This report is a product of the staff and consultants of the International Bank for
Reconstruction and Development/The World Bank. The findings, interpretations, and
conclusions expressed herein do not necessarily reflect the views of the Executive
Directors of the World Bank or the governments they represent.
Bulgaria
Reforming the Regime of State Fees

Contents

Abbreviations & Acronyms ........................................................................................................v
Acknowledgements ....................................................................................................................vi
Executive Summary ....................................................................................................................vii

I. INTRODUCTION .....................................................................................................................1

Scope .................................................................................................................................2
Functions of administrative fees .........................................................................................4
The case for cost recovery of administrative fees ..............................................................6

II. THE CURRENT REGIME OF FEE-SETTING IN BULGARIA ........................................8

Legal framework ..............................................................................................................8
Institutional framework .................................................................................................10
Administrative practice .................................................................................................10
Fee structure ...................................................................................................................12
Analysis ..........................................................................................................................13

III. SETTING ADMINISTRATIVE FEES: INTERNATIONAL GOOD PRACTICE .........15

EU Requirements ..........................................................................................................15
Germany ..........................................................................................................................17
Australia ..........................................................................................................................20
Lessons learned ..............................................................................................................23

IV. POLICY RECOMMENDATIONS .....................................................................................25

V. NEXT STEPS .....................................................................................................................28

REFERENCES ......................................................................................................................29
Tables
Table 1          Typology of Income-Generating Instruments………………………………2
Table 2          Bulgaria: State Budget Revenues for 2005-2009 (mln. BGN)………………3
Table 3          Objectives of Administrative Fees and their Features…………………………6
Table 4          Comparison of Selected Administrative Fees (2008)…………………………….13
Table 5          Recommendations: Priorities and Timeline…………………………………….27

Boxes
Box 1             Examples for “restrictive fees” charged by Executive Agencies…………11
Box 2             § 3 of the German Federal Law on Administrative Fees ……………………..17
Box 3             § 3 of the Hesse State Law on Administrative Cost ………………………19
Box 4             Calculating Cost Recovering Administrative Fees in the
State of Hamburg……………………………………………………………………………19
Box 5             Allocating Costs – Australia…………………………………………………22

Annex
Annex 1      Content of the German Law on Administrative Costs……………………..30
Annex 2      Form Reporting the Single Cost Calculation of Fees in Hamburg……………31
Annex 3      Australia – Implementing the principle of cost recovery……………………32
Annex 4      Sector laws in Bulgaria, specifically addressing additional material
incentive………………………………………………………………………………………33
Annex 5      Key principles of cost recovery adopted by the Australian Government
in 2002 as revised in 2005……………………………………………………………………34
Annex 6      Examples of a fee review schedule – Australia…………………………………37
Abbreviations & Acronyms

BGN   Bulgarian Lev
CoM   Council of Ministers
CR    Cost Recovery
CRIS  Cost Recovery Impact Statement
ERC   Expenditure Review Committee
EU    European Union
GoB   Government of Bulgaria
GMO   Genetically modified organism
OECD  Organization for Economic Co-operation and Development
SMEs  Small-and-Medium-sized Enterprises
USD   United States Dollar

1 USD=1.40 BGN (June 2009)
Acknowledgements

This report has been prepared as part of a Regulatory Reform Technical Assistance of the World Bank. The World Bank team was led by Evgeni Evgeniev, Private Sector Development Specialist, Finance and Private Sector Development Department (ECSPF) and comprised George R. Clarke (Sr. Private Sector Development Specialist, ECSPF) and Marc Reichel (international expert on administrative barriers) — the main author of the report. Snejana Dimitrova, Director of “Strategic Planning and Governance” Directorate at the Council of Ministers and Pavel Ivanov, chief expert at the same directorate, collaborated closely with the team since inception of the task and provided strategic guidance at all stages of the work. Anne T. John, Sylvia A. Torres and Vessela Stambolyiska from the World Bank provided precious technical support.

The report was prepared under the general guidance of Orsalia Kalantzopoulos (Country Director for Bulgaria until May 15, 2009), Theodor O. Ahlers (Country Director for Bulgaria since May 15, 2009), Fernando Montes-Negret (Sector Director, ECSPF) and Lalit Raina (Sector Manager, ECSPF). Florian Fichtl (Country Manager for Bulgaria) provided strategic guidance to the team during the process of consultation with public and private actors and contributed with valuable comments on earlier drafts.

The team thanks Donato De Rosa (Private Sector Development Specialist, ECSPF), Irina Astrakhan (Lead Private Sector Development Specialist, ECSPF) and John Daniel Pollner (Lead Financial Officer, ECSPF) for reviewing drafts of the report and providing helpful comments and suggestions. Thank goes also to Rolf Leipold, Legal Department of the Finance Authority of the City of Hamburg, for his willingness to share information and valuable insights in the fee-setting regime in Hamburg. Representatives at the Confederation of Industrialists and Employers in Bulgaria, the Bulgarian Chamber of Trade and Commerce, and the Bulgarian Industrial Association shared relevant information, reports and experience. Public officials at the Ministry of Finance, Ministry of State Administration and Administrative Reform, Ministry of Economy and Energy, Ministry of Regional Development and Public Works, Ministry of Environment and Waters, Ministry of Health, and the Ministry of Justice, several executive agencies, and representatives from the academia, were interviewed in January 2009 during the fact-finding mission and also provided important feedback during a workshop for discussion of the report in June 2009.

Peer reviewers of the report are Margo Thomas (Senior Operations Officer, Foreign Investment Advisory Services, IFC and World Bank) and Jorge Rodriguez Meza (Program Coordinator, Global Indicators and Analysis, World Bank). The team would like to thank everybody for their contributions.
Executive Summary

“Bulgaria: Reforming the Regime of State Fees” analyzes the legal, institutional and administrative framework for setting state fees and provides recommendations based on good international practice.

A recent report of the Ministry of State Administration and Administrative Reform found that between 2005 and 2008 the total average growth in percentage of the state fees (without the calculation of the Ministry of Health Tariff as per Medicinal Products in Human Medicine Act) is 60 per cent. This observation supports the proposal of a recent World Bank report for Bulgaria “Investment Climate Assessment” (2008), which called for overall reduction of the administrative cost for businesses because Bulgaria is not competitive in this area compared to other Central and Eastern European countries.

Several severe shortcomings of the state fees regime were identified to be responsible for the current uncoordinated, inconsistent and unfair fee structure:

- **Lack of policy objectives.** Apart from Art. 2 of the State Fees Act, there is no policy regarding the setting of state fees in place. This is one reason for the “wild” development of tariffs.

- **Insufficient legal framework.** The general guideline of cost recovery stated in the State Fees Act is a good start, but not sufficient for the complex fee structure in place. Furthermore, sector laws allow for retaining fees, but there is no provision on the distribution of such funds.

- **Lack of supporting (internal) guidelines.** The government does not ensure consistent tariffs across the board. Rules and guidelines regarding the setting and calculation of fees are missing.

- **Weak institutional framework.** There is no institution or department in charge to monitor the implementation of the State Fees Act if it comes to the setting and approval of fees. It is basically the initiative of the executive agency or ministry in charge to apply the Act according to its own interpretation.

- **Wrong incentives.** The fact that some executive agencies can retain a considerable percentage (25-75 per cent) of the fee revenues for its own budget and mostly distribute it as bonuses to the employees is an incentive to increase fees. Agencies focus more on the revenue generating function of fees (and fines) than on the legal requirements, namely the principle of cost recovery.

- **Lack of transparency.** Neither the process to set fees nor to distribute retained fee revenues is transparent.
• **Illegal practices.** The State Fees Act is clear on the general criteria applied in the fee setting process: cost recovery. However, there are two types of fees, which violate the law, “restrictive” fees, and revenue generating fees. Both are applied by various institutions and appear to be common feature of the Bulgarian system of tariffs.

Several conclusions can be made when analyzing good practice in the area of setting administrative fees:

**European Union (EU) requirements to be met.** The EU has requirements, at least in the area of administrative fees related to the services sector, which each Member State has to fulfill by the end of 2009. The bottom line is the principle of single cost recovery.

**Elaborate legislation in place.** Germany as well as Australia, as examples, have elaborate legislation on the calculation of administrative fees in place. This is true for most EU and OECD countries. It includes a law on administrative fees and regulations implementing the law.

**The principle of cost recovery is applied.** The principle of cost recovery is applied in the EU (for services), Germany and Australia.

**The application of the principle of cost recovery needs solid accountancy skills and administrative guidelines.** The calculations to be undertaken are complex and need to be performed by trained persons. Particularly detailed guidelines are key to the success of a fee setting reform and the achievement of the objectives because most of the necessary information and calculations are coming from the respective authorities.

**A regular review process is established.** As can be seen, thresholds are established to regularly review the fee structure against the objectives.

**Fee income is not distributed among the officials.** None of the examined countries use fees to award employees. In fact, this practice would contradict and negate the principle of cost recovery.

Policy recommendations for Bulgaria based on lessons learned from international experience and practice include:

• **Adopt a policy on state fees according to “good practice” as described above.** Issues to be addressed in a policy statement would be: what shall be the function of state fees? Should there be “subsidized” administrative services? If so, what would be the criteria and which services would qualify? Can fees be used to fulfill policy objectives, like restricting access through high fees? What are the general criteria to calculate a fee? Which agencies should be allowed to retain fee revenues for their own budget and which not (selection criteria)?
• **Considering international good practice, it is recommended to introduce the principle of Single Cost Calculation in Bulgaria.** The single cost calculation is fair, covers the cost of service and is comparably easier to apply than the full cost calculation. Annex 2 provides an example for the questionnaire used in a single cost calculation in Germany.

• **Revise the legal framework.** The current Law on State Fees is not sufficient to support the application of a modern fee structure. Any change of the current policy needs to be reflected in the legal framework and would show at two places: the principles and procedures to set fees for administrative services; and the actual fees due. Therefore, new and modern legislation based on the policy decision should be adopted. There are generally two options in this respect: (i) the Government of Bulgaria (GoB) can amend the existing Law on State Fees, or (ii) Adopt a new Law. Both options can achieve the goal and it is more a question of political feasibility which option the GoB prefers.

• **Adopt supporting (internal) guidelines.** Even Australia with well-trained civil servants needs 50 pages long internal guidelines ensuring the appropriate implementation of the cost recovery objective. The State in Hamburg has also 30 pages of guidelines with six annexes informing the civil servants on their calculating tasks.

