Bill on
the Financing of Political Parties

views of Alternattiva Demokratika -The Green Party

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Introduction

Alternattiva Demokratika - The Green Party, since being founded in 1989, twenty five years ago, has always emphasised that the financing of political parties must be transparent and accountable. In fact, in the Declaration of Political Principles,¹ approved by Alternattiva Demokratika just after it was founded it was declared that:

“... we shall strive in order that a law is enacted as a result of which political parties declare the source of their finances. In addition we shall insist that Government grants financial assistance to political parties which assistance will be calculated on the basis of votes obtained in national and local elections.”

In addition to this declaration, commitment to transparency and accountability was also demonstrated by Alternattiva Demokratika through its continuous exposure of cases where business and politics were to close for comfort. The investments made by those in business in some politicians and political parties has been the source of a contamination of politics. This contamination is deep-rooted and is the main reason which justifies misdirected policies seeking the interests of those who finance politics rather than the interests of the community.

This may explain why Malta is one of the last remaining countries in Europe which is still considering the regulation of the financing of politicians and political parties.

2013 Electoral Manifesto

In its 2013 Electoral Manifesto Alternattiva Demokratika was more focused on the need to finance political parties. Alternattiva Demokratika’s Electoral Manifesto in Chapter 6 entitled “Constitutional and Democratic reforms” presented the following five proposals:

1) Strict rules on donations, which would require the disclosure of donations higher than €5,000 and the prohibition of donations which exceed €40,000,

2) State financing of political parties through a grant of €3 per annum for every vote which political parties obtain in a General Election or a European Parliament Election,

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¹ Alternattiva Demokratika: Principji. 1989. The original in Maltese stated as follows: “... aħna naħdmu biex issir liġi fejn il-partiti jkollhom jiddikjaraw il-flus li jiġbru. Barra minhekk, naħdmu biex il-gvern jagħti għajnuna finanzjarja lill-partiti li tkun iibbażata fuq l-ammont ta’ voti miksuba fl-elezzjonijiet nazzjonali u anke lokali.”
3) Every political party is to have its accounts audited under the supervision of a Commission appointed by the Auditor General,

4) the permissible expenditure of a candidate in a general elections should be increased from €1,400 to €4,000 which expenditure should include that made by the candidate’s political party divided pro-rata amongst the candidates, that such expenditure should include that made by third parties on behalf of candidates, and that the expenditure made by candidates should be tax-exempt provided that it is within the limits established by law,

5) that there should be established a Commission to determine the value of state property rented out to political parties and that such Commission should revise the rental values to market levels on a regular basis.

White Paper

In view of the above Alternattiva Demokratika took an active part in the national debate on the subject. When in January 2014 Government published a White Paper with its proposals Alternattiva Demokratika presented its reactions. This reaction in the form of a written document was presented to the media on various occasions. It was also discussed in a meeting held with the Minister for Justice Hon Owen Bonnici.

In its White Paper of January 2014 Government made its position known for the first time. It was clear that this had a striking resemblance with the proposal submitted by the Hon Franco Debono during the Eleventh Parliament in the Private Member’s Bill which he had then presented.

In its reply to the White Paper, Alternattiva Demokratika emphasised the following fourteen points:

1. there was agreement in principle on Government’s proposals, however the details had to be sent back to the drawing board,

2. there was agreement that the first step should be a sense of order, transparency and accountability in the financing of political parties and that subsequently the issue of state financing of political parties should be considered,

3. there was no agreement on the identification of the Electoral Commission as the regulatory authority, as the Electoral Commission is exclusively made up of persons enjoying the trust of the Parliamentary Parties as provided for in the Constitution,

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4. AD proposed that in lieu of the Electoral Commission the regulatory authority should be the Commissioner for Standards in Public Life together with Parliament’s Standing Committee on Standards in Public Life and this with reference to the proposal of a Standing Committee of Parliament which was then in the final stages of its deliberations. These have now been concluded and a final report\(^5\) has already been submitted for the consideration of Members of Parliament. The fact that it is proposed by the Select Committee of the House of Representatives that the Commissioner for Standards in Public Life is to be appointed with the consent of not less than two thirds of House ensures a wide consensus relative to the selected person. This will undoubtedly lead to the process being much more independent from political parties.

5. AD agrees with the White Paper proposal that political parties should be registered. However it emphasised that there was no need for the law to enter into unnecessary details in view of the fact that each political party has its own peculiar methods and traditions. It should thus be emphasised that for registration purposes it should be ascertained that political parties are democratic in both form and spirit. However it should be up to the political parties themselves as to how this was to be achieved.

