"NATIONAL AND PROVINCIAL EVOLUTION OF NOISE LEGISLATION IN ARGENTINA"


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Abstract The present work, it reflects the evolution of legislation Argentine referred the environmental acoustic pollution in the last years, with special interest in the Legislation of the Province of Buenos, the Law of control of the acoustic contamination in the Autonomous City of Buenos Aires, and the Preliminary Design of Law Mark of the Environmental Acoustic Quality in the Argentina Republic.

1. INTRODUCTION

The noise, considered as not wished sound or noxious, it is at the present time cause of concern for their serious effects on the human health. The increment of the automotive park, the development of the systems of public transportation passengers and of cargo, the preferential localization in urban areas of multiple activities, they have contributed to elevate the quality of the citizens' life, and paradoxically contributed to the increase of the urban pollution, in a context where the acoustic acquires particular relevance. The characteristics of the noise, have direct effects on the nervous system, and the consequences about the health to expense of extensive periods of exposition, they justified profusely the elaboration of a mark regulatory point of provincial hierarchy as national, guided to the prevention, observation and control of the high levels of sound pollution. At the present time, the noise is considered as an important form of contamination and a clear manifestation of low quality of life. The consequences of the environmental acoustic impact, so much of physiologic, they affect with the past time have an effect in the more number of people and in particular to the people of the big cities. The fight against the acoustic pollution should not be restricted to the mere reduction of the sound levels or the silence when the last objective. It is necessary to delineate the sound quality. In this sense, it is essential to establish the correspondence between each representative acoustic situation and their physical and cultural context. The studies and works elaborate concerning the acoustic pollution in the County of Buenos Aires in the last years, put of relief the existence of levels of noise over the acceptable maximum limits for the international organisms and in particular for the World Organization of the Health, situation reported in different scientific encounters. Although the scientific studies show that the maximum levels of contamination register in the big cities, where the acoustic pollution is indissolubly associated to the urban question, constituting a significant environmental problem. The problem of the noise for their nature and for the characteristics peculiar in the urban space structure, it configures problematic regional and local, strongly dependent of the group of practical social, and of the deficiency of answers as regards public performances. On the other hand, the public answer should come fundamentally from the environment of performance of the Local Administrations, and to them it corresponds them the identification, the study and the preservation of the representative sound spaces, with the intention of maintain its characteristic acoustic quality, in an articulation context of political provincial, regional and municipals. At the present time, few Municipalities of the County of Buenos Aires, have Ordinances for answer correctly at the environmental noise, but the reply the front at this problem it is fragmentary without a norm of superior range for that serves as regulatory mark in one articulation of political at the different levels public existing. The processes of regulation the acoustic planning, they conform the most advanced point into
the legislation and constitutes some of their more prominent aspects of the present work. The Acoustic Plans of Provincial Action, and fundamentally the important roll the Municipality in the new conception in the elaboration of the recent laws. The Acoustic Plans of Action Municipality, contribute the exceptional elements, considering what the Maps of noise represent in the cartography the noise level in the zone or sector or all city, when one instantaneous pictures, the who it is defined when the modern instruments of diagnostic, planning and administration, necessary in this time. The Noise Maps -of descriptive nature and predictive-, it allows to know a precise the current acoustic situation of each region or Municipality, the who have implement the Programs of Public Performances, necessary for minimize the impact acoustic generated by the different activities what contributed to degrade the levels of environmental quality and the quality of the people life.

2. LEGAL ANTECEDENTS ABOUT THE ACOUSTIC CONTAMINATION IN THE REPUBLIC ARGENTINEAN PRECEDENTS AT YEAR 2002

Then, now they were mentioned shortly alone some the legal antecedents previous to the year 2002:

2.1. Constitution of the Nation Argentina (1994), Article 41

This law, it guarantees the right to a healthy ambient at the all the people the Argentina Republic and it establishes the obligation of preserving the environmental.

