

## New year updates on the pollution fines in Turkey

One of the most frequently encountered risks in the maritime sector is the administrative pollution fines imposed on the vessels. Recently, The Ministry of Environment and Urbanization, updated the fine amounts through a communique published in Official Gazette on 30 December 2021 which has entered in force and started being implemented as of 01.01.2022.



By this regulation, the administrative fines which are imposed in consequence of violating the article 20 of Environment Code has been increased by 36.2%. In the tariff annexed to the subject Communique, the applicable fines are demonstrated into categories according to the content of the substance leaked/discharged from the vessel into the sea as well as the tonnage of the polluting vessel. The fine amounts are increased in cases where the polluting party is a legal entity and where there is a recurrence within three years. In addition, and regardless of below stated implementations, port authorities could also impose a fine up to TL 5,000,000 at its discretion within the scope of new port regulations. Moreover, criminal proceedings may be initiated against the master in the case of sea pollution.

As it is known, administrative fines arising from claims regarding any substance discharged from the vessel are generally covered under P&I insurance. Besides, expenses which are made for taking reasonable measures to prevent or reduce the loss, damage or contamination are also covered. On the other hand, in a case where the claim arises in consequence of the assured violation of Turkish legislation, mandatory rules, moral values, public orders or personal rights, overloading the vessel, illegal fishing, personal fault or reckless actions or vessel entered in unallowed waters and fines imposed due to non-compliance of marine traffic rules are also out of cover.

In a case of pollution, it is necessary to settle the penalty immediately or to provide a proper guarantee to the administration in order to avoid the risk of arrest of the vessel. Since the content of the guarantee accepted by the administration varies in practice, it should be ensured that the wording of such guarantee is the content which is mutually agreed with the relevant Port Authority. The law gives 30 days to object to the administrative sanction, but since this objection does not preclude the arrest of the vessel, it must be paid immediately within the given period. If the penalty is paid within 30 days starting from the time notification, only ¾ of the penalty is collected.

In many circulars published in the field of maritime, measures that companies would take for preventing pollution cases are listed. The appropriate training of the personnel is as essential as the rules and risk-preventing technical details that the marine



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companies are obliged according to the international standards, the criteria specified in the IMO conventions and the legislation of the regions they cruise. (You may find detailed technical information regarding prevention in Turk P&I, February 2020 circular.)

In cases where damage occurs despite all the precautions, quick and effective actions must be taken for cleaning up the marine pollution caused. In the 20th article of the Environmental Law, under the title of "Penal Provisions", in order to encourage the removal of pollution, it is stipulated that only 1/3 of the fine amount shall be applied in case where it is determined that the ship or marine vehicle has removed the pollution caused by her own means following the occurrence of pollution. Since the implementation of this provision is at the discretion of the authorities, there is no uniform practice in practice. However, if the determination of the removal of the pollution is made through a court survey, strong evidence in favor of the ship will be formed for the appeal against the penalty. Please find below the new tariff:

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| Pollution from tankers discharging petroleum products and derivatives (raw petroleum, fuel oil, bilge, oil mud, refined product oil waste etc.)                    | 901.56 Turkish Lira per unit GT up to 1,000 (inclusive) GT                           |
|  | An additional 225.39 Turkish Lira per unit GT between 1,000 and 5,000 (inclusive) GT |
|  | An additional 22.52 Turkish Lira per unit GT over 5,000 GT                           |
| Pollution from dirty ballast discharged to sea by tankers  | 164.25 Turkish Lira per unit GT Up to 1,000 (inclusive) GT                           |
|  | An additional 32.76 Turkish Lira per unit GT Between 1,000 and 5,000 (inclusive) GT  |
|  | An additional 5.2 Turkish Lira per unit GT over 5,000 GT                             |
| Pollution from ships and other sea vehicles that release petroleum/petroleum derivatives (bilge, oil mud, freight mud, fuel oil, oil waste or dirty ballast, etc.) | 450.78 Turkish Lira per unit GT up to 1,000 (inclusive) GT                           |
|  | An additional 90.16 Turkish Lira per unit GT between 1,000 and 5,000 (inclusive) GT  |
|  | An additional 22.52 Turkish Lira per unit GT over 5,000 GT                           |
| Pollution from garbage and sewage discharged to sea by ships, tankers or other sea vessels   | 225.39 Turkish Lira per unit GT up to 1,000 (inclusive) GT                           |
|  | An additional 45.08 Turkish Lira per unit GT between 1,000 and 5,000 (inclusive) GT  |
|  | An additional 22.52 Turkish Lira per unit GT over 5,000 GT                           |

May our seas remain unpolluted.