



The underuse of a demographically relevant institution: Notarial perspectives on Catalonia's cohabitation relationships of mutual aid

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Abstract

This paper examines the limited practical use of Catalonia's cohabitation relationships of mutual aid, a legal regime designed to recognise non-conjugal forms of cohabitation beyond traditional family law. It mainly aims to assess the regime's uptake and empirically test prior doctrinal claims about its marginality, while considering possible solutions. The study draws on care ethics to explain the theoretical relevance of the regime in the context of population ageing, declining fertility, and diversified care arrangements. It surveys notaries practising in Catalonia to examine its frequency, user profiles, barriers to use, and potential remedies. The findings show that the regime is underused and largely invisible in notarial practice, despite being considered socially and demographically relevant by participants. Older collateral relatives appear to be the main user profile, lack of public awareness emerges as the principal barrier, while greater publicity and stronger tax advantages are perceived as key incentives for its use.

Key words

Population ageing, non-conjugal cohabitation, polyamorous relationships, Catalonia, notarial practice.

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Resumen

Este artículo investiga la escasa utilización práctica de las relaciones convivenciales de ayuda mutua en Cataluña, un régimen jurídico diseñado para reconocer formas de convivencia no conyugales más allá del derecho de familia tradicional. El objetivo principal es evaluar el grado de uso de la institución y poner a prueba empíricamente las afirmaciones doctrinales previas sobre su marginalidad, además de considerar posibles soluciones. El estudio se apoya en la ética del cuidado para explicar la relevancia teórica del régimen en el contexto del envejecimiento poblacional, el descenso de la fecundidad y la diversificación en la organización de los cuidados. Utiliza una encuesta a notarios que ejercen en Cataluña para analizar la frecuencia de uso, los perfiles de usuarios, las barreras a su utilización y posibles vías de mejora. Los resultados muestran que el régimen está infrautilizado y es en gran medida invisible en la práctica notarial, pese a ser considerado social y demográficamente relevante por los participantes. Los parientes colaterales de edad avanzada son identificados como el principal perfil de usuario, la falta de conocimiento público emerge como la principal barrera, mientras que una mayor difusión y unas ventajas fiscales más intensas se perciben como incentivos clave para su uso.

Palabras clave

Envejecimiento poblacional, convivencia no conyugal, relaciones poliamorosas, Cataluña, práctica notarial.

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1. Introduction

Non-conjugal and non-dyadic cohabitation arrangements, such as those formed between relatives or among polyamorous individuals, remain largely overlooked by most legal systems (Scherpe 2020, 30, Swennen 2020, 44). Over the past 35 years, however, some jurisdictions have introduced “multi-partner quasi-familial regimes”, frameworks that resemble family law in structure while providing limited recognition and protection to relational forms that fall outside conjugal and couple-based logics (Nonell-Rodríguez 2026, 268-270). Catalonia’s cohabitation relationships of mutual aid (*relacions convivencials d’ajuda mútua*) constitute one of such regimes and are designed to offer legal remedies to cohabitants who do not fit within the conjugal and couple-based institutions existing in Catalan family law (Navarro Michel 2011, Gili Saldaña 2014, Giménez Costa and Villó Travé 2015).

But, despite its availability for decades, legal scholarship has consistently described this regime as marginal or residual in practice. However, these claims remain largely speculative. While some anecdotal references to low constitution rates exist (Villagrasa Alcaide 2011, 550, Carpi Martín 2018, 181, Gomá Lanzón 2024, 14-17), there is no comprehensive public data indicating how frequently the regime has been constituted,² nor empirical research examining why it is allegedly so rarely used. As a result, current understandings of its marginality and functioning rest primarily on doctrinal assessment rather than systematic evidence.

This paper addresses this empirical gap by raising four main questions: first, whether cohabitation relationships of mutual aid are actually underused in practice; second, the reasons for their underuse, as identified by notaries; third, the profile of users of the regime and the factors that explain their use; and fourth, what measures, in the view of notaries, could dynamize the institution and increase its uptake.

To answer these questions, the paper adopts a survey-based research design addressed to notaries practising in Catalonia. The study has collected 20 responses, and the questionnaire combines multiple-choice questions with a limited number of open-ended items, allowing for the identification of structured perceptions regarding the regime’s operation. The findings consistently point to the regime’s limited practical use, while also capturing notarial assessments on a range of related issues. These include the predominance of older collateral relatives among users and a widespread recognition of the regime’s potential utility in the current demographic context.

Moreover, drawing on the evaluations of professionals directly involved in its constitution, the analysis seeks to clarify whether its limited uptake is linked to insufficient legal effects, weak incentives, or broader structural factors. In this regard, a clear pattern emerges: most respondents identify the lack of publicity and visibility as a primary factor limiting the regime’s use. These insights contribute to a more informed discussion on how this underused legal institution could be reformed or promoted to

² This evidentiary gap is partly explained by the absence of a specific statistical category for cohabitation relationships of mutual aid within the Spanish notarial database. Although they may be subsumed under the broader category “other acts of a familial and personal nature”, it is currently impossible to disaggregate these data to identify which entries correspond to the constitution of such relationships. See: Consejo General del Notariado: *Estadísticas al completo* (<https://www.notariado.org/liferay/web/cien/estadisticas-al-completo>). Moreover, the Col·legi Notarial de Catalunya does not maintain a statistical database.

enhance its practical relevance within Catalan society, with particular emphasis on measures aimed at improving its visibility and public awareness.

Beyond its domestic implications, the research also holds comparative value. Similar or analogous regimes have recently emerged in other jurisdictions, where their development remains uncertain or incomplete. In Navarre, for instance, the 2019 introduction of the so-called “communities of responsibility” in Articles 117 to 119 of the Revised Compilation of the Civil Law of Navarre (*Fuero Nuevo de Navarra*) created a framework that closely resembles the Catalan regime in its purpose, yet without any default legal effects. Legislative initiatives aimed at defining those effects have remained pending (Díaz Martínez 2020, 518, Gómez Soriano 2022, 2). Thus, empirical findings on the legal consequences and measures that meaningfully shape the uptake of such regimes may inform future legislative design and policy development in Navarre. Similarly, in 2024, the German governing coalition considered the introduction of a comparable institution (see, *e.g.*, Dethloff and Leven 2024, 139, Dehmer 2024, 12-15, Dutta 2024), although no reform was ultimately adopted. Should this or similar proposals resurface, evidence derived from the Catalan experience may contribute to a more informed discussion on how such an institution should be defined and actively promoted to ensure its effective uptake.

2. Theoretical framework

2.1. Contextual framework

In Catalonia, the emergence of an institutional alternative to marriage and stable couples explicitly detached from conjugality, which in this research I refer to as a “multi-partner quasi-familial regime”, dates back to the period between 1998 and 2001. During these years, the Catalan legislator enacted three statutes aimed at regulating cohabitation arrangements distinct from marriage and stable couples and, significantly, open to more than two persons: Act 19/1998 of 28 December on cohabitation situations of mutual aid, Act 22/2000 of 29 December on the reception of elders, and Act 11/2001 of 13 July on family reception for elders. Although the respective preambles presented the protection of elder persons as the primary objective of these statutes, Act 19/1998 established less restrictive personal requirements than the other two, since it allowed individuals who did not belong to the elderly population to constitute such relationships (Article 2).

