



Der Generalsekretär

12 NOV. 2015

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**NOTE TO THE MEMBERS OF THE BUREAU**

**Object:** Press allegations against MELD and FELD and legal situation of MELD and FELD in 2015

**SUMMARY**

A) In October 2015, several articles were published in the Danish press concerning an **alleged misuse of the 2013 and 2015 grants** allocated by the European Parliament to the **“Movement for a Europe of Liberties and Democracy” (MELD)** and its affiliated foundation **“Foundation for a Europe of Liberties and Democracy” (FELD)**. Three events were criticised in the press as being non-eligible under Regulation (EC) 2004/2003:

- a. A **boat trip** organised together with “Dansk Folkeparti” (DF) between 7 and 17 August 2013, dropping anchor in several Danish cities;
- b. An upload in 2015 of an **opt-out video** on the website of the “Dansk Folkeparti” which encourages people to vote NO in the upcoming Danish referendum on EU questions;
- c. The publication in April 2015 by the “Dansk Folkeparti” on websites in Denmark of an **advertisement about foreign workers in Denmark and social dumping in the EU**.

Pursuant to Article 4, par. 6, and Articles 7 and 8 of Regulation 2004/2003, **the boat trip campaign cannot be financed with the grant allocated to MELD and FELD by the European Parliament.**

The other two actions (b and c) took place in 2015. The budgetary year 2015 is still ongoing. The final decision concerning the eligibility of this expenditure can only be taken after having received all relevant documents in relation to the 2015 closure.

B) MELD party and FELD foundation have not filed a grant application for 2016, but a new party Alternative for Europe (AFE) which resembles MELD to a large extent has applied. Five former members of MELD were notified as being members of AFE at the date of application. Therefore, **MELD is no longer represented in at least one quarter of the Member States** (Art. 3 par. 1 of Regulation (EC) 2004/2003) and forfeits its status as a European party and shall be excluded from funding (Art. 5 par. 3).

In light of the above, the Bureau is invited to decide:

- that the cost for the 2013 boat trip shall be declared as non-eligible expenditure and the corresponding part of the grant equivalent to 120.700 DKK<sup>1</sup> in total (i.e. 85 % of the eligible expenditure) for both MELD and FELD to be recovered and to instruct the Secretary General to recover this amount;
- to terminate the grant for the budgetary year 2015 and initiate the termination procedure against MELD and FELD pursuant to Art. II.9.2 and II.9.3 of the grant award decision.

## I. INTRODUCTION

1. In October 2015, several articles were published in the **Danish press** concerning an **alleged misuse of the 2013 and 2015 grants** allocated by the European Parliament to the "Movement for a Europe of Liberties and Democracy" (MELD) and its affiliated foundation "Foundation for a Europe of Liberties and Democracy" (FELD). Grants to European parties and foundations are awarded in line with the provisions of the Regulation (EC) 2004/2003<sup>2</sup> and the procedures for implementing this Regulation laid down in Bureau decision of 29 March 2004 governing political parties at European level and the rules regarding their funding<sup>3</sup>.
2. Three events were criticised in the press as being non-eligible for EU funding under the above-mentioned regulation:
  - a. A **boat trip** organised together with "Dansk Folkeparti" (DF) which took place between 7 and 17 August 2013, dropping anchor in several Danish cities. In its activity report for the year 2013 MELD party described the trip as a "Joint Information campaign presenting the EU with a Eurosceptic vantage point". On the basis of the information available at the time and the unqualified report of the external auditor, the Bureau approved on 15 September 2014 the final report on the implementation of the work programme and the financial statement (including the costs for the "joint information campaign").

