



JUSTICE
AND
ENVIRONMENT

European Network
of Environmental Law Organizations

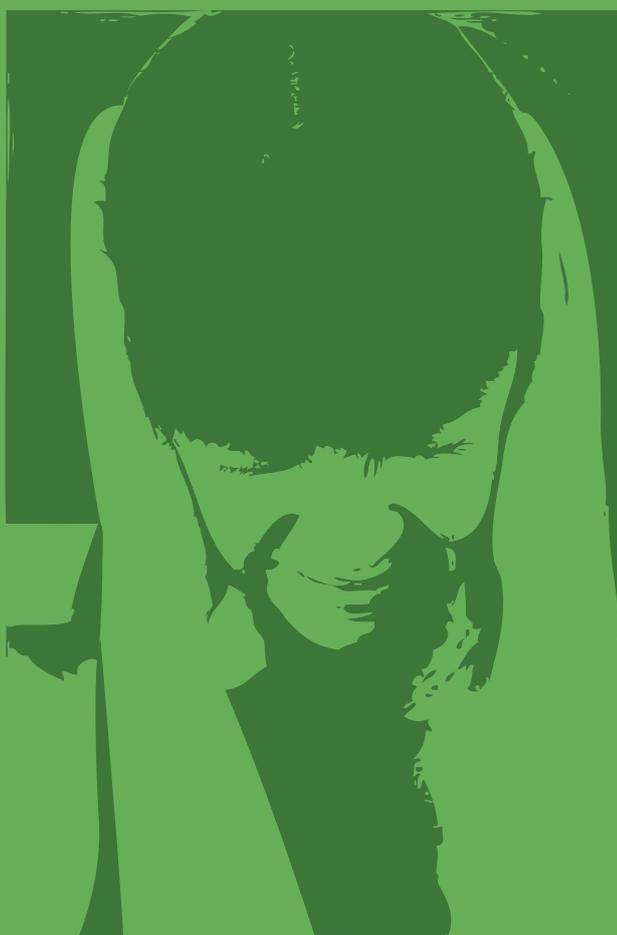


*The report was funded by
the European Commission – LIFE+ programme.*

Make some noise

Shadow report on implementation of the Environmental
Noise Directive

Slovenia



Justice & Environment

Justice & Environment (J&E) is a European network of environmental law organisations. J&E is a non-profit association with a mission that *aims for better legislation and implementation of environmental law on the national and European Union (EU) level to protect the environment, people and nature*. J&E fulfils this mission by ensuring the enforcement of EU legislation through the use of European law and exchange of information.

J&E was created in January 2003 and founded as a non-profit association in September 2004. J&E currently comprises six full-member organisations: Environmental Law Service, Czech Republic (EPS); Estonian Environmental Law Centre, Estonia (EELC); Environmental Management and Law Association, Hungary (EMLA); ÖKOBÜRO – Coordination Office of Austrian Environmental Organisations, Austria; Legal-Informational Centre for NGOs, Slovenia (PIC); and the Centre for Public Advocacy, Slovakia (VIA IURIS). J&E also has six associate members: Environmental Justice Association, Spain (AJA); Centre for Legal Resources, Romania (CRJ); Front 21/42 Citizens' Association, Macedonia (Front 21/42); MilieuKontakt International, the Netherlands (MKI); Independent Institute of Environmental Concerns, Germany (UfU); and Green Action – Friends of the Earth Croatia, Croatia (ZA).

All J&E activities are based on the expertise, knowledge and experience of its member organisations. The members contribute their legal know-how and are instrumental in the initiation, design and implementation of the J&E work programme. The strong grassroots contacts of the members enable J&E to concentrate on Europe-wide legal issues and horizontal legislation, notably the: Aarhus Convention, environmental impact assessment, environmental liability, pollution, Natura 2000, transport and the building of legal capacity. Within these fields J&E: carries out analysis, compiles case studies and joint position papers; formulates strategic complaints, encourages discussion and legal education; and conducts outreach activities. Thus J&E provides added value from civil society to legislators and adds tangible benefits by broadening public knowledge of EU law and legislation.