With the entry into force of Book II of the Civil Code of Catalonia (CCCat), Act 19/1998 was repealed, but its content was incorporated into Title IV of the CCCat under the institution of “cohabitation relationships of mutual aid”. According to Article 240-1 CCCat:

Two or more persons who share a habitual residence and who, without remuneration and with the intention of permanence and mutual aid, share common expenses or domestic work, or both, constitute such a relationship, governed by their agreements or, in their absence, by the provisions set out in this title.

This definition does not exclude relational configurations that align with care-based understandings of the family, and it breaks with the assumption that the conjugal adult dyad is the only legitimate unit of household organisation. At the same time, the legislator refrained from formally recognising these arrangements as family, regulating

them outside the title devoted to family law and granting them only minimal legal effects (for criticism, see Gete-Alonso Calera 2013, 25, Gili Saldaña 2014, 1033-1034).

Cohabitation relationships of mutual aid may be legally constituted either formally through a public deed or factually by cohabiting for more than two years (Article 240-3 CCCat). This gives the regime a hybrid and alternative mode of constitution (Palazzo 2021, 46-47), with the two routes operating in parallel as distinct means of becoming subject to it. Cohabitants may therefore formally opt into the regime before the two-year threshold is reached or, in the absence of any contrary intention, become subject to it automatically once the two-year period has been completed.

Despite these two constitutive paths, the factual constitution of cohabitation relationships of mutual aid may itself become vulnerable to constitutional challenge. The ascriptive constitution of stable couples in Catalonia is currently under review in questions of unconstitutionality 6205-2023 and 8613-2024. Although these proceedings concern stable couples, their outcome may have implications for cohabitation relationships of mutual aid if the Spanish Constitutional Court follows the reasoning adopted in its Navarre ruling, where the automatic attribution of legal consequences to stable couples based solely on cohabitation was held to infringe the fundamental right to the free development of one's personality (Judgement of the Spanish Constitutional Court 93/2013; Martín-Casals 2013). Such reasoning could subsequently be invoked to challenge the constitutionality of the factual constitution of cohabitation relationships of mutual aid on the same grounds, since this mode of constitution likewise subjects individuals to a legal regime and its associated obligations through mere cohabitation.

As for its substantive content, the legal regime governing the cohabitation is determined by agreements between the parties (Article 240-4.1 CCCat), with no default rules governing their everyday relations. The parties may likewise agree in advance on the legal consequences of the termination of the relationships (Article 240-4.2 CCCat). Where no such agreement exists, only a limited number of default provisions apply upon dissolution. Given the dispositive nature of the regime, however, cohabitants may mutually exclude these default rules (Navarro Michel 2011, 1413, Gili Saldaña 2014, 1040). Such exclusions are not subject to any specific formal requirement, unlike those applicable to marriages and stable couples, where they must be made by means of a public instrument (Puig Blanes 2020).

The limited set of default private-law protections can be divided into two categories. The first one relates to the use of the shared dwelling. Article 240-6 CCCat grants the non-owning cohabitant(s) a temporary right to remain in the home for three months following the termination of the relationship during the cohabitants' lifetime. Where the relationship ends because of the owner cohabitant's death, the surviving cohabitant(s) may remain in the dwelling for six months. If, instead, the deceased was a tenant, the surviving cohabitant(s) may succeed to the tenancy for up to one year. These provisions are designed to offer transitional protection, providing the surviving and/or non-owning cohabitant(s) with time to secure alternative accommodation (Navarro Michel 2011, 1419, Puig Blanes 2020).

The second category concerns financial support following the death of a cohabitant. Under Article 240-7 CCCat, a surviving cohabitant who was financially dependent on the deceased may receive an allowance from the deceased's heirs for up to three years.

The amount depends on the cost and duration of the support, as well as the value of the estate. The provision is intended to mitigate the risk of economic hardship for a surviving cohabitant who was materially dependent on the deceased (Navarro Michel 2011, 1421, Gili Saldaña 2014, 1062-1063, Puig Blanes 2020).

Besides these two private-law effects, entering into a cohabitation relationship of mutual aid entails a specific fiscal advantage in relation to the inheritance and gift tax. Article 631-34 of the Catalan Tax Code establishes that members of such relationships are to be treated as equivalent to descendants in the second or more remote degrees classified under Group II (acquisitions by descendants aged 21 or over, spouses, and ascendants) for the purposes of the reductions provided for in Subsection One (reductions based on personal circumstances) and Subsection Six (reduction for the acquisition of the deceased's main residence), as well as for the application of the multiplying coefficient used to determine tax liability on acquisitions arising upon death. This tax reduction is available only where the cohabitants can prove the existence of the relationship "through a notarised public deed formalising the relationship, granted at least two years before the death of the deceased, or through a notarial certificate of notoriety demonstrating a minimum cohabitation period of two years".

A comparison between the former statute and the current regime reveals a reduction in legal protection. The legislator justified this narrowing on the grounds that the typical sphere of application concerns older persons who group together in order not to live alone (Preamble III.d, § 1, Book II CCCat). This shift is reflected, for example, in the suppression of the economic compensation for domestic or unpaid work that had previously been available upon the dissolution of the relationship (*cfr.* Article 7 of Act 19/1998). That mechanism had served to compensate substantial and unpaid contributions made by one member in favour of one or more members (Ortuño Muñoz 2000). Its removal was explicitly defended on the basis that it brought these relationships too close to marriage or stable couples (Preamble III.d, § 1, Book II CCCat). The reform thus signals a deliberate effort to maintain symbolic and material distance between this multi-partner quasi-familial regime and legally recognised conjugal institutions.

However, the restrictive narrative expressed in the preamble does not correspond to the personal requirements established in Article 240-2.1 CCCat, which allow any adults related collaterally without limit of degree, or linked by friendship or companionship, to constitute such a relationship, provided they are not married or in a stable couple with a cohabiting person. In principle, any adult may enter into such a relationship with up to four persons, and without numerical limit among collateral relatives (Article 240-2.2 CCCat). Several authors have therefore questioned the attempt to confine the social meaning of the institution to elderly persons (Gili Saldaña 2014, 1035, Carpi Martín 2018, 188, Arnau Raventós *et al.* 2021, 258). The preamble seems to suggest that forming a shared life project outside of marriage or the stable couple is socially residual and that these relationships function primarily as a remedy for those who, upon reaching old age, have not partnered, have chosen not to do so, or have become widowed. Yet the legal design itself does not impose age-based criteria comparable to those found in the legislation on the reception of elders, which required the hosted person to be at least 65 years old and established a minimum age difference between host and hosted (*e.g.* Article 3.2 of Act 22/2000, now repealed).

Despite this tension between broad formal eligibility and narrow symbolic framing, the logic behind this institution can be understood in light of current demographic transformations. Catalonia, like many European societies, faces sustained population ageing, declining fertility rates, and an increasing prevalence of single-person households.³ These situations are expected to increase the demand for elder care while exposing the limitations of an already strained welfare state and traditional family-based care structures (Zueras Castillo *et al.* 2024, Beken and Kirer Silva Lecuna 2026, 2). At the same time, these changes in household composition and social reproduction reflect several underlying structural factors.

Firstly, increased longevity, combined with improved health conditions, allows a growing number of older individuals to live independently for longer periods (Zueras *et al.* 2024, 22). This, together with a decline in more collectivised forms of social life, has contributed to the erosion of traditional patterns of intergenerational co-residence (Ruggles and Heggeness 2008, 253-255). Thus, living alone in later life has become both more feasible and, for some, a preferred option (Hanum *et al.* 2024, 968-969). However, this also means that many individuals in this group may experience greater social isolation, with potential negative consequences for both physical and mental health (Hernández-Pizarro *et al.* 2025).

