AVOSETTA MEETING IN KRAKOV,

Species protection

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Report on Spain

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I.- General background of Spain for species protection

The general background for species protection in Spain is quite complex, due to the deep and multiple-level governmental decentralisation in the Kingdom. Responsibilities are allocated to the State (national parliament and central government), the 17 Regions (*comunidades autónomas*), and to local authorities, mainly the more than 8.000 municipalities (municipios).

To begin with, and under the Spanish constitution (art. 149.1.23 and art. 148. 9) environmental legislation corresponds both to the National institutions (Parliament and the Government or Council of Ministers) and to the Autonoumous Regions (regional parliaments and cabinets). Briefly described, the *basic* legislation corresponds to the State, while the Regions may pass legislation introducing more stringent environmental standards. It is important to note that „species protection" is in principle (only in principle, see below) a „subject" that falls under the *matter* „environmental protection", in order to identify under what constitutional „legal basis" are the State or the Regions legislating. The most important piece of national legislation on this matter is Act 42/2007, of of 13 December 2013, on biodiversity and natural patrimony, which is the last piece of legislation transposing both the birds and the habitats directives and contains numerous provisions on species protection. However, there is no national legislation on „animal protection" as such. There are also

[1] I would like to thank Prof. Dr. Agustín García Ureta for his valuable comments and insights.

several State regulations on species protection, the most important one is Royal Decree 1997/1995.

In the light of the abovedescribed allocation of powers, the bunch of legislative and regulatory instruments for species protection in Spain is pretty large. Most regions approve provisions on species protection within their laws on „nature protection" (for instance the Act of the Castilla-Leon Region 4/2015, 24 of March, arts. 95 and ff.) and later they approve regulations supplementing the said statutes. The main idea, though, is although the „basic" or the „core" regulation is identified by State legislation, there may be important variations or specificities among the several regions. Thus, something that is permitted in Region A may be forbbidden in Region B. For example, the display of animals in petshops is prohibited in some regions, while it is allowed in others; aesthetic mutilation of tails for dogs is allowed in some regions, while it is forbidden in others[2]; the same administrative offence committed in Region A or B may result in a different amount of the fine imposed, etc.

Implementation and enforcement are mostly vested in the Regions. This implies: approving and implementing the different plans for the „recovery" of species that under threat; management, implementation and enforcemen of nature law and natural protected spaces, etc. Regions have also all the competences in the domain of hunting, and that involves also legislation, since hunting („caza") is another subheading of the Constitution (art. 148.1.11th), where the State is powerless. That is: for the purposes of constitutional allocation of powers, „hunting" is not „environmental protection" , but regional laws are undoubtedly affected by Law 42/2007 (e.g., as to the species that may be hunted). This makes that there may be up to 17 different laws on hunting. If a region has not approved a statute of hunting, the old State Law on Hunting (1970) applies in a subsidiary way. Regions are also fully responsible for hunting implementation and enforcement (granting of permits, closed seasons, etc.). Regions are also fully responsible for inland fishing and aquaculture (same rationale).

The State government has, though, competences in species protection. For instance, under its power of border and customs control, State administration enforces the CITES regulation in airports and harbours, for instance wheneven anyone wants to introduce specimens of protected/endangered species, or parts thereof. The State is also responsible for firearms, so any hunter would need also a specific permit for using his gun, delivered by a State agency and under the control of the police (Guardia Civil, see below). On the other hand, the State is mostly responsible for anything concerning „waters" and „waters management", another matter which does fall under another constitutional item/subheading (art. 149.1.22nd). Thus, the State administration fights agains invasive animals or plant species which are destroying/disrupting the continental aquatic environment (for instance, the invasion of water yacinth – *Eichhornia crassipes*- in somes parts of the Guadiana river).

The State is also responsible for marine fishing, therefore the enforcement on EU regulations on fishing is mainly a State responsibility. Of course, the fact that „species protection" may fall sometimes under different „legal basis" for the action of the State or Region may trigger complex litigation in the Constitutional Court, which will rule on the „ownership" of the disputed competence.

[2] There is a recent State legislative initiative to pass a law prohibiting such practice in the whole country.

Municipalities also have large competences in the domain of species protection. They have regulatory powers and consequently may pass local regulations (ordenanzas) on different connected subjects: either general regulations on animals protection, either specific regulations on questions such as the keeping of pets at home, requirements for petshops, zoos, conservation of urban green areas being the habitat of protected species, land use and urban development, etc. Municipalities are empowered to adopt regulations on domestic animals, but not on wild species.

