

## **10. Legal consequences**

The legal consequences of the Contergan issue were tremendous. The plaintiffs in suits against Chemie Grünenthal faced the insurmountable problem of the burden of proof. As all civil suits against the company had been lost, victims' hopes rested on the criminal proceedings pending with the Public Prosecutor's Office in Aachen since December 18, 1961. The initially ponderous investigations were stepped up when Dr. Havertz took over as Chief Public Prosecutor in early June of 1962. He left an indelible imprint on the proceedings and thus on the entire Contergan case. Searches of producers' facilities and extensive witness interviews followed. A special unit at the Public Prosecutor's Office and a special commission at the State Office of Criminal Investigation were established in order to consolidate the workload. The question of the role of Contergan as a cause of neural and birth defects took on increasing importance, which is why the Public Prosecutor's Office interviewed numerous medical experts, some of whom were ordered to submit expert opinions. Investigating officers began conducting systematic interviews of victims in mid-1963. The material collected in the process (medical case sheets, physician's reports, prescriptions, etc.) was to serve as evidence of specific cases of damage in subsequent proceedings.

The investigation generated a considerable response in the press as well. The company's attorneys used that as justification for disciplinary complaints filed against Chief Public Prosecutor Havertz. Although Havertz oversaw the investigations with considerable skill, higher authorities were highly dissatisfied with his cooperative behavior towards the media. An intensive investigation of Havertz's past brought several dubious details to light (membership in the Waffen SS, possible cheating to obtain his high school diploma). Yet it was decided that no measures would be taken against the outstanding jurist in order to avoid endangering the progress of the proceedings.

The proceedings now expanded in scope. In early October 1963, the main case file encompassed 145 separate files. A total of 2,269 victims were registered, and interviews were conducted with some 1,000 individuals,

including 66 professors, 31 medical officials and 62 other experts as well as 380 victims and witnesses. The scope of the proceedings began to take a massive toll. Delays ensued due to the questioning of the defendants by judges and the need to solve the problem of providing access to the files, which could only be accomplished through the time-consuming process of copying the entire case file for each defense attorney. The job of drafting the indictment was similarly time-consuming. A first draft dated August 1964 comprised more than 1,000 pages. Although the most important investigations were completed in early 1965, they continued due to differences in legal opinions within the Public Prosecutor's Office and because some of the expert medical opinions that were indispensable for the necessary clarification of individual cases were not yet available. Once they were submitted, the investigations of nine defendants were formally concluded on July 20, 1965.

At this point, the question of a final hearing, a legal principle first introduced in 1965, needed to be addressed. Following the conclusion of all investigations, the defendants and their attorneys were to be given an opportunity to refute the allegations. The Office of the Public Prosecutor wanted to conduct such final hearings in early 1966, but the defense attorneys protested and demanded more time, as they claimed that it would be impossible to prepare effectively on such short notice. The defense ultimately got what it wanted. The Ministry granted more time for preparation in order to avoid a time-consuming preliminary judicial investigation, among other reasons. Thus the final hearings took place in August 1966, and defendants were given a chance to refute the allegations levied against them to an extent sufficient to have the proceedings against them dismissed.