2.2 Civil Code, Art. 2618

The normative, to refers at the nuisances that it can generate the noise jointly with the smoke, heat, scents, brightness, etc. what can produce the effect of activities in adjacent properties. The emission limit is not marked, but it is to the normal tolerance in the around zone, determined for the conditions in the place. The vicinity is who imposes the tolerance or grade of annoyance, and, although that “tolerance” it can be measured objectively but some, times the subjective factor is the determinant.

2.3 Aeronautical Code, Article 155

The gives right to repair to people that to surfer damages because of an airship in flight or of the abnormal noise of that.

2.4 Municipal Organic Law of the County of Buenos Aires

This law delegates to the Municipalities especially for the prevention and elimination of the nuisances that affect the tranquillity, the rest and the population's comfort, of sound origin. This objective is established through the General Ordinances 6, 27, 29 and 67 that look for the eradication of the annoying noises and the 154 that prohibit the use of horns and sirens. The fact that each Municipality defends the normal sound level or “defence of the silence”, it’s makes that the question varies in the middle of the Municipalities. This situation has as compensation the impossibility of formulating general approaches that should come from the central authority.
2.5 Ordinance Nº 39.025/83 of the City of Buenos Aires, "Code of Prevention of the Environmental Contamination, Section 5"

The refers to noises and vibrations. The normative to impose a maximum level of 45 dBA that then is affected by corrections per type day (working or festive), for hour (day or night), for urban zone (for example residential, commercial, mainly industrial), and for the characteristics of the noise (tonal, impulsive, etc.). A limit is also specified for the intensity of the acceptable vibrations. This Ordinance only indicates the limits, not establishing rules of prevention, responsibilities, or penalties.

2.6 Ordinance Nº 7942/90 on Annoying Noises of the Mar del Plata City (General Pueyrredón).

This Ordinance prohibit to generate, cause, stimulate noise that it can to cause annoying for noises, the type public, private or residential. Prohibit too, a series of specific sources of noises and their transcendence toward the exterior.

2.7 Ordinance Nº 7845/91 Party of La Plata

The Normative Municipal it regulates the actions for protection of the environment beside the interferences near the place for noises and vibrations.

2.8 Law 11.459 of Industrial Establishing - I Decree Regulation 1741/96

This law has related direct or indirectly with the acoustic contamination generated by the industry. Each industry is qualified by means of a report of all the emitted pollutants. Respect to the noise the level sound maximum is measured in dBA, but too included the vibrations generated. This Normative to say what each Municipality determinate their competent areas for establish, granting them an aptitude certificate. Each industry will be registered and controlled permanently.

2.9 Resolution 159 / 96 of the Secretary of Environmental Politics of the Province of Buenos Aires

The Secretary of Environmental Politics of the Province of Buenos Aires, through the Art. 77 Inc. i) of the Ordinance 1741/96 with regulation of the Law 11.459, it give permission to the Authority of Application in all question related with “annoying noises” derived of industrial establishments, and textually say: “... it should establish parameters specific regulators of the sources of contamination for noise that can be considered as annoying to the contiguous environment, in the main aspects of: characterization of the measure teams, measuring methodology, correction of the measured levels, classification and allowed maximum levels...”

The Resolution, registers in the Norma IRAM 4062/01
2.9 Norma I.R.A.M N° 4062 / 01

“Annoying noises to the neighbourhood. Measuring method and classification”

The object of the Norm I.R.A.M N° 4062 / 01, is to establish a method that allows to evaluate the annoying levels of noise to the vicinity, through the determination of the equivalent sound level (Leq) of the noise in consideration, to which is applied a series of correction factors according to the characteristics of the same one, to the area and the situation horary.