To carry out its programme of work J&E relies on a number of donors and supporters. First and foremost the members themselves financially contribute to the network. However J&E has been supported by: the European Commission through the LIFE+ programme, the International Visegrad Fund (IVF), The Ministry of Housing, Spatial Planning and the Environment of The Netherlands (VROM), the Sigrid Rausing Trust and its own member organisations

Contacts

Laszlo PERNECZKY, Coordinator, Tel.: +36 20 39 00 566

Official address:

Justice & Environment European Association of Environmental Law Organisations Secretariat
Dvorakova 13, 60200 Brno, Czech Republic

E-mail: secretariat@justiceandenvironment.org

Website: www.justiceandenvironment.org

Make some noise

Shadow report on implementation of the Environmental
Noise Directive

Slovenia



*The report was funded by
the European Commission – LIFE+ programme.*

Acknowledgements

This project of the Justice and Environment Network was made possible by the expertise and dedication of the legal experts and staff of the following member organisations:



ESTONIAN
ENVIRON
MENTAL
L A W
CENTER



This publication was made possible by the financial support of the European Commission LIFE+ Programme.

Opinions or points of view expressed are those of the author(s) and do not necessarily reflect the official position or policies of the European Commission or other supporters.

©2009 Justice and Environment

Written and edited by Pavel Doucha

with contribution from: Clemens Conrad, Silver Nittim, Anna-Matoz Ravnik, Martin Stoffa, Szilvia Szilagyí

Design and layout: Petur Farkas, www.iconica.hu

*Justice & Environment European Association of Environmental Law Organisations Secretariat
Dvorakova 13, 60200 Brno, Czech Republic*

secretariat@justiceandenvironment.org

www.justiceandenvironment.org

National report Slovenia



1. Implementation of the END (Environmental Noise Directive) on national level – National Report of Slovenia

1.2. General info

Protection of people against noise is one of the most important guidelines that are set in the Resolution of National program for environmental protection 2005 -2012 and other environmental protection directions in Slovenia. Noise in natural as well as in living environment is increasing. The fact is that noise in urban environment in general exceeds the noise in rural areas, which is due to the fact that the number of people in urban environment is increasing twice as fast as in non-urban environment.

The most important factor of environmental noise is road transport. In the last few years the number of registered motor vehicles has drastically increased, where old cars are the most crucial tranquility disruptors. On the basis of noise measurements data in the city of Ljubljana, where there are 266.251 residents registered, the wider region of city center is burdened with noise high above average. It is estimated that this area has around 50.000 residents, which is around one fifth of the Ljubljana residents.

According to EU regulations Slovenia transposed END with two Decrees, Decree on the assessment and management of environmental noise (Ur. l. RS, št. 121/2004) and Decree on limit values for environment noise indicators (Ur. l. RS, št. 105/2005; 34/08), but the implementation is rather very slow, since only strategic noise maps were prepared according the Decree.

1.1.1. How many strategic noise maps and action plans were prepared in respective country, how many quiet areas were established

- According to Article 6 and Annex IV of Slovenian Decree on the assessment and management of environmental noise (Ur. l. RS, št. 121/2004) three (3) strategic noise maps were prepared in Slovenia for:
 - » *all major roads which have more than six million vehicle passages a year,*
 - » *major railways which have more than 60.000 train passages,*
 - » *all agglomerations with more than 250 000 inhabitants – strategic noise map as a consequence of road and railway traffic as well as noise from IPPC installations, was made only for the capital city of Ljubljana, which is the only city in Slovenia, which has more than 250.000 inhabitants.*

Strategic noise maps for major roads and railways were made on the basis of available traffic data about the number of transports of individual categories of vehicles. Noise maps for industrial units in the settlement development zone in the city of Ljubljana were made on the basis of data from 2006, which can be seen from the reports of noise operational monitoring.

According to the Environmental protection act (EPA) and Decree on the assessment and management of environmental noise, the most important information for the public regarding noise burden are available as graphical presentations.

Noise level on specific area, which is shown on strategic noise maps does not represent current noise level, but long term average level of noise throughout the year. For the purposes of action plans projects with possibilities for the implementation of noise protection were prepared for our capital city.

- No quiet areas have been established until the date of the preparation of this report. The Decree on limit values for environmental noise indicators (Ur. l. RS, št. 105/2005; 34/08) includes the definition of quiet areas. Furthermore Article 4 defines that quiet area can be defined on whichever second area of noise protection or on its part¹.
- The END requires that action plan in the respective country should have been prepared until 18th of July 2008. No action plans were prepared in Slovenia yet. Only noise maps, which include data processing about traffic noise burden and projects with possibilities for the implementation for noise protection, were prepared for our capital city, which are the basis for making an action plan. All available documents envisage the adoption of an action plan, which will introduce appropriate measures for the reduction of environmental pollution (noise burden from the traffic and other noise burdens, parallel also air pollution from the traffic).