They have also implementation and enforcement powers. For instance, and this was very noticeable, recently the City Council of Madrid prohibited circus shows using living animals, a measure which has been very controversial and which, as a matter of fact, is very favourable to the „Cirque du Soleil"...

II.- Introductory questions

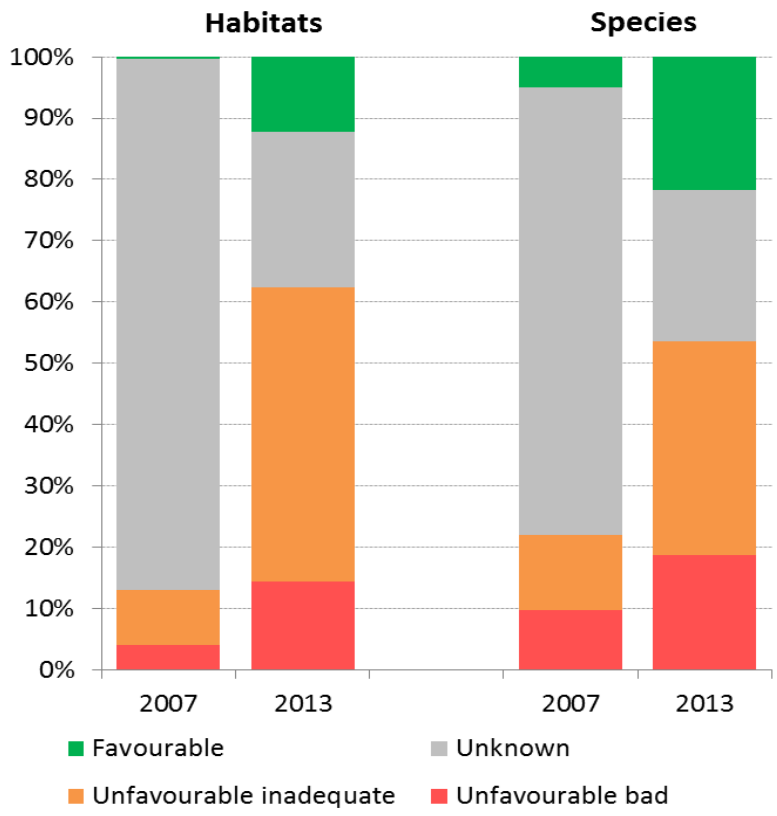
1.- Risks

The answers provided in the precedent question may justify why it is so difficult to answer to this point of the questionnaire. Since implementation and enforcement responsibilities are so fragmented, it is highly difficult to get "centralised" information. Each region compiles and publishes eventually their own plans, reports, data, figures, etc. The Central Ministry for the environment (which has to deal, in addition with Agriculture, Food and Fishing) tries to keep more or less unified and updated data.

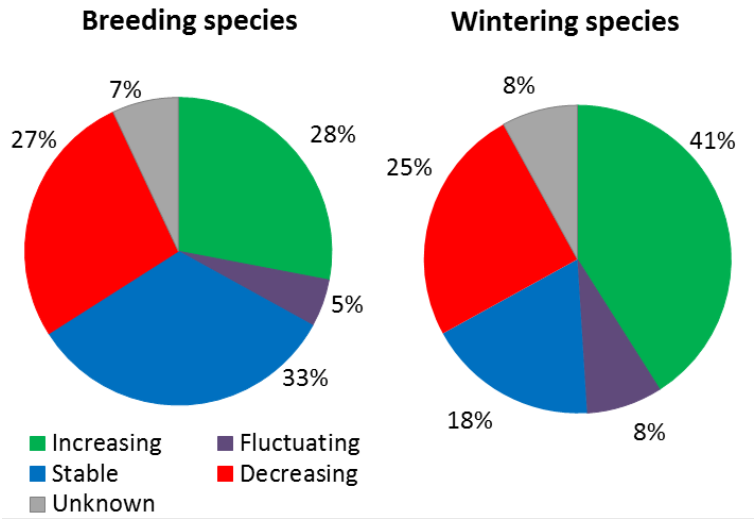
Another source of centralised information is the annual reports that are produced by State enforcement bodies, such as the special Prosecutor for environmental crime (Fiscalía de Medio Ambiente), or the State nature protection police (SEPRONA). But these documents do report offenses detected or prosecuted and does not convey a general picture of the "situation".