This law has some articles direct or indirectly related with the urban noise. It establishes that the Local Authority is the responsible for the urban planning, with object of preserving the security vial, the environment, the structure and the fluency of the circulation. Its also has attributions regarding the public transportation, being able to establish roads or rails for the exclusive or obligatory circulation, differential traffic senses, alternate parking, etc.
The Norm demands a series of minimum procedure of security, just as the use of horns with regulation sonority, should adjust to the limits it has more than enough emission of pollutants, among them the noise, being prohibited the use of horns or acoustic signs in the city saves in those cases of danger or rural area, besides circulating with vehicles that emit noises that exceed the limit of 83 dBA.
For such cases, all the vehicles in circulation, they will pass an obligatory, commonly denominated technical revision VTV [vehicular technical verification], where it is inspected the operation of the pieces and systems related with the active and passive security as well as the emission of pollutants.

2.11 Maximum Emission of new vehicles

Inside the requirements of this section, has its the one of possessing a device of acoustic signalling that is adjusted at a level sound acceptable maximum, in function of the category of the vehicle that is of 104 dBA in the case of railcars.
The measurements of this level are carried out according to the prescript to for the Normative IRAM under the name “Determination of the Sound Level of Devices of Acoustic” Signalling.
These requirements will be competition of the Human Natural and Ambient Secretary of Resources who will take charge of: to approve the configurations of vehicles concerning emissions of gases and noises; to modify the maximum limits of emission of pollutants and procedure of preparation; to modify the maximum limits of noise in new and used vehicles;
to define rehearsal methods, measure, verification and certification; to supervise and to investigate the execution of the present; to delegate in other organisms, as the National Institute of Industrial Technology (INTI), the attributions to send certifications regarding emission of gases and noises.

3. LEGISLATIVE EVOLUTION SINCE THE YEAR 2002

The reasons mentioned until here, they represent the reasons exist for to justify the necessity of a law mark. For such, it has been created a work group in order to elaborate Law Mark of the Buenos Aires Province. The objective of this Law is to contribution to all the Municipalities a tool that allows confronting the problem of the sound contamination in an integral way and not broken into fragments but to take the way for all Province. The Law has when object the prevention, surveillance and correction of the sound contamination in the jurisdiction of the Province of Buenos Aires with the purpose of protecting the man's health, to preserve the environmental and its components. The most important aspect in this Law is the new focus that it presents, in the some different aspects. They can mentioned some point when:

· Unified treatment of the noise and the vibrations present in the environmental affected

· Establishment of emission limits in noises and vibrations.

· Integration of fixed and mobile sources, differing of the olds when only was important the fixed sources.

· Incorporation of the objective of quality to be arrive at gradually, discriminated to the function or activity developed in the area.

· Celebration of agreements Inter-jurisdictionally in the cases in that the objectives of quality when between two or more bordering Municipalities existing differences level noise.

· Incorporation of the concept of acoustic planning whose object is the diagnosis and identification of the situation problem and the design of the measures of surveillance, prevention and control.

· Preparation of Plans and Programs of acoustic development in order to arrive at the acoustic quality gradually.

· Incorporation of instruments of planning and acoustic administration, which will consist on the report, diagnostic and making of maps of noise; the identification and declaration of the diverse areas, including the monitoring

· Instrumentation of a Provincial Acoustic plan, in order to coordinate the Municipal Administrations concerning the actions of surveillance, prevention, correction and monitoring of the sound contamination with object of reaching the reference levels established gradually.
· Inclusion of a Provincial Acoustic Plan that contain measures of prevention and reduction of the acoustic pollution, which will be based on the investigation, development and incorporation of innovations and technological improvements; execution of programs of environmental education guided to modify the group of practical social; programs the training for the personnel’s of sector public administration, and for the private sector; elaboration of a plan of having measured correctives for each area or region; diagnostic of the provincial situation which will include the identification of areas what require a regional treatment or inter-jurisdictionally and the development of the general limits of the concrete and specific Programs.

