giurisdizionale degli interessi collettivi e diffusi*, Giappichelli, Torino, 2003; S. Cassese, *Gli interessi diffusi e la loro tutela*, in *La tutela giurisdizionale degli interessi collettivi e diffusi*, cit., p. 569; C. Punzi, *La tutela giudiziale degli interessi diffusi e degli interessi collettivi*, in *Riv. dir. proc.*, 2002, p. 649; R. Lombardi, *La tutela delle posizioni meta-individuali nel processo amministrativo*, Giappichelli, Torino, 2008; A. Orestano, *Interessi seriali, diffusi e collettivi: profili civilistici di tutela*, in Menchini, S. (eds.), *Le azioni seriali*, Napoli, 2008, p. 24; R. Donzelli, *La tutela giurisdizionale degli interessi collettivi*, Jovene, Napoli, 2008, p. 420; S. Amato, *La "class action pubblica": rilievi critici*, in *Dir. e proc. Amm.*, 1, 2014; A. Proto Pisani, *Introduzione sulla atipicità dell'azione e la strumentalità del processo*, in *Foro it.*, 2012, V, p. 4; C. Cudia, *Gli interessi plurisoggettivi tra diritto e processo amministrativo*, Maggioli Editore, Rimini, 2012, p. 92 ss; F.G. Scoca, *Tutela dell'ambiente: la diffuse utilizzazione della categoria dell'interesse diffuso da parte dei giudici amministrativo, civile e contabile*, in *Dir. soc.*, 1985, p. 645.

8. Among the most relevant contributions on the increasingly visible phenomenon of conflicts between public administrations is the recent study by Sabrina Tranquilli, which offers a comprehensive theoretical and practical account of the dynamics that fuel litigation among governmental entities. Tranquilli critically maps the causes and

institutional consequences of these inter-administrative disputes, emphasizing the erosion of traditional coordination mechanisms and the growing reliance on judicial remedies to resolve what are, in fact, structural tensions between competing public interests. According to her analysis, such conflicts stem from deep institutional transformations: the fragmentation of administrative functions, the disarticulation of territorial responsibilities, and the multiplication of oversight authorities have made the administrative system more porous and contentious. In many cases, the lack of suitable procedural tools to reconcile these divergences leads to a form of judicial overflow, where public entities resort to administrative courts not only to protect institutional prerogatives, but also to pursue supra-individual or diffuse interests. Tranquilli argues that the resolution of these conflicts through litigation does not necessarily bring stability or clarity to administrative action. On the contrary, it often perpetuates a cyclical and stagnant phenomenon, generating procedural repetition, institutional mistrust, and further legal uncertainty. The administrative process becomes a “pressure valve” that absorbs tensions which the political system is unable or unwilling to mediate. This shift challenges the classical model of administrative rationality and raises important questions regarding the legitimacy and functionality of inter-institutional dispute resolution. See: S. Tranquilli, *Il malum discordiae del potere amministrativo. Contributo allo studio dei conflitti e delle liti tra Pubbliche Amministrazioni*, Editoriale Scientifica, Napoli, 2022.

9. The academic debate on the “conference of services” as a tool for coordination and simplification of administrative procedures in Italy has developed over time through a wide range of legal scholarship. These works examine its evolving legal framework, underlying principles (negotiation, collaboration, discretion), and the implications of the most recent reforms – particularly those brought by the Madia Law and subsequent emergency legislation. Among the main contributions are: F. Bassanini, L. Carbone, *La conferenza di servizi. Il modello e i principi*, in V. Cerulli Irelli (eds.), *La disciplina generale dell'azione amministrativa*, Giappichelli, Torino, 2006, p. 173; G.F. Cartei, *Servizi (conferenza di)*, in *Digesto delle discipline pubblicistiche*, XIV, Utet, Torino, 1999, p. 65; G.D. Comporti, *Il coordinamento infrastrutturale*, Giuffrè, Milano, 1996; L. De Lucia, F. Luciani, *Contributo allo studio della conferenza di servizi decisoria*, in *Il diritto dell'economia*, 1999, p. 35; D. D'Orsogna, *Conferenza di servizi e amministrazione della complessità*, Giappichelli, Torino, 2002; P. Forte, *La conferenza di servizi*, Cedam, Padova, 2000; G. Manfredi, *Strumenti collegiali e strumenti procedurali di coordinamento*, in *Le Regioni*, 1994, p. 1635; M. Santini, *La conferenza di servizi*, Luiss University Press, Roma, 2008; F.G. Scoca, *Analisi giuridica della conferenza di servizi*, in *Diritto amministrativo*, 1999, p. 255; G. Soricelli, *Contributo in tema di conferenza di servizi*, Jovene, Napoli, 2000.
10. Consider also the Article 125 of the Italian Code of Administrative Trial introduces specific procedural rules for disputes concerning strategic infrastructure and related expropriation procedures. A key element of this provision lies in the judge's duty, when ruling on interim measures, to carry out a structured balancing of interests. This includes,

