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Analysis of selected legal methods of supporting the development and protection of agricultural land in Poland

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forms of farmland protection in Poland

- subsidies for agricultural production,
- many interesting legal and technical tools

The protection mechanisms designed to:

- limit changing land destination into non-agricultural purposes,
- support farming



History of farmland protection in Poland

- **October 26, 1971, the Law on farm and forest land protection and land reclamation**
- **March 26, 1982, the Law on farm and forest land protection and land reclamation**
- **February 3, 1995, the Law on farm and forest land protection (nowday)**

Each new legislation replaced the previous one although they all contained similar rules designed to limit the conversion of farm and forest land destination into purposes other than agriculture and forestry.

The obligation to pay the land conversion fee and related annual charges was introduced since 1972



Current land protection rules

Today, whoever wants to set aside some land for purposes other than farming or forest use is subject to the Law adopted in 1995 two basic and important concepts:



- **destination of land for purposes other than farming or forestry**—construed as planning a land use other than farming or forest use in an agricultural plot and land use other than forestry in land under forest. This definition was adopted for the planning purposes because land use is being defined in the area development plans (MPZP).
- **exclusion of land from production**—construed as commencing land use other than farming or forestry.



exclusion of land from production

**Exclusion always takes place at the moment of commencing
a land use other than farming or forestry.**

This may be:

- **legal after obtaining a decision permitting such exclusion,**
- **Illegal – without permission**

**Anyone who commits illegal exclusion will have to pay the
regular fees and charges as well as the law-prescribed fines.**

The exclusion from production of farmland

- soils of **mineral and organic** origin which represent classes I, II, III, IIIa, IIIb
- soils of **organic** representing classes IV, IVa, IVb, V and VI
- **areas which are:**
 - under fish ponds and other water reservoirs which serve solely agriculture-related purposes;
 - under residential buildings being part of farmsteads and under other buildings and installations which serve solely agricultural production or farm-food processing;
 - under buildings and installations directly used in agricultural production of special type in conformity with the respective personal income tax and corporate income tax law;
 - under village parks, forest patches and field woods, in this, also areas under wind-stopping strips and anti-erosion protective installations;
 - under family allotment gardens and botanical gardens;
 - under installations which provide: irrigation and drainage, anti-flood, fire-protection, rural water supply, sewage, municipal water treatment and garbage disposal systems which serve local agriculture and population;
 - areas reclaimed for agriculture;
 - peatlands and ponds;
 - under access roads leading to arable land,



Decision – permission for exclusion – when?

The exclusion from production of farmland and forest **may be done after issuing a decision** which grants permission for such exclusion.

The decision is issued before:

- granting a building permit, or
- a construction or building works is registered.



The obtained decision is attached to the building permit application or to the registration of construction or building works.

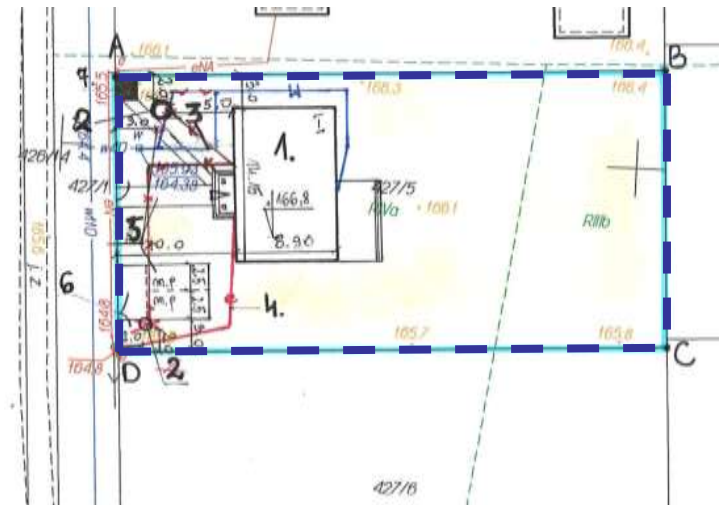
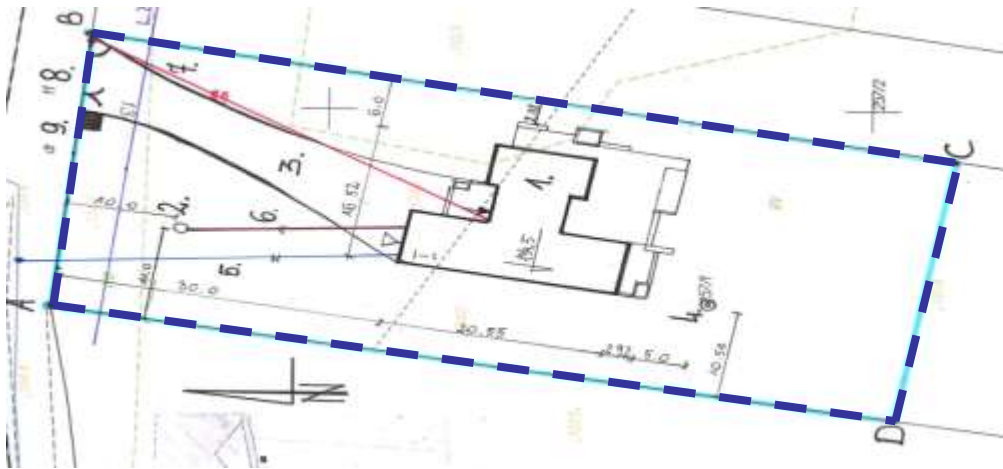
The obligation to pay land conversion fees motivates land owners to seek reduction of their soil classes so as to avoid financial cost.