· Incorporation of Municipal Plans when the 20,000 people are overcome, in order to identify the areas or acoustic areas of their jurisdiction in function of the use.

· Inclusion, inside the Municipal Acoustic Plans of a map of noise when instrument of diagnostic; a Program of Performance the activities what generate noises; the regulation of the smooth traffic; the election of sound sources of acoustic impact; implementation of programs to minimize the transmission of noises; programs of acoustic monitoring declaration zones with pollution acoustic limit and/or zones to protect.

· Compatible of the contents of the Municipal Acoustic Plans with the regulations as territorial classification (zones) according at earth use.

· Introduction of to define and to declare areas acoustically saturated on the part of the Municipalities, according at levels noise.

· Demand of acoustic conditions in the components of the construction, facilities and services in order to guarantee the necessary isolation.

· Setting-up of demands under the acoustic conditions inside the commercial, industrial Activities and of service; sport, cultural and recreational activities; activities related with Works in the public road and the construction.

· Special regulation for the noise generated by the self-driven, rail, air and naval transport, Either in the state of the vehicles likes under the conduction conditions.

· Requiring of elaborating Evaluation Study of Acoustic Impact (EIAd) for cases the important or speciality construction, amplification or modification of provincial or municipal works in areas acoustically sensitive (school, geriatric, etc), but too discos, local with live music execution; sport or recreational, etc.

· Elaborating a Study of Acoustic Climate (ECA) to be presented jointly with the qualification order in cases when schools, pre-schools and nurseries; hospitals and clinical of internment; clinical geriatrics; constructions of new residential quarter that are located in vicinities of airports, heliports, freeways, corridors vials, sport and recreational, railroads, etc.

· Introduction of the acoustical technician's when new figure as the suitable professional to
in the matter.

The Norm proposed have 89 articles, one additional disposition and one transitory disposition. Is contemplates the real situation when exist the conjugation: environmental - planning-noise, putting special emphasis to the aspects urbanites and the preventive measures for arrived at one effective solution. This new point view, include of varied nature noise what generate one complex and dynamic scenario for the detection, qualification and quantification of the existent problems. It is of position out that at the present time the urban planning big works It is for this reason that becomes necessary the incorporation of defined general limits as well as of simple tools as it is the case of the environmental acoustic focus in order to allow the question in holistic form.

4. LEGISLATIVE EVOLUTION TO LEAVE OF THE YEAR 2004

“Law of control of the acoustic contamination in the Autonomous City of Buenos Aires”

At the year 2004, the Autonomous City of Buenos Aires has approved a Normative Marco where harmonizes the right of the citizens to organize its economic, productive and recreational activities with the enjoyment of intimacy and the rest in an appropriate environmental for the development of the personality. This Norm has been based on the article 26 of the Constitution of the Autonomous City of Buenos Aires where recognizes the social and economic politics’ principles rectors the right of all. The Norma is born starting from a Document of Work whose name “Environmental Urban Plan of the City of Buenos Aires - Elements of Diagnostic -”. It has been good as base to know the situation in the area in question, as well as the work developed by the University of Buenos Aires whose results concluded that in the last 27 years the level of noise 70 percent more respect other years, being the vehicular traffic 80 percent of the sound pollution. The objectives fundamental Norma's it is to harmonize the indicators of noise and the methods of evaluation of the environmental noise; to contain the data obtained with this indicators and to introduce common evaluation methods in form of 'maps of noise'; to implement action plans to determine the objectives of improvement in order to make a strategy and measures regarding the acoustic contamination.; to introduce a politics on environmental noise based on scientific results in those that have been kept in mind the due variations to differences of the population's sensibility like the health of the same one; to introduce a necessary instrument for the public action in the defence collective one in order to improve the parameters of environmental quality with object of comparing the level of life to the demands and requirements of a modern society, as well as the conservation of a natural patrimony of interest and value; to impose the obligation of establishing the necessary dispositions to recognize the right of any physical or no physical person to consent to the information has more than enough environment; to introduce technical of control that require the performance of the public powers in charge of their regulation and administration; the progressive sensitization and the citizens' education as for the entity of the same one and the available instruments to combat its.