• **Create an institutional framework.** The implementation of the reform must be monitored, the new fee structure established and authorities supervised. Furthermore, a regular review process must be introduced and supported. All this needs a solid institutional framework.

• **Revise the incentive regime.** The current incentives for authorities and officials to increase fees and the income from fees must be revised. It is contrary to the principle of cost recovery and leads to higher, sometimes inappropriate fees.

• **Improve transparency.** Fee revenues belong to the state. If any of the state budget funds are distributed to individuals, then this has to be transparent who receives what and why in order to be examined.

• **Eliminate illegal practices.** Even before new legislation is in place, illegal practices should be abolished. Practices like the application of “restrictive fees” are not in compliance with the Law on State Fees and should be eliminated.

• **Train officials to calculate costs.** In Germany and Australia, such cost calculations are new for many civil servants and it took time to train them properly. The same will be necessary in Bulgaria guaranteeing a proper implementation of the reform.
Bulgaria  
Reforming the Regime of State Fees

I. Introduction

The Government of Bulgaria requested the World Bank to analyze the legal, institutional and administrative framework for setting state fees and provide recommendations based on good international practice.

The development of state fees over the last five years in Bulgaria is perceived by many observers as unsystematic, excessive, unfair and non-transparent. A Working Group of the Ministry of State Administration and Administrative Reform reported in January 2009 regarding the increase of state fees between January 2005 and November 2008:

“The total average growth in percentage of the fees (without the calculation of the Ministry of Health Tariff as per Medicinal Products in Human Medicine Act) is 60 %, out of which as 49% is a result of the newly established services, and 51 % is a result of the increase of the size of the fees. If the Ministry of Health’s Tariff is included in the total calculation, then we have a total average growth of 183 %, out of which the weight of the newly established fees is 73 %, and the increase of the size of the fees – 27 %.”

The national business associations in Bulgaria perceive the ever-increasing state fees as a serious burden to doing business in Bulgaria and a major contribution to impede the competitiveness of Bulgarian firms. In addition to the cost, uncertainty about future fee increases and non-transparency of the process and requirements harm the business climate and constitutes a heavy burden particularly for businesses in strongly regulated sectors as well as for Small-and-Medium-sized Enterprises (SMEs).

How big is the problem compared to the many other issues the government wants to reform in order to improve the business climate in Bulgaria? So far there are no comprehensive studies of the level of administrative fees in the EU area. Such studies would be of great value to assess the magnitude of the problem. There are, however, several arguments in support of reforming the regime of state fees in Bulgaria now. Firstly, business associations in Bulgaria agree — also confirmed by a recent unpublished government report — that state fees at the central level became an uncontrolled area in which authorities apply their own judgment and interests without considering the impact on businesses often to the disadvantage of the private sector. Secondly, if the GoB does not curb the current regime system, then the trend of increasing state fees will continue or might even gain speed. Again, this will have a negative impact on the cost of doing business. Thirdly, a number of identified state fees are so high that they seriously harm competition by functioning as a barrier to firm entry. Fourthly, the EU requires Member States to implement a specific regime for administrative fees in the services sector by the end of 2009 and Bulgaria does not comply with that yet.

A recent World Bank report for Bulgaria “Investment Climate Assessment” (2008) called for overall reduction of the administrative cost for businesses because Bulgaria is not competitive in this area compared to other Central and Eastern European countries. The report recommended that a strategic policy document is prepared to embrace the administration practice and provide an instrument for classification of the tariffs for the central administration service fees targeting universal reduction of the administrative cost. It also proposed that a special methodology for the classification of the tariffs for the central administration service fees is developed. The present report is intended to support reform of the regime of state fees.

“Reforming the Regime of State Fees” shall firstly determine the scope of the study, discuss the functions of administrative services and the cost recovery principle, whereas the second section will look at the current situation with regards to state fees and the fee-setting procedure in Bulgaria, followed by examples of how selected countries set fees for administrative services. At the end of the report, recommendations on improving the existing regime of state fees will be provided and some thoughts will be given on implementing a reform in this area.

Scope

Since there is some confusion on the terms used for revenues generated by the state, this report needs to make some clarifications on the subject in question and the scope. Throughout the report, the following definitions will be used for income-generating instruments of the state:

Table 1. Typology of Income-Generating Instruments

<table>
<thead>
<tr>
<th>Instrument</th>
<th>Revenue Source</th>
<th>Examples</th>
</tr>
</thead>
<tbody>
<tr>
<td>Standard taxes</td>
<td>Compulsory payment. Base varies by instrument.</td>
<td>• Profit or corporate income tax;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Property (land and building) taxes;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Excise taxes;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Labor taxes paid by the employer.</td>
</tr>
<tr>
<td>User fees and charges</td>
<td>Revenue from sales of goods and services, provided directly by the Government</td>
<td>• Utility fees (e.g. water, gas, electricity);</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Fees for disposal of household waste;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Public schools tuition fees.</td>
</tr>
<tr>
<td>Regulatory or administrative fees</td>
<td>Revenue from licenses and permits for regulated activities, and delivery of administrative services</td>
<td>• General business/trade licenses;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Construction permits;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Examination and inspection fees</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Road and bridge tolls;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Public works (rents on buildings, hire charges)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Mineral concession fees and royalties;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Fishing royalties;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Forestry exploitation fees.</td>
</tr>
<tr>
<td>Fines and penalties</td>
<td>Punishment for non-compliance with the law or regulation</td>
<td>• Traffic/parking fines;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Judicial fines;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Penalty for late payment//notification.</td>
</tr>
</tbody>
</table>

Subject of this report are regulatory or administrative fees only. Taxes and charges are not addressed mainly because they follow different objectives, rules and requirements than fees. The scope of the report is also limited to state fees.

State fees in Bulgaria represented between 4.4 and 6.7 percent of the reported revenues in the state budget between 2005 and 2008 (See Table 2). Important to note is that the reported nominal estimate of the state fees revenue at the end of the year has been between 20-40 percent of what was in the planned budget for the above mentioned period. This would mean that ministries and executive agencies in Bulgaria have increased revenues from state fees much more than what the Ministry of Finance had planned. This came either through raising the existing state fees or by adding new fees in the tariffs. In fact, the reported revenues from state fees increased by 14 percent (116 million BGN) between 2007 and 2008.

Table 2. Bulgaria: State Budget Revenues for 2005-2009 (mln. BGN)

<table>
<thead>
<tr>
<th></th>
<th>2005</th>
<th>2006</th>
<th>2007</th>
<th>2008</th>
<th>2009*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Revenues</td>
<td>11 726,5</td>
<td>13 446</td>
<td>15 862,4</td>
<td>18 646</td>
<td>20 955</td>
</tr>
<tr>
<td>Tax revenue</td>
<td>9 828,5</td>
<td>11 652</td>
<td>13 920,6</td>
<td>16 124,7</td>
<td>18 916</td>
</tr>
<tr>
<td>Non-tax revenue</td>
<td>1 898</td>
<td>1 794</td>
<td>1 941,8</td>
<td>2 333,7</td>
<td>1 900</td>
</tr>
<tr>
<td>- state fees (reported)</td>
<td>791</td>
<td>677,8</td>
<td>712,8</td>
<td>828,8</td>
<td>---</td>
</tr>
<tr>
<td>- state fees (planned)</td>
<td>478,7</td>
<td>535,8</td>
<td>483,5</td>
<td>598</td>
<td>701,7</td>
</tr>
<tr>
<td>- municipality fees</td>
<td>344,6</td>
<td>423,4</td>
<td>558,9</td>
<td>653,8</td>
<td>---</td>
</tr>
<tr>
<td>- fines, sanctions and penalty interest</td>
<td>178,8</td>
<td>186 841</td>
<td>102,9</td>
<td>106,4</td>
<td>94,1</td>
</tr>
</tbody>
</table>


A range of fees, user fees and charges, including for disposal of household waste, for attendance at creches, for technical services, for administrative services, visitor fee, etc., are set and collected by municipalities. Similarly to the state fees, they have increased between 2005 and 2008 in nominal terms and comprised between 3-3.5 percent of the state budget’s revenue for that period. Locally set and collected administrative municipality fees, however, are not analyzed in this report.

Furthermore, it should be noted that the report focuses on fees only and does not assess the underlying regulatory procedures. Therefore, it will not identify inefficient or superfluous regulatory practices. It should be done in a next step or in parallel to a reform of the fee structure. For that purpose, it is referred to in the World Bank report “Investment Climate Assessment”, which provides an analysis and investors’ perception of several administrative procedures including start-up procedures, licensing and getting construction permits.

---

2 The municipalities can determine the amount of taxes and fees since January 1st, 2008, as per amendment in the Local Taxes and Fees Act (SG No.110/21.12.2007).
Functions of administrative fees

Administrative fees can have various functions. Some countries allow only specifically defined objectives of administrative fees or prohibit certain objectives to be pursued with administrative fees. Functions of administrative fees can be:

- **Cost recovery.** This is the most common function of fees. Cost recovery means that the fee revenues shall cover the cost of a defined administrative authority, unit or service. An often complicated calculation of the cost of an authority or an administrative unit must be undertaken as a basis to set administrative fees accordingly. The principle of cost recovery allows usually lower fees than necessary to recover costs (in legally defined circumstances), but not higher fees. The prohibition to overcharge an applicant is, for example, reflected in the EU Directive mentioned below. Cost recovery can technically be defined and approached in two different ways:

  — From a budgetary perspective with the aim to cover the cost of the administrative unit in charge of specific administrative services. This approach does not address the issue of fee setting in terms of creating a just fee structure. The primary goal is that the total fee income matches the total administrative costs. Instrument to achieve this goal is a *general cost calculation* in which the overall costs are calculated for a defined administrative unit. These costs must then be met by fees paid for an estimated number of applications.

  — From an equity perspective with the aim to set the fees equal to the administrative costs caused by the individual or class of application(s). Instrument to achieve this goal is a *single cost calculation*, in which the average administrative cost caused by a specific application is calculated and charged as a fee. (See, Annex 2 for an example of a single cost calculation).

- **Incentive function.** These are fees used to produce a certain behavior. Fees may be particularly high to limit or subsidized to promote certain activities. For example, Denmark set its company registration at zero to promote the establishment of businesses and the economic initiative of citizens. Some countries acknowledge the incentive function of a specific fee, however, they often state at the same time that the fees shall not be prohibitive. This is, for example, the case in Germany.

