

## TREE CONFLICTS

**If my neighbour's tree branches hang over my property, can I trim them ?**

No. By law, only your neighbour detains the right to trim branches that extend past your property line.

You can only get him to cut them under article 673 of the French civil code (download).

**CAUTION !** You may not go onto the neighbour's property or destroy the tree. If you do harm the tree in any way, you could be found liable.

However, if it is that of roots or twigs advancing on your property, you can freely cut.

In case your neighbour does not perform his pruning obligations, it is possible to bring the dispute before the county court ("*tribunal d'instance*"). The court may order the pruning of the tree, even if your neighbour has fulfilled the legal distances implantation.

No difference is made between mature trees and bushes

### **What are the distance rules applicable to plantations ?**

It is necessary to know that French law grants owners the right to plant trees along a contiguous property under certain conditions of distance and height :

- Minimum distance of 2 meters from the boundary of the 2 properties for trees having a height higher than 2 meters
- Minimum distance of at least 0.50 meters from the limits of properties for trees having a height less than 2 meters.



- The distance is measured from the middle of the trunk of the tree, and the height from the ground to the highest point of the tree.
- These legal distances apply only under exceptions local customs and rules might have been implemented. For local customs and specific regulations, it is necessary to check with the city hall.

### **What if the property boundaries are unknown or unclear ?**

If you do not know the exact boundaries between your property and your neighbours', it may be useful to make a demarcation of land named "*action en bornage*" :

- The county court appoints an expert who will determine the exact limits between the two fields. Once the limits are cleared, the court writes a judgment, which is then given to the two parties.
- The judgment concerning the delimitation of the two properties must be registered with a notary and published to the Land Registry ("*Centre des Impôts Foncier*" formerly named "*Conservation des Hypothèques*").
- The deed fees and costs for the registration of legal boundaries are shared between the two parties.

**IMPORTANT !** It is only when the property boundaries proved impossible to achieve by lack of mutual agreement between the owners that legal actions are admissible. See french Civil Code article 646 (Download). One party asks an expert ("*géomètre-expert*") to draw a writ of demarcation ("*procès-verbal de bornage*") against which the other party has a right to oppose. If both parties find an accord, the writ will be registered, published, and paid for equally by the owners.

### **If my neighbour owns a fruit tree, and the branches hang over my property, can I eat the fruit ?**

No. The fruit of the tree belongs to the owner of the tree, so do not pick any of the fruit.



As for fallen fruits, however, French law permits you to collect them.

**If my neighbour's leaves keep blowing into my property, do I have a good nuisance claim ?**

No. Leaves are considered a natural product. Even if the leaves cause damage, like clogging your gutters or pipes, you have no legal claims against the owner of the tree.

Additionally, you are responsible for cleaning up any natural products that fall into your property.

If, however, the tree branches that are shedding the leaves are hanging over your yard, or the tree trunk is encroaching on your property, then you have a right to ask your neighbour trim those branches up to the property line.

You could also consider building a fence. Fencing that is built on your side of the property line may help those leaves from blowing over into your property.

**Most of a large tree hangs over my property, but the trunk is in the neighbour's yard. Who owns the tree ?**

The neighbour owns the tree. So long as the tree trunk is wholly in the neighbour's yard, it belongs to the neighbour.

When the tree trunk is divided by the property lines of two or more people, it is referred to as a "boundary tree".

In the case of a "boundary tree", all of the property owners own the tree and share responsibility for it. Tree removal without the consent of all the property owners is unlawful.

**My neighbour dug up his yard, and in the process killed a tree that's just on my side of the property line. Am I entitled to compensation for the tree?**

Yes. In this situation, the tree owner has the right to sue for damages .



Anyone who engages in tree removal, tree cutting, or injury to the tree without the owner's permission is liable for compensating the tree owner.

If you want to avoid court proceedings, however, simply talking to the neighbour about the damaged tree is usually effective.

**A storm knocked down my neighbour's tree limb onto my property, damaging my house, car, and yard furniture. Is he responsible for the damages?**

Yes. And French law compels tree owners to cover this risk with their property's insurance policy.

Therefore, owners must be very careful in taking reasonable care to maintain the tree branches, as a failure to act so may lead the insurer to refuse pay compensation (whatever the damages would affect a neighbour or your own property).

In this case, the court will probably apply a reasonable care standard and assert whether or not the limbs would seem to a reasonable person to be threatening to fall,

If, after applying this reasonable care standard, however, the court finds that a reasonable person would have or should have known that the tree branch posed a danger of falling, or that the owner never did reasonable inspections to maintain the tree branch, then the owner could be found liable of negligence, and therefore personally responsible for any damaged property.

**My neighbour's tree looks like it's going to fall on my house. What should I do?**

Landowners are responsible for maintaining the trees on their property.

Legally, they have two duties: make reasonable inspections and take care to ensure the tree is safe.



Therefore, if a reasonable inspection shows that the tree could be dangerous, your neighbour is responsible for the tree removal. If your neighbour does not remove the dangerous tree, and the tree does in fact cause damage, your neighbour can be held liable.

If you have spoken to your neighbour about the tree issue, and he has not done anything about it you do have laws that protect you. The tree may constitute a nuisance, by interfering with your use and enjoyment of your own property.

You could file a nuisance claim, and if the court finds that the tree is a nuisance, the court may order the tree to be removed.

**TO BE NOTED :** Hopefully, you will probably not have to go that far. Most cities have ordinances prohibiting property owners from keeping dangerous conditions on their property. If you call your municipality, they may remove the tree themselves or order your neighbour to do it.

