

# Spanish experiences with the use of the silence-is-consent rule

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# OBLIGATION TO SOLVE

- Common Administrative Procedure Law, article 42. (L.30/1992)
- The Administration has the obligation to decide for all procedures whatever its' form of initiation may be and to notify it.

# TERM OF SOLUTION

- The term in which the solution must be notified will be the one indicated by regulation of relevant procedure.
- Maximum term for administrative response: six months.
- If procedural regulation doesn't include a concrete term of response, this will be three months.
- Exception: if a Law or a European Union regulation indicate a longer one.

# NON-RESPONSE

It is a preventive measure against pathologies of administrative procedure.

Non-response within the indicated term can never cause unnecessary damages to the citizens.

In case of procedures initiated at request of the interested one, the result of non-response is tacit authorisation.

# NON-RESPONSE II

(in case of procedures initiated at request of the interested one)

## EXCEPTIONS TO TACIT AUTHORISATION

- A Law or a European Union regulation.
- Plea right (article. 29 CE)
- Transfer of authorities related to public services or public dominion to the applicant or others.
- Administrative appeals

# NON-RESPONSE III

(in case of procedures initiated by Administration)

Tacit rejection

- When recognised or created rights or other legal situations

Expiry and file of the performances

- When Administration exercises sanctioning powers.

# OUT OF DATE ADMINISTRATIVE DECISION

- TACIT  
AUTHORISATION

- Must be consistent  
with the tacit  
authorisation

- TACIT REJECTION

- Rejection
- Authorisation

# I ADMINISTRATIVE SIMPLIFICATION PLAN

- Objectives:
  - Implementation of the tacit authorisation rule.
  - Controlling new as well as existing administrative procedures.
  - Non-response with negative effects only when it has been really justified and benefits citizens.

# **NON-RESPONSE, TODAY**

- Adaptation to Law 4/1999 by “Support to the General Budget” Law.
- Annexe I: term to resolve
- Annexe II: non-response with negative effects.
- 2000: 25% tacit authorisation, 75% tacit rejection.
- April 2001: automatic change to tacit authorisation.

# Non-response evolution

