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**Alternattiva Demokratika – The Green Party’s  
Reaction to the White Paper on Rent Reform**

**30 July 2008**

Alternattiva Demokratika – The Green Party in Malta has been campaigning for rent reform in Malta for the past 5 years.

In the declaration of Principles on Rent Reform published in January 2006 AD had declared that present rent legislation had outlived the post-war housing shortage it was designed for, that it was creating a market distortion, that it was the cause of grave injustices as well as a principle cause of environmental damage.

AD has always viewed rent reform as an instrument for addressing a long standing social injustice and unjustified environmental harm but also as the tool through which for manage the resources available to present and future generations.

Thus in conformity to its longstanding views, AD submits the following comments to the 33 recommendations which the White Paper brings forward for public debate :

1. **Guarantee not to advocate interventionist measures** : this is obviously a request directed at the Malta Labour Party in order that it declares itself not to reverse any changes made. AD in principle agrees to the changes but not with all the details thereof as described hereunder.
2. **Vacant property : an issue to be further studied.** Obviously this issue can only be resolved if the causes for property staying vacant are tackled. The first is inheritance squabbles : having easier procedures to resolve such disputes would be a help – both time-wise and moneywise. The second cause is identified as being that of owners not being known – this should relate to a very small amount of properties : land registration of property should further reduce these cases. The third cause is economic cost of rehabilitation : MEPA has reduced the size of a number of Urban Conservation Areas in 2006 thereby reducing restrictions on the redevelopment of properties in the effected areas. But in the case of properties in sensitive areas rehabilitation will undoubtedly remain costly. This could be tackled through identifying a use compatible to the property and making available public funds to assist in the rehabilitation. Owners have a duty of care in the case of our historical heritage and other properties in sensitive areas but the state should shoulder part of the financial responsibility on behalf of the community.
3. **The state has to shoulder the burden of social housing** : This is an area which should be given priority by the State so as to avoid encouraging situations of homelessness or substandard housing. A new housing policy should aim to assist the most vulnerable groups, groups which are at risk of poverty and first-time house seekers.
4. **Private/Public Partnership** : a review of different methods in which this should be carried out is required. Development is not the only possibility – as this is what is implied. Intensification of use of currently unutilised sites should be discarded as an option. More emphasis should be placed on the use to which vacant property could be made. More state aid through the Housing Authority should be channelled towards the rehabilitation of old properties for residential use. In addition small scale tourism, that is not directed towards hotels could be one of the possibilities which could be explored. A rural tourism towards our village cores is one such possibility. The rehabilitation of older houses into pensions in villages could contribute towards niche tourism

in the shoulder months. Tourism in Malta would also start moving along the path of sustainable development.

5. **Legislation relative to rent should be harmonised in one legislative instrument.** This is as it should be. The present state of affairs is the result of legislating for emergencies which assumed a state of permanence! No one would disagree with this proposal.
6. **The reforms are to differentiate** between tenants on the basis of their economic status. Agreement to this recommendation would be dependent on the type of burden and who is to shoulder it.
7. **Existing tenants** to be recognised. The surviving spouse (except where legal or de facto separation is the case) will have the right of substitution. The recognition of the surviving spouse brings to the fore one of the deficiencies of the proposed reform. It only recognises the traditional family unit. It does not recognise the civil rights of cohabiting couples both heterosexual and same sex couples. These are emerging partnerships. They cannot be ignored. Let us not forget that 37% of school children are the offspring of single or separated parents not all of whom are married. This is the social reality. AD insists that the tenancy rights of civil partnerships should be recognised and applied in this reform. In addition a mechanism should be established whereby the rent paid by recognised tenants is brought in line with market conditions over a period of time and subject to Housing Authority assistance in cases which merit such assistance.
8. **Beneficiaries of a lease** (i.e. those that can inherit a lease) from a sitting tenant or his/her spouse are children (natural, adopted or fostered) and ascendants who are older than 60 years. Beneficiaries who must have lived for at least five years with the tenant must satisfy their eligibility criteria as on the 1<sup>st</sup> June 2008. This is an improvement on the most contentious of issues related to rent. It narrows down the numbers of those that can inherit a lease by being specific. The numbers cannot increase as only those who qualify as on the 1<sup>st</sup> June 2008 are eligible. Although many would have preferred the complete elimination of inherited leases, AD believes that the proposed solution is an acceptable solution. When seen in the context of recommendation 11 which introduces additional limiting criteria it becomes more positive and acceptable. The only outstanding issue to full acceptance of this recommendation by AD would be the applicability of the full rental reforms to civil partnerships as distinct from being just applicable to the traditional family unit.
9. **Once only** : the right to inherit a lease as per recommendation 8 is a one time right. AD agrees. This point is very clear in the previous recommendation.
10. **The others** : the other occupants who do not qualify for an inherited tenancy are treated humanely by the proposed reform : they are permitted a transition period of five years. Their 5 year tenancy will be temporary subject to the payment of the full market rent and governed by post 1995 legislation. Subject to agreement with the landlord they can extend their stay.
11. **Those who have the means** : this recommendation is addressed to children and ascendants who as a result of recommendation 8 are entitled to inherit a lease. If these have suitable means they will not be able to inherit the lease. This will come about in the case of a beneficiary having an economic worth of €125,000 or an income higher than €25,000 per annum. Offspring of tenants and ascendants who are thus disqualified from inheriting the lease would be