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on the one hand, the likely consequences for all affected interests and the potential irreparable harm to the claimant, and, on the other, the overarching national interest in the timely implementation of the infrastructure project. The public interest is thus not presumed to prevail automatically but must be explicitly weighed against private interests. Moreover, the provision limits the effects of judicial annulment by excluding the automatic termination of contracts already concluded, confirming that, in such cases, compensation can only be awarded in the form of monetary damages, pursuant to Article 34(3) c.p.a.

11. In this context, acknowledging standing based on axiological *vicinitas* should not impede infrastructure development. Instead, it should provide a means for constructive dialogue by enabling the expression of diffuse interests without undermining the implementation of strategic projects. The challenge lies in designing a judicial framework that accommodates on the one hand the need for inclusive access to justice and on the other the protection of strategic public interests. The evolution of the concept of *vicinitas* in axiological terms could represent a cornerstone for reconciling the need to protect local diffuse interests with the necessity of ensuring the implementation of strategic works for the country and the European Union. By expanding standing to act based on shared values rather than mere territorial proximity, it may be possible to overcome the decision-making deadlocks that characterize many administrative disputes, promoting a more balanced and participatory development model.
12. Foreign legal and social science scholarship has extensively addressed not only the NIMBY (“Not In My Backyard”) phenomenon but also related dynamics such as public opposition to locally unwanted land uses (LULUs), collective action against controversial facilities, and the broader socio-political and psychological dimensions of environmental conflict. Significant contributions include: M. O’Hare, L. Bacow, D. Sanderson, *Facility Siting and Public Opposition*, Nostrand Reinhold Company, New York, 1988; J.T. Brinkman, R.F. Homan, *Welcoming Wind Turbines and the PIMBY (“Please in My Backyard”) Phenomenon: The Culture of the Machine in the Rural American Midwest*, in *Technol. Cult.*, 58, 2017, pp. 335-367; C. Jerolmack, E.T. Walker, *Please in My Backyard: Quiet Mobilization in Support of Fracking in an Appalachian Community*, in *Am. J. Sociol.*, 124, 2018, pp. 479-516; D.P. Aldrich, *Location, Location, Location: Selecting Sites for Controversial Facilities*, in *Singap. Econ. Rev.*, 53, 2008, pp. 145-172; E. Walsh, R. Warland, D.C. Smith, *Backyards, NIMBYs, and Incinerator Sitings: Implications for Social Movement Theory*, in *Soc. Probl.*, 40, 1993, pp. 25-38; M.V. Ramana, *Nuclear Power and the Public*, in *Bull. Atom. Sci.*, 67, 2011, pp. 43-51; C. Greenberg, *Liberal NIMBY: American Jews and Civil Rights*, in *J. Urban Hist.*, 38, 2012, pp. 452-466; R. Shemtov, *Social Networks and Sustained Activism in Local NIMBY Campaigns*, in *Sociol. Forum*, 18, 2003, pp. 215-244; J.K. Kaldellis, M. Kapsali, E. Katsanou, *Renewable Energy Applications in Greece: What is the Public Attitude?*, in *Energy Policy*, 42, 2012, pp. 37-48; S. Boudet, P. Devine-Wright, *Towards a Better Understanding of Peoples’ Responses to Renewable Energy Generation: Insights from Social Representations Theory*, in *Public*

