



Bill on the Financing of Political Parties

views of Alternattiva Demokratika -The Green Party

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1 Introduction

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

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

11

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

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

21

22 2013 Electoral Manifesto

23

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

- 27 1) Strict rules on donations, which would require the disclosure of donations higher
28 than €5,000 and the prohibition of donations which exceed €40,000,
29 2) State financing of political parties through a grant of €3 per annum for every vote
30 which political parties obtain in a General Election or a European Parliament
31 Election,

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 għajjuna finanzjarja lill-partiti li tkun ibbażata fuq l-ammont ta’ voti miksuba fl-elezzjonijiet nazzjonali u anke lokali.”

- 32 3) Every political party is to have its accounts audited under the supervision of a
33 Commission appointed by the Auditor General,
34 4) the permissible expenditure of a candidate in a general elections should be increased
35 from €1,400 to €4,000 which expenditure should include that made by the
36 candidate's political party divided pro-rata amongst the candidates, that such
37 expenditure should include that made by third parties on behalf of candidates, and
38 that the expenditure made by candidates should be tax-exempt provided that it is
39 within the limits established by law,
40 5) that there should be established a Commission to determine the value of state
41 property rented out to political parties and that such Commission should revise the
42 rental values to market levels on a regular basis.

43

44 **White Paper**

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46 In view of the above Alternattiva Demokratika took an active part in the national debate on
47 the subject. When in January 2014 Government published a White Paper² with its proposals
48 Alternattiva Demokratika presented its reactions.³ This reaction in the form of a written
49 document was presented to the media on various occasions. It was also discussed in a
50 meeting held with the Minister for Justice Hon Owen Bonnici.

51 In its White Paper of January 2014 Government made its position known for the first time. It
52 was clear that this had a striking resemblance with the proposal submitted by the Hon
53 Franco Debono during the Eleventh Parliament in the Private Member's Bill which he had
54 then presented⁴.

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

- 57 1. there was agreement in principle on Government's proposals, however the details
58 had to be sent back to the drawing board,
59 2. there was agreement that the first step should be a sense of order, transparency and
60 accountability in the financing of political parties and that subsequently the issue of
61 state financing of political parties should be considered,
62 3. there was no agreement on the identification of the Electoral Commission as the
63 regulatory authority, as the Electoral Commission is exclusively made up of persons
64 enjoying the trust of the Parliamentary Parties as provided for in the Constitution,

² Parliamentary Secretariat for Justice : Financing of Political Parties. The Government's Proposals for Discussion. January 2014

³ Financing of Political Parties. A Proposal Alternattiva Demokratika. 6 February 2014.

⁴ Eleventh Parliament: Motion 288 presented by the Hon Franco Debono on Saturday 21st January 2012. The Bill was entitled : Financing of Political Parties Act 2012.

- 65 4. AD proposed that in lieu of the Electoral Commission the regulatory authority should
66 be the Commissioner for Standards in Public Life together with Parliament's Standing
67 Committee on Standards in Public Life and this with reference to the proposal of a
68 Standing Committee of Parliament which was then in the final stages of its
69 deliberations. These have now been concluded and a final report⁵ has already been
70 submitted for the consideration of Members of Parliament. The fact that it is
71 proposed by the Select Committee of the House of Representatives that the
72 Commissioner for Standards in Public Life is to be appointed with the consent of not
73 less than two thirds of House ensures a wide consensus relative to the selected
74 person. This will undoubtedly lead to the process being much more independent
75 from political parties.
- 76 5. AD agrees with the White Paper proposal that political parties should be registered.
77 However it emphasised that there was no need for the law to enter into unnecessary
78 details in view of the fact that each political party has its own peculiar methods and
79 traditions. It should thus be emphasised that for registration purposes it should be
80 ascertained that political parties are democratic in both form and spirit. However it
81 should be up to the political parties themselves as to how this was to be achieved.
- 82 6. AD agrees that the accounts of political parties are to be audited. However when this
83 is considered by the legislator it should be borne in mind that not all political parties
84 have the same financial means. The legislator should distinguish between political
85 parties whose turnover is measured in millions of euros and AD whose turnover does
86 not exceed €15,000 per annum.
- 87 7. With this in mind AD proposed that in those cases where a political party's turnover
88 does not exceed €100,000 per annum the audit fees should be an expenditure
89 shouldered by the regulator,
- 90 8. Alternattiva Demokratika did not agree with the classification of donations into four
91 groups as the White Paper suggested; in particular AD disagreed with the concept of
92 anonymous donations (up to €500 in one year) as well as with the proposed
93 permissible limits for other donations,
- 94 9. AD proposed, in conformity with its 2013 general election Electoral Manifesto
95 proposals that a receipt was to be issued for every donation and that:
- 96 i) donations up to a total of €4,000 per annum from one person are to be
97 retained as confidential and no information on such donations is to be made
98 available unless such information is required for the purpose of the audit,
- 99 ii) donations between €4,000 and €40,000 in one year from the same person
100 should be registered and notified to the regulator, who should make such
101 information public,
- 102 iii) donations exceeding €40,000 per annum from the same person should not
103 be permitted and should be illegal,

⁵ Twelfth Parliament. Select Committee of the House of Representatives. Final Report to the House. Monday 24th March 2014. Document 2528 laid on the Table of the House of representatives during sitting number 132 by Mr Speaker Hon Anglu Farrugia MP .