1.1.2. Legal context (liability of action plans, or their connection to other fields of law, like link to land use planning, permitting etc)

Slovenia transposed END with the following regulations:

- Decree on the assessment and management of environmental noise (Ur. l. RS, št. 121/2004);
- Decree on limit values for environment noise indicators (Ur. l. RS, št. 105/2005; 34/08);
- Rules on initial measurements and operational monitoring of noise sources and on conditions for their implementation (Ur. l. RS, št. 105/2008).

Decree on the assessment and management of environmental noise (Ur. l. RS, št. 121/2004)

is the basic document with which END was transposed into Slovenian law. In general it includes measurements for the reduction of environmental noise burden, especially in the connection with:

- methods for assessing environmental noise;
- determining noise exposure with mapping noise burden of built-up areas;
- accessing information about environmental noise and its impacts to the public;
- preparation of the noise action plan with the intention to prevent and reduce environmental noise, which basis on the mapping of noise burden;
- preparation of the action program in built-up areas, which are burdened by noise and therefore arranged into class with the highest burden and because of the noise exposure set as degraded environment.

¹ Second area of noise protection is set for areas for which land use is determined and on which no activity affecting the environment, which will cause noise, is allowed.

Decree on limit values for environment noise indicators (Ur. l. RS, št. 105/2005; 34/08) – subject to the END and recommendations of the European Commission 2003/613/ES and for the protection of natural and living environment this decree determines:

- level of the reduction of the environmental noise pollution/burden;
- limit values of the environmental noise indicators;
- critical values of the environmental noise indicators;
- temporary methods for the assessment of the environmental noise indicators;
- adjustments, which have to be taken into account by the calculation of the

Rules on initial measurements and operational monitoring of noise sources and on conditions for their implementation (Ur. l. RS, št. 105/2008) – subject to Annex II of END, recommendations of the European Commission 2003/613/ES and in connection with assessing noise with measurements and model calculations these rules determines:

- methods of noise measurements and implementation of model calculations with the usage of calculation methods;
- the content and form of the report and method and form for reporting the data to the Ministry for the Environment.

Environmental protection act (Uradni list RS, št. 39/06; št.70/08) stipulates that environmental protection permit for the operation of an installation that causes emissions into air², water or soil for which limit values are prescribed, a polluter shall take the necessary measures to prevent and reduce the pollution so that the emissions into the environment do not exceed the prescribed limit values. A polluter shall have an environmental protection permit in accordance with EPA for an installation where an activity is carried out which may pollute the environment due to emissions.

The monitoring of the state of the environment (in regard of soil, water and air, including the noise and radiation, except ionising radiation) is provided by the competent ministries directly or via public authorisation granted to a public institute established for the monitoring of these phenomena and selected on the basis of a public tender.

As already mentioned Slovenia did not prepare action plan until 18th of July 2008 as was required by the END. For that reason we can give only very general or no answers to the following questions. There is only one general article transposed directly from END, which is included in Decree on the assessment and management of environmental noise. It states that an action plan has to include plans for measures that have to be taken in order to control problems, which are caused by outside noise. Furthermore action plan has to be repaired in cases of important happenings, which could impact the current noise situation, but at least every five years after the date of its acceptance.

a) are the action plans measures to be integrated into land use plans

In Annex 5 of the Decree on the assessment and management of environmental noise there are the same requirements as are set in END, including the need that action plan and measures that will be accepted by competent bodies CAN also include land-use planning.

² Emission shall mean any direct or indirect release or discharge into the environment of substances (liquid, gas or solid) or energy (noise, vibration, radiation, heat, light) or organisms or microorganisms from a particular source.

More specific provisions were not yet accepted due to the already mentioned fact, that action plans have not been accepted.

b) is the body issuing land use permit (for building, roads, airports) obliged to apply the action plans measures?

