

**Note: This English translation is unofficial. Only the original German text carries legal authority.**

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## **Court sees collusion between Grünenthal and the Contergan Foundation**

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Cologne/Aachen. For the victims it is a scandal. According to a judgement by the Cologne Higher Regional Court, there was collusion between the Contergan manufacturer Grünenthal and the Contergan Foundation. The manufacturer of the sedative, through which some 5,000 children were born with severe malformations in their arms and legs, had had access to the medical files of the victims, the court determined on Thursday.

A dispute on this question between those involved has been smouldering for years. The Contergan victim Andreas Meyer, who is wheelchair-bound and dependent on assistance due to his short arms and legs, had said this over and over again – also in 2013 as an expert witness to the Family Affairs Committee of the German Federal Parliament.

A then member of the Managing Board of the Foundation fought back and wrote a letter to all the members of the committee, claiming that Meyer's assertions were not true. The Cologne Higher Regional Court has now decided in a civil case that Meyer had spoken the truth. The former board member is no longer permitted to say the opposite on pain of a severe fine.

According to the judges' decision, there was collusion between the company and the foundation responsible for paying pensions to the victims from the public purse. From 1972 to 2003, the then Grünenthal corporate lawyer was also head of the Medical Commission of the Foundation and had access to the files. Another Grünenthal staff member performed preparatory work for him in his post for the Foundation, the court found.

According to the court, the company also paid an annual lump sum to the Foundation for the work of the Medical Commission. This Commission played an important role in the recognition of individuals as Contergan victims, says Meyer, who represents the victims' associations on the Council of the Foundation. Appeal against the decision has not been admitted.

In his defence, the former board member had argued that there were comprehensive precautions to ensure that no information reached Grünenthal – in spite of the dual role of the Grünenthal lawyer and preparatory work of the Grünenthal employee. He also argued that the experts were paid by the Contergan Foundation and not by Grünenthal.

The Contergan Foundation pays pensions from the public purse to those whom it recognises as Contergan victims. The Foundation is subject to legal supervision by the Federal Ministry of Family Affairs.

Following the judgement, Andreas Meyer now sees the ball in the politicians' court. "The Federal Government must explain to us why Grünenthal played such a prominent role in the Foundation." With the Contergan Foundation Act of 1972, German victims no longer had any possibility of suing Grünenthal.

Even today, many victims speak of a denial of their rights, a situation that they see as perpetuated in the make-up of the Foundation. The victims' representatives are in the minority

on the Foundation's Council and the interests of Contergan victims cannot be asserted against the majority of ministry representatives, complained Meyer.

According to its currently applicable corporate guidelines, a dual role such as that of the Grünenthal lawyer would no longer be possible today, the company declared on Thursday. "Based on this awareness", all the files from the work of the corporate lawyer that had been placed in the company's archive were handed over to the Contergan Foundation in 2014.

Picture caption:

The Contergan victim Andreas Meyer on Thursday at the Cologne Higher Regional Court.

Photo: Oliver Berg/dpa

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