- Underst. Sci.*, 24, 2015, pp. 311-325; Y. Wang, C. Shen, K. Bartsch, J. Zuo, *Exploring the Trade-Off between Benefit and Risk Perception of NIMBY Facility: A Social Cognitive Theory Model*, in *Environ. Impact Assess. Rev.*, 87, 2021, pp. 106-555; W. Li, H.L. Zhong, N. Jing, L. Fan, *Research on the Impact Factors of Public Acceptance towards NIMBY Facilities in China – A Case Study on Hazardous Chemicals Factory*, in *Habitat Int.*, 83, 2019, pp. 11-19; M.J. Prados, M. Pallares-Blanch, R. Garcia-Marin, C. del Valle, *Renewable Energy Plants and Business Models: A New Rural Development Perspective*, in *Energies*, 14, 2021, p. 5438; H.S. Tsien, J. Song, *Engineering Cybernetics*, 3rd ed., Science Press, Beijing, 2011; G. Nicolis, I. Prigozine, *Explore Complexity*, Luo J.L., Chen K.N. (eds.), Sichuan Education Press, Chengdu, 1986; J.H. Holland, *Hidden Order: How Adaptability Builds Complexity*, Zhou M.X., Han H. (eds.), Shanghai Science and Technology Education Press, Shanghai, 2011; M. Olson, *Power and Prosperity*, Su C.H. (eds.), Shanghai People's Publishing House, Shanghai, 2005; A. Lopolito, P. Morone, R. Sisto, *Innovation Niches and Socio-Technical Transition: A Case Study of Bio-Refinery Production*, in *Futures*, 43, 2011, pp. 27-38; B.C. Chen, C. Yu, Q.S. Diao, R. Liu, Y.L. Wang, *Social or Individual Learning? An Aggregated Solution for Coordination in Multiagent Systems*, in *J. Syst. Sci. Syst. Eng.*, 27, 2018, pp. 180-200.
13. For a more in-depth analysis of the NIMBY phenomenon, refer to the study by A. E. Luloff, S. L. Albrecht, L. Bourke, *NIMBY and the hazardous and toxic waste siting dilemma: The need for concept clarification*, in *Society & Natural Resources*, vol. 11, no. 1, 1998, pp. 81-89, <https://doi.org/10.1080/08941929809381063>.
 14. L. Cui, Y. Chen, X. Wang, S. Liu, *Complexity Review of NIMBY Conflict: Characteristics, Mechanism and Evolution Simulation*, in *Systems*, 11(5), 2023, p. 246, <https://doi.org/10.3390/systems11050246>.
 15. L. Cui, Y. Chen, X. Wang, S. Liu, *Complexity Review of NIMBY Conflict: Characteristics, Mechanism and Evolution Simulation*, in *Systems*, cit.
 16. L. Cui, Y. Chen, X. Wang, S. Liu, *Complexity Review of NIMBY Conflict: Characteristics, Mechanism and Evolution Simulation*, cit.
 17. For an analysis of the tyranny of the status quo, refer to the study by M. Friedman, R. D. Friedman, *Tyranny of the Status Quo*, Harcourt Brace Jovanovich, San Diego, 1984.
 18. L. Cui, Y. Chen, X. Wang, S. Liu, *Complexity Review of NIMBY Conflict: Characteristics, Mechanism and Evolution Simulation*, cit.
 19. For an overview of the obstacles affecting the development of renewable energy infrastructure in Italy, reference may be made to the 2023 national report *Scacco matto alle rinnovabili*, presented by Legambiente at the K.EY Energy Fair in Rimini. The report highlights how 1,364 renewable energy projects are currently stuck in permitting procedures, with 76% concentrated in four southern regions – Puglia, Basilicata, Sicily, and Sardinia. The data shows an alarming drop in authorization rates: only 1% of photovoltaic plant requests were approved in 2022, down from 41% in 2019, with equally dramatic figures for onshore wind power, where approvals are stalled at 0%. The causes are attributed to a combination of outdated and fragmented legislation, slow bureaucratic

processes involving both regional governments and the Superintendencies for Cultural Heritage, and widespread local opposition movements. These are often framed within the NIMBY and NIMTO syndromes, which continue to hinder strategic investments in renewable energy, despite the streamlining measures introduced under the Draghi government. See A. Carli, *Lo stop di Regioni e soprintendenze: 1364 impianti rinnovabili in lista d'attesa*, in *Il Sole 24 Ore*, 23 March 2023, <https://www.ilssole24ore.com/art/lo-stop-regioni-e-soprintendenze-1364-impianti-rinnovabili-lista-d-attesa-AErSGS8C>.