6. AD agrees that the accounts of political parties are to be audited. However when this is considered by the legislator it should be borne in mind that not all political parties have the same financial means. The legislator should distinguish between political parties whose turnover is measured in millions of euros and AD whose turnover does not exceed €15,000 per annum.

7. With this in mind AD proposed that in those cases where a political party’s turnover does not exceed €100,000 per annum the audit fees should be an expenditure shouldered by the regulator,

8. Alternattiva Demokratika did not agree with the classification of donations into four groups as the White Paper suggested; in particular AD disagreed with the concept of anonymous donations (up to €500 in one year) as well as with the proposed permissible limits for other donations,

9. AD proposed, in conformity with its 2013 general election Electoral Manifesto proposals that a receipt was to be issued for every donation and that:

   i) donations up to a total of €4,000 per annum from one person are to be retained as confidential and no information on such donations is to be made available unless such information is required for the purpose of the audit,

   ii) donations between €4,000 and €40,000 in one year from the same person should be registered and notified to the regulator, who should make such information public,

   iii) donations exceeding €40,000 per annum from the same person should not be permitted and should be illegal,
iv) when donations are made in kind these are to be converted into monetary terms in order that their conformity to the rules be established.

10. AD drew attention that the White Paper does not make a reference to loans which a political party may have entered into without having the intention to repay the monies loaned. This was being stated in view of the “Cash for Honours scandal” in the United Kingdom,

11. Nor was the White Paper clear on the role of the accumulated investments of the political parties as well as the need to ensure that these are kept separate and distinct from the political parties themselves. It is to be ensured that the political parties do not make illicit use of the accumulated resources in their companies. It is to be furthermore ensured that no excuse labelled as “sensitive commercial information” is used to hide sensitive information.

12. Nor does the White Paper address the issue of public property which has accumulated in the hands of political parties. The required administrative steps should be identified to ascertain that rent paid by the parties for the use of such properties is periodically revised such that it will always be a commercial one.

13. AD disagreed with the new limits proposed for expenditure by candidates in electoral campaigns such:

i) in lieu of the White Paper proposed general election permissible spending limit of €25,000 Alternattiva Demokratika proposed that the current ceiling of €1,400 be increased to €4,000,

ii) in lieu of the White Paper proposed European Parliament election permissible spending limit of €50,000, Alternattiva Demokratika proposed that the current ceiling of slightly over €18,000 be increased to €20,000,

iii) in lieu of the White Paper proposed Local Council election permissible spending limit of €5,000, Alternattiva Demokratika proposed that the current ceiling of €1,400 be increased to between €2,000 and €4,000 depending on the size of the Local Council being contested,

14. Alternattiva Demokratika also emphasised that the permissible limits for spending by the political parties during an electoral campaign are established.

Two fundamental issues

Now that the Bill has been published it is clear that there are two fundamental issues in respect of which Alternattiva Demokratika cannot agree. Reference is being made to the regulatory authority – the Electoral Commission – as well as the fact that the Bill follows a “one size fits all” criterion and does not consider that the PN and PL are not the only political parties in Malta. It is clear that the Bill is designed on the basis that what is
administratively suitable for the PN and the PL has been deemed to be suitable for all: a one
size fits all attitude.

Through the Bill Government is still insisting that the Electoral Commission should be the
regulatory authority. As has already been explained earlier in this document the manner in
which the Electoral Commission is composed, half appointed by Government with the other
half appointed by the Opposition (and a Government appointed Chairman) places the two
parliamentary parties in such a position that they directly control the whole proposed
process. All other political parties, Alternattiva Demokratika included, are excluded from this
process. In this context the proposed amendment to article 2 of the General Elections Act,
as a result of which the definition of the term “political party” is being replaced with the
consequence that all registered political parties shall have the same rights of access to
information held by the Electoral Commission, although very important does not reduce the
hold of the PN and the PL on the Electoral Commission.

As already emphasised when commenting on the White Paper proposals, Alternattiva
Demokratika, refers to the proposal approved by the Parliamentary Select Committee
chaired by the Speaker. The Select Committee has now finalised its\(^6\) report includes another
Bill entitled: \textit{Standards in Public Life Act 2014}. This Bill provides for the appointment of a
Commissioner and a Permanent Parliamentary Committee on Standards in Public Life.
According to clause 3 on the Bill on Standards, the proposed law will apply to Members of
Parliament (including Ministers, Parliamentary Secretaries and Parliamentary Assistants) as
well as persons employed in positions of trust or as advisors to Government or a body
corporate set up by law. The said clause 3 permits the extension of the applicability of this
law through regulations which require the affirmative approval of the House of
Representatives.

