

## THE POLISH ALLOTMENT HOLDERS AND THE LAW GOVERNING THEM

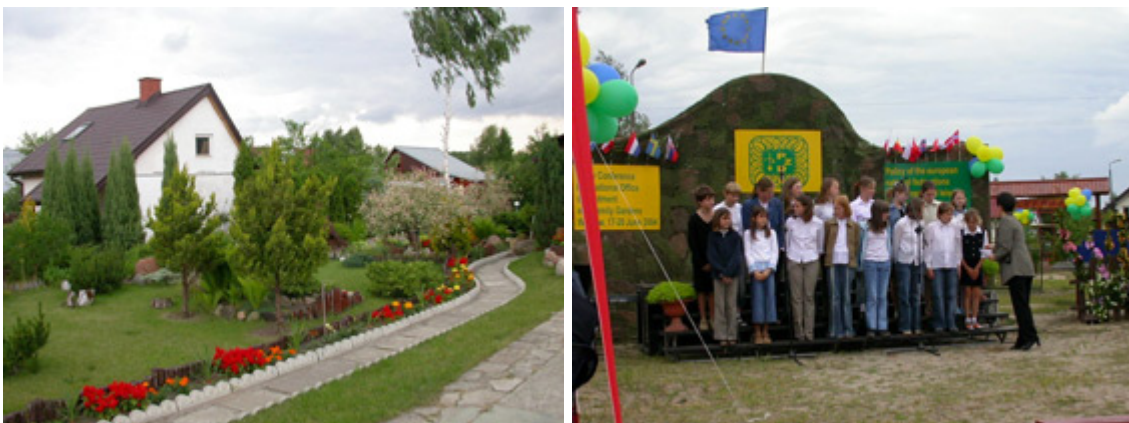
On 8 July 2005 the Polish parliament passed the law on family allotments. The text of the law was drafted by the Polish association of allotment holders and discussed with the Polish allotment holders. The clauses of the law were massively supported by them, which is attested by a supporter list containing almost a quarter of a million signatures. In addition, thousands of opinions, decisions and letters were received concerning this matter from allotment associations, calling for the law to be passed.

The law, which is now in force is already being implemented by the Polish federation of allotment holders. It is the latest parliamentary enactment governing the existence and development of allotments in Poland. First came the decree of 1964, then the law of 1949, which was replaced by the now repealed law of 1981.

The law maintains the existing status of allotments as serving the common good. Land intended for use as allotments is classified as public property satisfying the collective needs of the local community. For that reason allotments are established on plots of land, which belong to the State or the municipality. Those plots of land are then made available or let in perpetuity free of charge to the Polish association of allotment holders. They are equipped by the Polish association of allotment holders with the requisite infrastructure to enable the land to function as an allotment garden site.

Only then is it possible for the federation to allot the plots to the individual persons. The law defines the persons that can be an allotment holder. As a matter of principle this definition is available to natural persons with allotment plots. They then receive from the Polish federation of allotment holders the right to use the plots of land belonging to the allotment garden site; at the same time they become members of the federation. Pursuant to the law they enjoy many rights enabling them to make reasonable use of the land. The most important of those rights are:

- Guarantees in the event of dissolution of allotments, providing inter alia for approval by the federation of such dissolution, allocation of replacement grounds with a restored infrastructure and full compensation for allotment holders;
- Exemption from taxes and administrative charges;
- Grant of a specific (user) right capable of being entered in the Land Register;
- Allocation of ownership of all cultivations and installations on the land.



In addition to the matters concerning the situation of allotment holders in their individual capacity, the law also clarifies the status of the Polish federation of allotment holders, as well as its tasks and functions. Primarily, the law defines the Polish federation of

allotment holders as a transregional, autonomous, corporate self-administering organisation. The main objective of this organisation is to represent the rights and interests of its members arising from the use of allotment plots. The tasks in that connection concern, inter alia, measures to develop the allotment system, establishment and management of allotments, protection of nature and the environment, as well as activities in regard to social matters, education, recreation, leisure-time provision and other measures in favour of the members of the Polish federation of allotment holders, their families and the local communities.