- 104 iv) when donations are made in kind these are to be converted into monetary
105 terms in order that their conformity to the rules be established.
- 106 10. AD drew attention that the White Paper does not make a reference to loans which a
107 political party may have entered into without having the intention to repay the
108 monies loaned. This was being stated in view of the “Cash for Honours scandal” in
109 the United Kingdom,
- 110 11. Nor was the White Paper clear on the role of the accumulated investments of the
111 political parties as well as the need to ensure that these are kept separate and
112 distinct from the political parties themselves. It is to be ensured that the political
113 parties do not make illicit use of the accumulated resources in their companies. It is
114 to be furthermore ensured that no excuse labelled as “sensitive commercial
115 information” is used to hide sensitive information.
- 116 12. Nor does the White Paper address the issue of public property which has
117 accumulated in the hands of political parties. The required administrative steps
118 should be identified to ascertain that rent paid by the parties for the use of such
119 properties is periodically revised such that it will always be a commercial one.
- 120 13. AD disagreed with the new limits proposed for expenditure by candidates in
121 electoral campaigns such :
- 122 i) in lieu of the White Paper proposed general election permissible spending
123 limit of €25,000 Alternattiva Demokratika proposed that the current ceiling of
124 €1,400 be increased to €4,000,
- 125 ii) in lieu of the White Paper proposed European Parliament election
126 permissible spending limit of €50,000, Alternattiva Demokratika proposed
127 that the current ceiling of slightly over €18,000 be increased to €20,000,
- 128 iii) in lieu of the White Paper proposed Local Council election permissible
129 spending limit of €5,000, Alternattiva Demokratika proposed that the current
130 ceiling of €1,400 be increased to between €2,000 and €4,000 depending on
131 the size of the Local Council being contested,
- 132 14. Alternattiva Demokratika also emphasised that the permissible limits for spending by
133 the political parties during an electoral campaign are established.
- 134
- 135

136 **Two fundamental issues**

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

143 administratively suitable for the PN and the PL has been deemed to be suitable for all: a one
144 size fits all attitude.

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

156 As already emphasised when commenting on the White Paper proposals, Alternattiva
157 Demokratika, refers to the proposal approved by the Parliamentary Select Committee
158 chaired by the Speaker. The Select Committee has now finalised its⁶ report includes another
159 Bill entitled: *Standards in Public Life Act 2014*. This Bill provides for the appointment of a
160 Commissioner and a Permanent Parliamentary Committee on Standards in Public Life.
161 According to clause 3 on the Bill on Standards, the proposed law will apply to Members of
162 Parliament (including Ministers, Parliamentary Secretaries and Parliamentary Assistants) as
163 well as persons employed in positions of trust or as advisors to Government or a body
164 corporate set up by law. The said clause 3 permits the extension of the applicability of this
165 law through regulations which require the affirmative approval of the House of
166 Representatives.

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

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

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

⁶ referred to note 5 .

179 For these reasons Alternattiva Demokratika is of the opinion that the regulatory authority
180 on the financing of politics should be within the structures which Parliament is slowly and
181 patiently constructing relative to Standards in Public Life with the involvement of the
182 Commissioner for Standards in Public Life. This would be much better than the structure
183 proposed in the Bill on the financing of political parties.

184 It is understood that the identification of the Electoral Commission as the regulatory
185 authority on the financing of political parties has been lifted from the experience of the
186 United Kingdom. It should however be borne in mind that the UK experience has no
187 parallels in Malta when one considers the requirements of an independent regulatory
188 authority. In UK legislation⁷ both the electoral process as well as the monitoring of the
189 financing of political parties is under the control of the House of Commons and the UK
190 Electoral Commissioners (ten in all) in contrast to the Maltese practice cannot be persons
191 who are in any way associated with political parties. This is a substantial and fundamental
192 difference.

193

194 **Registration**

195

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

202

203 **Donations, loans and investments**

204

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

209 On donations Alternattiva Demokratika acknowledges that the permissible thresholds on
210 anonymous donations has been substantially reduced from €500 to €50 per annum. This is
211 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.

212 being anonymous will now be considered confidentially and documented and hence will be
213 subject to the audit process. Alternattiva Demokratika is satisfied that its insistence on this
214 point has not been in vain. It is likewise positive that even the threshold of donations
215 registered internally in political parties has been revised. The acceptable range in the White
216 Paper was between €500 and €10,000. This has now been revised to between €500 and
217 €7,000 per annum. This means that the maximum has been reduced from €10,000 to
218 €7,000.

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

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

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

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

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

238 The above does not result from the Bill under consideration.

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242 **Accumulated public property**

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

251

252 **Expenditure during electoral campaigns**

253

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

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

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

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

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

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277 **The role of the treasurer**

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

291

292 **State financing**

293

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

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

303

304 This is not the only state financing already in hand. As explained in a press release⁸ for many
305 years, out of the funds allocated to MEUSAC 4 organisations, namely Union Haddiema
306 Magħqudin (UHM), General Retailers and Traders Union (GRTU), Malta Employers
307 Association (MEA) and General Workers Union (GWU) each receive an annual allocation of
308 €58,200.

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>

309 The state also assists various constituted bodies, including NGOs, through specific
310 agreements which facilitate state paid employees assisting these organisations whilst they
311 are still paid by the state.

312

313 All the above is already being implemented.

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

319

320 **Conclusion**

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

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

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

337

338 2 July 2014