



# LP Bulletin

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## Bulletin 622 - 2/09 - Unfair Penalties - Black Sea Ports

**The Association is familiar with unfair penalties in Black Sea ports, namely Ukrainian ports. This bulletin reports on the situation now occurring in Georgian ports.**

Georgian Law contains a provision that any pollution incident carries a minimum fine of US\$4,000. This lower limit is applied even in cases where the evidence is unsubstantial and cases deemed unfair.

When the Georgian Environmental Organization alleges a pollution incident and imposes a fine, the fine is normally immediately acknowledged by the local courts. Owners must comply with the judgement otherwise the vessel will remain detained.

When a vessel is detained the master is brought before the local court, facing allegations of pollution. The defendant/owners and its P&I Club are not in a position to defend the claim or provide any evidence which may contest the allegation.



The Association has recently handled a case where a fine was levied against the vessel due to pollution through ballast water discharged. The same member encountered a similar incident with another vessel one year ago

#### **Incident 1 (Ukraine)**

The vessel had undergone extensive repairs and cleaning at Nikolayev, Ukraine. The ballast tanks could therefore be considered as clean. The vessel had to travel a distance of eight kilometres to the load port, also in Nikolayev, and took on board approximately 600 tonnes of ballast water.

Before loading operations commenced the vessel de-ballasted the ballast water that was effectively from the same port. The Governmental Environmental Organisation for the Black Sea, upon inspecting the ballast, alleged pollution due to dirty ballast water. A fine was imposed.

#### **Incident 2 (Georgia)**

In the most recent incident, involving a vessel discharging Black Sea water at Batumi, a US\$40,000 fine was levied against the vessel. The prudent owner had taken samples of the ballast water taken on board at Poti, and had the sample analysed by an independent Georgian laboratory. Although the owners were able to contest the allegation, the local court issued a judgement condemning the owners to pay the fine in order to have the vessel released.

Owners with vessels operating in Ukrainian and Georgian ports should be aware of the risk of large fines being imposed against vessels in what is considered unjustified circumstances. Additionally, the legal system in these countries has proved to be unfair with there normally being no opportunity to put forward contradictory evidence in support of the ship owner.

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