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Silence of the administration

Inactivity of the administration may be challenged both by means of administrative as well as judicial review. In both cases, a challenge can only be brought against an authority if the authority has a statutory obligation to act. If the obligation to act is subject to discretion, only cases where the rules on exercise of discretion have been breached may be challenged.

Personal standing rules are the same as for any other administrative or judicial review procedure, i.e. only those persons whose rights are being breached have a standing to challenge the silence, whereas standing is presumed for environmental NGOs in cases related to their previous activity or aims.

A complaint to initiate an administrative review should be brought against silence of the administrative authority within 30 days of the knowledge of the inactivity. An action against passivity can be brought to an administrative court within 1 year of the statutory deadline set for the authority to act; or if no statutory deadline exists for this specific activity, within 2 years of the application to act made by the person bringing an action to court.

If the passivity of the administration has resulted in material or immaterial damages, an action to compensate the damages can also be brought to the administrative court. The deadline for bringing such a case is 3 years from the date of learning about the damage.

Penalties for failing to provide effective access to justice

If the administrative authority fails to properly carry out the administrative review procedures, the decision can be reviewed and revoked by the administrative court. In addition to overturning the administrative review decision together with the initial administrative decision (e.g. an environmental permit) by the court, the administrative authority also risks claims for damages created by lack of effective access to justice.

Penalties for contempt of court

Failure to carry out an administrative court decision by either a private person or administrative body may result in a fine of up to €32,000. This penalty may be applied multiple times if the contempt of court continues even after a fine has been imposed.

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