

Circular 02-17-19-01

RE: NEW AMENDMENTS IN THE TURKISH REGULATIONS REGARDING MARINE POLLUTION

Following to our previous issued Circular 02-17-17-01, Ingosstrakh warns the Owners of insured vessels about new amendments regarding fines for marine pollution in Turkey. This new Circular is prepared under assistance of Turkish P&I Correspondent and maritime lawyers Gur Law Firm.

In view of recent increase in the number of the marine pollution incidents in Turkish waters and the increase of the environmental awareness, the Ministry of Environment and Urbanisation introduced a new bill in order to make several amendments on the Environmental Code which have entered into force on 10.12.2018.

Through the Article 5 of the Amendments, the amounts of the administrative fines were increased roughly twelve times compared with the former amounts. Then, only 20 days later, the Ministry introduced the tariff numbered 2019/1, which increased the fines once again as from 01.01.2019.

The table below demonstrates comparison between the former administrative fine amounts, those that were applicable in the period of 10.12.2018 – 31.12.2018, and the current amounts as from 01.01.2019.

Article 20 (i)(1) - petrol and petroleum products (crude oil, bilge, fuel oil, oily wastewater) discharged by tankers			
Gross Tonnage of the Vessel	Former Amounts (01.01.2018 – 09.10.2018)	The Amendments (10.12.2018 – 31.12.2018)	Current Amounts (01.01.2019 - ...)
Up to 1,000(inclusive) GT	TRY 97.20 per GT	TRY 400.00 per GT	TRY 494.92 per GT
1,000 – 5,000(inclusive) GT	In addition to the above TRY 24.24 per GT	In addition to the above TRY 100.00 per GT	In addition to the above TRY 123.73 per GT
Over 5,000 GT	In addition to the above TRY 2.32 per GT	In addition to the above TRY 10.00 per GT	In addition to the above TRY 12.37 per GT

As per the Article 20 of the Environmental Code, in case of illegal discharge of hazardous substances and waste by tankers into Turkish waters, the administrative fine amounts shall be applied ten (10) times more than the above amounts.

Article 20 (i)(2) - dirty ballast water discharged by tankers

Gross Tonnage of the Vessel	Not Amended under the Amendments (01.01.2018 – 31.12.2018)	Current Amounts (01.01.2019 - ...)
Up to 1,000(inclusive) GT	TRY 72.88 per GT	TRY 90.17 per GT
1,000 – 5,000(inclusive) GT	In addition to the above TRY 14.54 per GT	In addition to the above TRY 17.99 per GT
Over 5,000 GT	In addition to the above TRY 2.32 per GT	In addition to the above TRY 2.87 per GT

Article 20 (i)(3)- petroleum products (bilge, fuel oil, oily wastewater) and dirty ballast discharged by vessels and the other sea vehicles

Gross Tonnage of the Vessel	Former Amounts	The Amendments	Current Amounts
Up to 1,000(inclusive) GT	TRY 48.58 per GT	TRY 200.00 per GT	TRY 247.46 per GT
1,000 – 5,000(inclusive) GT	In addition to the above TRY 9.67 per GT	In addition to the above TRY 40.00 per GT	In addition to the above TRY 49.49 per GT
Over 5,000 GT	In addition to the above TRY 2.32 per GT	In addition to the above TRY 10.00 per GT	In addition to the above TRY 12.37 per GT

As per the Article 20 of the Environmental Code, in case of illegal discharge of hazardous substances and waste by vessels and the other sea vehicles into Turkish waters, the administrative fine amounts shall be applied ten (10) times more than the above amounts.

Article 20 (i)(4) - solid waste, garbage, sewage, residential water discharged by all sea vehicles

Gross Tonnage of the Vessel	Former Amounts	The Amendments	Current Amounts
Up to 1,000(inclusive) GT	TRY 24.24 per GT	TRY 100.00 per GT	TRY 123.73 per GT
1,000 – 5,000(inclusive) GT	In addition to the above TRY 4.78 per GT	In addition to the above TRY 20.00 per GT	In addition to the above TRY 24.75 per GT
Over 5,000 GT	In addition to the above	In addition to the above	In addition to the above

	TRY 0.90 per GT	TRY 10.00 per GT	TRY 12.37 per GT
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An important note worth mentioning - another prominent amendment which has entered into force with the Amendments states that if the administrative fines those stipulated under the Article 20 (I) (1), (2), (3) and (4) issued against an institution, organisation and business, the amount of subject administrative fine shall be tripled. Although the aforementioned provision did not include explicitly the expressions of a company, shipping companies and ship-owning companies etc., by way of the Amendments, it can be interpreted and accordingly can be enforceable on shipping companies and ship-owning companies as well. In other words, in the aforementioned case, the subject amendment may cause to roughly fifteen (15) times increase on the administrative fine amounts compared with the former amounts. Moreover, the Article 23 of the Environmental Code provides that in case of repeat of the subject violation, in the first recurrence the subject fine shall be doubled, in the second and third recurrence, the subject fine shall be tripled.

It should be noted that the Environmental Code is not the sole regulation regarding the marine pollution and the relevant administrative fines that can be imposed on the vessels. As per the Article 39 (12) of the Ports Ordinance dated 31.10.2012 which relevant provision has entered into force on 08.04.2017, in case of a marine pollution, the Harbour Master Office is entitled to issue an administrative fine up to TRY 5,000,000.00 and considering the interpretation of the aforementioned provision, the amount of subject fine is totally at Harbour Master Office's discretion.

Besides, as per the Articles 181 and 182 of the Criminal Code Numbered 5237 and the relevant regulations, a criminal action can be filed against the master of the vessel or the person who causes marine pollution before the Criminal Court in case of marine pollution arising from illegal discharges into Turkish waters.

In the light of the above, and bearing in mind the dramatic increase of fines it is strongly advisable for prudent Owners to ensure their personnel and crew is properly instructed and trained to be extra careful while navigating in Turkish waters.

As we have advised in our previous circulars, all the evidences that may support Owners' position should be collected including photographs, video footage, statements of eyewitnesses etc. Reacting immediately and taking necessary steps for cleaning by vessel's means is also of advantage in further mitigating of the potential losses of vessel interests.

The need of immediate report about any of pollution incident to Ingosstrakh remains of paramount importance for further handling of the case in professional effective manner and also further reimbursement of Owners' actual and reasonably incurred losses.

Ingosstrakh Insurance Company

P&I Department