

Pollution Fines and Recommendations in Turkey

In Turkish waters, environmental protection is developing and significant fines are applicable to vessels that violate Turkish anti-pollution regulations. As per the latest amendments brought into effect in December 2018, there is a very significant increase in the amount of the fines that are being applied by the EPA (Environmental Protection Agency) against the offending vessels.

In the content of relevant circulars published by the Chamber of Shipping referring to the latest amendments, the rates of increase are separated for real persons and legal entities and it is noted that corresponding fine amounts are **minimum 3 times and maximum 14 times higher than previously applied rates for legal entities** depending on type of vessels and pollutant.

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 10 December 2018, numbered 30621, the current pollution fines were updated **with the following rates applicable for real persons and the below stated rates/amounts for real persons will be multiplied by three to reach the fine rates/amounts 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	400.00 TL / per Ton
Between 1000-5000 (inclusive) Gross Ton	Additional 100.00 TL / per Ton
Over 5000 Gross Tons	Additional 10.00 TL / per Ton

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

Up to 1000 (inclusive) Gross Tons	72.88 TL / per Ton
Between 1000-5000 (inclusive) Gross Tons	Additional 14.54 TL / per Ton
Over 5000 Gross Tons	Additional 2.32 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	200.00 TL / per Ton
Between 1000-5000 (inclusive) Gross Tons	Additional 40.00 TL / per Ton
Over 5000 Gross Tons	Additional 10.00 TL / per Ton

4) Garbage and sewage discharged to sea by ships or any other sea vehicles **for real persons**

Up to 1000 (inclusive) Gross Tons	100.00 TL / per Ton
Between 1000-5000 (inclusive) Gross Tons	Additional 20.00 TL / per Ton
Over 5000 Gross Tons	Additional 10.00 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.

You may find here below a table with exemplifying calculations in the mentioned categories for tankers, ships and other sea vehicles owned by real persons and legal entities in comparison to the previous year:

CATEGORIES	GT	PREVIOUS FINE AMOUNT (2018)	CURRENT FINE AMOUNT (2019)		
			FOR REAL PERSONS	FOR LEGAL ENTITIES	INCREASE FOR LEGAL ENTITIES
1- For tankers - raw petroleum, fuel oil, bilge, oil mud, refined product oil waste etc.	1,000	97,200.00 TL	400,000.00 TL	1,200,000.00 TL	12x
	2,500	133,560.00 TL	550,000.00 TL	1,650,000.00 TL	12x
	5,000	194,160.00 TL	800,000.00 TL	2,400,000.00 TL	12x
	10,000	205,760.00 TL	850,000.00 TL	2,550,000.00 TL	12x
2- For tankers - dirty ballast	1,000	72,880.00 TL	72,880.00 TL	233,640.00 TL	3x
	2,500	94,690.00 TL	94,690.00 TL	284,070.00 TL	3x
	5,000	131,040.00 TL	131,040.00 TL	393,120.00 TL	3x
	10,000	142,640.00 TL	142,640.00 TL	427,920.00 TL	3x
3- For ships and other sea vehicles - bilge, oil mud, freight mud, fuel oil, oil waste or dirty ballast	1,000	48,580.00 TL	200,000.00 TL	600,000.00 TL	12x
	2,500	63,085.00 TL	260,000.00 TL	780,000.00 TL	12x
	5,000	87,260.00 TL	360,000.00 TL	1,080,000.00 TL	12x
	10,000	98,860.00 TL	410,000.00 TL	1,230,000.00 TL	12x
4- For ships and other sea vessels - garbage and sewage	1,000	24,240.00 TL	100,000.00 TL	300,000.00 TL	12x
	2,500	31,410.00 TL	130,000.00 TL	390,000.00 TL	12x
	5,000	43,360.00 TL	180,000.00 TL	540,000.00 TL	12x
	10,000	47,860.00 TL	230,000.00 TL	690,000.00 TL	14x

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.

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.

Metropole Maritime & Trading Ltd. Co.