

NATIONAL LEGISLATION: CATALONIA

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1. SECOND BOOK OF THE CIVIL CODE OF CATALONIA, ON PERSONS AND FAMILY

TITLE III. FAMILY

Chapter I. Scope of the Institution of the Family

Art. 231-1. Heterogeneity of Families

1. Family enjoys the legal protection provided by the law, which protects indiscriminately family relationships based on marriage or stable cohabitation partnership and families formed by single parents with their descendents.
2. The children of each parent who live in the same family unit, following the formation of reconstituted families, are recognised as members of the family, with the effects laid down by law. This recognition does not alter the bonds to the other parent.

Chapter IV. Stable cohabitation partnerships

Section One. General Provisions

Art. 234-I. Stable Partners

Two persons cohabiting and sharing a common life similar to marriage are considered stable partners in any of the following cases:

- a) When cohabitation lasts longer than two consecutive years.
- b) When they have a common child during cohabitation.
- c) When the relationship is formalised in a public deed.

Art. 234-2. Personal Requirements

The following persons can not establish a stable partnership:

- a) Unemancipated minors.
- b) Relatives in the direct line, or in the collateral line up to the second degree.
- c) Married persons who are not de facto separated.
- d) Persons cohabiting as a couple with a third person.

Art. 234-3. Regulation of Partnership during Cohabitation

1. Stable partnerships are governed solely by the agreements made by the cohabitants while cohabitation lasts.
2. Regarding the disposal of the family dwelling, the provisions of Article 231-9 apply.
3. Stable partners may acquire property jointly with tontine clause. In this case, Articles 231-15 to 231-18, on acquisitions for consideration with tontine clause, apply.

Section Two. Termination of Stable Partnership

Art. 234-4. Grounds for Termination

1. The stable partnership terminates on the following grounds:
 - a) End of cohabitation with breakdown of common life.
 - b) Death or declaration of death of either partner.
 - c) Marriage of either partner.
 - d) Joint agreement between the partners formalised in public deed.
 - e) Willingness of either partner notified to the other in an irrefutable manner.
2. The termination of the partnership causes the withdrawal of all consents and powers granted by either partner in favour of the other.

Art. 234-5. Agreements in Anticipation of the End of Cohabitation

In anticipation of the end of cohabitation, partners may agree in a public deed the effects of the termination of the stable partnership. These agreements are subject to Article 231-20.

Art. 234-6. Agreements Reached After the End of Cohabitation

1. After the end of cohabitation, partners may agree the effects of the termination of the partnership.
2. In case of agreements reached after the end of cohabitation, both partners, by mutual agreement, or one partner, with the consent of the other, may submit for approval by the judicial authority a proposed separation agreement including all the effects of termination on the common children and between the partners.
3. Articles 233-4 and 233-5 respectively apply to the agreements included in a proposed separation agreement and to the agreements reached outside the separation agreement.

Section Three. Effects of the Termination of the Stable Partnership

Art. 234-7. Exercise of Child Custody and Personal Relations

Regarding the exercise of child custody and personal relations, Articles 233-8 to 233-13 apply to stable partnerships.

Art. 234-8. Award or Distribution of Use of the Family Dwelling

1. The stable partners may agree to award the use of the family dwelling with its household items to one of them, as a settlement, to the extent necessary, for the maintenance of the common children living with the beneficiary of the use or, where appropriate, for the compensatory payment to said beneficiary.

2. If there is no agreement or if this is not approved, and if the partners have common children, the judicial authority may award the use of the family dwelling, taking account of the circumstances of the case and according to the following rules:

a) Preferably, to the partner having custody of the children while custody lasts.

b) If custody of the children is shared or distributed between both partners, to the partner who most needs it.

3. The award or distribution of the use of the dwelling, if owned in whole or in part by the partner who is not the beneficiary, must be taken into account when determining maintenance obligations towards the children and, where applicable, maintenance earned by the other partner.

4. The award or distribution of the use of the dwelling is governed by the provisions of Article 233-20.6 and 7 and Articles 233-21 to 233-25.

Art. 234-9. Financial Compensation by Reason of Work

1. When either partner has worked for the household substantially more than the other or has worked for the other partner without any or sufficient remuneration, such partner is entitled to financial compensation for this involvement if, at the end of cohabitation, the other partner has accrued more assets, according to the provisions of Article 232-6.

2. The provisions of Articles 232-5 to 232-10 apply to financial compensation by reason of work.

Art. 234-10. Maintenance

1. When the stable partnership terminates during the lifetime of the partners, either partner may claim maintenance from the other, if such maintenance is needed to properly care for his living, in any of the following cases:

a) When cohabitation has diminished the ability of the applicant to earn income.

b) When the applicant has the custody of common children in circumstances where his ability to earn an income is diminished.

2. Agreements to waive maintenance are null and void to the extent that they compromise the ability of the partner entitled thereto to meet his basic needs, unless such agreements are incorporated into a proposed settlement pursuant to Article 234-6.

3. If either partner dies within one year from the termination of the partnership, the other partner may, within three months following the death, claim from the heirs his right to maintenance. The same rule applies if the proceedings to claim maintenance end by reason of the death of the obligor partner.

Art. 234-11. Payment of Maintenance

1. Maintenance may be awarded in the form of a lump sum or as an allowance.
2. Failing agreement, the judicial authority decides on the form of payment in accordance with the provisions of Article 233-17.
3. Maintenance in the form of an allowance is temporary, with a maximum of three annual instalments, unless maintenance is based on the reduced ability of the creditor to earn an income resulting from the custody of common children. In this case, maintenance may be awarded for the duration of the custody.
4. Maintenance in the form of an allowance may be modified under the terms of Article 233-18.

Art. 234-12. Termination of Maintenance Awarded in the Form of an Allowance

Maintenance in the form of an allowance terminates in accordance with the provisions of Article 233-19.

Art. 234-13. Exercise of Rights

The rights to financial compensation by reason of work and to maintenance must be claimed within one year from the termination of the stable partnership and, where applicable, in the proceedings determining the other effects of the termination of the stable partnership.

Art. 234-14. Effects of Termination by Death

Upon termination of the stable partnership by the death of either partner, the surviving partner is entitled, in addition to the compensation by reason of work which may be applicable pursuant to Article 232-5.5, to the family widowhood rights provided for in Articles 231-30 and 231-31.