Probably the best source of information is the European Commission. In this sense, the EU Environmental Implementation Review for Spain for 2017 [3] stated that: "only 12% of the habitats' biogeographic assessments were favourable in 2013 (EU 27: 16 %). On the other hand, 48 % are considered to be unfavourable– inadequate (EU27: 47%) and 14 % are unfavourable – bad (EU27: 30%). As for the species, 22 % of the assessments were favourable in 2013 (EU 27: 23%) 35 % at unfavourable-inadequate (EU27: 42%) and 19% unfavourable-bad status (EU27: 18%). This is depicted in the figure below:

[3] COM(2017)63 FINAL



In the more specific area of birds, the said report stated that the short-term population trend of 28% of the breeding bird species assessed under Article 12 reporting is increasing, while 27% are decreasing and 33% stable. On the long term, the population trend of 30% of the species assessed is decreasing and 33% is increasing and 27% stable. This is shown in the figure below:



2.- Principles: *are there any specific principles formulated in law or in court decisions or academic debate; is a species-by-species approach followed?*

In my view, the most important developments in this area are:

- (a) the existence of animal-rights political parties, which are still minority parties but are a novelty in the Spanish political landscape. They don´t have representation in Parliament.
- (b) The growing acceptance among academics that animals do "have rights". From a conceptual point of view, I am personally against this construct, but I´m sure that this will be discussed in the meeting.
- (c) A specific political and legal debate has emerged in connection with bullfights. This development is presented in an Annex to this paper. As a Spanish member of the group I could not avoid this debate.

III.- Directive 92/43

1. Surveillance of conservation status – (art 11, art. 14 HD)

As noted *supra*, the HD was transposed by different pieces of State legislation, starting with the Act 4/1989, as amended. The current applicable statute is the Act 42/2017, of 13 December 2017, which in my view fully transposes both the HD and the Birds Directive. State legislation is complemented and enhanced by regional legislation and regulations. The whole picture, in my mind, constitutes a fair transposition of EU applicable laws on species protection.

Monitoring and surveillance is mainly a regional responsibility, with the exceptions noted supra.

In this sense, there are different "corps" or bodies of environmental surveillance, monitoring and inspection:

.- (a) at State level, the most important inspectorate is the "SEPRONA", an acronym that stands for Nature Protection Service of the Guardia Civil. This is the most extended, professional and comprehensive environmental police in Spain, and as a matter of fact the Guardia Civil belongs to the Army, therefore the environmental police officers are military personnel, with military discipline, way of proceeding, etc. The Seprona acts in a double capacity: first, as a strict "State" body, performing the surveillance and monitoring activities where the State is competent: natural sites in the marine environment; rural paths and ways; control of firearms; border and customs control, etc. Second, and by way of "inter-administrative agreement" between the State and the Regions, the Seprona acts too as a Regional environmental police. Most regions have signed such agreements (exceptions: Basque Country, Navarra, Catalonia). Therefore, most regions don´t have a specific or own environmental police, the "seprona" performs those activities. This extends significantly the room of activity for the Seprona, in those fields belonging to the competences of the Regions, i.a.: hunting, natural parks and reserves, urban development, protection of endangered species, etc.

Still at the State level, there is a specific police force, working in the field of waters protection. These inspectors work within the Water districts authorities (*comisaría de*

aguas). Those civil servants monitor and supervise illegal pits, illegal discharges, water permits, etc.

.- (b) At regional level, some regions have established a general environmental police, if they did not decide to perform an "agreement" with the State (see supra). In addition, all of them have established a specific police in the domain of forest management and fire protection (guardas forestales).

.- c) At local level, especially in big cities, there are municipal environmental inspectors, who monitor the compliance of businesses and activities with the applicable laws, plus the local ordinances and regulations (noise pollution from factories and bars, nuisances, urban development, land use and zoning regulations, etc, for instance illegal constructions).