The Bill deals with the behaviour of politicians elected to Parliament as well as advisors and
persons appointed to positions of trust. The regulatory authority is exercised by a
Commissioner for Standards in Public Life who as provided in Clause 4 of the same Bill and
requires the consent of not less than two thirds of members of the House of
Representatives in order to be appointed.

It is proposed that the Commissioner so appointed is supervised by a Permanent Committee
led by the Speaker together with 4 Members of Parliament, two from the Government side
and two from the Opposition.

Alternattiva Demokratika is of the opinion that the support of two thirds of parliament is a
guarantee of impartiality and seriousness. In addition it is a guarantee of transparency as the
meetings of the Parliamentary Select Committee are held in public. The procedures taking place are
therefore more easily subject to the scrutiny of the Press.

\(^6\) referred to note 5.
For these reasons Alternattiva Demokratika is of the opinion that the regulatory authority on the financing of politics should be within the structures which Parliament is slowly and patiently constructing relative to Standards in Public Life with the involvement of the Commissioner for Standards in Public Life. This would be much better than the structure proposed in the Bill on the financing of political parties.

It is understood that the identification of the Electoral Commission as the regulatory authority on the financing of political parties has been lifted from the experience of the United Kingdom. It should however be borne in mind that the UK experience has no parallels in Malta when one considers the requirements of an independent regulatory authority. In UK legislation\(^7\) both the electoral process as well as the monitoring of the financing of political parties is under the control of the House of Commons and the UK Electoral Commissioners (ten in all) in contrast to the Maltese practice cannot be persons who are in any way associated with political parties. This is a substantial and fundamental difference.

### Registration

The Bill provides for the registration of political parties. This part of the Bill is less detailed than originally proposed in the White Paper. Alternattiva Demokratika has no difficulty in adhering to what is proposed in this section. It is however of the opinion that there is no need for the party statute (and subsequent amendments) to be registered through a Notarial deed. It would have been sufficient if the proposed law obliges the political parties to deposit a certified copy of their statute and amendments with the regulatory authority.

### Donations, loans and investments

Even in respect of donations, loans and investments the Bill is a substantial improvement on the White Paper. Further improvement could be made through reducing unnecessary paperwork. For example there is no need to have three reports every year on donations, when one would be sufficient.

On donations Alternattiva Demokratika acknowledges that the permissible thresholds on anonymous donations has been substantially reduced from €500 to €50 per annum. This is positive. It is likewise positive that donations between €50 and €500 per annum instead of

\(^7\) Political Parties, Elections and Referendums Act 2000. Chapter 41.
being anonymous will now be considered confidentially and documented and hence will be
subject to the audit process. Alternattiva Demokratika is satisfied that its insistence on this
point has not been in vain. It is likewise positive that even the threshold of donations
registered internally in political parties has been revised. The acceptable range in the White
Paper was between €500 and €10,000. This has now been revised to between €500 and
€7,000 per annum. This means that the maximum has been reduced from €10,000 to
€7,000.

There were additional changes on donations. The maximum donation which can be
accepted has been reduced from €50,000 per annum to €40,000 such that the declarable
donations received in respect of which the regulatory authority is to be notified and which
would eventually be made public would be all the donations in the €7,000 to €40,000 range.
Alternattiva Demokratika agrees with this.

It has also been observed that the Bill is much more clear in respect of loans to political
parties which are not on commercial terms. Even this is an improvement on what was
originally proposed in the White Paper.

However the Bill makes no direct reference to commercial companies held and run by
political parties.

The utilisation of the resources of commercial companies by political parties could be
another channel for donations both if it is an issue of utilisation of human resources as well
as if it is a use of services with rates which are not commercial. Whilst this consideration
may result from the Bill in an indirect manner it would be much better if specific provisions
regulating the commercial investments of political parties are introduced.

It has to be ensured that the management of commercial companies as well as all
commercial activities of political parties are separate and distinct from the management of
the political parties. It has to be also ensured that the political parties would not be in a
position to hide information by classifying it as being commercially sensitive.

The above does not result from the Bill under consideration.
Accumulated public property

Clause 35 of the Bill specifies that there can be no donations originating from public bodies unless there is a specific authorisation in a legal instrument. There is reference to broadcasting as an example. There is however public property which political parties have been accumulating primarily for use as party political clubs. This is not addressed by the Bill. It is necessary to ensure at all times that rent paid for the use of public property is commercial. This is to be done through administrative measures, ad hoc measures if necessary. A mechanism for the regular revision of rents has to be introduced.