On the basis of several video clips it was alleged by the Danish press that the boat trip which was co-financed by MELD and FELD with an amount of 142.000 DKK<sup>4</sup> (according to the internal agreement between DF, MELD and FELD) served in fact as

<sup>1</sup> approx. EUR 16.180

<sup>2</sup> Regulation (EC) No 2004/2003 of the European Parliament and of the Council of 4 November 2003 on the regulations governing political parties at European level and the rules regarding their funding; OJ L 297, 15.11.2003, p. 1. as last amended on 18.12.2007 (OJ L 343, 27.12.2007, p. 5)

<sup>3</sup> Decision of the Bureau of the European Parliament of 29 March 2004 laying down the procedures for implementing Regulation (EC) No 2004/2003 ; OJ C 155, 12.6.2004, p. 1 as last amended on 13.01.2014 (OJ C 63, 04.03.2014, p. 1)

<sup>4</sup> approx. EUR 19.000

a campaign in favour of "Dansk Folkeparti" in connection with the local elections in Denmark which took place in November 2013.

- b. An upload in 2015 of an **opt-out video** on the website of the "Dansk Folkeparti" which encourages people to vote NO in the upcoming Danish referendum on EU questions and which was funded by MELD;
  - c. The "Dansk Folkeparti" published in April 2015 an **advert** on websites in Denmark about **foreign workers in Denmark and social dumping in the EU**, which was funded by MELD and FELD. As this advert features Morten Messerschmidt (President of MELD) as well as the leader of "Dansk Folkeparti", a link can be made to the national Danish elections in June 2015.
3. The President of MELD, Mr Morten Messerschmidt, was confronted with these allegations by letter of the Director General of Finance of 19 October 2015. In his reply of 27 October 2015, the President of MELD rejects the allegations and takes the view that all three above-mentioned events are in line with the Regulation (EC) 2004/2003. The President of FELD had also the opportunity to give his point of view.

## II. LEGAL FRAMEWORK AND EVALUATION

4. All three events must be examined in the light of Articles 7, 8 and 4 par. 6 of Regulation (EC) 2004/2003: These articles read as follows:

### Article 7 : Prohibition of funding

1. *The funding of political parties at European level from the general budget of the European Union or from any other source may not be used for the direct or indirect funding of other political parties, and in particular national parties or candidates. These national political parties and candidates shall continue to be governed by national rules.*

2. *The funding of political foundations at European level from the general budget of the European Union or from any other source shall not be used for the direct or indirect funding of political parties or candidates either at European or national level or foundations at national level.*

### Article 8 par. 3, 4 and 5

*The expenditure of political parties at European level may also include financing campaigns conducted by the political parties at European level in the context of the elections to the European Parliament, in which they participate as required in Article 3(1)(d). In accordance with Article 7, these appropriations shall not be used for the direct or indirect funding of national political parties or candidates.*

*Such expenditure shall not be used to finance referenda campaigns.*

*However, in accordance with Article 8 of the Act concerning the election of the members of the European Parliament by direct universal suffrage, the funding of and limitation of election expenses for all parties and candidates at European Parliament elections is governed in each Member State by national provision.*

Article 4 par. 6

*Funding allocated to a political foundation at European level shall only be used for the purpose of financing its activities in accordance with Article 2(4). On no account may it be used to finance elections or referenda campaigns.*

5. Concerning the three events the investigations initiated by the competent services led to the following results:

**A. Boat trip “Det sejler I EU. Vi sejler for Danmark” (7 - 17 August 2013)**

***Inconsistencies concerning the persons authorised to sign***

6. The contract for renting the boat signed on 19 December 2012 by **Carl Christian Ebbesen**, vice-president responsible for organisational matters of DF mentioned as **contracted parties MELD and FELD** although they did not sign the contract with De Forenede Sejlskibe I/S. The total cost was DKK 213.000<sup>5</sup>. As DF had no power of attorney, it could not contractually bind MELD and FELD.
7. Based on this contract, De Forenede Sejlskibe I/S sent two invoices (DKK 35.500 for each without VAT) dated 20 December 2012 to MELD and another two to FELD, although neither signed the contract. The due date for the first payment was fixed for 29 December 2012. No document received mentioned by whom and on which basis the first invoices were paid, but taking into account the **joint agreement signed almost four months later** (see under point 8), the payment made in June 2013 to the account of DF and the reference mentioned in the bank statements (point 10) it is likely that DF paid invoices for FELD and MELD.
8. **On 23 April 2013** a Joint Information Campaign Agreement was signed by MELD, FELD and DF in Brussels. Mr Messerschmidt signed on behalf of DF, as – stated in an e-mail received from Mr Verbeke, on behalf of Mr Messerschmidt on 30 October 2015 - member of the national party. This raises the question of **conflict of interest**, as Mr Messerschmidt was also a member of MELD and FELD. Furthermore, the EP administration is not aware that Mr Messerschmidt was authorised by DF to sign a contract on behalf of the national party.