In addition, the formation of family units is increasingly delayed. Younger cohorts tend to postpone partnership and parenthood due to changing social and economic conditions (Lesthaeghe 2010, Inhorn 2026), which extends the period during which individuals live outside stable conjugal arrangements, with significant implications for fertility rates (Degner 2019, 227, Vidal *et al.* 2026, 954).

Finally, higher rates of union dissolution, particularly through separation and divorce, contribute to the fragmentation of household structures over the life course (Kersten *et al.* 2025, 1159). Individuals who experience the dissolution of a conjugal relationship may spend extended or indefinite periods living alone, particularly in mid and later adulthood (Demey *et al.* 2013, 162). According to Esteve *et al.* (2020, 172): “never-married, divorced, widowed, and childless people earmarked for living alone in later life are a potential burden both for their families and for health and care systems” (similarly, Kersten *et al.* 2025, 1149).

In light of these developments, the literature on family law and the ageing of society emphasises how these trends generate new forms of vulnerability and need for alternative support networks (Cahn *et al.* 2023, Palazzo 2024, 181). In this context, legal recognition of non-conjugal and multi-person cohabitation arrangements could serve as an adaptive response to changing patterns in societies that can no longer rely on conjugal relationships alone to organise care (Barker 2016, 1264). The existence of a regime open to non-conjugal partners appears, at least normatively, aligned with the social reality of ageing societies in which care might be more frequently provided outside the nuclear family (Westwood 2013). This alignment is reinforced by the fact that, although intergenerational co-residence between older parents and adult children appears to be regaining some relevance (Esteve and Reher 2021), persistently low fertility rates reduce the availability of kin for co-residential care (Ruggles and Heggeness 2008, 255).

³ See: Idescat, 2025. *Població* (<https://www.idescat.cat/tema/xifpo>).

Separate from this demographic rationale, the broad personal and relational scope of cohabitation relationships of mutual aid has also led scholars to consider their potential application to relational configurations that extend beyond the conventional dyad (Villagrasa Alcaide 2011, 552, Carpi Martín 2018, 186, Puig Blanes 2020, Solé Resina 2026, 631-632). Although non-kin cohabitation must be based on “friendship or companionship”, the presence or absence of sexual or romantic elements belongs to the private sphere. Such factors are not ordinarily verifiable in practice (Giménez Costa and Villó Travé 2015, 158), as in other areas of family law, including marriage, where intimate dimensions may be relevant but cannot be easily proven (Cahill 2012, 55-56). The limited case law concerning this quasi-familial regime also illustrates the difficulty of drawing a clear line between conjugal couples and cohabitation relationships of mutual aid. In several cases involving long-term cohabitation, courts have had to determine whether the relationship should be governed by the legal regime applicable to stable couples or by that applicable to cohabitation relationships of mutual aid (see Judgment of the Provincial Court of Lleida 200/2014, and Judgments of the Provincial Court of Barcelona 165/2015, 166/2019, 650/2019).

Accordingly, the framework’s emphasis on permanence, mutual assistance, and shared domestic life may make the regime compatible with multi-partner or polyamorous relationships in which the members live together, a form of relationship that has increasingly attracted scholarly attention (see, *e.g.*, Den Otter 2018, Goldfarb 2020, Aurel and Schadler 2025). Article 240-2 CCCat does provide that members of a cohabitation relationship of mutual aid must not be married or form a stable couple with another person with whom they cohabit. However, Catalan law does not recognise the simultaneous formation of stable couples involving the same person, meaning that multi-partner relationships cannot simply be accommodated through the recognition of multiple stable couples. Where individuals live together and organise their relationship around mutual assistance and companionship, but do not fall within the scope of a recognised conjugal regime, cohabitation relationships of mutual aid may provide an alternative legal framework. Thus, the population ageing rationale may help explain the historical emergence of the institution, but its legal architecture allows for a broader scope than that for which it was originally intended.

2.2. *Conceptual and analytical framework*

From a theoretical perspective, the emergence of cohabitation relationships of mutual aid can be interpreted through the lens of care ethics, a branch of moral philosophy that has progressively influenced contemporary understandings of family law. While family law continues to rely formally on status attribution mechanisms, it has increasingly incorporated functional reasoning that centres on the performance of care (Vercellone 2020, 518-522, Vercellone and Pecile 2023). Care ethics challenges individualistic conceptions of social organisation and instead foregrounds interdependence and vulnerability (Gilligan 1982, Koggel and Orme 2013). In the context of family law, it proposes that what justifies legal recognition is not the formal structure of a relationship nor its conjugal nature, but the intensity and continuity of care practices that occur within it (Wallbank *et al.* 2010, 19, Herring 2013, 232-233, Huh 2020, 22-34, Torrelles Torrea 2023, 1476-1477, Heenan 2024, 131-157, Maine 2024, 211-213).

For the purposes of this research, care is understood as the set of practices and relational activities through which individuals help others meet vital needs, maintain basic capabilities, avoid suffering, and sustain the shared social world (Fisher and Tronto 1990, 40, Engster 2007, 28). Thus, care is committed to human flourishing and acknowledges the fundamental interconnection and interdependence of persons (Hamington 2004, 3). These definitions are deliberately broad and relational. They allow intimate cohabitation arrangements beyond the conjugal dyad, including polyamorous networks or cohabitation groups based on friendship or companionship, to fall within the category of care where they involve sustained mutual support, emotional accompaniment, and shared domestic responsibility.

Nel Noddings' theory of the partiality of care further clarifies the normative dimension of this framework. Individuals are morally justified in prioritising those with whom they share intimate bonds (Noddings 1984, 46). Thus, what distinguishes morally significant care from mere service provision is affective commitment and relational depth. Accordingly, relationships grounded exclusively in commercial or employment contracts, and devoid of personal intimacy, fall outside the scope of care-based family recognition (as can be inferred from Article 240-1 CCCat). By contrast, cohabitation unions characterised by mutual aid, permanence, and shared life projects may perform care functions structurally analogous to those of monogamous couples, which justifies their recognition.

Care ethics has already shaped key debates in family law, including discussions on marriage equality (West 1998, 728). So, even where legal systems retain formalistic criteria, the expansion of recognised relationships reflects an implicit acknowledgement that care, rather than reproductive conjugality alone, grounds state intervention (Miccoli 2022, 18). If the state regulates family relations because they perform socially indispensable care functions, then excluding relational forms that demonstrably fulfil equivalent functions becomes normatively difficult to justify (Herring 2013, 196-199).

In the Catalan context, the definition of cohabitation relationships of mutual aid centres explicitly on reciprocal assistance, which strongly resonates with care-based understandings of family. But, at the same time, the legislator has refrained from incorporating these arrangements into the symbolic core of family law. The regime thus occupies an intermediate position: it recognises the social reality of care-based cohabitation beyond the conjugal dyad, yet it withholds full familial status.

In ageing societies, the need for alternative networks of support intensifies. The literature on demographic challenges and population ageing highlights how non-conjugal care networks may increasingly compensate for the limits of both the nuclear family and public welfare systems (Barker 2016, 1264). At the same time, less conventional relationship forms may also provide informal care and mutual support among their members, including polyamorous relationships in which individuals share a household and organise their lives around mutual assistance and companionship. A legal regime that accommodates multi-person and non-conjugal cohabitation therefore appears broadly aligned with these changing forms of interdependence in contemporary societies. If care is dispersed across more diverse relational forms, legal recognition might be expected to follow.