Expenditure during electoral campaigns

The Bill revises the amounts which it is permissible to spend during an electoral campaign.

Today, in a general election, the permissible expenditure for a candidate is €1,400 irrespective of whether he/she contests one or two electoral districts. The Bill proposes a revision of this amount to €20,000 for each Electoral District contested. Alternattiva Demokratika considers that this amount is too much on the high side. It is of the opinion that a reasonable amount should be €4,000.

With respect to the election for the European Parliament the Bill recommends that the current limit of slightly over €18,000 should be revised to €50,000. Alternattiva Demokratika considers that this amount is too much on the high side. It is of the opinion that a reasonable amount should be €20,000.

In elections for Local Councils today’s permissible limit for expenditure is €1,400 per candidate. The Bill recommends that this amount should be revised to €5,000 per candidate. Alternattiva Demokratika considers that this amount is too much on the high side. It is of the opinion that a reasonable amount should be between €2,000 and €4,000 depending on the Local Council being contested.

Alternattiva Demokratika considers that it would also be advisable that the expenditure of political parties in an electoral campaign is regulated. This is not addressed in the Bill accept through the publication of audited accounts. We consider it advisable that the expenditure of political parties in an electoral campaign is regulated in the same manner as is proposed for individual candidates.
The role of the treasurer

The Bill, as is reasonable, identifies the person responsible for the administration of the finances of political parties as that person who should not only shoulder responsibilities towards the political party of which he is an officer but also towards the community. The central reporting requirement on which the Bill is based is focused on the person of the treasurer. This person shall be responsible for substantial administrative duties with administrative and criminal penalties in case of infringements. This signifies that the person having the role of Treasurer would require being backed up administratively by a technical team to maintain the financial records to be in line with the requirements of the law. This will translate into expenses which a political party which is run professionally already caters for. It is a known fact that the political parties in Malta for whom this Bill has been designed already have an administrative setup which is financed by the donations which they receive on a regular basis.

State financing

The Bill is christened as a law of the Financing of Political Parties. However whilst it deals with many issues it fails to address financing.

Alternattiva Demokratika draws attention that the Maltese state already finances political parties. For many years, since the 1990s this financing has been limited to the Parliamentary political parties. In the last estimates approved by Parliament for 2014, for example, in the budget’s line item 5298 Parliament approved the sum of €200,000 with the following description: Development of relations with E.U. and the Mediterranean region by Political Groupings in Parliament. These are monies which the taxpayer already pays unto Parliamentary political parties every year.

This is not the only state financing already in hand. As explained in a press release8 for many years, out of the funds allocated to MEUSAC 4 organisations, namely Union Ħaddiema Magħqudin (UĦM), General Retailers and Traders Union (GRTU), Malta Employers Association (MEA) and General Workers Union (GWU) each receive an annual allocation of €58,200.

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8 Press release issued by the Department of information on 26 September 2013 with reference PR 2055 entitled: Press Statement by Dr Vanni Xuereb, Head of MEUSAC. Accessible at http://www.meusac.gov.mt/prs2013
The state also assists various constituted bodies, including NGOs, through specific
agreements which facilitate state paid employees assisting these organisations whilst they
are still paid by the state.

All the above is already being implemented.

Alternattiva Demokratika would have no difficulty in shoulerding the administrative
responsibilities spelled out in the Bill under consideration if it too is treated similarly and
receives financial assistance which the PN, the PL and the organisations referred to above
have been receiving for a substantial number of years.

**Conclusion**

It is necessary that the law on the financing of political parties which Alternattiva
Demokratika has campaigned in favour of for the past 25 years is not one which only
establishes the administrative burdens which should be shoulered to ensure the financial
accountability of political parties through an administrative transparency. Together with the
administrative burdens we expect the assistance required to shouler the burden. If this is
not done it would signify that those who through the years were extra careful such that in
the absence of a regulatory structure they were not dependent on political donations will be
punished.

Alternattiva Demokratika agrees in principle with the Bill under consideration. It also agrees,
as explained in detail above with a large part of the details in the Bill. We feel however that
its basic defect should be addressed. It is essential that the control exercised is proportional
and related to the size of the political parties. It is also necessary that the regulatory
authority identified is one which inspires such confidence as a result of which everyone is
convinced that no political party is disadvantaged at the starting line.

If this is done we would be able to state that in Malta, at last, the financing of political
parties is being seriously dealt with.

2 July 2014