The overall impression, then, is that the situation is satisfactory in the sense that there are specific corps or divisions of environmental inspectors and enforcers. However, it is doubtful whether surveillance, monitoring and enforcement is really effective and comprehensive. Important differences may emerge among the several regions. On the other hand, it is generally assumed that some of those inspectorates are understaffed and that they don´t have the necessary means to operate in a satisfactory way. For instance, in the current 2017 draft State budget that is now discussed in the national parliament, the budget of the Ministry of the Environment has been reduced by 31% (!) as compared to 2016 figures. The data are eloquent

2. Conservations of species (art. 12 -16).

The *objective* of part 2: Taking into consideration the way of interpretation of art. 12-16 HD by the CJEU whether the very small room for derogation is actually followed in the Member States…

2.1.- Art. 12-13 HD

In my view, the Spanish legal scheme fulfils the requirement laid down in art 12 and 13 HD and the requirements for clear and precise transposition. On the other hand, Spain is probably the country of the EU with the largest biodiversity in terms of species.[4] In addition to the native species, the country host many different migratory species in winter. This makes especially difficult (and expensive) ensuring an adequate level of protection for all the protected species of flora and fauna.

There are also significant lacunae and loopholes. The most important has to do with the adoption of species actions plans. This is a responsibility for the regions, not for the State. Thus, for instance, the Imperial Eagle should be protected by up to 17 different regional plans. E-NGOs regularly claim that only a little proportion of strictly protected species have

[4] Spain gives refuge to approximately 90,000 species of fauna and flora (approximately fifty-four per cent of the total number of European species, and about fifty per cent of which are endemic to Spain) including about 8000 vascular plants, 23,000 fungi and lichens, 57,000 invertebrates and 635 species of vertebrates.

been subject to management and recovery plans, and that some such species have a plan in some regions, but not in others.

Great emphasis, efforts and money are spent in the protection and recovery of "key" or well-know species, such as:
(a) Mamals: the Iberian wolf, the bear, the Iberian Lynx, the monk seal (Monachus monachus)
(b) birds: the imperial eagle (Aquila adalberti), the royal eagle (Aquila Chrysaetos), the grouse of capercaillie (Tetrao Urogallo), the Griffon vulture (Gyps fulgus).

For other species, however, there is little or no information on how the conservation plans are progressing, or if they are effective.

For what concerns liability for damages caused by protected species to property, in Spain there is a system in place similar to that of Portugal (described by Alexandra in her paper), related to the damages caused by wolfs. The conservation of the wolf has been and still is a matter of controversy, especially in the Northern regions, due to the recovery of the species and the number of attacks. In the sixties and seventies, this species was unprotected and there was a pattern of indiscriminate killing. The efforts of some prominent conservationists (especially Dr. Rodríguez de la Fuente) coupled with the need to transpose EU legislation transformed radically the situation. Today the wolf is strictly protected and a governmental scheme for damage compensation is in force (mainly addressed to stock farmers). Since the responsibilities for Agriculture, cattle-raising and environmental protection have been fully transferred to the Regions, they are responsible to implement such schemes. Compensation for the killing of sheeps, goats or cows (the most common type of damages) depend on the region were the damage occurred. For instance, in Castilla-León the compensation is: 700€ for each cow; 300€ for each goat or sheep.

.2.2..- Art. 14 HD – measures to control taking of and the exploitation of certain animal and plant species of Community interest and .2.3.- Art 15 HD - the prohibit to use of all indiscriminate means of killing

There is, indeed, a general prohibition of using all indiscriminate means of killing, and the applicable list is the same as the EU legislation. Implementation, again, is laid down in the hands of the Regions.

.2.4.- Art. 16 HD - derogation from the provisions of Articles 12, 13, 14 and 15 HD

In general, national law does not go beyond the specific grounds justified removals described in art. 16 HD.

As for the compensation measures, see reply supra.

IV.- Art. 5-9 of the bird directive contain similar provisions and their interpretation by CJEU can be applied to art. 12-16 HD….

As noted supra, in Spain regions are fully responsible for hunting, the State has no powers on the matter (save the listing of species that cannot be hunted, e.g., wild birds) Besides legislating on the matter, regions are competent for granting the necessary hunting permits. In addition, they approve the respective close seasons for each species that can be hunted.