20. For a comprehensive overview of the challenges and opportunities surrounding renewable energy development in Italy, reference can be made to the report *Scacco Matto alle Rinnovabili 2025*, edited by Legambiente. The report documents 92 emblematic cases of project obstruction across Italian regions, largely caused by outdated and fragmented regulation, local political resistance (NIMBY and NIMTO syndromes), and the discretionary power of regional governments and heritage protection authorities. Noteworthy critical cases include the blanket ban on 99% of Sardinia's territory and 70% of Tuscany's under the guise of landscape protection, as well as delays stemming from conflicting opinions between the Ministry of Culture and the Ministry of Environment on over 100 projects. Symbolic conflicts emerged in Mogliano Veneto, Capalbio, Badia Tedalda, and Monte Giarolo, where local governments and citizen committees opposed even well-structured agrivoltaic and wind projects. In contrast, the report also highlights positive experiences, such as the wind farm at Giogo di Villore (Tuscany), unblocked by the Draghi government, the authorization of three wind parks in San Bartolomeo in Galdo (Campania), and the simplification procedures launched by the Basilicata Region in 2024. These cases suggest that dialogue and institutional coordination can overcome local resistance and regulatory inertia, and turn the energy transition into a development opportunity. See: K. Eroe, L. Franchini, E. Lombardi (eds.), *Scacco Matto alle Rinnovabili 2025*, Legambiente, Roma 2025, <https://www.legambiente.it/wp-content/uploads/2025/03/Scacco-Matto-alle-Rinnovabili-2025.pdf>.
21. Corte cost., sent., 29 January 2005, n. 62.
22. A. Ballabio, D. Berardi, M. Tettamanzi, *Il Dibattito Pubblico come strumento per superare le sindromi NIMBY*, in *Osservatorio AIR*, 9 giugno 2020, <https://www.osservatorioair.it>.
23. For theoretical insights and further details on the conference of services, see the previous notes.
24. The topic of public debate as a tool of participatory democracy has given rise to an extensive body of legal and interdisciplinary literature. These contributions explore the legal configuration of public debate in Italy, its evolution following the transposition of the Aarhus Convention, and the implications of national and regional reforms, with comparisons to foreign experiences such as the French *débat public*. Among the main references are: G. Pizzanelli, *La partecipazione dei privati alle decisioni pubbliche. Politiche ambientali e realizzazione delle grandi opere infrastrutturali*, Giuffrè, Milano, 2010; A.

- Menegozzi, *Idee democratiche e spazi politici della governance partecipativa*, in *Istituzioni del federalismo*, 2, 2011, pp. 255-295; L. Vandelli, *Il sistema delle autonomie locali*, Il Mulino, Bologna, 2011; V. De Santis, *La partecipazione democratica nell'ordinamento delle Regioni*, Giappichelli, Torino, 2013; P.M. Vipiana, *La legislazione regionale sul dibattito pubblico*, in *Istituzioni del federalismo*, 3, 2020, pp. 679-700; A. Giusti, *La rigenerazione urbana. Temi, questioni e approcci nell'urbanistica di nuova generazione*, Editoriale Scientifica, Napoli, 2018; T. Bonetti, *La partecipazione strumentale*, Bologna University Press, Bologna, 2022; M. Dell'Omarino, *Il dibattito pubblico come strumento di democrazia partecipativa. Una breve indagine comparata*, in *Diritti Comparati*, 7, 2017; P. Patrito, *Premesse storiche e comparatistiche per uno studio sulla partecipazione al procedimento amministrativo*, Aracne, Roma, 2018; M. Timo, *Il dibattito pubblico sulle grandi infrastrutture fra codice italiano dei contratti e Code de l'environnement francese*, in *DPCE online*, n. 2, 2019, pp. 1179-1207; C. Lombardi, A. Lullo, *Il dibattito pubblico quale strumento di democrazia partecipativa*, in *Amministrazioneincammino.it*, 2018; D. Anselmi, *Il dibattito pubblico: profili giuridici*, in *Astrid Rassegna*, 21, 2016; C.P. Santacroce, *Territorio e comunità nella teoria giuridica della partecipazione*, Giappichelli, Torino, 2023; N. Petrucco, *Il dibattito pubblico alla prova dei fatti*, in *Rivista quadrimestrale di diritto dell'ambiente*, 3, 2022.
25. The regulations stipulate that public debate may be initiated by contracting authorities or granting entities for projects of significant impact, even outside cases where it is mandatory. This occurs through the publication of a report containing the project and an analysis of alternatives. During the debate, which must be concluded within 120 days, administrations, associations, and interested committees may submit observations within 60 days of the initial publication. The outcomes of the debate, including any proposed modifications, are then assessed by the contracting authority for the subsequent design phase.
 26. S. Bosetti, V. Pucci (a cura di), *Il Dibattito Pubblico. Confrontarsi e decidere sulle Grandi Opere*, Piacenza, 2018.
 27. A. Ballabio, D. Berardi, M. Tettamanzi, "Vengo anch'io?" "No, tu no!" *Il Dibattito Pubblico come strumento per superare le sindromi NIMBY*, in *Osservatorio AIR*, 9 June 2020, <https://www.osservatorioair.it>.
 28. Cons. St. (Sezione VI), 23 July 2015, n. 3652.
 29. Cons. St. (Sezione IV), 27 March 2017, n. 1392; T.A.R. Puglia, Lecce (Sezione I), 21 June 2022, n. 1014.
 30. The decision of the Council of State concerns the nature and judicial reviewability of the discretionary power exercised by the Council of Ministers under Article 5, paragraph 2, letter c-bis) of Law No. 400 of 23 August 1988 – a general remedy applicable in cases of conflict between public administrations, including within Environmental Impact Assessment (VIA) or Strategic Environmental Assessment (VAS) procedures. The Council of Ministers' determination is the result of an evaluative judgment based on objective criteria, and is, in principle, fully subject to judicial scrutiny. However, it is also marked by