Yet in jurisdictions such as Catalonia, where such recognition has formally occurred, civil law scholarship consistently describes the framework as marginal or residual in practice. Villagrasa Alcaide (2011, 550), for instance, observed that the regulation went “(...) unnoticed during its parliamentary processing as it has been in judicial practice”. Similarly, Carpi Martín (2018, 181) noted that “[a] review of databases containing judicial rulings and Catalan notarial records reveals mentions in only a few court decisions and shows that merely ten of these cohabitation relationships of mutual aid have been formally constituted via public deed since 2006”.⁴ More recently, Gomá Lanzón (2024, 16) described the regime as “neither widely known nor applied”.

This has often been attributed to the limited legal effects attached to the regime, with suggestions that its weak protective content reduces incentives for formalisation (Carpi Martín 2018, 192, Gomá Lanzón 2024, 14-17). Sociolegal literature likewise highlights the importance of tangible state-linked incentives, especially eligibility for public benefits, in shaping decisions to formalise family arrangements (see, regarding marriage, Van Acker 2017). When the tangible benefits of formalisation are minimal, potential users may prefer to remain informal. The result may be a disjunction between evolving social practices of care and the legal instruments designed to structure them, potentially producing increased vulnerability upon breakdown systems (Heenan 2021) and greater reliance on public support. Nevertheless, these explanations remain doctrinal and have not been subjected to systematic empirical scrutiny.

Taken together, the preceding discussion reveals a central tension. On the one hand, demographic developments and care-based theories of family law point toward the growing relevance of non-conjugal and multi-person cohabitation arrangements. On the other hand, doctrinal analysis portrays the Catalan multi-partner quasi-familial regime as rarely used and practically marginal. This contradiction constitutes the core analytical puzzle of the present research: if the regime is normatively coherent and socially plausible within contemporary patterns of care and ageing, why does it appear to occupy such a limited position in legal practice? Addressing this question requires moving beyond abstract doctrinal claims and examining how the institution functions within notarial practice.

Building on the theoretical and doctrinal discussion above, this paper formulates three interrelated hypotheses as analytical expectations guiding the empirical analysis. First, cohabitation relationships of mutual aid appear to be significantly underused in Catalonia. Second, despite their demographic and theoretical relevance, this limited uptake is primarily driven by institutional and informational barriers, in particular weak public visibility and the limited legal effects attached to the regime. Third, improving the practical uptake of the institution requires both greater public visibility and a strengthening of its legal design.

⁴ It is worth noting that the notarial databases underlying this figure are not identified or referenced in the cited chapter. The author was contacted to clarify the source of the data, but no further information was received.

3. Methodology

3.1. Research design and justification

To examine the three hypotheses and address the additional exploratory objectives, this paper adopts a survey-based research design centred on the practical operation of cohabitation relationships of mutual aid within the Catalan legal system. The study focuses on capturing structured expert assessments of the regime's implementation and use, rather than measuring its exact statistical prevalence or reconstructing individual lived experiences.

A central methodological consideration to justify this decision concerns the absence of aggregated public data on the number of formal constitutions of these relationships since the regime's introduction in 1998. No centralised registry systematically compiles such figures. A quantitative assessment of prevalence would therefore require reconstructing dispersed records across all practising notaries in Catalonia over more than two decades, an undertaking that exceeds the scope and feasibility of the project.

On the other hand, while direct access to individuals who have constituted these relationships would offer valuable insights into their experiential dimension, data protection constraints make such access highly restricted. The approach adopted here is thus justified both by these practical limitations and by the exploratory and expert-based character of the research design, which seeks to identify explanatory patterns and institutional dynamics rather than to produce population-level statistical generalisations. Thus, the research shifts its focus from measuring exact numbers of formal constitutions to obtaining indicative evidence of the regime's functioning and use, as well as the factors that may contribute to its marginality in practice. This is operationalised through a structured questionnaire addressed to practising notaries in Catalonia.

Practising notaries are selected as the research participants because of their legally mandated role in the formal constitution of these relationships through a public deed. Factual or ascriptive constitutions are not easily traceable for research purposes, whereas formal constitutions generate documentary evidence accessible through notarial practice. As institutional gatekeepers to this process, notaries possess first-hand knowledge of the frequency with which the regime is formally invoked, as well as of the types of users who tend to access it. Although their responses cannot substitute systematic statistical data, they provide structured expert assessments of whether formal constitutions are rare, occasional, or relatively frequent.

In addition to assessing frequency and visibility, the survey also captures notaries' evaluations of users' profile and motivations, the regime's legal design, perceived incentives, and potential barriers to uptake. Their technical familiarity with the institution enables them to identify possible limitations in its legal effects and institutional framing.

3.2. Sample

The sample consists of 20 practising notaries working in different localities across Catalonia. Participants were identified through snowball sampling, a strategy required

due to the limited public availability of direct professional contact details and the filtering of communications through notarial office reception, which significantly reduces response rates.

While not statistically representative, the sample is appropriate for the exploratory and contextually grounded nature of the study. Access to notaries is structurally constrained, and empirical socio-legal research on notarial practice often relies on relatively limited samples (see, *e.g.*, Navarro Michel *et al.* 2026, 21). The present dataset nonetheless provides valuable insights into the practical functioning of the regime, allowing for the identification of recurring patterns and professional assessments that would be difficult to capture through purely quantitative approaches.

In terms of professional experience, the sample is largely composed of senior practitioners. Most participants (12 out of 20) report more than 20 years of practice, while one has between 11 and 20 years, five have between five and ten years of experience, and two less than five years. This distribution suggests that the findings are informed primarily by highly experienced professionals, which strengthens the reliability of observations, particularly regarding longitudinal perceptions of the regime's use.

Regarding territorial distribution, most respondents practise in urban contexts. 15 participants are based in large cities and five in semi-urban areas, with no representation from rural municipalities. There is a strong concentration of participants in the Barcelona province, with only limited representation from other parts of Catalonia.

3.3. *Data collection technique*

Data are collected through a self-administered expert questionnaire consisting mainly of multiple-choice questions, complemented by several open-ended items (see Appendix). This format allows participants to provide some contextualised responses in their own words while maintaining overall comparability across cases. The questionnaire is organised into six core sections: (1) professional context; (2) frequency and visibility of the regime; (3) profile and motivations of users; (4) legal design and incentives; (5) broader social context; and (6) closing section.

The questionnaire was initially distributed online to three notaries, two via text message and one via personal email. In all cases, prior professional contact had previously been established with the researcher. The sample was subsequently expanded through snowball sampling. Prior to accessing and completing the questionnaire, participants received detailed information about the study's objectives, the voluntary nature of participation, and provided informed consent. Participants completed the questionnaire at their convenience without direct interaction with the researcher, and responses were collected throughout April 2026.

3.4. *Data analysis*

Given the structured nature of the questionnaire, data analysis combines descriptive examination of closed-ended responses with a qualitative interpretation of open-ended items. Quantitative items are analysed by identifying response distributions and recurrent patterns across participants, with particular attention to indicators such as

perceived frequency of use, visibility of the regime, user profiles, and evaluations of its legal design.

Open-ended responses are analysed through a light thematic approach, aimed at identifying recurring themes and convergent professional assessments rather than producing formal codes or exhaustive qualitative categorisation. Given the brevity of most responses, the analysis focuses on pattern recognition across cases.

This combined approach allows for an integrated interpretation of notarial perceptions, linking structured survey data with explanatory insights derived from professional commentary.