***Divergences in the scope of the action***

9. The three contracted parties agreed that **the total cost of the project Boat Campaign** would be **split equally** among them. They appointed DF as responsible for early bookings although the booking had already been done in December 2012 and the contract also mentioned MELD and FELD. MELD and FELD committed themselves to reimburse to DF their share of the pre-booking (DKK 35.500 each).

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<sup>5</sup> approx. EUR 28.000

10. Based on bank account details, EUR 4.696 - corresponding to DKK 35.500 - was transferred to the bank account of DF from MELD and also from FELD and another EUR 4.696 to the account of De Forenede Sejlskibe I/S from each of them on 6 May 2013.
11. A document received from Mr Messerschmidt and published by EUROPA NAEVNET, which also supported the information campaign, shows that only the renting cost of the boat was split between FELD, MELD and DF and that most of the expenses were covered by a grant received from EUROPA NAEVNET (even the share of DF in the renting cost).
12. Reports published on the website of the national party (videos and articles) mentioned the boat trip as the **campaign of the "Dansk Folkeparti" only**. They were talking about DF MPs, no European aspect was mentioned. They clearly explained the purpose of the boat trip: presenting DF candidates for local and regional elections held in Denmark in November 2013. Mr Messerschmidt was only mentioned as DF candidate for the European election.

*Non-respect of the principle of prohibition to finance directly or indirectly national parties or their candidates*

13. Even press articles sent out by Mr. Messerschmidt mentioned this boat trip as the "Dansk Folkeparti" new EU campaign. MELD and FELD were mentioned in no articles.
14. In photos and videos the logos of MELD and FELD were not visible at all, only the logo of DF was seen.
15. Whilst Mr Messerschmidt continues to maintain his position that the contribution from MELD and FELD concerned European items, such as free movement of people, the problems resulting from eastern workers, border control, animal welfare and Turkey, the above mentioned elements indicate clearly that the boat campaign can be considered as an event of "Dansk Folkeparti".
16. Pursuant to Articles 4, par. 6, Articles 7 and 8 of Regulation (EC) 2004/2003, **the boat trip campaign cannot be financed with the grant allocated to MELD and FELD** by the European Parliament. Pursuant to Article 10 par. 4 of the Bureau decision of 29 March 2004, these findings may give rise to **a recovery decision by the Bureau**, for an amount of 85 % of the eligible expenditure for both MELD and FELD in total 120.700 DKK<sup>6</sup>.

**B. "Opt-out video" and "advert on foreign workers and social dumping"**

17. Both actions took place in 2015. As the budgetary year is still ongoing, the accounts of MELD and FELD are not yet closed and still subject to analysis and approval.

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<sup>6</sup> approx. EUR 16.800

18. At a first glance, it is also doubtful whether this expenditure can be considered as eligible with a view to Articles 6, par. 4, Articles 7 and 8 of Regulation (EC) 2004/2003.

Nevertheless, the final decision concerning the eligibility of this expenditure can only be taken during the closure procedure after having received all relevant documents in relation to the 2015 closure.

### III. CURRENT SITUATION OF MELD AND FELD

19. MELD<sup>7</sup> party and its affiliated foundation FELD<sup>8</sup> applied successfully for a grant from the EU budget in the years 2012-2015. The year 2014 was closed for MELD with a balance of € 207.419 to be recovered and for FELD with a balance of € 135.437,21 to be recovered. The European Parliament has already received these transfers of the balances on its bank account by 22 October 2015. The financial year 2015 has not yet been closed.
20. The use of EU grant for the ongoing implementation of 2015 budget of the MELD party requires, however, that the representation criterion defined in Article 3(1)(b) of the Regulation (EC) 2004/2003, i.e. being represented in at least one quarter of the Member States, must be fulfilled throughout the entire funding period pursuant to Article 3 of the Bureau Decision of 29 March 2004. Otherwise, the party forfeits its status and shall be excluded from funding (Art. 5 par. 3 of Regulation (EC) 2004/2003). At the same time, FELD would also be excluded (Art. 5 par. 5).
21. It was observed that the **MELD party and its affiliated foundation FELD have not filed a grant application for 2016**, the deadline for such applications being 30 September 2015. On the other hand, **a new organisation, Alternative for Europe (AFE), submitted a grant application for 2016**. The new organisation resembles the MELD party to a large extent:
- five members of MELD party are now members of the new organisation AFE. Their membership forms are attached in annex I;

