

## **The Latest Amendments dated 15<sup>th</sup> of June 2022 in Official Gazette regards to Pollution Fines and Recommendations in Turkey**

In virtue of the amendments made in the Environmental Law No. 5909, some important provisions have entered into force and issued in the Official Gazette dated 15th June 2022, numbered 31867. The latest amendments concern marine pollution and wastes caused by the vessels. Additionally, there are insertions regards to fine for exceeded sulphur content in bunker the limits in accordance with the MARPOL Convention and regulations. Administrative fines will be imposed by considering of the tonnage of the vessels that use off-spec fuels. The amendments are particularly in section A, item 4 and 5 specified in this article in red color.

In the event of a sea pollution, fines are being issued by the following authorities in Turkey:

### **A. POLLUTION FINE ISSUED BY THE TURKISH EPA**

The administrative fines will be imposed in accordance with the Turkish Environmental Code dated 1983, numbered 2872.

Environmental pollution fines are revised annually and declared in the Official Gazette for the respective year. According to the declaration of the Ministry of Environment and Urbanization, published in Official Gazette dated 30 December 2021, numbered 31705, **and amended changes in Official Gazette dated 15th June 2022, numbered 31867** to the current pollution fines were updated with the following rates applicable for real persons and **the fine amount calculated for real persons will be multiplied by three to reach the fine amount for the legal entities (i.e., ship owners, disponent owners).**

- 1) Pollution from petroleum tankers and derivatives **for real persons** (raw petroleum, fuel oil, bilge, oil mud, refined product oil waste etc.)

Up to 1000 (inclusive) Gross Ton	901.56 TL / per Ton
Between 1000-5000 (inclusive) Gross Ton	Additional 225.40 TL / per Ton
Over 5000 Gross Tons	Additional 22.53 TL / per Ton

- 2) Dirty ballast discharged to sea by tankers **for real persons**

Up to 1000 (inclusive) Gross Tons	164.26 TL / per Ton
Between 1000-5000 (inclusive) Gross Tons	Additional 32.77 TL / per Ton
Over 5000 Gross Tons	Additional 5.20 TL / per Ton

- 3) Pollution from ships and other sea vehicles that release petroleum/petroleum derivatives **for real persons** (Bilge, oil mud, freight mud, fuel oil, oil waste or dirty ballast)

Up to 1000 (inclusive) Gross Tons	450.78 TL / per Ton
Between 1000-5000 (inclusive) Gross Tons	Additional 90.16 TL / per Ton
Over 5000 Gross Tons	Additional 22.53 TL / per Ton

- 4) Pollution from tankers, ships and other sea vehicles due to discharge of sewage, detergent water, foam, exhaust gas washing system water or any other kind of washing water or solid wastes **for real persons**

Up to 18 GT (inclusive)	5.000 TL
Up to 18-50 GT (inclusive)	10.000 TL
Up to 50-100 GT (inclusive)	20.000 TL
Up to 100-150 GT (inclusive)	30.000 TL
Up to 150 - 1000 (inclusive) Gross Tons	225.40 TL / per Ton
Between 1000-5000 (inclusive) Gross Tons	Additional 45.08 TL / per Ton
Over 5000 Gross Tons	Additional 22.53 TL / per Ton

- 5) If the bunker of the vessel exceeds maximum sulphur content of bunker for the vessels that do not use approved pollution reduction methods (determined as 0.5%; and 0.1% for the vessels navigating in the SOx Emission Control Areas).

Up to 1000 GT (inclusive)	200.00 TL/ per TON
Up to 1000-5000 (inclusive) GT	Additional 25.00 TL / per Ton
Over 5000 Gross Tons	Additional 5.00 TL / per Ton

\* Fine amounts for above mentioned categories will be doubled for repeated offenders and tripled on subsequent recurrences of pollution by the same vessel within three years.

\*\* In the event any hazardous substances and waste are disposed to the sea, the fine will be calculated ten (10) times of the amount calculated as per the category of Petrol and Petroleum Products fines.

\*\*\* In the event that the vessel eliminates the pollution by her own means, 1/3 of the above stated amounts shall be imposed.

\*\*\*\*It should also be noted that, the fines will be doubled in Special Protection Areas such as Belek, Foça, Dağca-Bozburun, Fethiye-Göcek, Gökova, Göksu, Gölbaşı, İhlara, Kaş-Kekova, Köyceğiz-Dalyan, Pamukkale, Patara, Tuz Gölü, Uzungöl, Finike.