Bp plot and its size

A commenced investment process creates:

Bp plot—undeveloped urbanised area or area under construction.

The size of a **Bp** plot under the new legislation introduced on July 31, 2021, should match with the plot or area development plan produced by the designer and it should match with the construction project described in the Building Act.



Bp plot

A commenced investment process creates:

Bp plot—undeveloped urbanised area or area under construction.

The Bp plot defined in this way should be disclosed in the real estate cadastre.

The disclosure of a Bp plot in the cadastre creates **new and much higher tax obligations on the side of the land owners.**

To have a Bp plot disclosed in the cadastre, a **geodetic documentation must be produced.**

Until July 31, 2020, such documentation was made by a surveyor

Bp plots in cadastral and tax system

- ❑ Unfortunately, the law adopted on July 31, 2020, **no longer required registration of the surveyor's staking out** with the National Geodetic and Cartographic Resource as a surveying work.
- ❑ This is why **surveyors do not produce the data for the Bp** plots as a result of their stake-out job.
- ❑ Thus, the sole source of information saying that a Bp plot was created is the documentation the land owner is supposed to submit within 30 days since the start of the investment process. However, land owners **rarely take care** to fulfil this obligation.

As a result, the property tax (not the rural tax) is never collected **until the end of the investment process** when the surveyor comes to make his as-built survey of the **finished building** and produces the required documentation for the plot:

- **B** residential
- **Ba** industrial area, or
- **Bi** other developed area,



depending on the given investment project type and on the **building permit** or on the registered construction.

Direction of land use – agricultural and forest land

TABL. 6. STAN GEODEZYJNY I KIERUNKI WYKORZYSTANIA POWIERZCHNI KRAJU

Stan na dzień 1 stycznia

GEODESIC STATUS AND DIRECTIONS OF LAND USE

As of 1 January

LATA YEARS	Ogółem Total	W tym Of which						
		użytki rolne agricul- tural land	grunty leśne oraz zadrze- wione i zakrze- wione forest land as well as woody and bushy land	grunty pod wodami lands under waters	użytki kopalne minerals	tereny areas		nieużytki wasteland
						komuni- kacyjne ^a transport ^a	osiedlowe ^b residential ^b	
		W TYSIĄCACH ha		<u>IN THOUSANDS ha</u>				
2010	31268,0	18931,0	9531,0	639,8	29,1	891,2	630,0	481,7
2015	31268,0	18682,8	9674,3	644,8	28,5	917,2	706,4	472,3
2018	31269,6	18776,5	9534,2	652,0	29,1	938,7	747,5	465,0
2019	31270,5	18759,8	9533,6	658,2	29,8	940,8	764,6	461,5
2020	31270,5	18741,5	9534,3	658,0	30,1	946,2	779,0	459,8
2021	31270,6	18719,2	9535,9	660,6	30,5	952,5	794,1	458,6

TABL. 6. STAN GEODEZYJNY I KIERUNKI WYKORZYSTANIA POWIERZCHNI KRAJU

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						komuni- kacyjne ^a transport ^a	osiedlowe ^b residential ^b	

W ODSETKACH IN PERCENT

2010	100,0	60,5	30,5	2,0	0,1	2,9	2,0	1,5
2015	100,0	59,8	30,9	2,1	0,1	2,9	2,3	1,5
2018	100,0	60,0	30,5	2,1	0,1	3,0	2,4	1,5
2019	100,0	60,0	30,5	2,1	0,1	3,0	2,4	1,5
2020	100,0	59,9	30,5	2,1	0,1	3,0	2,5	1,5
2021	100,0	59,9	30,5	2,1	0,1	3,0	2,5	1,5

$59,9 + 30,5 + 1,5 = 91,9\%$
agricultural and forest land

Agricultural land area by land type (in thousands ha)