Country	MP/MRP*	Name	First name	Date - membership form	National party
Italy	MP	Esposito	Giuseppe	02/09/2015	NCD
Hungary	MRP	Szabo	Istvan	31/07/2015	Fidesz-KDNP
Slovakia	MRP	Konarik	Karol	24/09/2015	SNS
Romania	MP	Radulesku	Cristian	22/09/2015	PDL
Austria	MP	Schenk	Martina	20/09/2015	Team Stronach

\*Note: MP = Member of Parliament, MRP=Member of Regional Parliament

- the registered and office address of AFE is the office address of MELD;

<sup>7</sup> 2012: EUR 457.730, 2013: EUR 593.589, 2014: EUR 634.779,

<sup>8</sup> 2012: EUR 193.665, 2013: EUR 279.919, 2014: EUR 270.599

- the coordinator of MELD is now coordinator of AFE.

22. Furthermore, AFE was created on 15 July 2015 by MELD party's President (MEP Morten Messerschmidt) and MELD party's Treasurer (MEP Anders Vistisen) and a third person. This act was published in the *Moniteur Belge* on 23 September 2015. The founding act of the AFE is enclosed in annex 2. Hence, **two out of three founding members of the AFE applicant party were members of the MELD.**
23. Meanwhile, Mr Messerschmidt declared in a letter to the Secretary-General of the European Parliament (sent by e-mail of 27 October 2015 to DG Finance) that "Mr Vistisen and I have resigned from our responsibilities in AFE and were included in its statutes due to a clerical error."
24. Moreover, **MELD party's President (MEP Morten Messerschmidt) and MELD party's Treasurer (MEP Anders Vistisen)** being also AFE applicant party's two founding members referred to above were also subsequently declared as **members of another European party - Alliance of European Conservatives and Reformists (AECR party)** in their 2016 grant application. MEP Morten Messerschmidt signed his membership declaration on 28 September 2015 and MEP Anders Vistisen on 13 September 2015.
25. In the meantime, AECR declared by e-mail of its chief executive of 28 October that "*Mr Morten Messerschmidt MEP and Mr Anders Vistisen MEP wish to remove their signatures from the AECR 2016 Grant Application, this is due to Danish domestic political issues and they will not be signing for any other European Political Party and Foundation for the 2016 round of financing*".
26. Finally, Mr Messerschmidt and Mr Vistisen declared by letter of 1<sup>st</sup> November 2015 that they resign as from 1<sup>st</sup> October 2015 respectively in their function of President and Treasurer of the European Political party AFE – Alternative for Europe.
27. Leaving to one side all of these complications, one might assume that MELD is still being represented in 4 Member States by the following members:

Country	MEP/MP /MRP*	Name	First name	Date membership form	National party
Italy	MRP	Gambetta Vianna	Antonio	15/09/2014	+TOSC
France	MP	Besse	Véronique	10/09/2014	NI
Poland	MP	Jaki	Patryk	15/09/2014	PiS
Denmark	2 MEPs	Dohrmann Jørg, Karlsson Rikke		02/09/2015	Dansk Folkeparti

\*Note: MEP=Member of European Parliament, MP = Member of Parliament, MRP=Member of Regional Parliament

28. On the other hand, as it results from the first table, the party members from Hungary (Istvan Szabo), Slovakia (Karol Konarik), Romania (Christian Radulesku) and Austria (Martina Schenk) signed membership declarations for AFE submitted with the grant

application of AFE. **These being the most recent declarations** of these members, wherein they declare their affiliation to AFE, they can no longer be counted for MELD.