In order that the abovementioned tasks may be performed in an orderly and reasonable manner, the Polish federation of allotment holders has been granted status as a legal person. Like any legal person the federation also acts in accordance with the law and the articles of association based on it, which are registered with the competent court. The law also defines the organisational structure of the Polish federation of allotment holders, along with its most important bodies and organisational units. In this area the allotment plays the most significant role. As the basic organisational unit of the Polish federation of allotment holders it enjoys the status of the legal person of the federation for the purposes as laid down in the articles of association.

In the final analysis, allotments are autonomous in the conduct of day-to-day business matters. Bodies are established to which specifically defined duties in regard to day-to-day business are assigned. The lead role in that regard is played by the general assembly of the members, which makes decisions on the most important matters relating to the allotment, e.g. agreement on fees. The general assembly also appoints the other bodies involved in the governance of the allotments; their term of office is four years. As the highest ranking body the general assembly supervises their conduct. Day-to-day supervision on behalf of the general assembly is carried out by a review committee, which concentrates primarily on the finances of the allotment. The review committee also supervises the activities of the board running the allotments; the latter's role is to represent the allotments and transact day-to-day business. It should be emphasized that this body enjoys special rights over the membership. It is entitled to admit new members, to impose penalties on them under the articles of association and even to withdraw membership from them in the event of a serious infringement of the rules applicable to the association. Naturally decisions of the board in this area are not final. For they are subject to close scrutiny by the arbitration committee, a further body, within the allotment site. The arbitration committee makes the final decision when an appeal is introduced by members against board decisions excluding them from membership.

In this way allotments are equipped with bodies exercising decision-making, supervisory, administrative and arbitral functions. Thanks to those bodies the allotments can operate efficiently as autonomous administrative units. An important point in that connection is that only persons who have an allotment within the relevant garden area may be members of those bodies. This administrative system governing allotments allows allotment holders to exercise direct influence on matters concerning the allotment site.



Apart from the abovementioned subjects, the law also deals with problems, which are of considerable importance to the future of Polish allotments: those include:

- Dissolution of allotment areas – Since most allotments are to be found in the cities on attractive areas of land, the question of dissolution is uncommonly difficult. Accordingly, the law lays down a specific procedure. In the final analysis board approval for dissolution of an allotment is necessary, as well as allocation of replacement land and fully restored infrastructure. In addition, the organisation, in whose interests the allotment area is dissolved, is obliged to pay the allotment holders and the association compensation for their assets. Thus the association members may be certain that, in running their allotments, they will not incur losses in the event of dissolution.
- Ownership claims in regard to allotment areas – The problem arises out of unregulated ownership in regard to parcels of land. This was caused by historical turbulences and system alterations in Poland. That is why more and more frequently claims are made in relation to land occupied by allotments. That gives rise to cumbersome and costly court proceedings, which may not always result in a positive outcome for the allotment holders. Therefore, the law provides a solution by excluding the Polish federation of allotment holders and its members from liability in such cases. Because it considers that the consequences should be borne by the authorities, which are responsible for this situation and not by persons acting in good faith and relying on the applicable law.
- Financing of new and existing allotment areas – Owing to the difficult situation most allotments lack the resources for the requisite outlay. For that reason the law imposes on the Polish federation of allotment holders the duty to establish a special fund for the laying out and management of family allotments, including the financing of the building, modernisation and renovation of buildings, structures and a common infrastructure for allotment holders and for the restoration of dissolved allotments. In addition the law provides for the possibility of access to subsidies for realising investments in allotment sites, as well as the securing of funds from other sources.

As may be seen, the law makes full provision for the most important matters in regard to allotments. Its advantageous effects today benefit to around 960.000 Polish allotment holders who run more than 5,200 allotment areas covering 44.000 ha. The law has been well received by the allotment holders and allotments for it protects their rights and interests. That is particularly important today since the land in the allotment areas is much sought after in many political and economic circles. The law counters efforts to dissolve allotments exclusively on commercial grounds. Although the law has hardly been in force a year it is more and more often subject to unsubstantiated attacks. Therefore one of the association's most important tasks today is to protect the law from attempts to render it inoperative.