4. Results

4.1. Frequency and visibility of the regime

In the first place, the data indicate the limited practical use of cohabitation relationships of mutual aid. Reported annual frequencies are consistently low across respondents. Several notaries report no annual formalisation of such relationships or do so less than once per year. Others report figures ranging from one to two cases annually, with only a small number indicating slightly higher frequencies (between four and ten per year). A single outlier reports an annual figure of 400, which significantly deviates from all other responses and may reflect a reporting or estimation error.

This overall picture is reinforced by the respondents' own qualitative assessment of frequency. 13 participants classify the regime as "very infrequent", and four as "infrequent". Only two describe it as "occasional", and none consider it "frequent", aside from the same outlier who characterises it as "very frequent". Taken together, these results provide consistent evidence that the regime occupies a marginal position in notarial practice.

Regarding temporal evolution, most participants (13 out of 20) indicate that the frequency of use has remained stable over time. Only three report an increase and one a decrease, while three consider that they do not have sufficient experience to assess changes. This suggests that the regime's marginality is not a recent development but rather a persistent feature of its practical operation.

The regime's low uptake is further reflected in its extremely limited visibility within everyday notarial practice. When asked to rate its visibility on a scale from 1 to 10 compared to marriages and stable couples, 13 participants assign the lowest possible value (1), and four assign a value of 2. Only two respondents provide a moderately higher rating (3), and the same outlier again reports a significantly higher value (7). These results indicate that, in comparative terms, cohabitation relationships of mutual aid are virtually absent from routine notarial activity when contrasted with actual family law institutions.

4.2. User profile and motivations

The responses reveal a relatively consistent profile of users of this regime. According to most participants (15 out of 20), the predominant age group consists of individuals over 65 years old. Only two respondents identify users between 40 and 65 years as the

predominant age group, and none report significant use among younger populations. Three participants choose intergenerational groups as the most predominant, although these appear to be less common.

In terms of household composition, all respondents indicate that the most typical configuration involves two cohabitants. No participants report higher numbers of cohabitants as the most common scenario, despite the legal possibility of forming larger groups. This suggests that, in practice, the regime is primarily used in dyadic arrangements rather than in multi-person configurations.

With respect to the nature of the relationship between cohabitants, responses are divided between the two legally permitted categories: collateral kinship and relationships based on friendship or companionship. Collateral kinship is identified as the most frequent bond (13 participants), followed by friendship or companionship ties (seven participants). This suggests that, in practice, the regime is used more frequently within family networks than among unrelated individuals. At the same time, however, cases involving friendship or companionship are not negligible, representing more than one third of responses and indicating meaningful use of the regime beyond strictly familial contexts.

The most common underlying circumstances associated with the use of the regime are linked to either dependency or succession planning. Nine participants identify interest in estate planning as a key factor, while eight point to situations involving dependency or the need for assistance. More marginal responses include references to general family support, cohabitation between siblings without partners, or the absence of any particular circumstance.

In terms of expressed motivations, accessing tax benefits stands out as the dominant factor, selected by 16 participants. Other motivations, such as organising cohabitation and expenses, accessing social benefits, or providing care, receive significantly fewer mentions. Only one participant identifies the formalisation of relationships without access to marriage or the stable couple as a primary motivation. One response also highlights the use of the regime in *postmortem* contexts to reduce inheritance tax burdens. Overall, these findings suggest that economic considerations, particularly fiscal advantages, play a central role in the decision to formalise such relationships.

4.3. *Legal design and incentives*

Respondents' assessments of the regime's legal design and incentives are more heterogeneous. When asked whether the regime offers sufficient legal protection or tangible benefits, responses are distributed across the scale, although they tend to cluster in the mid-to-high range. While some participants perceive the regime as offering insufficient protection, others consider its benefits relatively adequate, indicating the absence of a clear consensus.

This ambivalence is also reflected in the evaluation of specific legal effects. Although a slight majority of respondents express agreement that clients find the existing legal default effects attractive, a considerable number adopt a neutral position, while only a small minority express disagreement. Similarly, when asked whether these effects are

sufficient to meet clients' needs, most respondents adopt a neutral position, with smaller groups expressing agreement or disagreement.

Perceptions regarding the role of publicity are likewise mixed in this section. While some respondents agree that the lack of publicity and an official register limits awareness of the regime's legal effects, others disagree or remain neutral. However, this issue becomes considerably more prominent in the open-ended responses discussed below. This apparent discrepancy may be explained by the wording of the question itself, which could have led some participants to focus more specifically on the absence of a formal registry mechanism rather than on the broader issue of the regime's public visibility and dissemination.

When invited to suggest additional legal effects that could strengthen the regime, participants frequently refer to fiscal and social measures. Proposed reforms include the introduction or expansion of tax advantages, improvements in social security implications, and the recognition of rights in areas such as intestate succession, pensions, or leasehold arrangements. Some respondents also suggest the creation of an administrative registry or adjustments to the scope of the regime. Only two participants did not propose any reforms, one of whom expressly attributed this to the complexity of the institution. Overall, these responses indicate that, from a technical perspective, most notaries identify potential avenues for reinforcing the institution's legal attractiveness.

4.4. Social relevance and perceived limitations

Despite its limited use, respondents overwhelmingly consider the regime to be socially relevant. A large majority describe it as either "relevant" (14 participants) or "very relevant" (five participants) in light of current demographic changes, such as population ageing and the increase in single-person households, while only one participant considers it "slightly relevant". Similarly, most respondents (12) consider that the institution definitely responds to a real social need not met by other legal frameworks, with a further five indicating that it probably does so. Only a small minority express a negative view, with two respondents stating that it probably does not respond to such a need and one considering that other legal figures already cover it.

This perceived relevance, however, contrasts sharply with the regime's practical invisibility. When asked about the main limitations of the institution, a clear pattern emerges: lack of knowledge and limited visibility are the most frequently cited issues. Multiple respondents explicitly refer to "lack of awareness" or the fact that the institution is "little known". Other mentioned limitations, such as insufficient tax benefits, restrictive eligibility criteria, or concerns about potential misuse, appear less consistently.

This pattern is reinforced in the responses to the question concerning underutilised potential applications. A few participants indicate that other types of relationships could fall within the scope of the regime but do not make use of it, primarily due to lack of awareness. In one case, a respondent explicitly identifies insufficient publicity as the key explanatory factor.

Finally, when asked to propose measures to address these limitations, the emphasis on visibility becomes even more pronounced. Many participants advocate for greater

publicity, including institutional and public campaigns, professional dissemination, and awareness-raising initiatives. While some also suggest legal reforms, particularly in the areas of taxation and eligibility, the most recurrent proposals focus on improving the dissemination and public recognition of the regime.

5. Discussion

The empirical findings suggest that cohabitation relationships of mutual aid occupy a clearly marginal position within Catalan notarial practice. Both the reported frequency of formalisation and the overwhelmingly low visibility attributed to the regime indicate that it remains largely absent from the everyday practice of notaries. These findings provide support for the first hypothesis and, more importantly, lend empirical support to what had previously been suggested at the doctrinal level (Villagrasa Alcaide 2011, 550, Carpi Martín 2018, 181, Gomá Lanzón 2024, 16).

However, when these findings are interpreted considering the theoretical and contextual framework, the marginality of the regime becomes more analytically significant. The data do not simply show that the institution is underused, they reveal a disjunction between its normative alignment with contemporary social transformations and its limited practical uptake. As outlined in the contextual framework, Catalonia is experiencing sustained population ageing, declining fertility, and an increase in single-person households (Zueras *et al.* 2024),⁵ all of which point towards a growing need for alternative forms of care and cohabitation beyond the conjugal family (Westwood 2013, Barker 2016, 1264, Cahn *et al.* 2023, Palazzo 2024, 181). This would suggest that legal frameworks recognising non-conjugal and multi-person relationships based on care should become increasingly relevant.