There is, indeed, a general prohibition of using all indiscriminate means of killing, and the applicable list is the same as the EU legislation. Implementation, again, is in the hands of the Regions. In the past, Spain was condemned at least a couple of times by the ECJ for not prohibiting hunting methods that were illegal or indiscriminate. These cases are:

- Ruling of 9 December 2004, *Commission v. Spain* (C-79/03): Hunting with lime (*parany*) was traditionally used in Valencia and other regions to capture birds of the Turdidae family. The court found a violation of art. 7.4 of the Birds directive. It shoud be observed that despite this ruling the Parliament of the Autonomous Community of Valencia allowed the parany by Law 7/2009, of 22 October. According to this Law, the parany was regarded as a "traditional hunting method". The Spanish Constitutional Court finally quashed the Law (by judgment 114/2013 The Spanish Supreme Court had also previously condemmed the parany in 2005).

- Ruling of 9 june 2005, *Commission v. Spain* (C-135/04): The hunting of migratory woodpigeons during return journey to their rearing grounds (contrapasa), mainly in the province of Guipúzcoa was found as a failure to comply with Article 7(4) of Directive 79/409. The ECJ found that the contested regulations merely extended the hunting season well into the migration to rearing grounds.

V.- Enforcement (legal consequences of infringement of art. 12-16 HD or 5-9 BD)

What bodies are responsible for the enforcement of national or regional legislation on species protection is enforced:

See reply, supra, point III.I

What sanctions are used (eg criminal, administrative or civil means); which is the most effective?:

In Spain, there is a combination of criminal and administrative sanctions. Civil penalties or remedies play a little role, if any, in this domain. For instance, in case an animal from property A causes damages in property B (owned by another landowner), then regular torts law apply (civil code), but this is in my view unrelated to the real topic "species protection".

Concerning criminal sanctions, the Spanish criminal Code includes several articles dealing with environmental crimes at arts. 319-340 and some may have connection or impact with a scenario where species are protected (for instance, the "general" environmental crime at art. 325) More specifically, arts. 332-337 deal with crimes related to flora, fauna and domestic animals:

- uprooting or destruction of protected flora
- illegal trade, keeping, hunting, fishing or killing of protected animals, taking of eggs, etc.

- animal abuse or cruelty
- introduction of alien, invasive species.

The paramount criminal sanction is imprisonment, which goes from four months to two years. However, it is important to underline that most wrongdoers do not go actually in prison, because, under a general Criminal Law provision, if the wrongdoer does not have previous criminal records, he does not go into prison (this waiver, of course, only applies once). Other accessory penalties may be imposed, such as the disqualification to run a business or engage in a certain economic activity (for instance, running a petshop or a private zoo); deprivation of the right to hunt or to fish for up to four years. These penalties do not benefit from the abovementioned waiver.

Administrative sanctions may be enshrined in State legislation, in regional legislation or even in municipal regulations, which most people ignore. At State level, the administrative sanctions are laid down at arts. 75 and ff. of the Act 42/2007, of 13 December (see supra). There are dozens of infractions established there, covering any type of imaginable misconduct (uprooting, killing, capture, eggs taking, etc.) . These offences are graduated into "minor", "serious" and "very serious" offences. The amount of the penalties depend on the type of the offence: for minor offences: from 500 to 5.000 €; for serious offences, from 5.001 to 200.000€, and for very serious offences, from 200.001 to 2 million€. Regional legislation may establish more severe penalties.

Some general remarks:

a) Criminal and administrative sanctions cannot be imposed simultaneously on the same wrongdoer (principle *ne bis in idem).*

b) There is a possible overlapping between administrative offences and criminal ones, especially if the offence is a "very serious" one. If an environmental agency is processing a file for imposing an administrative penalty but sees that it might be a criminal offence, it must stop the administrative proceedings and communicate the facts to the environmental prosecutor.

c) The difference between "criminal" and "administrative" may be very technical, and hard to understand for the layman. For instance, if someone kills an animal that is listed as "vulnerable", this is an administrative offence; if the animal is listed as "endangered with extinction", then this is a criminal offence. How can I know the difference, if I am not a biologist? Broadly speaking, it is difficult to draw a clear line between administrative sanctions and criminal ones. Drawing the line depends on decision of the Parliament, based on reasons of opportunity.

d) In my view, administrative sanctions are more effective and dissuasive than criminal ones: criminal prosecutions are usually very lengthy and time-consuming, and at the end of the day most wrongdoers do not enter into prison if they don´t have criminal records (which is the usual situation).