According to Slovenian legislation action plans include goals, directions and tasks on specific or whole environmental field. According to this it could be concluded that action plans are not an obligatory source of document but more guidelines for implementing responsibilities from ratified and published international treaties, strategies and EU regulations. However EU does consider action plans as obligatory documents, which should have penalty provisions. This is not the case in Slovenia.

c) does the action plan help in praxis from the perspective of protection of health of citizens, if no why / what should be changed

d) is there clear and specific mechanism and source of finances for financing the anti-noise measurements?

(Remark: I think you can also ask the authorities for information about financing the anti-noise measures.)

1.2. Overview in details

1.2.1. Timely preparation of strategic noise maps and action plans, according to deadlines of END

- Slovenia prepared strategic noise plans according to the deadline set in END. They were made in 2006. However action plans have not been prepared yet, which is a big failure for Slovenia.

1.2.2. Meeting END requirements on public participation in action plans preparation process

- No action plans were prepared yet, only projects showing the possibilities for the implementation of noise barrier have been made for the city of Ljubljana. Now it is up to MoE to start with the preparation of the noise action plan, where according to our regulation, public participation is needed and required.
- Because of the existing problem of NGOs in Slovenia³ and because very few NGOs are active in the noise field, there has been or is no pressure to the Ministry responsible for the preparation of the action plans.

a) Early and effective opportunities of PP

b) Results of the PP taken into account

c) Information about decision taken given to public

d) Reasonable time frame allowing sufficient time given to PP

³ Still almost 5 years after the AC ratification and passing of EPA there is no “NGO acting in public interest” with a legal standing under EPA in Slovenia, because of very strict conditions set by EPA. The status of “NGO acting in public interest” is granted by the minister of environment upon the NGO’s application. Under article 155 of EPA these NGOs have the right to participate in procedures in accordance with this law’s provisions; thus EPA explicitly states in which procedures NGOs can participate.

e) Meeting END requirements on availability and dissemination of strategic noise maps and action plans

f) Availability and dissemination through the means of IT (internet)

- » *Strategic noise maps for Ljubljana are available and accessible on the Internet on the webpage of Agency for the Environment (<http://www.arso.gov.si/varstvo%20okolja/hrup/>) and also on the webpage of the Municipality of Ljubljana (<http://www.ljubljana.si/si/mescani/okolje/hrup/default.html>), but to our knowledge only summaries are available and not the whole text. There is also no info, where you could get the whole documents, even though the company that made noise plans is known.*

g) Information are clear, comprehensible and accessible

Information in noise maps are very brief but include almost all most important information that is required by END. However by every noise map there is a note that noise level on specific area, which is shown on strategic noise maps does not represent current noise level, but long-term average level of noise throughout the year. For the purposes of action plans more specific analysis of the specific area will be needed.

h) Summary of the most important conclusions is provided

To our knowledge the only document that is available is a summary of the most important conclusions, which include also graphical representation as it is required by END, Annex IV, point 2.

1.2.3. Meeting END requirements on content of strategic noise maps (according to the Annex IV of END, art. 1,2,3,6,7,8), especially:

a) If a strategic noise map presents data on one of the following aspects:

Noise map for the whole city of Ljubljana, which expands on the area of 275 km² and has 266.251 permanent residents. In the model calculations 90.149 buildings, 928 km roads and 100,6 km of railway tracks were considered. For the purposes of strategic noise maps input data about:

- area (topography of the terrain, buildings, data about roads and railways, anti noise barriers, meteorological data,...);
- noise source and
- population of the area in question (number of inhabitants, commercial entity) were prepared. On the basis of calculated noise level:
 - areas, burdened with different noise levels, with band 5dB(A) in width;
 - number of permanent residents, living on this area;
 - number of addresses with permanent residence;
 - number of buildings with “quiet facade”⁴;

⁴ Quiet facade is an expression, which is being used for buildings, by which noise burden of quiet in comparison with noisy side of the facade distinguishes for more than 20dB.

- number of permanent residents living in buildings with “quiet facade”;
- number of schools and hospitals on the area in question, because of road and railway noise were determined.

b) an existing, a previous or a predicted noise situation in terms of a noise indicator,

Even though Slovenian Decree on the assessment and management of environmental noise (Ur.l. RS, št. 121/2004) does include Annex 4 and the same requirements that are set in the END, noise level on a specific area, shown on the strategic noise maps that were made for Ljubljana do not represent current noise level, but a longterm average noise level throughout the whole year.

c) the exceeding of a limit value,

Graphical presentation that is also available shows noise pollution marked with colour scale, that was made according to the DIN 18005 standard. On this map areas, where exceeding of a limit value for the city of Ljubljana⁵ are shown.

d) If strategic noise maps for agglomerations put a special emphasis on the noise emitted by:

- road traffic,
- rail traffic,
- airports,
- industrial activity sites, including ports.