29. Therefore, **MELD is no longer represented in at least 7 Member States** (Art. 3 par. 1 of Regulation (EC) 2004/2003) and forfeits its status as a European party and shall be excluded from funding (Art. 5 par. 3 of the Regulation (EC) 2004/2003). At the same time, its affiliated foundation FELD shall also be excluded from funding (Art. 5 par. 5 of the Regulation (EC) 2004/2003).
30. Confronted with the conclusion of MELD not being represented in 7 Member States, Mr Messerschmidt maintains that double membership is possible.
31. In this case, pursuant to Art. II.9.2 of the grant award decision (Annex 2a and 2b of the Bureau decision of 29 March 2004), the European Parliament may decide to terminate the grant and initiate the termination procedure, pursuant to Art. II.9.3 of the grant award decision.
32. Considering the above-mentioned legal situation, it is proposed to launch the termination procedure against MELD and FELD which is governed by Article II.9 of the grant award decision (Annex 2a and 2b of the Bureau decision of 29 March 2004) and is resumed in annex 3.

#### IV. CONCLUSIONS

33. In light of the above, the Bureau is invited to decide:

- that the cost for the 2013 boat trip shall be declared as non-eligible expenditure and the corresponding part of the grant equivalent to 120.700 DKK<sup>9</sup> in total (i.e. 85 % of the eligible expenditure) for both MELD and FELD to be recovered and to instruct the Secretary General to recover this amount;
- to terminate the grant for the budgetary year 2015 and initiate the termination procedure against MELD and FELD pursuant to Art. II.9.2 and II.9.3 of the grant award decision.



Klaus WELLE

Annex 1 : Membership forms of 5 members of MELD party

Annex 2 : Founding act of the AFE party

Annex 3 : Termination procedure

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<sup>9</sup> approx. EUR 16.180



Paragraph II.9.2 (Termination by the European Parliament) relates in indent (a), inter alia, to the condition of the representation criteria and provides that the Parliament may terminate the grant, without any indemnity on its part:

*The European Parliament may decide to terminate the grant, without any indemnity on its part, in the following circumstances:*

*(a) if the Beneficiary no longer meets the conditions governing funding as laid down in Articles 3, 6 and 7 of Regulation (EC) No 2004/2003;*

...

However, paragraph II.9.5 (other termination grounds) clarifies, inter alia, that the party not fulfilling the representation criteria must be excluded from funding:

*If the European Parliament finds that any of the conditions referred to in points (a), (b) or (c) of Article 3(1) of Regulation (EC) 2004/2003 are no longer satisfied by a political party at European level, the relevant Beneficiary, which has for this reason forfeited its status shall be excluded from funding under that Regulation.*

Paragraphs II.9.3 (Termination procedure) and II.9.4 (Effects of termination) describe the procedure to be followed (only provisions cited which relate to the case when the party forfeits the representation criteria):

*(II.9.3) The termination procedure shall be initiated by registered letter with proof of delivery or equivalent.*

*..., the Beneficiary shall have 30 days in which to submit its observations and take any measures required to ensure continued fulfilment of its obligations under the Decision. If the European Parliament fails to confirm acceptance of these observations by giving written approval within 30 days of receiving them, the termination procedure shall continue to run.*

*Where notice is given, termination shall take effect at the end of the period of notice, which shall commence on the date on which the European Parliament decision to terminate the grant is received.*

...

*(II.9.4) In the event of termination, payments by the European Parliament shall be limited to the eligible expenditure actually incurred by the Beneficiary up to the date when termination takes effect, in accordance with Article II.14 [Determination of the final grant]. Expenditure relating to current commitments which are not due to be executed until after termination shall not be taken into account. The Beneficiary shall have 60 days from the date when termination takes effect, as notified by the European Parliament, in which to produce a request for final payment in accordance with Article II.12.2. If no such request is received within this time-limit, the European Parliament shall not reimburse the expenditure incurred by the Beneficiary up to the date of termination and shall recover any amount the use of which is not substantiated by the final reports it has approved.*