entitled to a temporary lease of a 3 year duration on the basis of paying a rental value calculated at 3% of the value of the property. This is fair and we would say that it eliminates a sizable chunk of potential cases of lease inheritance.

12. **Tenancy transfer** during the tenant's lifetime (inter vivos) shall remain as at present, that is with the consent of the landlord.
13. **Tenants in long-term residential care** shall have the option to apply the provisions of recommendation 8, that is they would be entitled to transfer their tenancy to an eligible beneficiary. If this option is not exercised within six months the title reverts back to the owner. Whilst this is a fair proposal we consider that six months is too short. We consider that a twelve months time limit would be more appropriate.
14. **Exceptional circumstances** will undoubtedly arise which are not catered for in the White Paper proposals. A line is drawn, there will be no exceptions. The state will shoulder the responsibility for all those cases which fall between two stools. Some sense at last.
15. **Minimum rent** is established at €185 per annum. Though this level of rent may be considered as too low by most, it will effect a number of tenants. Some which are on the poverty line may suffer hardship as a result of this increase which is astronomic when viewed from their economic perspective. Recommendation 17 below deals with mitigation. Subject to ensuring that the mitigation measures are of assistance to those negatively effected, this proposal is not objectionable to AD.
16. **Rental value adjustment for inflation** will be carried out every 3 years. There is no established upper limit.
17. **Assistance to mitigate the effects** of recommendations 16 and 17 will be introduced through a government scheme applicable to those in receipt of Old Age Pension and social assistance. This is positive as effectively it is the means through which government is transferring back on its shoulders the responsibility for assisting social cases.
18. **Landlord's responsibility** : will be limited to the structure of the building, including the roof. All other maintenance and repairs will be borne by the tenant. This is as it should be !
19. **Rent will be increased by 10%** of the full cost of the repairs carried out by the landlord although the tenant may opt to carry out the works himself in which case he will not be entitled to any compensation on termination of the lease. This would ensure that the tenant takes due care of the property rented out to him.
20. **Tenants will be able to use existing and future Housing Authority schemes to finance repairs.** It is not clear whether landlords would be able to participate in such schemes, nor whether it would be possible for landlords to finance the repairs through an application submitted by the tenant to the appropriate authorities.
21. **Contracts for leasing of commercial properties** that include a clause which triggers contract termination by increasing abnormally the rent due at a particular date will remain in effect for a transition period of 20 years (called their "sunset") unless they are brought to an end earlier by operation of the said clause. At that point the title will revert back to the owner unless the landlord and tenant have arrived at an agreement which provides otherwise.