- **Social function.** Fees might be lowered for specific groups of applicants, because they do not have the means to pay the full fees. This function is usually but not necessarily applied in a non-economic context. For example, SMEs might have a special tariff for business registration, licensing or import permits. Many countries allow for such adjustment of fees.

- **Revenue generation.** Administrative service fees are often perceived as a moneymaker and used to balance the budget. This is particularly possible
because the state has a monopoly on public services and can set the fees freely. On the downside, high fees harm the business climate and are an incentive for companies to join the informal market. As we will see in Section III, most developed countries, including the EU, prohibit the use of administrative fees to generate revenues.

- **Penalty function.** Fees might be used to penalize a certain behavior. This might be the case, for example, when an illegal action causes the administrative service. If a restaurant, for instance, abuses a license and the authority has to close it down, then the fee to close down might be set at a penalty rate. However, the penalty function of administrative fees is often prohibited, because it is said that the special instrument of fines has to be used for this function.

Each of the described fee functions is applied in practice. However, not all of them are recommended for use. *Cost recovery* should be the leading principle when designing and applying a regime of state fees because it ensures a fair distribution of costs among the citizens causing them (applicants). It must be decided on a case-by-case basis whether the general or single cost method is more suitable.

The cost recovery principle should be flexible and reflect a carefully applied set of reductions for *social* reasons and as economic *incentives*. The social criteria should be narrowly defined and the incentives well targeted because either the other applicants or the state would have to finance them. State fees should never apply the functions of *revenue generation* and *penalties* because the state has more efficient, less distortive and better-targeted instruments at hand, namely taxes (revenue generation function) and fines (penalty function).
The following table summarizes the differences between the various objectives and how they can be achieved in a quick overview.

Table 3. Objectives of Administrative Fees and their Features

<table>
<thead>
<tr>
<th>Function</th>
<th>Focus</th>
<th>Objective</th>
<th>Calculation method</th>
<th>Example</th>
<th>Quick assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Full Cost Recovery</td>
<td>Budgetary</td>
<td>Match overall revenues with overall costs</td>
<td>General Cost Calculation</td>
<td>Australian cost recovery program</td>
<td>Results in full or nearly full cost recovery of the administration; needs skilled officials because of very demanding calculations</td>
</tr>
<tr>
<td>Individual Cost Recovery</td>
<td>Equity</td>
<td>Match individual fee with individual service cost</td>
<td>Single Cost Calculation</td>
<td>EU Directive on Services</td>
<td>An individual and fair solution because each applicant pays only for caused costs; easier to calculate than full cost calculation</td>
</tr>
<tr>
<td>Revenue Generation</td>
<td>Budgetary</td>
<td>Top overall costs by overall revenues</td>
<td>General Cost Calculation</td>
<td>Bulgarian Drug Agency</td>
<td>Provides funds, but exploitation of monopoly situation; often prohibited by law</td>
</tr>
<tr>
<td>Incentive Function</td>
<td>Economic Growth</td>
<td>Stimulating economic activities</td>
<td>Assess willingness to pay fee</td>
<td>Danish Commercial and Companies Agency</td>
<td>Needs political decision; good to use for targeted admin. services, but costly if used broadly</td>
</tr>
<tr>
<td>Social Function</td>
<td>Equity</td>
<td>Assistance to lower income</td>
<td>Assess ability to pay fee</td>
<td>German § 6 of the Law on Admin Cost</td>
<td>Necessary option for non-economic activities, less important for economic activities</td>
</tr>
<tr>
<td>Penalty Function</td>
<td>Prevention</td>
<td>Prevention of illegal behavior</td>
<td>Assess level of prohibitive fee</td>
<td>Bulgarian “restrictive fees”</td>
<td>Often prohibited because fines are the appropriate legal instrument</td>
</tr>
</tbody>
</table>

The case for cost recovery of administrative fees

Cost recovery of administrative fees is the dominant principle in developed countries. The arguments used to promote the principle of cost recovery are manifold. First, cost recovery can be a tool to improve the efficiency of bureaucracy. This can be achieved by recovering (to the respective agency) only the cost of an efficiently provided service. Any costs (material, human resources, equipment), which occurred because the authority is not well organized, would not be covered and, therefore, would put pressure on the authority to re-organize itself. Second, charges and fees can give an important message to users or their customers about the cost of resources involved. Third, it increases fairness regarding the cost of bureaucracy, if the users of a service primarily or those who create the need for regulation pay for the service instead of shifting the burden to the general taxpayer. Fourth, cost recovery is a strict, comprehensible and potentially
transparent measure. Cost recovery can easily be monitored and made public, so the user and the general public can follow its implementation. At the same time, any future increases become more predictable because the used formulae are set and available.

At the same time, all countries applying the principle of cost recovery allow for exemptions. Australia, for example, does not apply the principle of cost recovery in case if:

- it is not cost effective; or
- it would be inconsistent with government policy objectives; or
- it would unduly stifle competition and industry innovation (e.g. through ‘free rider’ effects).

Later, we shall see that similar exemptions from the principle of cost recovery are applied also in Germany.

While the above mentioned benefits will come with the introduction of the principle of cost recovery, the reform comes also with some risks:

- Negative impact on state revenues - the existing regime may be used as a means to collect revenues by overcharging the public for administrative services. The reform would therefore have a negative impact. However, governments tend to make calculation often made one-sided by calculating only the income and neglecting the cost of bureaucracy.

- Negative impact on business climate - this is the case when the current regime subsidizes the government services. However, since the government has to collect revenues to cover the budget, the losses made through subsidization will sooner or later be reflected in higher taxes which also have an impact on the business climate.

- Negative impact on the salaries of civil servants - in case of Bulgaria, many civil servants benefit from extra income provided from fee revenues of their employing authority. The reform will cease this practice. Social and political pressure may lead to offset the forlorn income by higher salaries. Other results may be that capable officials leave the public sector, or that political influence resists the reform.

3 See Annex 5, the Australian key principles for cost recovery.
II. The Current Regime of Fee-Setting in Bulgaria

The Bulgarian central administration has a total of 91 tariff regulations in place. Each of the tariff regulations includes a list of services and related fees charged by the respective authority.

Legal framework

The basic provision on the calculation of central administrative fees is set in the State Fees Act of 1951. The State Fees Act is applicable to a number of government services including administrative services. Collected fees must be paid into the state budget if not otherwise stated.

Article 2 (2) of the State Fees Act states the general principle:

"Simple duties are determined on the basis of the material, technical and administrative expenses, required for providing the service."

Therefore, leading principle for all central administrations in their effort to adopt fees for their services is the recovery of related administrative costs. Unless otherwise stated in sector-specific legislation, all central administrations, ministries, executive agencies, independent public authorities have to apply the cost recovery principle.

The State Fees Act does not empower the government to adopt secondary legislation on issues addressed in the Act. In other words, there are no further details, explanations or guidelines on how the cost recovery principle shall be applied by the central administration. There are also no internal administrative provisions issued by the government in this area. Therefore, each ministry and executive agency applies its own methodology when suggesting new or raising existing fees. Ministries and executive agencies operate under specific sector legislation, which empowers them to adopt a tariff approved by the Council of Ministers (Art.1, State Fees Act).

---

4 Local fees are set according to the Local Taxes and Fees Act of SG No.117/10.12.1997/last amendment SG No.70/8.08.2008.
6 Art. 4 letter o) of the State Fees Act.
7 Art. 1, State Fees Act.
8 The full Article 2 of the State Fees Act (Amended, SG No. 55/1991) reads:
   (1) Stamp duties are simple and proportionate. They are paid in revenue stamps or in cash. It is determined by the Minister of Finance how revenue stamps will be stamped and in what cases stamp duties are collected in cash.
   (2)(Amended, SG Nos. 55/1991, 82/1997; supplemented, SG No. 62/2002) Proportionate stamp duties are determined on the basis of the price of the document or the service. Where the price is not specified, the duty is determined on the basis of the market price. Simple duties are determined on the basis of the material, technical and administrative expenses, required for providing the service."
9 For example, Tariff for the fees, collected under the Ministry of Health for Medicinal Products in Human Medicine Act/SG 106/14.12.2007 as per Art.21, par.10, item 2 from the Medicinal Products in Human Medicine, or the Tariff for the fees collected under the Tourism Law/SG 93/1.10.2002 as set in the Tourism Law, art.18, par.10.
Regarding the use of fees and fines, the sector laws allow the respective authority to retain portions of the collected revenues (see, Annex 4 for a list of such sector laws). The remaining revenues must be paid into the state budget. Applicable ceiling rates can be 25 per cent, 40 per cent or even 75 per cent. For instance, the Accreditation Law, executed by the Accreditation Service Agency, allows for 25 per cent of revenues from state fees to be allocated for the so-called additional material incentive for the employees of the agency. The Financial Supervision Commission Law has the same ceiling rate. Other authorities, like the Drugs Agency or the Regional Inspectorates for Preservation and Control of Public Health, are permitted to keep up to 40 per cent of their revenues from fees.

Still others, like the Agency for Geodesy, Cartography and Cadastre can use 75 per cent of the fees collected under the Cadastre and Property Register Act and the Geodesy and Cartography Act, including supplementary revenues from the budget and from sanctions and fines that can be used for the development of the cadastre and geodesy measurements, as well as for development of the material basis, qualification increase and incentives of the agency employees under conditions and order, specified through ordinance by the Minister of Regional Development and Public Works. This is potentially a considerable amount of money. For example, the fee income of the Drugs Agency was 18.8m BGN (13.4m USD) in 2008, which is a substantial increase compared to 2007 when the fee income was 6.1m BGN (4.4m USD). This is a result of the new Tariff, adopted at the end of 2007, which increased substantially the fees of the Drugs Agency. In fact, the additional material incentive budget of the Drugs Agency has increased from 1.1m BGN (0.79m USD) in 2007 to 1.32m BGN (0.94m USD) in 2008, which have been distributed to about 170 employees of the agency and 200 external consultants. The Drugs Agency claims that it has increased five-fold its activities in recent years to justify the additional financial stimulus for employees and consultants. The fee income of the Ministry of Environment and Waters arrived at 4.6m BGN (3.3m USD) in 2008, whereas the projected fee revenues for 2009 are estimated at 5.2m BGN (3.7m USD).