Strategic noise map for Ljubljana puts special emphasis on the noise emitted by road and rail traffic, as well as noise from industrial activity sites. Because there is no airport in the city area, noise coming from the airports was not considered. Because neither END nor Slovenian Decree on the assessment and management of environmental noise don't specifically lay down, which industrial activity sites should be mapped, there was a suggestion, coming from EU level, stating that only large – scale pollution facilities should be subject to evaluation. According to this suggestion only noise maps for IPPC installations should have been made for the whole territory of Slovenia in the first phase. Other installations, which cause permanent or occasional noise were not included.

e) If additional and more detailed information are given, such as:

- a graphical presentation,
- maps disclosing the exceeding of a limit value,
- difference maps, in which the existing situation is compared with various possible future situations,

⁵ No other strategic noise maps were prepared yet. But to our knowledge also other strategic noise maps will include graphical presentation showing exceeding of limits.

- maps showing the value of a noise indicator at a height other than 4 m where appropriate.

There is a graphical presentation and maps do disclose exceeding of a limit value, but maps do not show existing situation in comparison with various possible future situations. However all maps were made at a height 4 m above the terrain as it is required by END.

f) If strategic noise maps for local or national application are made for an assessment height of 4 m and the 5 dB ranges of Lden and Lnight as defined in Annex VI.

This information is not available.

g) If separate strategic noise maps for road-traffic noise, rail-traffic noise, aircraft noise and industrial noise are made in agglomerations

Yes, strategic noise maps do contain road-traffic noise, rail-traffic noise and industrial noise (except for aircraft noise – see explanation above) in agglomerations.

1.2.4. Meeting END requirements on content of action plans (according to the Annex V, art. 1-4), especially:

a) If action plan include the following elements:

- a description of the agglomeration, the major roads, the major railways or major airports and other noise sources taken into account,
- the authority responsible,
- the legal context,
- any limit values in place in accordance with Article 5,
- a summary of the results of the noise mapping,
- an evaluation of the estimated number of people exposed to noise, identification of problems and situations that need to be improved,
- a record of the public consultations organised in accordance with Article 8(7),
- any noise-reduction measures already in force and any projects in preparation,
- actions which the competent authorities intend to take in the next five years, including any measures to preserve quiet areas,
- long-term strategy,
- financial information (if available): budgets, cost-effectiveness assessment, cost-benefit assessment,
- provisions envisaged for evaluating the implementation and the results of the action plan.

b) Description of actions which the competent authorities intend to take in the fields within their competence, for example:

- traffic planning,

- land-use planning,
- technical measures at noise sources,
- selection of quieter sources,
- reduction of sound transmission,
- regulatory or economic measures or incentives.

c) If each action plan contains estimates in terms of the reduction of the number of people affected (annoyed, sleep disturbed, or other).

2. Description of national legal frame of protection against noise

2.1. Existence of binding limits for outdoor noise (including definition of outdoor protected against noise)

2.2. Existence of binding limits for indoor noise

2.3. Any special legal condition for noise from transport? Does it help or does it lower the standards of protection?

2.4. Are there specialized state bodies, which do have competence to deal with noise problems on the basis of national legislation (preventive, i.e. sources of noise during the course of issuing a permit for construction work, sanctions, i.e. supervision that specified noise limits are not exceeded, can the body award a fine?)

2.5. What options do citizens have to achieve protection against noise in relation to administrative state bodies, which address this issue (option of initiating noise metering, fine proceedings, etc.) If there is a mechanism for decision about exception from noise limits - can the citizens effectively participate in the proceeding?)

2.6 Existence of other (for instance civil legal) instruments for protection against noise, their effectiveness.

3. Your short conclusion: is there sufficient level of legal protection? Which legal tools are effective from the citizen's perspective? What should be addressed in order to improve the situation?

In Slovenia the legislation on the noise field is regulated with regulations and decrees. General provisions are set in Environmental protection act.

