

12. The trial

When the trial began on May 27, 1968, 200 representatives of the media were present to cover the story from Alsdorf. The number of defendants had declined from nine to seven by the first day of the trial, as proceedings against two defendants had to be scheduled separately due to illness. The tremendous difficulties involved in dealing with the entire complex of events from the perspective of criminal law became apparent during the early phase of the trial. That applied above all to the questioning of witnesses who were to present evidence of the role of Contergan as the cause of individual cases of nerve damage shortly after the proceedings were initiated. All witnesses for the prosecution stated that they had taken numerous different medications and suffered from other illnesses as well, some of them severe. More than a few found themselves entangled in contradictions. The intensive press coverage also had a substantial impact on the behavior of the witnesses. The Office of the Public Prosecutor had little to offer by way of rebuttal, particularly as the prosecuting attorneys had been advised to exercise restraint.

The medical expert witnesses engaged to present their opinions regarding the neurological and teratogenic effects of thalidomide were interviewed in a subsequent phase. Thirty-five witnesses testified on the issue of nerve damage alone. In the process, the courtroom was nearly virtually transformed into a medical lecture hall, as discussion revolved around a number of abstract basic questions. Although the expert witnesses for the defense made an effort to cast doubts, the neurological and teratogenic effects of thalidomide were regarded as proven among medical experts and the general public as well.

It became increasingly clear as the proceedings progressed that the Code of Criminal Procedure was not designed with such "mammoth proceedings" in mind. Thus a trial could not be interrupted for longer than ten days, for example, or it would have to be reinitiated from the beginning in accordance with Article 229 of the German Code of Criminal Procedure (StPO). The process of gathering evidence had to encompass all available evidence, regardless of whether the intended proof had already been established or was irrelevant to

the question of guilt (§ 245 StPO). Since the volume of evidence to be covered increased, rather than decreased, over the course of the proceedings, time worked against the trial, so to speak. Added to this and many other problems was the fact that the conflicts between the individuals involved in the proceedings grew increasingly acute, while disciplinary complaints, interruptions and criminal charges slowed the progress of the deliberations. After more than 1,200 documents had been read during the early months of 1969 in keeping with the requirement that the main proceedings be conducted orally, general questioning of witness began in April 1969. These complex phases lasted until the end of the trial but were repeatedly interrupted by other matters.

While the trial grew progressively less stringent, the problems continued to multiply. Presiding judge Peter Weber withdrew due to illness in September 1969. Judge Wolfgang Melster, who replaced him, was also forced to withdraw from the proceedings after it was revealed that he had secretly met with a defense attorney outside of the courtroom. That left only one of three substitute judges. The number of defendants decreased as well. Another defendant dropped out of the proceedings for health reasons in the summer of 1970 and died shortly thereafter. Yet another was eliminated in October, thus reducing the number of defendants from the original nine to five. The trial threatened to collapse, as the likelihood that other defendants would be eliminated due to illness increased as time passed.