There is no clear indication in the budget structure how much is spent on additional material incentives for the employees, but the law says that up to 25 per cent of the fee income can be allocated for this purpose. In fact, the actual percentage to be retained will be proposed by the authority to the Ministry of Finance for approval. There appears to be no rule on how actual percentage is set and how often a retainer is proposed and approved.

Usually, the sector laws list the activities for which the retained funds can be used. All laws allowing for a retainer provide for its distribution among the officials employed by the respective agency as a performance bonus. There are no firm procedures and criteria on the distribution of the retainer within the respective authority. Some authorities establish a Committee, whereas others have the head of the authority in charge of the distribution of the retained funds. None of the institutions publishes information on the use of these funds, though some publish the total amount distributed.
Institutional framework

There is no central authority in charge of implementing the legislation on tariffs and the distribution of revenues from fees and fines. Three bodies play a role in setting new tariffs: the respective executive authority, the Ministry of Finance and the Council of Ministers.

The respective executive institution proposes new tariff in the form of a draft regulation and prepares supporting documentation. Each institution develops and applies its own methodology on how to calculate the fees in the tariff. The request is then submitted to the Minister of Finance for approval before it goes to the Council of Ministers for decision.

While most ministers would not have a strong interest in refusing a fee request, the Minister of Finance is the key person in the decision-making process. However, the Minister of Finance is primarily interested in raising revenues and tends to support any request to increase fees and fines. The Council of Ministers can approve or refuse the draft regulation. There is neither policy, nor guidelines or general rules in addition to the cost covering principle stated in the State Fees Act for the decision of the Council of Ministers.

The State Fees Act does not guarantee a consistent structure for central administrative fees. Its main shortcoming is that there is no secondary legislation in place to provide any details on which costs should be included in the fee calculation. There is also no methodology or guidelines to assist tariff setting agencies and ministries in their efforts to develop fee regimes.

Finally, there are no rules for the regular review of existing tariffs. Each agency and ministry proposes increases according to its own needs and assessment. Increases are sometime justified by inflation, sometimes by increased quality of service, sometime by EU accession or comparative fees in other EU member states for the same administrative service, and sometimes by the need for revenues. Policy statements on the function of state fees and how they relate to revenue generation, bonuses for officials and formulated policy objectives are also often missing.

Administrative practice

In practice, there are three different categories of fees applied in Bulgaria. First, there are regular fees for permits, licenses and other clearances that reflect somehow the cost of the related administrative service. The executive agency or ministry in charge develops a system to calculate the administrative costs. While each of the institutions applies a different methodology, these systems intend to calculate the real costs of the service.

Second, there are fees that are called “restrictive fees”. Though this term is not supported by the State Fees Act, restrictive fees seem to be a commonly known phenomenon among officials. The underlying objective to apply “restrictive fees” is to influence the number
of applications for the targeted activity. Though the activity in question is legal, the authorities in charge decided to control or reduce the number of businesses conducting it. The authorities applying restrictive fees are fully aware that the fee is far above the related administrative cost. Box 1 provides some examples for “restrictive fees”.

### Box 1: Examples for “restrictive fees” charged by Executive Agencies

The State Tourism Agency charges two fees to register a tour operating business of a total of BGN 5,000 (3,570 USD). This fee is not related to the administrative effort. In fact, it is the same fee to be paid for the license to open a hotel with over 500 rooms, which is much more complex task and includes the review of many technical documents, an inspection including several technical experts and many administrators for several days. Also, a registration similar to the one for a tour operator, for example, to open a tourist agency is issued for half the fee (BGN 2,500 or 1,785 USD). And even this appears to be out of proportion to the administrative effort. Regular retailers, which are more comparable to tour operators, pay a license fee of only BGN 20-100 (14-70 USD) on municipal level. In fact, the purpose of the high fee for tour operators is not to reflect the administrative effort but to restrict competition. Similarly, the flat licensing fee charged by the Ministry of Health to open a pharmacy is set at BGN 5,000 (3,570 USD). Again, the purpose of the fee was to avoid seasonal pharmacies opened in holiday resort areas, because these often makeshift outlets were seen as selling counterfeited pharmaceutical products. Another example is the high fee for import of GMO products and GMO distribution in the environment charged by the Ministry of the Environment and Waters. It arrives at 8,000 BGN (5,715 USD) for the first permission and 5,500 BGN (3,930 USD) for every other permission. Again a fee set to implement the policy made up by the agency to restrict GMO products.

Third, there are fees set to generate revenues. These fees are oriented towards the ability of the applicant to pay for licenses. The Bulgarian Drugs Agency and its fee schedule is the main example. Over the last five years, the Agency has made considerable profits. In 2008 alone, the agency made a profit of 11m BGN (7.8m USD). In fact, the agency was continuously profitable in the past five years. Despite the profitability of the agency, its fees have been increased by Council of Ministers (CoM) decision No. 296 from 4 December 2007 and there was also a proposal by the agency for further increasing the fees in the Tariff in 2008, which was not approved by CoM.

In addition to the collection of fees, there is the practice to distribute retained fees and fines. The objective is to provide incentives to the executive agency and their employees to improve performances. However, it was not possible to obtain information on the procedures and criteria applied. Some of the agencies distribute the funds to the employees monthly, others quarterly or annually.

Yet, some of the agencies published the total amount of distributed fees. For example, the Bulgarian Drugs Agency distributed to their officials in 2008, the sum of 1.3m BGN (0.92m USD). As mentioned above, the specific laws prescribe for which activities the

---

10 Bulgarian Drugs Agency or the Financial Supervision Commission.
11 This practice is unusual for a public authority. In Germany, the equivalent authority – Federal Institute for Drugs and Medicine Products - in charge of licensing medical products, is a federal authority supervised by the Ministry of Health. Administrative fees are set by the Ministry according to the principle of cost recovery taking the personnel and equipment cost into account, § 6 (2) Law on Reconfiguration of Health
retained funds could be used. This may include expenses for office material, extraordinary costs or bonuses for officials, as in the case of the Geodesy, Cartography and Cadastre Agency. The Bulgarian Accreditation Service, for instance, can distribute the acquired revenues from their activity for financing the agency activities, capital expenditure, increase of the staff qualification and the qualification of external evaluators and for additional material incentives under order, defined in the statute of the agency. When distributed to officials, then performance criteria are usually applied according to interviews with representatives from executive agencies and ministries. Nevertheless, none of the representatives could name the applied performance criteria and they are nowhere published.

Fee structure

It is beyond the scope of the report to review and analyze all administrative fees charged by the Bulgarian central administration. However, some general observations on the fee structure can be made. These observations are based on interviews with officials and representatives of the private sector as well as on documents recently drafted. It is based on snapshots and anecdotal evidence and does not reflect any systematic review of the applied 91 Tariffs and their development. In this respect, it would be useful if the GoB could undertake a systematic review of the tariffs in order to gain the full picture of the state fee regime.

General observations are that the fee structure is characterized by:

- **Significant increases of state fees.** The Draft Report of the Ministry of State Administration and Administrative Reform calculated the fee increase of 19 Tariffs between January 2005 and November 2008 and concludes that “the total average growth in percentage of the fees (without the calculation of the Ministry of Health Tariff as per Medicinal Products in Human Medicine Act) is 60 per cent”. This is partly a result of newly established services (49 per cent), and partly because of an increase of existing fees (51 per cent). The Ministry of Health increased its fees significantly above average. If the Ministry of Health’s Tariff is included in the total calculation, then the total average increase of fees is at 183 per cent, out of which the weight of the newly established fees is 73 per cent, and the increase of the size of the fees is 27 per cent.

- **Lack of transparency and predictability impacts the business environment.** The lack of an overall policy and transparent procedure to establish and raise administrative fees harms the business climate. Particularly companies in heavily regulated sectors such as pharmaceuticals, telecommunications or food-

Institutions (1994). The value of the administrative service can also be—appropriately—considered. Fee revenues are paid into the general budget and the officials including the head of the Federal Institute are paid only according to the Law on Salaries for Civil Servants. The head of the Federal Institute receives a fixed salary (B3).

processing have constant government interaction and are subject to many regulatory measures and administrative fees. The lack of a consistent, predictable, fair and transparent regime for administrative fees makes doing business in Bulgaria unnecessarily difficult and less competitive. But the same is valid for SMEs for which high and ever changing entry licensing fees or annual fees can constitute a heavy financial burden.

- **Insufficient information on level of administrative fees.** Despite the observation that administrative fees have been increased significantly since 2005, it is not clear whether the increases yield to a high level of administrative fees. As a snapshot of only a small number of administrative procedures from the Doing Business report 2009 of the World Bank on the ease of doing business it can be concluded that administrative fees in Bulgaria are not significantly higher than those of countries in the region or OECD countries (see, Table 4). But again, the survey covers only very few administrative fees. Yet, a comparison with the best EU performers shows that there is a lot of room for improvement. Also, when assessing the level of fees it must also be taken into account that a cumulative effect of many small fees can cause a high cost burden, even though the single fees might be relatively low.

<table>
<thead>
<tr>
<th>Administrative Costs of Procedure</th>
<th>Bulgaria</th>
<th>Best EU performer</th>
<th>OECD (average)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Starting a Business (% of GNI)</td>
<td>2.0</td>
<td>Ireland (0.3)</td>
<td>4.9</td>
</tr>
<tr>
<td>Registering Property (% of property value)</td>
<td>2.3</td>
<td>Lithuania (0.5)</td>
<td>4.7</td>
</tr>
<tr>
<td>Enforcing Contracts (% of claim)</td>
<td>23.8</td>
<td>Latvia (16%)</td>
<td>18.9</td>
</tr>
<tr>
<td>Closing a Business (% of estate)</td>
<td>9</td>
<td>Finland (4)</td>
<td>8.4</td>
</tr>
</tbody>
</table>


**Analysis**

Several severe shortcomings of the regime of state fees were identified to be responsible for the current uncoordinated, inconsistent and unfair fee structure:

1. **Lack of policy objectives.** Apart from Art. 2 of the State Fees Act, there is no policy regarding the setting of administrative fees in place. There is no general statement of the government on the function, types and setting criteria of fees. This is one reason for the “wild” development of tariffs.

