



FISH FARM INCIDENTS IN TURKISH MARITIME LAW

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Causes

There are many fish and mussel farms in the Aegean Sea, particularly along the coasts of Muğla and İzmir. These farms are mostly located around Bodrum, Akyaka, Güllük, Karaburun, and Çeşme. The main dangers to fish farms include ships passing nearby and ship-sourced pollution. As seen in recent incidents, collisions between ships and fish farms have occurred due to issues such as lack of proper mapping, lighting, or buoy marking, the inattention of ship crew especially during night navigation or the ship lacking updated information about farms along its route. As a result, ships collide into fish farms, causing thousands of fish to escape into the sea or die. This leads to millions of euros in damages for farm owners.

The primary cause of fish farm accidents can be attributed to the negligence of ship crew. A lack of attention during night shifts in particular contributes to accidents. However, in some cases, the expansion of fish farms beyond their designated boundaries or their location in shipping lines, anchorage zones, or port/canal/strait entrances also increases the risk of accidents.

Several such incidents have occurred recently. For instance, in 2021, in the Gulf of Güllük, Muğla, the 139-meter dry cargo ship Heba-M, flying the Queensland flag, while sailing from Aliağa to Güllük near Papaz Island collided with fish farms and around 750,000 sea bream escaped, resulting in millions of euros in damage. Similarly, in 2017, the Lady Tuna ship ran aground on shallow rocks in Ildır Bay, Çeşme, causing a fuel leak that significantly harmed both the environment and nearby fish farms.

Compensation

If a ship collides with a fish farm or causes pollution (e.g., fuel leak, ballast discharge), the affected farm owner should immediately apply for declaratory action. In such a case, the court will first determine the amount of damage with the help of an expert in aquaculture. Additionally, maritime professionals will assess whether the ship's crew was at fault and what the primary cause

of the collision was. At this stage, factors such as current navigation charts, the farm's actual location, lighting, and buoys at the time of the incident are considered.

Limited Liability

Türkiye is a party to the 1976 international convention known as LLMC and its 1996 Protocol. Article 1328 of the Turkish Commercial Code explicitly refers to this convention, allowing shipowners to limit their liability arising from maritime claims. Accordingly, a shipowner responsible for damage to a fish farm can claim limited liability under the LLMC. The current limit for ships not exceeding 2,000 gross tonnage is 1.51 million Special Drawing Rights (SDR).



P&I Coverage

For shipowners, Protection and Indemnity (P&I) insurance is the most important safeguard against risks arising from maritime operations. This insurance covers costs related to injuries, deaths, property damage, and environmental harm. Thus, damage from a ship striking a fish farm or causing pollution is generally covered under P&I insurance. Therefore, the damaged party may apply directly to the insurer (P&I Club) under Turkish law to claim compensation, within coverage limits.



Similarly, it is also possible for yachts to cause damage by colliding with fish farms. If third-party liability insurance exists under Institute Yacht Clauses, the insurer should compensate for the damage to the fish farm within the coverage limits on behalf of the yacht owner.

Ship/Yacht Arrest

The Turkish Commercial Code includes a list of maritime claims and maritime liens. If a ship causes damage by colliding with a fish farm, the damage qualifies as a maritime lien and maritime claim under Article 1320, 1352 of the TCC. Therefore, the farm owner may request the arrest of the ship whether it sails under the Turkish or a foreign flag by depositing a security of 10,000 SDR. Even if the accident was caused by a charterer, the ship may be arrested, though the opposing party as owner or charterer apply for release the ship by posting a counter-security.

Aksoy Law Firm

Aksoy Law is a firm specialized in maritime and insurance law. In this context, it provides legal assistance to shipowners, insurers, crew members, and affected parties regarding all aspects of fish farm accidents, including ship/yacht collisions, shipowner liability, ship arrest procedures, P&I insurance claims, limitation of liability, and environmental damages. For assistance, you may visit our contact page, email us at info@aksoylaw.com, or send a WhatsApp message to +90 (555) 899 4400.

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