How is the obligation to monitor incidental capture and killing of animal species (Article 12.4 HD) is transposed and applied; is there a national system of monitoring all relevent species covering the whole territory or is limited to particular species/areas/causes

As explained supra, in Spain there is no national, comprehensive system of monitoring all relevant species covering the whole territory. These measures must be taken by the regions. Bearing in mind that intentional killings are difficult to monitor and prosecute, it is much more difficult to survey incidental ones.

Please give two examples of what you consider the most important national legal cases dealing with area of the law (if any)

In reality, there are no "important" national legal cases in this area of the Law, the most legal cases have to do with people challenging criminal or administrative sanctions. For EU-courts, cases, see, supra, IV

Has the Environmental Liability Directive and how it has been transposed played any role in your country in species protection?

In my view, no.

VI.- SEA, EIA, Appropriate Impact Assessment and species protection

To my mind, and according to my experience in reading and analyzing dozens of EIA and discussing them in class, species protection is taken seriously in any EIA procedure for projects. The impact of the project on existing or migratory species is taken into account and well documented; careful and sometimes expensive corrective measures and operations conditions are imposed. Some projects have even deserved a negative EIA because its impact on a given colony of a protected species was too severe, and consequently they have not been authorized. Nevertheless, it should also be noted that environmental impact studies do not always carry out proper surveys of species in areas likely to be affected by plans or projects., Likewise, studies predetermine the area likely to be affected thus limiting the range of species to examine.[5]

[5] In the case of a jail built in the Basque Country, occupying a surface of approximately 40 ha for a population of more than 720 inmates plus personnel. The project was located near a Site of Community Importance listed by the European Commission and containing priority habitats and species, such as the region's only population of European mink. Interestingly, this species was the object of an EU LIFE project (which had also been funded by the Spanish Government) to guarantee its survival.68 Despite the apparent lack of a proper environment assessment, the Supreme Court concluded that a report roughly devoting four pages to the situation of the site and the foreseeable effects of the project was sufficient for the purposes of the appropriate environmental assessment as required by the Habitats Directive.

VIII.- What exactly are the roles of citizens and NGOs in species protection?

How national law - having in mind the lack of UE rules on the one one hand, on the other the obligation arises from Aarhus Convention - deal with public participation and access to justice in species protection proceedings?

There are no specific laws on regulations on public participation/access to justice in species protection proceedings. The general laws on the matter apply.

Anyway, One should not forget that the environment does not seem to be a concern for Spaniards, according to the surveys. Awareness in this specific area is also low: according to a survey carried out by the Spanish Society for the Protection of Birds (SEO) in 2011 eighty-five per cent of the population was unaware of the meaning of Natura 2000 and fifty-one per cent failed even to link it to the environment

IX.- Direct applicability - are EU provisions on species protection directly applied in case of improper transposition?

I assume that they have such applicability, in the same manner as other equivalent provisions of the BD or the HD referred to protected areas or habitats. As noted supra, the Act 42/2007 has carried out a fairly adequate transposition of the EU rules.

ANNEX:

Species protection, animal rights and bullfights in Spain: prohibition of regulation?

Bullfighting is a very well-known feature of the Spanish society. It is practiced in the Kingdom since the middle Ages and it is deeply rooted in the Spanish culture, society, arts, and economy. Original from Spain, it is now practiced in many countries, both in Europe (France, Portugal -but no killing of the animal-) and America (Peru, Colombia, Ecuador, Mexico, and even in California). During the last couple of decades, though, a growing popular movement has emerged, which rejects bullfight and demands that it should be prohibited. Animal-rights parties are still minority but they have embraced the abolition of bullfighting as their flag. They usually organise demonstrations, or stand in front of the main gate of the most popular bullrings (Madrid, Seville, Valencia).

In this context, the main legal interesting aspect is the pertinence or expediency to prohibit such peculiar performance. Of course, the debate is very emotional and very difficult to extrapolate in a "foreign" environment like a meeting of the Avosetta network in Poland, a country that has not produced any "matador" so far…

Yes, indeed, you either love it or hate it, but in any case bullfighting rests on some cultural and psychological (even "ethical") assumptions that you can only understand or appreciate if you are a native or you have seen one or several bullfights. Therefore, I would like to present the question in purely legal terms. Some aspects should not be forgotten:

.- (1) the bull that takes part in the bullfight is not a regular bull, like the one you may find in the Netherlands or in Latvia. This is a distinct subpecies (*bos taurus*), whose aggressive behaviour is peculiar and has been fostered by centuries of careful breeding. This animal is a wild animal, not a domestic animal or a pet, it cannot be used for meat or milk production. It lives in semi-freedom in large estates (*la dehesa*). The "Dehesa" is a specific habitat of pasture-meadow and has a high ecological value, as representative of the "Mediterranean wood" ecosystem.