2. **Insufficient legal framework.** The general guideline of cost recovery stated in the State Fees Act is a good start, but not sufficient for the complex fee structure in place. It does not allow for exemptions and does not empower the government to adopt regulations on the details. Such regulations are necessary to interpret the term “cost recovery”. Furthermore, sector laws allow for retaining fees, but there is no provision on the distribution of such funds. This is problematic, because these funds can be significant and principles of transparency and equality should be stated.
(3) **Lack of supporting (internal) guidelines.** The government should ensure consistent tariffs across the board. Therefore, rules and guidelines regarding the setting and calculation of fees are necessary. A common methodology would not only ensure a consistent fee regime but would also ease the fee setting process for the involved institutions. The more detailed the rules the more automatic is the process.

(4) **Weak institutional framework.** There is no institution or department in charge to monitor the implementation of the State Fees Act if it comes to the setting and approval of fees. It is basically the initiative of the executive agency or ministry in charge to apply the Act according to its own interpretation. No entity within the government has the responsibility to review the fee proposals or to request changes. The Council of Ministers is in charge to approve the proposals for change in tariffs; none of the members would have the time, specific responsibility or the skills to apply the State Fees Act consistently. This practice results in a mild form of anarchy if it comes to the setting of state fees. The same is valid for the distribution of retained fee revenues within the collecting executive agencies.

(5) **Wrong incentives.** The fact that some executive agencies can retain a considerable percentage (25-75 per cent) of the fee revenues for its own budget and mostly distribute it as bonuses to the employees is an incentive to increase fees. Agencies focus more on the revenue generating function of fees (and fines) than on the legal requirements, namely the principle of cost recovery. Even where the principle of cost recovery is applied, agencies tend to inflate the cost by including expenses in a broader sense rather than the specific service related expenses. However, this does not mean that performance related bonuses should be eliminated. It is the link between fee revenues and bonuses, which creates the wrong incentive. Other ways to assess the performance would be recommended.

(6) **Lack of transparency.** Neither the process to set fees nor to distribute retained fee revenues is transparent. In most cases, the private sector is not consulted before new tariffs are approved. Therefore, arguments against the fee proposals are not heard. Likewise, the criteria and actual decision on bonuses are not published. Apart from the deciding body, nobody within the respective agency knows which unit, department or sector receives what kind of bonuses. It is not even clear whether the Ministry of Finance as the approval body receives information on how the funds are distributed among the officials.

(7) **Illegal practices.** The State Fees Act is clear on the general criteria applied in the fee setting process: cost recovery. However, there are two types of fees, which violate the law, “restrictive” fees, and revenue generating fees. Both are applied by various institutions and appear to be common feature of the Bulgarian system of tariffs.
**III. Setting Administrative Fees: International Good Practice**

Every country charges administrative fees and there are many examples for the calculation of fees. The following examples should give an overview of good practices applied in selected countries. First, the EU-requirements are described, which Bulgaria has to comply with as EU Member State. Then, a description of the practice in Germany and Australia will follow. Germany has an elaborated legal framework and procedure in place, which can serve as a model. Australia is provided as an example for three reasons: first, it is not an EU country and therefore not bound to the EU requirements. In this respect, it is useful to see how a country approaches the same issues from a different angle. Second, Australia is renowned as a reform country. Most of the administration and procedures have been reformed in recent years, often in a creative way. Third, Australia ranks very high in the *Doing Business* report, which suggests that the recent reforms were very successful.

**EU-Requirements**

| SUMMARY |
|------------------|--------------------------------------------------|
| Scope:           | Administrative fees in the services sector       |
| Objective:       | Fair fees, avoidance of excessive fees for administrative services |
| Calculation method: | Cost recovery of individual authorization procedure, Single Cost Method |

There is no general EU legislation on the calculation of administrative fees in place. However, Directive 2006/123/EC on Services sets requirements for the calculation of service-related administrative fees. Member States must implement the Services Directive by the end of 2009.

The Directive is applicable to all administrative procedures related to businesses in the service sector (service providers) excluding non-economic services of general interest, financial services, electronic communications services and networks, services in the field of transportation, services of temporary work agencies, healthcare services, social services, private security services, audiovisual services, gambling and lotteries, legal services and services related to the field of taxation.

Concerning administrative services, the Directive is applicable to so-called authorization schemes defined as “any procedure under which a provider or recipient is in effect

---

14 Art. 2 of Directive 2006/123/EC.
required to take steps in order to obtain from a competent authority a formal decision, or an implied decision, concerning access to a service activity or the exercise thereof.”

The main provision relevant to the subject of this report is Art. 13 (2). It states that authorization procedures and formalities:

“...shall be easily accessible and any charges which the applicants may incur from their application shall be reasonable and proportionate to the cost of the authorization procedures in question and shall not exceed the cost of the procedures.”

The European Commission declared to Art. 13 (2) that the words “shall not exceed the cost of the procedures” can be interpreted as the cost for the administration, control and implementation of the authorization procedure.

To sum up, each Member State has to guarantee that charges (administrative fees) for administrative services in the services sector must be:

- Reasonable;
- Proportionate to the cost of the administrative procedure; and
- Not exceed the cost of the procedure.

Art. 13 (2) must be implemented by all Member States. Each Member State is free to choose the method and legal instrument to implement the Directive as long as it results in charges fulfilling the stated requirements.

There are no details or additional explanations on the requirements in the Directive or any other legally binding document issued by the EU. However, two sources give deeper insight in the meaning of this provision. First, there are several judgments of the European Court of Justice on the subject. Second, the EU issued a Handbook on the Implementation of the Services Directive and its understanding.

The Handbook of the EU states that “any charges which applicants may incur need to be reasonable (i.e. they should not represent a significant economic barrier, account being taken of the nature of the activity and the investment usually associated with it) and proportionate to the cost of the authorization procedures.”

The EU has not issued any methodology on the calculation of administrative cost for administrative procedures related to the services sector. In this respect, it is up to the Member States to develop their own methods as long as they result in reasonable and proportionate charges, and do not exceed the cost of the procedure. It should be noted that the Directive on Services prohibits the administration to make profits with administrative fees.

---

15 Art. 4 (6) of Directive 2006/123/EC.
16 Art. 249 of the European Treaty.
Germany is a federal state with three layers of state organization: the central state, 16 states (Länder), and more than 12,000 autonomous municipalities. Each of the three layers has its own rules and legislation on administrative fees in place. The following describes the legislative base on all three layers of administration and provides greater detail of the practice on state level. As a general rule in Germany, administrative fees charged by authorities are paid into the general budget of the respective level of state organization. There is no case in which fee income is paid out as bonus to officials.

Central state level

At the central level, Germany has a federal law on administrative charges in place.\(^{18}\) The law is applicable to all fees charged by federal authorities as well as provincial and municipal public authorities as long as they implement federal laws. Certain institutions like the judiciary are exempted from the application of the law. Their fees are addressed in other specific laws. The content of the Federal Law on Administrative Fees reflects also the typical content of a State Law on Administrative Fees. It is provided in Annex 1.

The essential provision of the Federal Law is § 3 stating the principles of setting administrative fees. A translation is provided in Box 2.


---

| SUMMARY |
|-----------------|---------------------------------------------------------------------------------|
| Legal base:     | Laws, tariff regulations, administrative guidelines on 3 levels of Governance |
| Scope:          | Administrative fees                                                             |
| Objective:      | Overall cost recovery, fee exemptions for social or equity reasons Possible      |
| Calculation method: | General Cost Recovery, but Single Cost Method possible in specific circumstances |

**Box 2: § 3 of the German Federal Law on Administrative Fees**

“The rates of charge are to be measured in such a way that an appropriate relationship exists between the administration expense on the one hand and the meaning, the economic value or the use of the official act on the other hand. If a law prescribes that fees are raised only to cover the administrative expenses, then the fees should not exceed the average cost of personal and material for the administrative branch concerned with the authorization procedure.”
The Federal Law on Administrative Fees applies two principles: (1) the so-called principle of equivalence, meaning that the administrative fee must be in proportion to the value of the specific administrative service, and (2) the principle of cost recovery limitation, meaning that the fee should not exceed the cost of the related administrative service. Art. 6 of the Law allows for specified administrative procedures to reduce or exempt from administrative fees for reasons of equity or in the public interest. This gives the government the possibility to refrain from the application of the cost recovery principle. The next section provides more details on the fee calculation methodology.

**States (Länder) level**

Each of the 16 States has its own law on administrative fees in place. Most of the state laws are similar, if not identical. However, there are slight differences in how they are implemented. The following provides examples from the States of Hamburg and Hesse.

All States adopted two kinds of legislative measures: (1) Law on Administrative Fees and (2) regulations with lists of administrative services and its corresponding fees to be charged. The Laws state the principles and the regulations apply them. All State Laws on administrative fees empower the respective minister to adopt such regulations. In addition, many States adopted detailed administrative guidelines to help authorities in the application of the Law.

Most States allow the following categories of administrative fees by Law:

- Fixed fees;
- Fees according to the value of the subject to which the administrative act is issued;
- Fees according to the time needed to complete the administrative act;
- Framework fees with a floor and ceiling.

Art. 6 (1) of the Hamburg law, for example, states that administrative fees must be set according to the principle of cost recovery. Costs of an administrative unit must be calculated in application of economic principles. The fees should not be out of proportion to the value of the administrative service for the applicant. § 6 (2) describes in a more detailed way the economic principles applied and the various costs to be regarded in the fee calculation. Finally, § 6 (3) allows exempting specific groups of applicants of the obligation to pay administrative fees for social reasons.

The State of Hesse, for example, has a similar cost provision in its Law on Administrative Costs (see, Box 3).

---

20 For example, the Bavarian Law on Cost empowers in Art. 5 (1) the State Minister of Finance to adopt a list of administrative fees.
21 For example, § 5 of the Hessen Law on Administrative Fees and Art. 5 (1) 2 of the Bavarian Law on Costs are identical.
Like many other States, Hamburg has adopted detailed Guidelines on the application of § 6 to assist the authorities in their task to calculate fees. The 30-page guidelines were adopted in 2007 and contain the following issues on the subject of cost calculation: principles, the term cost, costs to be included, costs not to be included, definition of administrative unit, time period, categories of costs, cost of personnel, hourly rates, necessary personnel, cost of equipment, transport costs, etc. Box 4 contains the template used for the cost calculation in Hamburg.

Box 3: § 3 of the Hesse State Law on Administrative Cost

(1) The value of the administrative contribution of all involved officials must be considered when calculating administrative fees. Also considered should be the value of the administrative act for the receiver/applicant. The administrative fees shall only be below the administrative cost, if it is in the public interest or for equity reasons or in case the administrative act contains a disadvantage (burden) for the receiver. The fee should not be out of proportion to the administrative act.

