ABSTRACT. The author, who has been counsel for the injured in the Spanish olive oil proceedings, reports about the health, political and legal issues of this the greatest tragic event in recent Spanish history. The complexity of the marketing processes has made it difficult to trace the criminal responsibilities of the traders of denatured oil. The civil servants in charge of control and supervision have so far been exempted from the proceedings. The author analyses the legal problems and makes suggestions as to the handling of such cases, including compensation.

When Spain’s entry into the Common Market was discussed, a number of preparatory legislative measures were adopted, for instance the Alimentary Codex of 1967. This code did not come into effect until January 1974. In conjunction with other provisions it offered a better regulation in the field of foodstuffs than had existed before and made it similar to that of those countries which were already members of the EEC.

With the arrival of democracy, the Constitution of 27 December 1978 (article 51 para 1) obliged the public authorities to protect consumers and users by guaranteeing among other things efficient legal procedures and the safeguard of their health, safety, and other legitimate interests.

Notwithstanding this increased attention to consumer safety, in May 1981 a new illness became known in Castile which dismayed and alarmed the health services and the administration. After one month and ten days of all kinds of urgent investigations, the cause was discovered. Rape seed (or colza) oil, denatured with aniline and imported for industrial use, had been allocated to human consumption by some fraudulent traders. This was a clear violation of criminal law. To this day, 786 deaths and 24,250 injuries have occurred. The responsibility of these traders became one of the issues in the most extensive criminal proceedings in Spanish history. The final judgment had, at the time of writing not yet been handed down (cf. Postscript). The author was a private attorney for the injured and supported the public prosecutor in the proceedings as a representative of OCU, the Spanish consumer organization.
Because of its extensiveness, the judicial examination (instrucción) lasted from June 20, 1981 until March 30, 1987, when the oral proceedings before the Court of Madrid (Audiencia nacional) began. This lasted for more than 15 months with several sessions per week. Its importance can be seen by the fact that a whole series of legislative measures have subsequently been introduced, since the government feared that similar events could happen again.

THE CRIMINAL PROCEEDINGS

Special Circumstances of the Proceedings

In Spain, olive oil has traditionally been one of the main natural resources. Due to the climatic conditions of the Mediterranean countries, olive trees have been cultivated for many centuries and the Spanish people have developed a strong liking for olive oil. Since olive oil is a vegetable oil it does not contain cholesterol and therefore, its positive effects on health have incessantly been preached to the population.

In order to prevent possible adulteration of olive oil with other cheaper oils, legislation forbade the sale of olive oil in open containers. It had to be sold in sealed containers with a trade mark. However, from 1975 onwards, the administration became more tolerant towards the selling of olive oil in open containers in order to help agricultural cooperatives. The Ministry of Commerce was decidedly opposed to such practice, but the Agricultural Ministry tolerated it. This practice of selling olive oil spread from the cooperatives to other food suppliers, and thus allowed fraud on a large scale. Olive oil sold in large open containers was mixed with other, cheaper vegetable oils, and also with animal greases in various blends. This was the remote, original cause of the toxic syndrome (síndrome tóxico).

In order to protect olive oil production, Spain did not permit the import of rape (or colza) oil, except to the Canary Islands. Import for industrial purposes was allowed only because it was especially well suited for lubrication of machines.

How could one prevent rape oil which was imported for industrial purposes from being used for human consumption? One way would be to impose high tariffs to be reimbursed only if industrial use was proven. But the government opted for the denaturation of rape oil