.- (2) the conservation status of the fighting bull (*toro de lidia*) is not a matter of concern

.- (3) the fighting bull is not a "protected" species under EU, international law or national law. It is neither "endangered" nor "vulnerable" or bears any other sort of protective classification.

.- 4) In Spain, bullfights are considered to be a part of the "common cultural heritage" under the Law. Some countries (such as France) have granted bullfighting the status of "Cultural non-material heritage" (since 2011). As a matter of fact, the best *matador* of the moment is a Frenchman. This evidences that bullfighting is not just a "Spanish anomaly".

.- 5) Bullfighting is strictly regulated in Spain. Governmental regulations describe and prescribe any imaginable and minor detail about any aspect of the bullfight (lidia): the conditions of the bull, requirements for the bullring, veterinary inspections before the "corrida", etc. Enforcement is strong, and as a matter of fact the "president" of the bullfight is a Police chief. People altering the public order of the performance (or even the matador refusing to perform) can be sent at once to the police station.

.- 6) The only argument of the anti-bullfight movement is that this performance is "cruel". They disregard the fact that the matador puts his/her life at risk just for the sake of performing and antique procedure, a ritual-performance under strict regulatory and artistic standards, and that he may be injured or killed by the animal. Something that is not unusual, as a matter of fact many prominent matadors were killed in the bullring: Joselito, Manolete, Paquirri, El Yiyo, etc. This year already two matadors were killed (one in Spain, the other in Mexico).

Apart from the fact that what is cruel or not is a matter of personal appreciation (one may find "cruel" to keep a canary bird in its cage), they disregard that many poets, painters, novelists and other sensitive artists did like bullfights, both in Spain (Goya, Picasso, Dalí) and abroad (Hemingway, O.Welles, etc.). They also disregard that many features of our daily life are, sadly to say, based on animal cruelty (production of foie-gras, slaughters methods, etc.)

.- (7) In my view, if bullfights were prohibited, then the species would probably disappear. The reason is that the fighting bull has no economic value in itself: the way it is raised is too costly just for the price of meat. It cannot be kept in zoos neither, for this would de-naturalise his very condition. Most bulls-raisers (*ganaderos*) will certainly go out of business (not to mention the thousands jobs that would be destroyed). In addition, if bullfighting were banned, the peculiar habitat where the bulls are raised would also probably be endangered or would disappear. The estates (ganaderías) are very expensive to keep and they could probably be used for agriculture or land development projects.

-. (8) Consequently, in my view a prohibition of bullfighting would paradoxically entail both the extinction of the animal and that of the peculiar habitat where he lives and is raised.

.- (9) Within this context, the only legal rule that has prohibited bullfighting in Spain was enacted by the Parliament of Catalonia some years ago: Act 28/2010. Art. 1 prohibits bullfights in the territory of Catalonia. The regional parliament based this Act on the regional competences in the "matters" of "public performances and entertainment shows" and of "protection of animals". The legal initiative was allegedly formulated by the regional

government on the ground of animal protection and welfare, but in reality it was politically-driven by a comprehensive strategy to underline the cultural specificity of the region, that Catalonia is a "nation" apart, etc. In reality, and as History shows, bullfights have traditionally been very popular in Catalonia: the region has produced many "matadors" and during the last century there was not only one, but two bullrings operating at the same time in Barcelona.

Some MPs in the Senate challenged the said statute in the Constitutional Court, on the ground that the region had no powers to impose such a ban and that it would impinge upon State powers (mainly, "cultural patrimony"). The Constitutional Court sided with the government and, it its ruling of 20 October 2016, declared the Act unconstitutional. However, bullfights have never returned to Catalonia. The regional government declared that it would not implement the ruling and the only bullring that is currently available in the region (the "Monumental" of Barcelona) does not have the necessary permits.

.- (10) Summing up, in this matter I believe that deep regulation and strong enforcement is the best option, instead of imposing a ban, at least from the perspective of the "preservation" of the species. Of course, I assume that there might be other opinions…