(2) Administrative cost according to (1) are expenses for personnel and equipment as well as capital cost.

(3) Administrative fees shall be examined every two years whether they have to be changed because they are not anymore in compliance with the stated principles.

Administrative fees in Hamburg are reviewed by the Council every other year. The reporting exercise is initiated, monitored and prepared by the Legal and Charges Department, Unit on Administrative Fees of the Ministry of Finance (Finanzbehörde). Each authority must submit a report on the calculation of their fees and show that they are in compliance with the law and the guidelines. To assist the calculation of fees, the Department issues the guidelines and set values for personnel costs and interest rates. The Department produces a report and submits it to the State Government. Fee increases must be justified by the respective authorities based on the calculation.
In special cases for authorities with a high proportion of administrative overhead or many costly branches (e.g. Police), a single fee calculation is applied. This means, the cost of a specific service is calculated instead of the cost of the entire authority. For the calculation of single fees, a form is issued to each institution to assist them in their reporting requirement. A translation of the form is provided in Annex 2. Other States initiate a fee review after the accumulated inflation rate hits a set ceiling, usually 10%.

**Australia**

<table>
<thead>
<tr>
<th>SUMMARY</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Legal base:</strong></td>
</tr>
<tr>
<td><strong>Scope:</strong></td>
</tr>
<tr>
<td><strong>Objective:</strong></td>
</tr>
<tr>
<td><strong>Calculation method:</strong></td>
</tr>
</tbody>
</table>

Australia is selected as example, because the Australian administration is known as innovative, service oriented and efficient. This is reflected in the results of the Doing Business report of the World Bank, which evaluates the ease of doing business and the efficiency of regulation of 181 economies in ten areas. Australia ranks among the top ten performers in the Doing Business report 2009.

In 2002, Australia adopted the principle of cost recovery for all government agencies\(^ {22} \) to improve consistency, transparency, and accountability of government services. The principle applies to fees and charges related to the provision of government goods and services (including regulation) to the private sector and other non-governmental sectors of the economy.

Cost recovery guidelines were adopted in 2002 and revised in 2005 (Financial Management Guidance No.4)\(^ {23} \). The fees of each authority are reviewed at least every five years. The review includes the appropriateness of cost recovery, the design of any cost recovery charges and the adequacies of monitoring arrangements in order to determine whether changes are necessary. The results of these reviews will be a Cost Recovery Impact Statement (CRIS) that will be considered in the Budget. All CRIS must be published on the authorities’ websites. The guidelines include a schedule to review administrative fees charged by government agencies. Annex 6 provides the review schedule as an example.

---

\(^{22}\) Cost Recovery (CR) applies to all *Financial Management and Accountability Act 1997* agencies and also to those *Commonwealth Authorities and Companies Act 1997* bodies that have been notified, under sections 28 or 43 of the Act, to apply the cost recovery policy.

The institution in charge to implement the principle of cost recovery is the Department of Finance and Deregulation at the Ministry of Finance. The Department provides assistance in the preparation of CRIS and initiates a cost recovery review. The Expenditure Review Committee (ERC) is in charge to assess the CRIS. The ERC comprises: the Deputy Prime Minister; the Treasurer as Chair; the Minister for Trade; the Minister for Families, Housing, Community Services and Indigenous Affairs; the Minister for Finance and Deregulation; and the Assistant Treasurer.

The principle of cost recovery is implemented in Australia in five stages consisting of (See Annex 3):

- Initial policy review;
- Design and implementation;
- Cost Recovery Impact Statement process;
- Ongoing monitoring; and
- Periodic review.

In the context of cost recovery, Australia distinguishes between fees charged for information provision and regulatory services.

The full cost of each product is the value of all resources used or consumed in providing that output, and it includes direct, indirect and capital costs. The estimation and allocation of costs follows several key principles:

- Cost estimates should be based, wherever possible, on the efficient costs, not actual costs; and
- Costing systems should be transparent.

If capital costs and overheads are included in charges, then agencies also need to:

- develop a method to calculate all aspects of capital costs; and
- develop a method to distribute capital and overhead costs among activities.

Australia uses the following cost definitions:

- **Direct costs** are costs that can be directly and unequivocally attributed to a product. They include labor (including on-costs) and materials used to deliver products.

- **Indirect costs** are costs that are not directly attributable to a product and are often referred to as overheads. They can include corporate services costs, such as the costs of the Chief Executive Officer’s salary, financial services, human resources, record management and information technology.

- **Capital costs** comprise the user cost of capital and depreciation. The user cost of capital represents the opportunity cost of funds tied up in the capital used to deliver products. It is the rate of return that must be earned to justify retaining the assets in the medium to long term. Depreciation reflects the portions of assets consumed each period in the production of output.
- **Fixed costs** are costs that do not vary with output. Rent and capital are usually fixed costs in the short run.

- **Variable costs** vary with output and typically include direct labor and materials.

- **Common or joint costs** remain unchanged as the production of different products is varied. These costs are incurred if any one of the products is provided. For example, the cost of a telephone line remains unchanged whether it is used for local or long distance calls.

The allocation of the various cost items is described in Box 5.

### Box 5: Allocating costs - Australia

All products to be cost recovered should recoup at least their direct costs. Allocating direct costs to products is relatively straightforward. Allocation becomes more difficult where indirect and capital costs are involved.

When fees or levies are imposed across a significant proportion of an agency’s activities, they should include both the direct costs of the activities and the capital and indirect costs (including costs associated with setting and determining the appropriateness of fees charged). If cost recovered activities are a small proportion of the agency’s activities, and they have little effect on the agency’s overheads or capital expenditure, then it would generally be appropriate for the agency to recover only the direct costs of these activities. If taxpayer funded activities are only a small proportion of the agency’s activities, then the Australian Government should meet only the direct costs of these activities.

For those agencies that provide information products, the costs of collecting, compiling and distributing the basic information product set account for most of their work and, therefore, most of its indirect costs and capital costs. In these circumstances, the Australian Government may agree to taxpayer funding covering the stand-alone cost of providing the basic information product set.

However, when incremental information products are a large part of an agency’s activities, the agency should look closely at which capital costs and indirect costs (including costs associated with setting and determining the appropriateness of fees charged) are attributable to the incremental product.

Indirect and capital costs can be distributed in a number of ways. For example, under Fully Distributed Costing, costs are allocated on a pro rata basis, for example according to the number of staff involved in the activity or on the basis of the shares of direct costs devoted to the activity. One form of Fully Distributed Costing, Activity Based Costing, is more accurate in how it allocates indirect costs. It links an organization’s outputs to activities used to produce those outputs, which in turn are linked to the organization’s costs.

The appropriate approach to distributing capital and overhead costs can vary depending on the characteristics of the agency. The agency should balance accuracy and precision against the costs of particular methods, and justify the method chosen.
Lessons learned

Several conclusions can be made when analyzing good practice in the area of setting administrative fees:

- **EU-requirements to be met.** The EU has requirements at least in the area of administrative fees related to the services sector, which each Member State has to fulfill by the end of 2009. The bottom line is the principle of single cost recovery.

- **Elaborate legislation in place.** Germany as well as Australia has elaborate legislation on the calculation of administrative fees in place. This is true for most EU and OECD countries. It includes a law on administrative fees and regulations implementing the law.

- **The principle of cost recovery is applied.** The principle of cost recovery is applied in the EU (for services), Germany and Australia. There are two different approaches: (1) cost recovery in terms of recovering the administrative cost for the authority providing a certain service. This approach is taken by Germany and Australia. (2) Measuring the value of an administrative product (license, permit, clearance and certificate) by calculating the cost of issuing this particular administrative action. The EU favors this approach in its Services Directive. Germany uses the single cost calculation method for new fees and in special case when a general cost calculation is inappropriate or too costly.

- **The application of the principle of cost recovery needs solid accountancy skills and administrative guidelines.** The calculations to be undertaken are complex and need to be performed by a trained person and assistance. Particularly detailed guidelines are key to the success of a fee setting reform and the achievement of the objectives, because most of the necessary information and calculations are coming from the respective authorities. The same is valid for the monitoring of the fee assessments. Easier than the general cost recovery calculation is a single cost calculation, which is also applied by some countries. It has also the advantage of burdening the applicant only the cost he or she has caused.

- **A regular review process is established.** As can be seen, thresholds are established to regularly review the fee structure against the objectives. The State of Hamburg, for example, has chosen a time criterion (every two years), others have chosen an inflation threshold (whenever the inflation passes 10 percent, for example). All have in common that the structure is reviewed regularly.

- **Fee income is not distributed among the officials.** None of the examined countries use fees to award employees. In fact, this practice would contradict and negate the principle of cost recovery. This does not necessarily mean that officials are not eligible for performance awards. However, fees are not used to pay such awards.
IV. Policy recommendations

The Government of Bulgaria is advised to adopt a regime of state fees, which follows good international practice examples as described in Section III of this report. Most of the steps to achieve this goal are sequential. However, some of them can be implemented in parallel. A summary of recommendations with priorities and timeline is provided at the end of this section.

In a word of caution, the government has to be aware that the change from the current system to a system of cost recovery will impact the state revenues, the private sectors, and shall influence the income of civil servants. It is beyond the scope of this report to assess the magnitude of the overall impact for the state revenues as well as for the businesses. However, the government is advised to obtain a reliable assessment of such impact in case full cost recovery is applied. Such an assessment is instrumental to formulate a policy on state fees.

1) **Adopt a policy on state fees.** First, a general policy should be adopted to guarantee a coherent approach. Issues to be addressed in a policy statement would be: what shall be the function of state fees? Should there be “subsidized” administrative services? If so, what would be the criteria and which services would qualify? Can fees be used to fulfill policy objectives like restricting access through high fees? What are the general criteria to calculate a fee? Which agencies should be allowed to retain fee revenues for their own budget and which not (selection criteria)? What shall be the institutional framework to assess and monitor the setting of fees? How shall the fee regime monitored (e-government/e-tracking of fees) etc.? To ensure a quick start of the work, an inter-ministerial Task Force may be set up in charge of drafting the policy statement and probably revising the legislation (see recommendation 3).