The responses provided by notaries are broadly consistent with this theoretical expectation. A large majority of participants consider the regime to be socially relevant and capable of addressing needs not fully covered by other legal institutions. Moreover, several responses implicitly reflect a care-based understanding of the regime's function, particularly where cohabitation is associated with situations of dependency, mutual assistance, or the organisation of support among related cohabitants. Furthermore, even where motivations are expressed in instrumental terms, such as access to tax advantages, the underlying relational context still involves forms of interdependence that align with the conceptualisation of care developed in the theoretical framework (Wallbank *et al.* 2010, 19, Herring 2013, 232-233, Huh 2020, 22-34, Torrelles Torrea 2023, 1476-1477, Heenan 2024, 131-157, Maine 2024, 211-213).

At the same time, the data also reveal that the regime is predominantly used within existing familial structures, particularly among collateral relatives such as siblings (for an analysis of sibling cohabitation within this institution, see Maine and Nonell i Rodríguez 2026, 7-10). This finding is consistent with the idea that care continues to be organised primarily within kinship networks, even when it takes non-conjugal forms, and is further supported by the available tax consultations issued by the Directorate-General for Taxation of Catalonia concerning the application of the inheritance and gift tax to cohabitation relationships of mutual aid. The relationships considered in these

⁵ See also fn. 3.

consultations have consistently been between relatives, including a grandaunt and grandniece, an aunt and niece, two sisters, and a nephew and aunt (Tax Consultations No. V217/11, No. 239E/11, No. 19E/12, No. 331/18). However, when placed in the context of current demographic trends, this pattern raises important questions about the future trajectory of the institution. Persistently low fertility rates imply a gradual reduction in the availability of such kin relationships (Ruggles and Heggeness 2008, 255), especially siblings, which have been identified in this study as a key user group. As a result, the long-term viability of the regime may increasingly depend on its capacity to accommodate and attract non-related individuals whose bonds are based on friendship or companionship.

In this respect, the finding that seven out of 20 notaries identify friendship-based cohabitation as the most common configuration is particularly noteworthy. Although less prevalent than kin-based arrangements, this proportion is far from negligible and suggests that the regime already operates, to some extent, beyond traditional family structures. From a care ethics perspective, this is significant, as it supports the idea that meaningful care relationships are not confined to kinship or conjugality (Scherpe 2020, 30, Swennen 2020) but can also emerge from voluntarily constituted social bonds. If demographic developments continue to weaken the availability of kin-based care, such non-familial configurations may play an increasingly important role in the future.

But, despite this normative and demographic coherence, the empirical findings clearly indicate that the regime fails to translate its potential into actual use. The results suggest that this gap is predominantly associated with issues of visibility and awareness. Across multiple questions, respondents consistently identify lack of knowledge as the main limitation of the institution. References to “lack of awareness” or “ignorance” are recurrent, and proposed solutions overwhelmingly focus on increasing visibility through institutional promotion and professional dissemination.

This strongly supports the second hypothesis, but also suggests a refinement of the existing doctrinal explanations. While previous scholarship has emphasised the limited legal effects of the regime as the primary cause of its marginality (Carpi Martín 2018, 192), the present findings indicate that informational barriers may play an even more decisive role. In other words, the problem may not only be that the regime offers insufficient incentives, but also that potential users are simply unaware of its existence or unable to assess its relevance. In such a context, even a well-designed legal framework may remain functionally inoperative.

That said, the role of legal design in improving the regime’s uptake, as outlined in the third hypothesis, should not be dismissed. The responses concerning legal effects reveal a more heterogeneous picture, with no clear consensus on whether the regime provides sufficient protection or benefits. Nevertheless, the strong emphasis on tax advantages as a primary motivation for formalisation supports existing scholarship indicating that tangible incentives do matter (Van Acker 2017). Moreover, many respondents explicitly propose expanding legal effects, particularly in areas such as taxation, social security, or succession rights. These findings suggest that while visibility may be the primary barrier, the attractiveness of the regime is still conditioned by the concrete benefits it offers.

Importantly, the interaction between these two dimensions gives rise to a further consideration that has significant normative implications. Two respondents explicitly refer to the risk of abusing the institution and the need for greater administrative control. This concern becomes particularly relevant when considered alongside proposals to increase both the visibility and the benefits of the regime. If the institution were to become more widely known and more legally advantageous, it could create incentives for strategic or fraudulent use by individuals who do not actually engage in the forms of cohabitation and mutual care that justify its existence.

From the perspective of the theoretical framework, the potential for fraudulent constitution raises a tension inherent in care-based legal recognition. On the one hand, extending meaningful legal protection to diverse care relationships is normatively desirable, as it reflects the realities of interdependence in contemporary societies (Vercellone 2020, 518-522, Vercellone and Pecile 2023). On the other hand, the state has an interest in ensuring that such recognition corresponds to genuine practices of care, particularly where it is linked to access to public resources or fiscal advantages. If legal benefits are granted without effective mechanisms of verification, the regime risks being instrumentalised in ways that do not contribute to alleviating care burdens, thereby undermining both its legitimacy and its policy rationale.

This issue is not specific to cohabitation relationships of mutual aid. The more extensive legal effects attached to stable couples have long raised similar concerns regarding their fraudulent constitution, including where the relationship is formally established through a public instrument (Gago Simarro 2020, 240). In this respect, what has traditionally been discussed as “sham marriages” has also been identified in relation to stable couples, particularly where the legal consequences of the relationship may facilitate access to public-law benefits (Gago Simarro 2020). The Instruction of 31 January 2006 of the Spanish Directorate-General for Registries and Notaries, on sham marriages, although concerned with matrimonies, illustrates both the problem and the rationale underlying potential safeguards. It emphasises that formal constitution does not in itself exclude the possibility of simulation where the legal consequences of the relationship create an incentive to present a relationship as genuine when it is not. The Instruction therefore stresses the importance of hearing the parties effectively in order to ascertain their “genuine matrimonial intention” and identify potential fraudulent arrangements, emphasising that the examination should be sufficiently comprehensive and should not be reduced to a merely formal or routine procedure.

Although the legal effects of cohabitation relationships of mutual aid are considerably more limited than those attached to stable couples and marriages, the same concern may become relevant if the regime is made more attractive through an expansion of its public law rights and benefits. As other authors have proposed in relation to the formal constitution of stable couples (Chéliz Inglés 2023, 28-29), comparable verification mechanisms to those already in place for marriages could also be considered in the context of cohabitation relationships of mutual aid.

Finally, the open-ended responses on alternative relational configurations add a further dimension to the findings and connect directly with the theoretical framework. There, it was argued that cohabitation relationships of mutual aid are not structurally limited to age-related vulnerability. They are defined by permanence, mutual assistance, and

shared domestic life, which in principle makes them compatible with a broader range of arrangements, including polyamorous and multi-partner relationships that have received growing scholarly attention (see, *e.g.*, Den Otter 2018, Goldfarb 2020, or Aurel and Schadler 2025). However, the empirical data suggest that this openness is not reflected in practitioners' perceptions. Most respondents either denied the existence of other relevant groups that could fall within the scope of the institution or were unable to identify them, indicating a narrow understanding of potential users.