Based on EPA, Construction Act and EU regulations some more specific rules are in force in Slovenia. Beside the already mentioned ones there is another regulation, called Rules on sound protection in buildings (Uradni list RS, št. 14/1999), which was accepted on the basis of Construction act (ZGO-1-NPB3) – this law includes only very general provision about noise, stating that buildings should be protected against noise. It includes requirements for the sound protection of buildings, which are

meant for living and working and also about limit values in living and working environment. Noise protection of buildings, living and working environment, which is regulated with this rule, ensures protection from:

- noise coming from other rooms/apartments in the same or other building, which is structurally connected with the first one;
- noise coming from house equipment and installations in the same or other building, which is structurally connected with the first one;
- outdoor noise from traffic and noise coming from craft industry or industrial installations, which are not structurally connected with the building, where there is living and working environment.

Despite these provisions about noise protection in living environment these rules do not ensure protection from the noise coming from noise sources in the same apartment. And also these rules do not contain the definition of outdoor noise.

There was a special Decree on noise due to road or rail transport, but its validity was cancelled with the acceptance of the Decree on limit values for environmental noise. Provisions included in this decree do not contain any specific legal condition for noise from traffic. The only legal condition for noise from traffic is included in already mentioned Rules on sound protection in buildings.

Besides administrative court and MoE as appeal body, there is one state body that has competences according to the noise legislation in Slovenia and to which citizens can make an application. Supervision is carried out by inspection body responsible for environmental protection, who can order measurements of noise, which are caused by noise source. Control over implementation of the provisions set in EPA is also carried out by the same inspection body, meaning that this control includes among other control over:

1. activities affecting the environment, environmental burdening, and entities causing burden, including supervision over the conformity of operation of an installation or plant with environmental permit or greenhouse gas emissions permit,
2. environmental quality status and waste and
3. implementation of prescribed or imposed environmental protection measures.

According to EPA there is also Environmental protection supervisory service, whose supervisors can conduct specific activities in the procedure prior to the issuance of an inspection decision under EPA, in particular the establishment of facts and circumstances and control over the compliance with the measures issued by inspectors. Specific activities shall also concern the supervision over environmental burdening by noise from crafts and activities similar to crafts.

Law of Property Code (Ur.l. RS, št. 87/2002) regulates the protection of ownership rights against emissions. Property rights on the field of emissions can be claimed with a lawsuit, which is reserved for property and alleged owner of the real estate and with which especially suspension of molestation or veto of further molestation can be requested. Without special legal title a disturbance with special devices is forbidden.

There is also a special Article in Law of Property Code for the protection against molestation. If anyone unlawfully molests property or alleged owner a lawsuit can be brought, with which it is claimed to stop or to forbid further molestation. If the molestation caused damage, owner has the right for the compensation according to general rules for claims for damages. There is a lot of practice in this field also in the noise field⁶.

In general it can be said that in Slovenia the level of legal protection connected to noise is not sufficient enough. This can be concluded due to the fact that Slovenian inspectorate as competent authority is not effective enough, since they do not have enough resources in order to cover this area – many applications are left unsolved or the inspectorate does not impose a sanction or the procedure is too long. Another problem is also that in Slovenia noise area is completely uncovered by NGOs and for that reason there is no pressure to the competent authorities to improve the situation. This could also be one of the reasons, why Slovenia did not prepare action plans until the date set in END. The only very well functioning part of Slovenian practice is practice coming from the usage of civil legal instruments. But the problems here are very costly and long court procedures and the fact that the situation does not improve via civil court procedures.

4) Contact information

Ana Matoz Ravnik

Legal-informational centre for NGOs – PIC, Povšetova 37, 1000 Ljubljana

Tel: +386 1 521 18 88, Fax: +386 1 540 19 13

Email: ana.matoz-ravnik@pic.si

www.pic.si

⁶ There are quite some cases, where the owner of a private apartment or house sues the owner of a factory or industrial installation because of the excessive noise, coming from it. When the defendant is causing disturbance with legal activity, the plaintiff cannot, according to Slovenian Code of Obligations, require a removal of the source of noise disturbance. The plaintiff can only request/sue for compensation, which exceeds normal limits and social eligible measurements for minimization of damage. But if, because of the noise disturbance, living in the apartment gets impossible, the plaintiff can demand replacement with a new apartment.