2) **Considering good practice, it is recommended to introduce the principle of Single Cost Calculation in Bulgaria.** The single cost calculation is fair, covers the cost of service and is comparably easier to apply than the full cost calculation. Particularly the ease of implementation of any new principle should be an important decision factor. So far, Bulgaria has no trained officials in ministries and agencies to apply the principle of cost recovery. Therefore, the simpler single cost calculation might serve as a good start. This calculation method would also satisfy the requirements of EU-Directive 2006/123. Annex 2 provides an example for the questionnaire used in a single cost calculation in Germany.

3) **Revise the legal framework.** The current Law on State Fees is not sufficient to support the application of a modern fee structure. If the GoB decides to adopt a new policy as recommended under 1), then the legislation has to reflect such policy. The example of Germany in Appendix 1 shows the issues to be addressed in a Law on Administrative Fees. The Bulgarian law is far from
addressing these issues adequately. In order to reflect a new policy, the GoB can either amend the existing legislation, namely the Law on State Fees, or create an entirely new legal framework. Both approaches can fulfill the goal. It is more a question of political feasibility and reform commitment, which of the options is considered most suitable for Bulgaria. Also, there is the time factor. Bulgaria has to revise some of the fees falling under the EU Directive on Services by the end of 2009. Amendments to existing laws might be a faster solution than creating a whole new framework.

(4) Adopt supporting (internal) guidelines. Internal guidelines are based on the revised legislation. The guidelines function as a manual for the officials. Even Australia with well trained civil servants needs 50 pages long internal guidelines ensuring the appropriate implementation of the cost recovery objective. The State in Hamburg has also 30 pages of guidelines with six annexes informing the civil servants on their calculating tasks. The guidelines would specify in detail and on a very practical level the fee setting process in terms of formulae to be used, principles to be regarded, cost items to be included, frequency of review, person (rank within authority) in charge of the calculation, etc.

(5) Create an institutional framework. The implementation of the reform must be monitored, the new fee structure established and authorities supervised. Furthermore, a regular review process must be introduced and supported. All this needs a solid institutional framework, a Ministry, Department, and Unit in place with the power, skills and resources to achieve all this. In Hamburg, for example, it is a Unit in the Department of Finance. In Australia, it is the Department of Finance and Deregulation and the Expenditure Review Committee. There is not sufficient information to recommend a suitable institutional framework for Bulgaria. And at the beginning when the policy needs to be formulated and the law to be revised, an inter-ministerial Task Force should be sufficient. In the longer run, the GoB has two options: (i) to use existing institutions/departments, or (ii) to establish a new authority. The first option can also lead to the creation of a new authority at a later stage in a two-phase-approach. The decision for one or the other option depends on suitability, capacity, and availability of resources. Another aspect of the institutional framework is the use of tools to assess and monitor fee setting as well as ensure upmost transparency of the system. E-government and e-tracking systems could be useful for the respective authority to fulfill its tasks.

(6) Revise the incentive regime. The current incentives for authorities and officials to increase fees and the income from fees must be revised. It is contrary to the principle of cost recovery and leads to higher, sometimes inappropriate fees. There is nothing wrong with performance incentives, but they should not be connected to fee income. Particularly since the fee income is only remotely, if at all, connected to performance. Increased fees, for example, lead to higher fee revenues but do not reflect any improved
performance. The incentive regime is based on laws and regulations. Therefore, legislative changes based on the new policy are necessary to revise the current incentive regime.

(7) **Improve transparency.** Fee revenues belong to the state. If any funds of the state budget are distributed to individuals, then this has to be transparent who receives what and why in order to be examined. It appears that the distribution of fee revenues within an authority is only documented as a total. Neither the criteria, nor the individual allocation is documented and examined by an independent body. Despite the fact that such “incentives” are wrong, see point 6, the fact that they are non-transparent makes it worse. Transparency has also another aspect. The fees levied and the decision criteria to set individual fees should be transparent to the citizens. This should be a prime area for e-government tools. A register of administrative fees should be available via the internet to the public.

(8) **Eliminate illegal practices.** Even before new legislation is in place, illegal practices should be abolished. Practices like the application of “restrictive fees” are not in compliance with the Law on State Fees and should be eliminated. This recommendation qualifies for a “quick win” for the GoB. Legislative changes are not necessary to abolish these practices. The GoB would have to release a policy statement and monitor its implementation.

(9) **Train officials to calculate costs.** In Germany and Australia, such cost calculations are new for many civil servants and it took time to train them properly. The same will be necessary in Bulgaria guaranteeing a proper implementation of the reform.

Table 5. Recommendations: Priorities and Timeline

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Priority</th>
<th>Timeline</th>
</tr>
</thead>
<tbody>
<tr>
<td>Improve transparency</td>
<td>High</td>
<td>Short-term: Quick win”</td>
</tr>
<tr>
<td>Eliminate illegal practices</td>
<td>High</td>
<td>Short-term: “Quick win”</td>
</tr>
<tr>
<td>Adopt a policy on state fees</td>
<td>High</td>
<td>Short-term</td>
</tr>
<tr>
<td>Revise legal framework</td>
<td>High</td>
<td>Short-term</td>
</tr>
<tr>
<td>Revise incentive regime</td>
<td>Medium</td>
<td>Short-term</td>
</tr>
<tr>
<td>Adopt supporting (internal) guidelines</td>
<td>Medium</td>
<td>Mid-term</td>
</tr>
<tr>
<td>Create an institutional framework</td>
<td>Medium</td>
<td>Mid to long-term</td>
</tr>
<tr>
<td>Develop an e-government state fees tool</td>
<td>Medium</td>
<td>Mid to long-term</td>
</tr>
<tr>
<td>Train officials to calculate costs</td>
<td>Medium</td>
<td>Long-term</td>
</tr>
</tbody>
</table>
V. Next steps

First step is to prepare the decision for or against a reform of the regime of state fees. This report argues strongly for the adoption and implementation of a reform. In addition, the Government of Bulgaria has to take into account that the Services Directive of the European Union does not leave much choice in this question. Administrative fees concerning the services sector must be in compliance with the standards set by the Directive by the end of 2009.

If the Government of Bulgaria decides for a reform, then the cornerstones of the reform need to be defined. It is important that the government collects sufficient information to make an informed decision. This report is one effort to provide information. Additional possibilities would be to conduct a government workshop with experts in the field, visit institutions in the EU far advanced in the application of the principle of cost recovery, or commission studies on specific issues of a fee reform.

Second step would be to decide for the reform of the administrative service fee regime. This decision should be made at the highest decision-making level and delivered in an official document. This is important because different Ministries and authorities are involved and possibly impacted by the reform. And resistance will most likely build up from the agencies benefiting from the current system. Only a clear mandate and backing from the highest policy level can ensure the implementation of such a reform. The decision should clearly state the goal of the reform, its scope, a timeframe, the responsible institution, its mandate and powers.

Third step would be to either establish a reform institution or mandate an existing agency to implement the reform. For the time being, Bulgaria has neither the institutional, nor the legislative or administrative framework in place to reform the state fees regime. However, some institutions are responsible for administrative reform or deal with specific issues regarding administrative fees. These are the Council of Minister’s Strategic Planning and Governance Directorate and the Ministry of Finance. One of these bodies may be considered as suitable to implement the reform.

Finally, the details of the reform need to be taken care of by the implementing body, including the preparation of a draft law on state fees, regulations, and guidelines. Training needs have to be assessed and training to be provided. An institution in charge of implementing the new law on state fees needs to be clearly mandated.
References


Legislative Acts, referred in the main body of the report

<table>
<thead>
<tr>
<th>In Bulgaria</th>
<th>In Germany</th>
<th>In Australia</th>
<th>EU-level</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tourism Law/SG 93/1.10.2002 and Tariff</td>
<td>Administrative Cost Law of the State of Lower Saxony</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
ANNEX 1: CONTENT OF THE GERMAN LAW ON ADMINISTRATIVE COSTS

| § 1: Scope | Description of fees that are governed by this law and fees excluded from the scope of the law. |
| § 2: Regulations | All regulations containing fees must be in compliance with this law. |
| § 3: Principles of Fees | The provision contains the principles for the calculation of administrative fees. |
| § 4: Types of Fees | |
| § 5: Combined Fees | If more fees are applicable, a combined fee can be charged. |
| § 6: Reduction or exemption of fees. | Conditions to reduce fees or exempt from fees. |
| § 7: Free Services | Description of services that shall be free of charge. |
| § 8: Exempted Applicants | List of institutions exempted from fee payments. |
| § 9: Calculation of Fees | Broad methodology to calculate administrative fees |
| § 10: Expenses | Deals with the treatment (charged or not) of expenses made by the authority. |
| § 11: Payment of Fees | Defines the point in time when fees are due. |
| § 12: Creditor of Fees | Defines the creditor of an administrative fee. |
| § 13: Debtor of Fees | Defines the debtor of an administrative fee. |
| § 14: Fee Decision | Defines the obligatory content of a decision to set a fee. |
| § 15: Fees in special cases | Describes certain cases in which fees may be lifted. |
| § 16: Advance or bonds | Allows the request for an advance or a bond. |
| § 17: Due of a Fee | Defines the moment at which the fee is due. |
| § 18: Interest for Delayed Payment | Sets the interest at 1 percent for delayed payment. |
| § 19: Deferment of Payment | Allows for a deferment under certain conditions. |
| § 20: Statue of Limitation | Defines the expiration of a fee claim (3 years). |
| § 21: Reimbursement of Fees | Conditions under which fees are reimbursed. |
| § 22: Appeal | Guarantees the right to appeal against a fees decision. |
| §§ 23-26: Final Provisions | |
ANNEX 2: FORM FOR REPORTING THE SINGLE COST CALCULATION - HAMBURG

1. Administrative Service
   • Regulation ______________________
   • Fee Tariff No.____________________

2. Time (average) used for the specific service
   • Of the issuing administrative unit _______ minutes
   • Of other administrative units of the issuing authority _______ minutes
   • Of other authorities _______ minutes
   TOTAL _______ minutes

3. Calculation of costs
   3.1. Personnel
      • Category 1 official ______ minutes at ______ € = ______ €
      • Category 2 official ______ minutes at ______ € = ______ €
      • Category 3 official ______ minutes at ______ € = ______ €
      • Category 4 official ______ minutes at ______ € = ______ €
      TOTAL ________ €

   3.2 Office Work Station Costs (for all categories of official the same)
      • PC Work Station ______ minutes at ______ € = ______ €
      • Other Work Station ______ minutes at ______ € = ______ €
      TOTAL ________ €

   3.3 Other material
      • __________________________ = ________ €
      • __________________________ = ________ €
      • __________________________ = ________ €
      TOTAL __________________________ = ________ €
      : ________ minutes per year = ________ €

   3.4. Financial costs
      • Depreciation = ________________ €
      • Interest = ________________ €
      TOTAL = ________________ minutes per year = ________________ €

4. Average cost per single case (authorization) ____________ €

5. SUMMARY Cost recovery rate
   Currently charged administrative fee______________ € : Total cost______________ € = _____%
## ANNEX 3: AUSTRALIA – IMPLEMENTING THE PRINCIPLE OF COST RECOVERY

### Australia – Implementing the principle of cost recovery

The cost recovery principle is implemented in Australia in five stages:

#### Stage 1: Initial policy review

The Stage 1 policy review considers the following questions:
- which of the agency’s objectives are relevant to the activities or products being considered for cost recovery?
- should cost recovery be introduced?
- what mechanisms, including consultation, should be used for ongoing monitoring of the efficiency and effectiveness of cost recovery arrangements?
- how long (not more than five years) before the cost recovery arrangements should be reviewed again?