Only a few mentioned in general terms non-romantic, mutually supportive cohabitants, and none referred to polyamorous or non-dyadic configurations. This absence is noteworthy as it reveals a potential blind spot regarding non-dyadic groups that could benefit from recognition and protection. This finding also contrasts with the broader potential scope of the regime identified in the contextual framework and suggests a gap between its legal architecture and its current understanding in notarial practice. While the former may accommodate certain non-dyadic or multi-partner cohabitation arrangements, these possibilities do not appear to be reflected in the ways in which notaries currently conceive the institution. This may limit the extent to which potential users are informed about the possibility of formalisation and the benefits it may entail. For instance, polyamorous individuals seeking legal recognition and protection for their relationships may not be directed towards this regime and may instead be left without a specific legal framework or referred to contractual arrangements, potentially depriving them of the tax benefit available to members of a cohabitation relationship of mutual aid.

The potential for the framework to serve relationship configurations beyond those traditionally associated with it can also be considered in light of the experience of registered partnership regimes in other jurisdictions. As Palazzo (2022) and Hayward (2025) show, such institutions may acquire new functions and attract different groups of users over time. The experience of civil partnerships in England and Wales is illustrative in this respect. Following the introduction of same-sex marriage, civil partnerships continued to be used by some same-sex couples and, following their extension to different-sex couples, heterosexual couples who had previously been excluded from the regime. At the same time, their potential extension to cohabiting siblings was debated at some point (Maine and Nonell i Rodríguez 2026, 6-7). These developments illustrate how institutions may be repurposed and acquire relevance for relationship forms beyond those that initially motivated their creation. In the Catalan context, however, given the broad personal scope of cohabitation relationships of mutual aid, recognising polyamorous relationships for which the regime was not originally intended should, in principle, not require legislative reform.

Overall, the discussion highlights a central paradox that lies at the heart of this research. Cohabitation relationships of mutual aid appear, from both a demographic and a care ethics perspective, to be well suited to contemporary social realities characterised by population ageing, fragmentation of households, and diversification of relationship forms. Yet in practice, they seem to remain largely invisible and underutilised. The findings suggest that this contradiction is not the result of a fundamental mismatch between the institution and social needs, but rather of a combination of insufficient visibility and moderate legal incentives.

Addressing this gap requires a multidimensional approach. Although socio-legal scholarship has highlighted the limitations of family law as a means of steering interpersonal behaviour (George 2025, 1), disseminating information about relatively obscure and underused legal frameworks may nevertheless improve their accessibility to those whose relationships fall within their scope. In this respect, greater emphasis should first be placed on strengthening professional knowledge of the regime, particularly among notaries, who are often the first legal professionals to advise individuals seeking to formalise their personal and care arrangements. The survey findings themselves support this approach: one respondent, when asked which legal effects could be improved to make the institution more attractive, stated that they had “no clear opinion” because it was “a somewhat complicated institution”. This suggests a need for targeted training and professional outreach explaining the regime’s scope, legal effects, and potential relevance to emerging forms of non-conjugal and multi-partner cohabitation.

Professional dissemination should be complemented by public-awareness initiatives through a range of channels, including television, radio, social media, and civil-society events. These initiatives should not merely bring up the existence of the regime, but also make its legal effects and requirements understandable to non-specialist audiences. This is particularly important given the difficulties that non-lawyers may experience in identifying, understanding, and applying family-law information to their own circumstances (Crowe *et al.* 2018). Indeed, even in relation to well-established legal institutions such as marriage and conjugal cohabitation, individuals’ understanding of their legal consequences may frequently diverge from the applicable law (Plesence and Balmer 2012). This suggests that dissemination concerning less familiar regimes should go beyond general publicity and provide accessible information about their scope, requirements, and consequences. Greater public awareness could encourage individuals who are considering entering such relationships, as well as those already in them, to seek notarial advice to understand the possibility of formalisation and its legal and fiscal effects. In turn, greater engagement with users seeking to constitute the regime could provide notaries with a broader understanding of its practical applications and generate information that may inform future directions for reform.

Moreover, the legal configuration of the regime could be reinforced by expanding its tangible effects, particularly in areas such as taxation, succession, or social protection, so as to increase its practical attractiveness. Comparative experience shows that such regimes can evolve beyond their initially limited design. Belgium, for example, has recognised “legal cohabitation” (*cohabitation légale*) since 2000, originally conceived as a very minimal framework (Swennen 2016, 12, 2024, 278, Willems 2017, 382) and open to cohabiting pairs regardless of whether their relationship is romantic, familial, or based on friendship (Swennen 2023, 395). The regime was initially criticised for providing insufficient legal consequences (Swennen 2023, 395-396), but it has progressively acquired broader legal recognition and protection, particularly in the field of public law (Willems 2017, 385), while its use in practice has also increased over time (Palazzo and Kornet 2023, 284-288). This experience illustrates how a non-conjugal regime may develop broader legal effects beyond an initially limited framework as its social and legal relevance becomes more established.

Nevertheless, any reform aimed at increasing the uptake of the regime, as advanced in the third hypothesis, should not focus exclusively on expansion and promotion, but also on the design of appropriate safeguards. Measures such as clearer evidentiary requirements, a notarial hearing aimed at verifying the existence of a genuine relationship of mutual assistance, administrative registration systems, or *ex post* controls could help ensure that the institution remains aligned with its underlying purpose. In this sense, developing the regime involves not only enhancing its visibility and legal effects, but also maintaining its coherence as a framework for genuine mutual assistance.

Only by combining these elements can cohabitation relationships of mutual aid move from a formally existing but marginal institution to a socially operative mechanism. Through such an approach, the regime could respond more effectively to the growing care demands and evolving household structures associated with ongoing social and demographic change in Catalonia.

6. Conclusions

This paper set out to examine the practical use of cohabitation relationships of mutual aid in Catalonia and to assess the factors that may explain their apparent marginality. By combining a survey-based empirical approach with a theoretical framework grounded in demographic analysis, relationship diversity and care ethics, the study moves beyond purely doctrinal accounts and offers a more comprehensive understanding of the institution's role within the contemporary legal landscape.

Limitations of the study must nevertheless be acknowledged. First, the analysis is necessarily centred on formalised cohabitation relationships of mutual aid as they appear within notarial practice. However, the regime also allows for ascriptive constitution after two years of cohabitation with mutual support and shared resources (Article 240-3 CCCat). These cases are not systematically traceable through administrative or professional records and would require access to individuals' private living arrangements, which falls outside the scope of this research design. As a result, the empirical findings capture formalised uses of the institution, while potential informal or ascriptive instances remain outside the scope of observation.

A further limitation concerns the size and selection of the sample. The study is based on 20 responses obtained through snowball sampling among notaries practising in Catalonia. As a result, the findings should be interpreted as exploratory and cannot be considered statistically representative of the wider population of notaries in Catalonia.

Despite these limitations, the findings suggest that the regime is indeed underused in notarial practice. Responses consistently indicate very low levels of formalisation and limited visibility in day-to-day professional activity. At the same time, the surveyed notaries do not attribute this marginality to a lack of social relevance. Most respondents consider the regime aligned with current social needs linked to population ageing and the rise of single-person households. Thus, from both a contextual and theoretical perspective, the institution appears well-suited to emerging forms of interdependence and care.

The relationships most commonly reported by respondents involve pairs of older collateral relatives, suggesting that the regime is currently used primarily within existing

kinship networks, although friends and companions are also reported among its users. Its broad personal scope, however, may also accommodate certain non-dyadic or multi-partner cohabitation arrangements, including some polyamorous relationships, although such possibilities are not currently reflected in the ways in which notaries tend to understand or apply the regime.