TABLE 8. POWIERZCHNIA UŻYTKÓW ROLNYCH WEDŁUG RODZAJÓW UŻYTKÓW
Stan w czerwcu
AGRICULTURAL LAND AREA BY LAND TYPE
As of June

WYSZCZEGÓLNIENIE SPECIFICATION	2010 ^a	2015	2018	2019	2020 ^{ab}
	OGÓŁEM		TOTAL		
	W TYSIĄCACH ha		IN THOUSANDS ha		
OGÓŁEM TOTAL	14860	14545	14669	14690	14682
W dobrej kulturze rolnej In good agricultural condition	14448	14398	14540	14550	14483
Pod zasiewami Sown area	10366	10753	10829	10898	10742
Grunty ugorowane Fallow land	432	134	180	157	179
Uprawy trwałe Permanent crops	390	391	352	340	350
Ogrody przydomowe Kitchen gardens	31	27	28	28	22
Łąki trwałe Permanent meadows	2578	2658	2754	2764	2775
Pastwiska trwałe Permanent pastures	651	435	395	364	414
Pozostałe Others	412	147	130	139	198
	W ODSETKACH IN PERCENT				
OGÓŁEM TOTAL	100,0	100,0	100,0	100,0	100,0
W dobrej kulturze rolnej In good agricultural condition	97,2	99,0	99,1	99,1	98,6
Pod zasiewami Sown area	69,8	73,9	73,8	74,2	73,2
Grunty ugorowane Fallow land	2,9	0,9	1,2	1,1	1,2
Uprawy trwałe Permanent crops	2,6	2,7	2,4	2,3	2,4
Ogrody przydomowe Kitchen gardens	0,2	0,2	0,2	0,2	0,1
Łąki trwałe Permanent meadows	17,4	18,3	18,8	18,8	18,9
Pastwiska trwałe Permanent pastures	4,4	3,0	2,7	2,5	2,8
Pozostałe Others	2,8	1,0	0,9	0,9	1,3

Agricultural land excluded for non—agricultural purposes (ha)

TABL. 14. **GRUNTY ROLNE WYLĄCZONE NA CELE NIEROLNICZE**
AGRICULTURAL LAND EXCLUDED FOR NON-AGRICULTURAL PURPOSES^a

keeps increasing

WYSZCZEGÓLNIENIE SPECIFICATION	2010	2015	2018	2019	2020
	w ha		in ha		
OGÓŁEM TOTAL	2935	3113	4013	4349	4819
WEDŁUG RODZAJÓW GRUNTÓW BY TYPE OF LAND					
Użytki rolne Agricultural land	1831	2308	3055	3231	3482
klasy bonitacyjne: quality classes:					
I—III	922	1401	1966	2046	2079
IV	798	788	965	1071	1274
V i VI oraz RZ i PsZ	111	119	124	114	129
Inne grunty rolne Other arable land	1104	805	958	1118	1337

Agricultural land excluded for non-agricultural purposes directions of designation (ha)

TABL. 14. **GRUNTY ROLNE WYŁĄCZONE NA CELE NIEROLNICZE^a**
AGRICULTURAL LAND EXCLUDED FOR NON-AGRICULTURAL PURPOSES^a

WYSZCZEGÓLNIENIE SPECIFICATION	2010	2015	2018	2019	2020
	w ha in ha				
O G Ó Ł E M TOTAL	2935	3113	4013	4349	4819

WEDŁUG KIERUNKÓW PRZEZNACZENIA^b BY DIRECTIONS OF DESIGNATION^b

przeznaczone: designated for:					
Na tereny osiedlowe Residential areas	1596	1661	2489	2535	2710
Na tereny przemysłowe Industrial areas	240	546	672	768	902
Pod drogi i szlaki komunikacyjne Roads and communication trails	96	75	111	138	120
Pod użytki kopalne Mining grounds	494	300	163	256	212
Pod zbiorniki wodne Water reservoirs	12	9	6	1	2
Na inne cele Other purposes	497	522	572	651	873

Most of them are residential
and industrial area

Summary

- ❖ The instruments of farm and forest land protection **can be considered as sufficient**.
- ❖ procedure of land conversion and its exclusion from agricultural production and, as a result, a change of the actual land use, is **accompanied by a number of conditions and extra fees**.
- ❖ in practical life **land with the best soils is seldom converted to non-agricultural purposes** and development plans are usually located on lands with poorer soils which are less useful in agriculture.
- ❖ A problem is: registration of the way in which land is actually used during a **transition phase between** the time when it is still used for agricultural purposes and the end of conversion resulting from the finished investment project.

Regulations governing this problem require further refinement and more precision.