The Law consists of 7 titles and 52 articles, besides transitory clause and one annex. The titles mentioned previously refer to: the general dispositions, inmisions and acoustic emissions, prevention of the contamination, approaches have more than enough specific
activities potentially pollutants for noise and vibrations, correction of the acoustic contamination, the economic instruments and lastly Police's Power. In this context the acoustic zones classes is included according to the levels of noise required to develop the activities in the city, registration and control of the diverse polluting activities for noise, maps of noise, the control of the noise of the transport, values limits daily and nocturne in the emission and inmisions of the noise according to the diverse areas, values vibration limits in day period and nocturne according to the diverse areas, values limits of emission of the diverse classes of vehicles, etc.

5. PRELIMINARY DESIGN OF LAW MARK OF THE ENVIRONMENTAL ACOUSTIC QUALITY IN THE ARGENTINA REPUBLIC

“Prevention, surveillance and correction of the acoustic contamination in the territory of the Argentina Republic”

The present work design of Law is born starting from a labour and investigative evolution of the Preliminary design of Law of the Province of Buenos Aires starting from the successive discussions that arose after the first presentation in the Parliament. Among the points in discussion the necessity has been evidenced since from a Law of superior range to the Preliminary design of Law of the Province of Buenos Aires in many articles a direct correlation it could be determined with decisions that it should introduce the Nation so that it could be effective and holistic as it was wanted. On the other hand, from the introduction in the Parliament, they have arisen new Directive of the European Community in relation to the noise, which it was considered of great importance to include them in the Preliminary design of National Law due to their great contribution.

Consequence of the above thing, a Preliminary design of National Law was elaborated, still in discussion stage inside the Parliamentary Commissions that which in turn it allowed see again the Preliminary design of Law of the Province of Buenos Aires to incorporate them the corresponding modifications so that it was coherent with the Preliminary design of National Law.

The Preliminary design of National Law incorporates as modifications and enrichments I concern wing Preliminary design of Law of the Province of Buenos Aires, the following points:

- To replace the $L_{eq}$ like indicator for the $L_{den}$ and $L_{nigh}$

- It defines the community noise have objective of sound quality, being the $L_{den}$ and $L_{nigh}$ the indicators that determine it in environmental external public

- Modification in the control of the vehicles, through the incorporation of the figure of “suitable agent of surveillance in the traffic noise”, which will be credited by the Municipality.

- The Law establishes the minimum finances for arrived at the acoustic quality.
The Technician's figure in Acoustics separates as independent law.

- It was included as “Area to Protect” those with flora and fauna in extinction or in roads of being it, the patrimonial buildings, etc.

The Preliminary design of National Law consists of 8 Titles, 106 Articles, Additional Disposition, Transitory Disposition and Unique Derogatory Disposition. It is necessary to clarify that all the modifications enunciated previously, they were transferred to the Preliminary design of Law of the Province of Buenos Aires with the Parliament’s consent in order to achieve the necessary coherence.

6. CONCLUSIONS

The normative ones presented work at the moment, that is to say the Preliminary design of the Law of the Nation Argentina, Preliminary design of the Law of that of the County of Buenos Aires and the Law of that of control of the acoustic contamination in the Autonomous City of Buenos Aires, they introduce the minimum budgets so that the acoustic contamination is evaluated efficiently. Starting from their entrance in validity, the Environmental Authority of each jurisdictional level (National, Provincial or Municipal), it will have the hierarchy and the necessary resources to carry out suitably the Evaluations of Acoustic Impact (ENIAC), having an effective preventive tool of administration, and being framed inside a legal mark that keeps in mind the reality of the Republic Argentina.

7. REFERENCES