Against this background, the central conclusion is that the limited uptake of the regime appears to reflect a gap between its normative potential and its practical implementation. Empirical evidence indicates that this gap is largely associated with lack of visibility and public awareness. Notaries repeatedly identify ignorance of the institution as its main limitation, while proposals for reform consistently emphasise dissemination and promotion. However, legal design also seems to play a role. The importance attributed to tax-related motivations and calls for expanded legal effects show that tangible incentives remain relevant for encouraging formalisation. Therefore, visibility and perceived legal attractiveness appear to be relevant factors influencing the uptake of the regime.

At the same time, increasing the prominence of the regime raises potential challenges. Concerns about misuse and the need for administrative control suggest that strengthening the institution without adequate safeguards could encourage strategic or fraudulent uses that do not reflect genuine practices of mutual care. Any reform must thus balance expansion with mechanisms that preserve the integrity and purpose of the regime.

Considering these findings, a multidimensional approach is required. Public authorities, and particularly the Catalan government, could play a central role by promoting awareness of the regime through targeted information campaigns, professional training initiatives, and public facing activities such as workshops, conferences, or outreach events. These measures could be complemented by reforms aimed at strengthening the legal effects of the regime and ensuring appropriate safeguards against misuse.

More broadly, this research contributes to sociolegal debates on how legal institutions might become socially operative, underscoring the central role of public visibility in this process. Its findings are also relevant beyond Catalonia, offering insights for jurisdictions where similar cohabitation regimes already exist or are being considered, particularly regarding the interplay between legal design, visibility, and social uptake. Future research could build on these findings by expanding the empirical base to include a larger and more territorially diverse sample of notaries, exploring in greater depth how the regime's potential application to non-dyadic and multi-partner relationships is understood in professional practice, identifying and incorporating the perspectives of current users of the regime, or undertaking comparative analyses with jurisdictions in which analogous legal frameworks have been developed.

All in all, cohabitation relationships of mutual aid represent a legally recognised but socially underutilised response to the changing landscape of care and cohabitation in Catalonia. Their future relevance may depend on the extent to which institutional and informational barriers can be addressed in a context of ongoing demographic and relational transformation that increasingly challenges traditional models of family-based support.

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- Act 22/2000, of 29 December, on the reception of elders (Catalonia).
- Act 11/2001 of 13 July on family reception for elders (Catalonia).
- Act 25/2010, of 29 July, of the second book of the Civil Code of Catalonia, relating to the person and the family.
- Foral Act 21/2019, of 4 April, amending and updating the Compilation of the Civil Law of Navarre (Revised Compilation of the Civil Law of Navarre).

Case law

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Other sources

*Instruction of 31 January 2006 of the Spanish Directorate-General for Registries and Notaries,
on sham marriages.*

*Tax Consultation to the Directorate-General for Taxation of Catalonia No. V217/11, of 7
September 2011.*

*Tax Consultation to the Directorate-General for Taxation of Catalonia No. 239E/11, of 27
September 2011.*

*Tax Consultation to the Directorate-General for Taxation of Catalonia No. 19E/12, of 8
February 2012.*

*Tax Consultation to the Directorate-General for Taxation of Catalonia, No. 331/18 of 10 May
2019.*

Appendix: Expert questionnaire

The survey was administered in both Catalan and Spanish. However, to ensure consistency with the language of the paper, the data protection information, questionnaire items, and summary table of results are provided in English translation in this Appendix.

Full name of the expert (will not be used in data analysis or in the presentation of results)*

Section 1: Professional context

How long have you been practising as a notary in Catalonia?*

Please select only one box.

- ☐ Less than 5 years
- ☐ 5 to 10 years
- ☐ 11 to 20 years
- ☐ More than 20 years

In what type of locality do you mainly practise (urban, semi-urban, rural)?*

Please select only one box.

- ☐ Urban (large cities)
- ☐ Semi-urban (medium-sized towns or outskirts of large cities)
- ☐ Rural (small towns)

In which municipality is your notarial office located?*

Section 2: Frequency and visibility of the regime

In your professional experience, how often per year do you formalise cohabitation relationships of mutual aid? (Please indicate an approximate annual average)*

Based on this number, you would classify the constitution of cohabitation relationships of mutual aid as:*

Please select only one box.

- ☐ Very infrequent (never or almost never)
- ☐ Infrequent (a few per year)
- ☐ Occasional (some per year)
- ☐ Frequent (many per year)
- ☐ Very frequent (a lot per year)

Has this frequency changed over time?*

Please select only one box.

- ☐ Yes, it has increased
 - ☐ Yes, it has decreased
 - ☐ No, it has remained stable
-

☐ I do not have sufficient experience to assess this

Compared to stable couples or marriages, what degree of visibility does this arrangement have in everyday notarial practice?*

Please select only one box.

Very low ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ Very high
1 2 3 4 5 6 7 8 9 10

Section 3: User profile and motivations

Predominant age group*

Please select only one box.

- ☐ Over 65 years old
- ☐ Between 40 and 65 years old
- ☐ Under 40 years old
- ☐ Intergenerational households

Most common number of cohabitants*

Please select only one box.

- ☐ 2
- ☐ 3
- ☐ 4
- ☐ More than 4

Most common relationship between cohabitants*

Please select only one box.

- ☐ Collateral kinship
- ☐ Friendship or companionship ties

Most common economic or personal circumstance*

Please select only one box.

- ☐ Dependency situation/need for assistance
- ☐ Interest in succession planning
- ☐ No particular circumstance
- ☐ Other

If you selected “Other” in the previous question, please specify what circumstance you were referring to:

What are the main motivations typically expressed by clients when formalising this arrangement? (Select all that apply)*

Select all that apply.

- ☐ Organising cohabitation and shared expenses
 - ☐ Accessing tax benefits
 - ☐ Accessing social benefits or public assistance
 - ☐ Formalising a relationship that does not fit as a stable couple or marriage
-

- ☐ Providing care for one or more elderly or vulnerable persons
- ☐ Other

If you selected "Other" in the previous question, please specify what motivation(s) you were referring to:

Section 4: Legal design and incentives

In your opinion, does the regime provide sufficient legal protection or tangible benefits to encourage its formalisation?*

Please select only one box.

Very insufficient ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ Very sufficient

1 2 3 4 5 6 7 8 9 10

What is your level of agreement with the following statements regarding the default legal effects of the regime?*

Please select only one box per row.

	Strongly disagree	Disagree	Neutral	Agree	Strongly Agree	DK/NA
Clients find the existing default legal effects particularly attractive.						
Clients state that the default legal effects are insufficient to meet all their needs.						
The lack of publicity and official registry limit potential beneficiaries' awareness of the legal effects of this institution.						

What new *ex lege* effects do you think could strengthen this institution and encourage its use?*

Section 5: General social context

Do you consider that demographic changes (e.g. population ageing, increase in single-person households, etc.) make this regime socially relevant?*

Please select only one box.

- ☐ Very relevant
- ☐ Relevant
- ☐ Slightly relevant
- ☐ Not relevant at all

In your opinion, does this institution respond to a real social need that is not covered by other legal figures?*

Please select only one box.

- ☐ Yes, definitely
- ☐ Probably yes
- ☐ Probably not
- ☐ No, other legal figures already cover this need

Are there other types of relationships that, in your view, could fall within this regime but are not usually formalised under it? If so, why do you think this is the case?*

Closing section

From your perspective, what is the main limitation of this regime?*

What measures would you propose to overcome this main limitation?*