You may find here below a table exemplifying pollution fine rate for real persons and legal entities as per the **latest updates published on 30 December 2021 and latest amendments on 15 June 2022:**

CATEGORIES	Gross Tons	CURRENT FINE AMOUNT - JANUARY 2022	
		FOR REAL PERSONS	FOR LEGAL ENTITIES
1- For tankers - raw petroleum, fuel oil, bilge, oil mud, refined product oil waste etc.	1,000	901,560.00 TL	2,704,680.00 TL
	2,500	1,239,660.00 TL	3,718,980.00 TL
	5,000	1,803,160.00 TL	5,409,480.00 TL
	10,000	1,915,810.00 TL	5,747,430.00 TL
2- For tankers - dirty ballast	1,000	164,260.00 TL	492,780.00 TL
	2,500	213,415.00 TL	640,245.00 TL
	5,000	295,340.00 TL	886,020.00 TL
	10,000	321,340.00 TL	964,020.00 TL
3- For ships and other sea vehicles - bilge, oil mud, freight mud, fuel oil, oil waste or dirty ballast	1,000	450,780.00 TL	1,352,340.00 TL
	2,500	586,020.00 TL	1,758,060.00 TL
	5,000	811,420.00 TL	2,434,260.00 TL
	10,000	924,070.00 TL	2,772,210.00 TL
4- For tankers, ships and other sea vehicles - sewage, detergent water, foam, exhaust gas washing system water or any other kind of washing water or solid wastes	18	5,000 TL	15,000 TL
	50	10,000 TL	30,000 TL
	100	20,000 TL	60,000 TL
	150	30,000 TL	90,000 TL
	1,000	225,400.00 TL	676,200.00 TL
	2,500	293,020.00 TL	879,060.00 TL
	5,000	405,720.00 TL	1,217,160.00 TL
	10,000	518,370.00 TL	1,555,110.00 TL

## **Important Notes**

- The ship owners are entitled to lodge an appeal before the Administrative Court within 30 calendar days from the fine notification date. However, appealing the fine decision will not result in the lifting of the arrest order of the fined vessels. Generally, there are very low prospects of success in the appeal proceedings.
- Under the relevant code, the “EPA” is entitled to ask for cash payment of the fine amount and generally they do not accept any form of security to release the ships. On an exceptional basis, they may accept bankers’ draft and/or payment guarantees to be issued by the ship agents payable within max.1-2 days and without any conditions.
- In previous cases, the authorities confirmed that they will release the vessel against the LOU to be issued by the P&I Clubs or Insurance Companies recognised by the Turkish Government. However, they asked for the original LOU and its notarised official translation. Considering the time taken to deliver the original LOU and its notarised translation, the vessel may be delayed unnecessarily.
- We generally recommend the Owners to affect payment of the fine within the appeal period in order to benefit from the 25% discount so that the vessel would be able sail without any delay. Remitting the fine amount will not be considered as an admission of liability and the Owners may still appeal the fine decision.
- Any video footage, pictures taken by environmental officers, coast guards etc. can only be released by a court order. However, at times the officers release the same to P&I Club representatives and/or agents on an unofficial basis.

## **B. POLLUTION FINE ISSUED BY PORT HARBOUR MASTER**

In the event that the vessel does not follow the local port regulations, as per Article 11 of the Ports Law numbered 618, the Harbour Master has the right to penalize the offending vessel an administrative fine between TL 500 to TL 20,000.

In addition, as per addition of Article 39/12 to the current Port Regulations, enforced on 08.04.2017, in circumstances requiring application of emergency response actions or emergency services due to collisions, breakages, fires, explosions or similar incidents causing damage or sea pollution, the Harbour Master has been given the right to impose an administrative fine against the offending vessel up to TL 5,000,000.

- The ship owners are entitled to lodge an appeal before the Administrative Court within 15 calendar days from the fine notification date. However, appealing the fine decision will not result in the lifting of the arrest order of the fined vessels. Generally, there are very low prospects of success in the appeal proceedings.
- We generally recommend the Owners to affect payment of the fine within the appeal period in order to benefit from the 25% discount so that the vessel would be able sail without any delay.
- In case the subject fine is not paid by the Owner, the vessel can be sold on auction by the relevant authorities as per the Law numbered 4922 to recuperate the issued fine.

### **C. RECOMMENDATIONS AND GUIDELINES**

- De-ballasting operations should be avoided unless the ballast water was checked and confirmed to be clean.
- All overboard discharge valves should be closed and secured/sealed in closed position.
- All deck scuppers should be plugged and any gaps in the fish plate surrounding the deck should be closed.
- Hose test of hatch covers, hydrostatic test of deck pipes/hoses or other equipment should not be performed.
- Washing of decks and superstructure should be avoided.
- Treated water from the sewage system and grey water should be transferred to a holding tank and should not be discharged until the vessel is outside Turkish waters.
- Cargo residues, cargo space cleaning residues, all garbage and other substances should not be disposed in Turkish waters.
- The vessel's hull should not be scrapped, chipped, or painted while alongside the pier or at anchor.
- While the vessel is at the shipyard or in dry dock, even if the pollution is caused by the negligence of the shipyard, its employees or agents, the ship may be held vicariously liable for the pollution fine. Therefore, the crew members should exercise care and they should immediately protest in writing to the shipyard where they believe pollution took place.