- AD considers the sunset transition period of 20 years to be excessive and considers that a 10 year transition would be more than reasonable.
22. **Rent for pre-1995 commercial properties will be adjusted to full rental value** gradually using different routes dependent on the economic worth of the tenants. The White Paper proposes that they will achieve full rental value after a 12 year transition period. AD considers that this transition period is excessive and should be reduced to 6 years.
  23. **All pre-1995 commercial tenancies will be terminated within 20 years** of the 1<sup>st</sup> June 2008 unless landlord and tenant arrive at an agreement at an earlier date. This applies recommendation 21 in respect of which AD is of the opinion that the transition would be more than reasonable if it is reduced by half to 10 years.
  24. **Legal entities listed on the Stock Exchange** will have a shorter transition period in respect of pre-1995 tenanted commercial property. Their bonanza will cease on the 1<sup>st</sup> June 2009. AD considers this to be discriminatory. There should not be any distinction between tenants on the basis of Stock Exchange listing.
  25. **Share transfers** (even just one share) of legal entities holding tenancies in commercial properties will henceforth be considered as a transfer of a lease and consequently implying that they would need the consent of the landlord. Another loop-hole closed.
  26. **Sub-letting is henceforth prohibited** unless there is agreement between landlord and tenant to this effect. And to close a major loop-hole, management agreements will be deemed to be sub-letting. AD has no objection to this provision.
  27. **Where a sub-letting of a commercial tenancy** has taken place prior to the 1<sup>st</sup> June 2008 without having been agreed to by the landlord, the said sub-let tenancy would cease within 10 years. AD considers that this is excessive and should be reduced to 5 years.
  28. **When the title of the commercial property reverts back** to the landlord and he intends to rent it out, the last tenants will have the right of first choice.
  29. **Should the landlord opt not to rent out** the commercial property a commercial licence would only be issued if he intends to make use of the property himself, or else through his direct descendents or legal entities controlled by him. AD disagrees with this recommendation and considers it to be superfluous.
  30. **Government intends to involve itself in determining what is a fair market value.** For this purpose it intends to introduce an index to establish the market value level of rent for premises in particular localities and areas. AD believes that this index should be worked out in accordance with various variables which reflect economic and social realities. The aim of this index should be to ensure the best balance between a fair and realistic price for owners and affordable property prices. At the same time Government should also introduce a fast-track mechanism through which owners and tenants can make representations and submit complaints when disagreeing the value of specific properties.
  31. **All controls relative to summer residences and garages will be dismantled as from the 1<sup>st</sup> January 2010.** AD agrees.
  32. **Government will continue with the process of derequisitioning.** The number of requisitioned properties is fast decreasing. AD is of the opinion that

a cut-off date should be established by which date all requisition orders will be extinguished.

33. **The Rent Regulation Board** should be reorganised and it should take charge of all matters relating to rental issues. AD feels that this measure is long overdue.

The White Paper is not applicable to agricultural holdings . It is understood that this area should be tackled separately within the context of a modernisation drive of the agricultural sector.

What was initially very worrying however was the proposal to exempt political parties from the impacts of rent reform. This however was eventually clarified by the Hon Minister who in a public statement on national TV stated that political parties will not be exempted. Furthermore, the statement by newly elected PN General Secretary Paul Borg Olivier that the PN was prepared to renounce to any proposal for its exemption from the proposed rent reform was reassuring. We hope that the MLP will follow suit.

The White Paper also refers to the possible exemption of band clubs, sports clubs and other social clubs from the process of rent reform. We have noted that in this area too the Hon Minister has clarified that this issue will be dealt with but that no proposals have been tabled to date in view of the need to examine the situation in detail. AD notes that in addition to such clubs, various NGOs and voluntary organisations are also giving a social contribution to society. AD believes that this issue should be discussed further, with possible options being either (a) security of tenure with free market rate, whilst Government gives subsidies to organisations as a Cultural expense; (b) where possible (for example as regards NGOs which are not localised in a particular locality), Government can offer alternative accommodation; (c) At the same time, such schemes should also be applicable to organisations and clubs in properties rented after 1995

AD emphasises the need for a well defined housing policy which aims to assist the most vulnerable groups, groups which are at risk of poverty and first-time house seekers. This is required in order to avoid social inequalities resulting from high housing costs.

When considering the above, AD is of the opinion that overall the White Paper is a positive exercise which aims to reach a reasonable balance amongst the different interests in civil society. If government takes serious note of all the alternative proposals that will be announced in the coming weeks its proposals may be improved. AD is willing to act as a social and political partner in order to ensure a reform which is sustainable in social, economic and ecological aspects.