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Administrative Silence: Positive or Negative?

ADMINISTRATIVE LAW

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Definition and Types

Administrative silence is the lack of response from the Administration to a request within the legal deadline. It can be positive (tacit acceptance) or negative (tacit denial).

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Positive Administrative Silence

It is interpreted as an acceptance of the citizen's request. It applies in procedures initiated at the request of the interested party and cannot be used to obtain rights contrary to the law.

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Negative Administrative Silence

It implies the rejection of the request. It applies in procedures initiated ex officio or in those affecting public domain, the environment, or the administrative liability of the Administration.

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Effects and Obligations

The Administration is required to issue an express resolution even after the deadline. In the case of positive silence, the resolution can only confirm the tacit acceptance; in the case of negative silence, the resolution may modify the initial rejection.

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