

THE RIGHT TO A PEACEFUL COEXISTENCE

EXECUTIVE SUMMARY

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EXECUTIVE SUMMARY OF THE REPORT “THE RIGHT TO A PEACEFUL COEXISTENCE”

This report aims to describe the problems related to living in urban areas, both regarding the use of public space and noise pollution. It analyses the nuisances arising from outdoor terraces, tourist apartments, nightlife, other pollutant sources and the use of public space and urban mobility with bicycles and vehicles of personal mobility (VPM). There is also a section dedicated to other uses of public space regarding special activities in public space and street irregular trade .

The Ombudsman’s report shows the need to restore the “right to the city”, understood as the right to have a public space where the different citizen uses can fit in a balanced way and the right of citizens to live with minimal nuisances. It is considered that the right to an adequate environment implies the right to an acoustically unpolluted environment.

The “leiv motiv” of the report is the distribution of public space and its use, along with noise pollution. The traffic and the outdoor terraces are clear examples of how the right of pedestrians to use public space comfortably can be affected.

Another part of the report is also devoted to analysing the noises from different sources associated with numerous activities taking place in residential areas such as construction, both public and private, stores with background music, waste collection, machineries in the development of routine activities, bus engines in end of line stops and activity areas for loading and unloading.

The report has also a specific section devoted to the nuisances arising from the tourist apartments, from the perspective of noise pollution, as well as the problems of coexistence that generate. It is considered that this phenomenon hinders the fulfilment of the right to enjoy an adequate and acoustically unpolluted environment, and the fundamental right to rest, to personal and family privacy and to the inviolability of home.

The use of public space by bikes and vehicles of personal mobility (VPM) is controversial and subject of a special analysis in this report. This use deepens the imbalance between cyclists and pedestrians, as one of the most obvious challenges facing the cities nowadays regarding the use of public space.

The commitment to the use of bicycles must be accompanied by proposals to ensure the safety of urban mobility in this model, such as to have a compulsory third party liability insurance, and to promote the census records of bicycles with the dual aim of identifying the vehicle and prevent illegal trade and theft.

Therefore, it is necessary to reformulate the design of cities so bicycles have their own space and its use as a means of transport be consistent with more sustainable, equitable and safe models of urban mobility.

However, the analysed VPM (segways, skateboards, scooters, skateboards and other devices) are not considered as means of transport. Its rapid proliferation and growing trend in cities together with weak legal position regarding the regulation cause problems associated with their use.

The Ombudsman concluded that it is necessary to regulate the use of VPM in cities, as they invade the physical space of pedestrians and may affect their safety similarly to any other vehicle.

The current uncertain regulations regarding the use and places where these types of alternative vehicles can be used must be resolved following a guiding principle: the sidewalks should be essentially for pedestrians as well as pedestrian islands.

The right of all citizens to enjoy accessible and barrier-free public space is one of the sections of this report. The lack of accessibility to public spaces (sidewalks, squares, roads,

parks, etc.) is one of the main problems faced every day people with mobility problems. The obstacles consisting of furniture (benches, chairs, sculptures, boxes, etc.) or elements of urban public spaces (such as power poles, trees, electrical boxes) restricting pedestrian routes to roads and other public areas must be identified and eliminated to ensure that both space and furniture are suited to the technical requirements laid down in the rules of accessibility.

Finally, the report examines other uses of public space: nuisances resulting from festivals or extraordinary activities are some of the most relevant examples. The presence of street musicians and the need to find a balance to reconcile the quality of public space as acoustically unpolluted environment and the right of residents to rest and, secondly, the development of economic and artistic activities, along with street irregular trade are clear examples of other uses that take place in public places.