#### Stage 2: Design and implementation

If cost recovery is appropriate, Stage 2 considers the following questions:
- who should pay cost recovery charges?
- should cost recovery charges be imposed using fees or levies?
- what are the legal requirements for the imposition of charges?
- which issues should any legislation address?
- which costs should the charges include?
- how should charges be structured?
- how should costs be calculated and allocated?

#### Stage 3: Cost Recovery Impact Statement process

While all cost recovery arrangements must comply with the cost recovery policy, only significant arrangements need to document compliance with the policy in a Cost Recovery Impact Statement (CRIS). Together, the responses to the questions in Stages 1 and 2 form a CRIS. Agencies with proposals in which policy issues have been settled and only design and implementation questions remain, or where a section of these guidelines does not apply, may prepare a less comprehensive CRIS. If significant cost recovery arrangements are not fully assessed against these guidelines where a policy decision precedes a funding decision, then these arrangements should be assessed against these guidelines prior to implementation and a CRIS should be prepared at that time. Those agencies that are required to prepare a Regulation Impact Statement (RIS) do not need to prepare a separate CRIS.

#### Stage 4: Ongoing monitoring

This stage provides for ongoing monitoring of cost recovery arrangements using the monitoring mechanisms determined as part of Stage 1. Ongoing monitoring provides an opportunity for continual improvement in cost recovery arrangements.

#### Stage 5: Periodic review

At least every five years, the appropriateness of cost recovery, the design of any cost recovery charges and the adequacy of monitoring arrangements need to be reviewed, to determine whether changes are necessary. The results of these reviews will be a Cost Recovery Impact Statement (CRIS) that will be considered in the Budget context.
ANNEX 4: SECTOR LAWS IN BULGARIA, SPECIFICALLY ADDRESSING ADDITIONAL MATERIAL INCENTIVE

1. Accreditation Law, as administered by the Bulgarian Accreditation Service
2. Safe Use of Nuclear Energy Law
3. Energy Law
4. Competition Protection Law
5. Health Law
6. Measurements Act
7. Cadastre and Property Register Act
8. Financial Supervision Commission Law
9. Medicinal Products in Human Medicine Law
10. Customs Law
11. National Archive Fund Law
12. Environment Protection Law
13. Registered Pledges Act
14. Patents Act
15. BULSTAT Register Law
16. Statistics Law
17. Storage and Trade with Grain Act
18. Technical Requirements towards products Act
19. Commercial Register Law
20. Spatial Development Act
21. Feedingstuffs Act
22. Gambling Act
ANNEX 5: KEY PRINCIPLES OF COST RECOVERY ADOPTED BY THE AUSTRALIAN GOVERNMENT IN 2002 AS REVISED IN 2005

Application of the Cost Recovery policy

1. The CR policy has been in place from December 2002 in respect of new or significantly amended CR arrangements and is being phased in for all existing arrangements according to a government agreed review schedule extending to 2007-2008.

2. Many arrangements are not cost recovery for the purposes of the policy. Exclusions include:
   - any form of intra-agency or inter/intra-governmental charging;
   - charges by government business enterprises. These businesses operate in competitive or potentially competitive markets and are subject to competitive neutrality principles;
   - other commercial charging arrangements in competitive or potentially competitive markets that comply with competitive neutrality principles (e.g. commercial research);
   - general taxation;
   - repayments of loans to the Australian Government;
   - receipts from asset sales, rental of property, royalties, including the sale of rights to access resources;
   - fines and pecuniary penalties;
   - payments by customers to non-Australian Government organizations and firms where Commonwealth policies may affect prices;
   - receipts from one-off specific policy measures that have explicitly been recognized by the Government as not being subject to the cost recovery policy (subject to the provisions of paragraph 19, requiring the agreement of the Minister for Finance and Administration) — for example, where the Australian Government introduces a levy to fund an exceptional policy measure;
   - charges relating to industry-government partnerships;
   - statutory marketing levies; and
   - fees charged by courts and tribunals.

Key points regarding the application of the Cost Recovery policy

3. Agencies should set charges to recover all the costs of products or services where it is efficient to do so, with partial CR to apply only where new arrangements are phased in, where there are government endorsed community service obligations, or for explicit government policy purposes.

4. CR should not be applied where it is not cost effective, where it is inconsistent with government policy objectives or where it would unduly stifle competition or industry innovation.

5. Any charges should reflect the costs of providing the product or service and should generally be imposed on a fee-for-service basis or, where efficient, as a levy.

6. Agencies should ensure that all CR arrangements have clear legal authority for the imposition of charges.

7. Costs that are not directly related or integral to the provision of products or services (e.g. some policy and parliamentary servicing functions) should not be recovered. Agencies that undertake regulatory activities should generally include administration costs when determining appropriate charges.
8. Where possible CR should be undertaken on an activity (or activity group) basis rather than across the agency as a whole. CR targets on an agency-wide basis will be discontinued.

9. Products and services funded through the budget process form an agency’s ‘basic information product set’ and should not be cost recovered. Commercial, additional and incremental products and services that are not funded through the budget process fall outside of an agency’s ‘basic product set’ and may be appropriate to cost recover.

10. Portfolio Ministers should determine the most appropriate consultative mechanisms for their agencies’ CR arrangements, where relevant.

11. CR arrangements will be considered significant (‘significant CR arrangements’) depending on both the amount of revenue and the impact on stakeholders. A ‘significant CR arrangement’ is one where:
   - an agency’s total CR receipts equal $5 million or more per annum - in this case every CR arrangement within the agency is considered, prima facie, to be significant, regardless of individual activity totals; or
   - an agency’s CR receipts are below $5 million per annum, but stakeholders are likely to be materially affected by the CR initiative; or
   - Ministers have determined the activity to be significant on a case-by-case basis.

12. All agencies with significant CR arrangements will need to prepare Cost Recovery Impact Statements (CRIS) when:
   - reviews consistent with the Australian Government’s review schedule for existing cost recovery arrangements are undertaken; or
   - new cost recovery arrangements are proposed; or
   - material amendments are made to existing arrangements (a general rule-of-thumb is that price changes greater than the Consumer Price Index would be considered material. However, in making a decision about materiality, agencies should also consider the likely impact on stakeholders); or
   - periodic reviews of cost recovery arrangements are undertaken.

13. The chief executive, secretary or board must certify that the CRIS complies with the CR policy and provide a copy to the Department of Finance and Administration. Agencies must include a summary of the CRIS in their portfolio budget submissions and statements.

14. A CRIS will not be required where a Regulation Impact Statement that also addresses CR arrangements against the revised Guidelines has been prepared.

15. Agencies with significant CR arrangements should ensure that they undertake appropriate stakeholder consultation, including with relevant departments.

16. Agencies are to review all significant CR arrangements periodically, but no less frequently than every five years.

17. Agencies will need to separately identify all CR revenues in notes to financial statements – to be published in portfolio budget statements and annual reports consistent with the Finance Minister’s Orders.
18. Portfolio Ministers are responsible for ensuring that the CR arrangements of agencies within their portfolios comply with the policy and will report on implementation and compliance in portfolio budget submissions.

19. Where a Government entity considers that a significant cost recovery arrangement that is new, materially amended or which has been reviewed, should be exempted from the CR policy, either wholly or partly, relevant Ministers must obtain the agreement of the Minister for Finance and Administration.

20. The foregoing is an outline of the requirements of the CR policy. Agencies should refer to the revised Guidelines for more comprehensive information and guidance.
ANNEX 6: EXAMPLES OF A FEE REVIEW SCHEDULE – AUSTRALIA

2005-06: for consideration in the March 2006 Expenditure Review Committee process
Australian Customs Service
Australian Nuclear Science and Technology Organisation
Department of the Environment and Heritage
The Director of National Parks
Great Barrier Reef Marine Park Authority
Department of Foreign Affairs and Trade
Australian Prudential Regulation Authority
Tourism Australia
Australian Communications Authority
Department of Family and Community Services
Centrelink
Aged Care Standards and Accreditation Agency

2006-07: for consideration in the March 2007 Expenditure Review Committee process
Australian Federal Police
Commonwealth Scientific and Industrial Research Organisation
Department of Industry, Tourism and Resources
Australian Trade Commission
Australian Bureau of Statistics
Department of Finance and Administration
Australian Electoral Commission
ComSuper
Department of Immigration and Multicultural and Indigenous Affairs
Aboriginal Hostels Limited
Department of Defence
Department of Employment and Workplace Relations
Department of Health and Ageing
Department of the Prime Minister and Cabinet

2007-08: for consideration in the March 2008 Expenditure Review Committee process
Australian Securities and Investments Commission
Airservices Australia
Geoscience Australia
Department of Agriculture, Fisheries and Forestry
Australian Wine and Brandy Corporation
Fisheries Research and Development Corporation
Land and Water Resource Research and Development Corporation
Australian Maritime Safety Authority
Department of Education, Science and Training
Department of Parliamentary Services
Department of the Senate

Where a Portfolio Department undertakes a review, in accordance with the revised review schedule, the review should cover all relevant cost recovery matters that the Department deals with and all relevant cost recovery legislation the Minister administers, as specified in the Administrative Arrangement Orders, with the exception of any matter(s) or legislation that will be reviewed by another entity listed on the review schedule.