a particularly high degree of administrative discretion, especially in the balancing of competing public interests and in assessing them relative to the public interest in carrying out the contested infrastructure or project. This discretionary appraisal can be reviewed by administrative courts only within the limits of manifest unreasonableness, factual misrepresentation, or where the administrative inquiry is absent or inadequate – conditions that signal an overstepping of the discretion legally attributed to the administration. In this specific case, the Council of State confirmed the judgment of the Regional Administrative Court of Puglia (as previously noted), which had upheld the appeal of a private company and annulled both the decision of the Council of Ministers and the related interministerial decree. The annulment was based on an abuse of power due to unequal treatment, and the case was remanded for a full reconsideration and harmonization of the involved public interests. The need for a new, reasoned decision was particularly compelling in light of the claimant’s uncontested allegation that, in similar recent cases, the Council of Ministers had prioritized the expansion of renewable energy – endorsing the favorable opinions of the Ministry for the Environment – even when the environmental impact was comparable or more significant than in the present case. Until this decision, there were no recorded precedents addressing this issue in such precise terms.

31. Cons. St. (Sezione IV), 28 February 2018, n. 1230.
32. T.AR., Lazio (Sezione III), 23 January 2024, n. 1279.
33. The prohibition of procedural substitution under Article 81 of the Code of Civil Procedure limits the ability of associations to act unless they can demonstrate that the interest at stake is common to the entire category. Scholars’ call for a broader and more value-based interpretation of standing can be seen as an attempt to reconcile this limitation with the need for effective protection of diffuse interests.
34. Cons. St. (Sezione IV), 7 August 2024, n. 7033.
35. In a consistent line of jurisprudence, the Council of State has clarified that environmental associations not registered in the official list established under article 18, paragraph 5, of law n. 349/1986 should nonetheless demonstrate a legitimate interest to bring legal action. This requires evidence of a concrete and current harm to their subjective legal position, which must persist from the time the appeal is filed through to the final judgment. To this end, claimants must prove both a proximity link between the association and the contested project, and a representative connection to the territory affected. Additionally, they must allege a harm – whether actual or potential – resulting from the contested act or the project itself. The court is called upon to assess the existence and relevance of the harm with regard to the collective dimension of the claimant’s legal standing, applying a more flexible standard in light of the associative nature of the interest asserted. (See, among others: Cons. St., Sezione V, n. 2108/2013; n. 2460/2012; n. 7275/2010; n. 6261/2012; n. 3084/2011; Cons. St., Ad. plen., 3 June 2011, n. 10).
36. See: G. Torelli, *Interesse a ricorrere dei comitati ambientalisti in relazione al criterio della vicinitas (nota a Cons. Stato, sez. IV, 7 agosto 2024, n. 7033)*, in <https://www.giustiziainsieme.it/it/diritto-e-processo-amministrativo/3339-interesse-a-ricorre->

dei-comitati-ambienta-e-criterio-della-vicinitas-gabriele-torelli, 18 dicembre 2024.

37. S. Tranquilli, *Il malum discordiae del potere amministrativo. Contributo allo studio dei conflitti e delle liti tra Pubbliche Amministrazioni*, cit.
38. E. Frediani, *Attività amministrativa e capri espiatori*, in *Quaderni dello Stato*, 15, Mucchi, Modena, 2024, spec. § I.3, Frediani argues that public authorities, especially in the face of planning failures or procedural inertia, often engage in a form of organizational rationality aimed at externalizing responsibility. The narrative of “NIMBYism” becomes a convenient rhetorical device to deflect attention from the shortcomings of the decision-making apparatus and to shift the blame onto civil society actors – most notably, environmental committees, neighborhood groups, and local associations that raise objections to projects deemed of general interest. According to Frediani, this rhetorical use of NIMBY serves to delegitimize dissent, reducing structured participation to a form of irrational or selfish obstruction. In this logic, the opposition of residents is no longer a legitimate form of civic engagement but is reframed as a primary cause of administrative stalemate. Thus, the NIMBY label becomes a symbolic scapegoat, allowing institutions to justify delays or failures without engaging in genuine self-critique or institutional reform.