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CIRCULAR Environmental Pollution Fines by Turkey

The Government of Turkey has announced new fines associated with environmental pollution in force from January 1, 2022.

Notice to: Ship Owners/ Managers/ Operators | Surveyors/Auditors/Verifiers

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In Turkish waters, environmental protection is developing, and significant fines are applicable to vessels that violate Turkish antipollution regulations. Different from the major increase imposed in December 2018, this is a mere adjustment of the fines for inflation that takes place every year. According to the declaration of the Ministry of Environment and Urbanization, the pollution fines between 1 January 2022 and 31 December 2022 were updated as follows:

Pollution caused by tankers discharging petroleum and petroleum derivatives (such as crude oil, fuel products, bilge, sludge, slop, refined product, greasy waste materials etc.):

Up to 1,000 GT	901.56 TL / per unit GT
Between 1,001 – 5,000 GT	Additional 225.39 TL / per unit GT
Over 5,001 GT	Additional 22.52 TL / per unit GT

Dirty ballast discharged to sea by tankers

Up to 1,000 GT	164.25 TL / per unit GT
Between 1,001 - 5000 GT	Additional 32.76 TL / per unit GT
Over 5,001 GT	Additional 5.2 TL / per unit GT

Petrol/petroleum products (such as bilge, sludge, slop, fuel products, greasy waste materials etc.) and dirty ballast discharged to sea by vessels or any other sea vehicles:

Up to 1,000 GT	450.78 TL / per unit GT
Between 1,001 – 5,000 GT	Additional 90.16 TL / per unit GT
Over 5,001 GT	Additional 22.52 TL / per unit GT

Garbage and sewage discharged to sea by vessels and any other sea vehicles:

Up to 1,000 GT	225.39 TL / per unit GT
Between 1,001 – 5,000 GT	Additional 45.08 TL / per unit GT
Over 5,001 GT	Additional 22.52 TL / per unit GT

Heavier Fines in Qualified Incidents

Vessels discharging hazardous substances are fined **10 times the amounts indicated for petroleum products** in tariff 1 and 3 above. Vessels which pollute the environment repeatedly also face heavier fines: first recurrence within 3 years will lead to the doubling of the fine whereas second and further recurrences will lead to a 200% increase. On the other hand, if the vessel manages to remove the pollution by her own means, only 1/3 of the above rates are imposed.

An amendment introduced in December 2018 is still in place which stipulates that the fines set out above shall be applicable three-fold if the liable party is an "institution, organisation or a business". This covers ship-owning companies and companies that charter ships.

Payment and Objection

The fines issued by the authorities due to an alleged pollution must be paid or sufficient and suitable security must be put up immediately and in full. Otherwise the vessel is arrested. If the fine is paid within 30 days, a 1/4 discount becomes applicable.

Objections to fines can be filed with the Administrative Court within 30 days of notification. However, an objection does not stop the collection of the fine. Therefore, the usually followed course of action is to pay the fine within 30 days benefitting from the 1/4 discount and then filing an objection with the Administrative Court if there are sufficient grounds to do so. Challenging pollution fines may be difficult because the applicable legislation provides for a caveat which, in practice, allows the authorities to impose fines without verifying the existence of the pollution with sufficient evidence.

Even though authorities in principle accept P&I Club letters of undertaking to grant clearance to the vessel to sail, in practice, it may be difficult to meet the authorities' demands in terms of the wording of the letters of undertaking as each Harbour Master implements different criteria. In this respect, it is of utmost importance to exercise extra care during the period of stay in Turkish ports and owners and their P&I Clubs/insurers are advised to immediately consult their correspondents and experienced shipping lawyers when faced with an allegation of marine pollution to ensure the swift handling of the procedures with the authorities.

Criminal Charges and Other Additional Fines

Authorities that detect a pollution incident are under an obligation to report the incident to the public prosecutor immediately. Subsequently, the public prosecutor will commence a criminal investigation into the incident which is usually followed by criminal proceedings brought against the master of the vessel.

In addition to the administrative pollution fines set out in the tariff above, the Harbour Master may also impose a fine of up to TRY 5,000,000 for pollution caused by a vessel that is sailing in Turkish territorial waters in circumstances that require emergency intervention due to collisions, breakages, fires, explosions or similar incidents. This type of fine is different from the tariff above based on tonnage since the fine to be imposed by Harbour Masters is not subject to a tariff and the Harbour Master has total discretion in determining the quantum of the fine up to the TRY 5,000,000 limit.

Act now

Ship Owners / Managers / Operators must ensure that have implemented necessary measures to avoid these fines. Such measures may be:

- 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.