

Justice delayed, justice denied



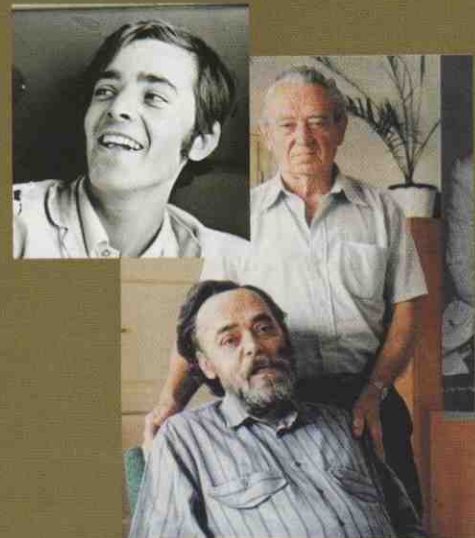
By Lucia Nicholsonová
Special to SPEX

THIRTY YEARS after medical student Ludmila Cervanová was allegedly kidnapped from a Bratislava disco, raped and murdered, the most famous criminal case in modern Slovak history has still not been put to rest. A judge on the Supreme Court panel called in sick on September 27, forcing yet another appeal by the six defendants to be postponed until November 29.

The case is an unusually hot judicial potato, because although the defendants have already spent from six to nine years in jail for the crime since being found guilty in 1982, evidence has since emerged that they were framed. In particular, the alibis of three men and about 8,000 pages of evidence collected from 1976 to 1981 have continually been ignored by the courts, giving the impression of a justice system determined to find them guilty at any cost.

The case remains interesting not only for its human drama, but also because the prosecutors and judges who secured the original guilty verdicts are still in high posts in the justice system today - a reminder that the courts are perhaps the least 'reformed' sector of Slovak society.

30 years after Slovakia's most famous murder, the accused are still waiting for the courts to hear their case



Through the justice system ringer: accused Roman Brázda as a young man, and as a Cervanová case veteran.

The charges

According to the prosecution, seven men from Nitra - Miloš Kocúr, Milan Andrášik, Roman Brázda, František Čerman, Stanislav Dúbravický, Pavol Beďač and Juraj Lachman - abducted Ludmila Cervanová, then 20, by car from in front of a disco in the Mlynská Dolina student dormitory complex in Bratislava on July 9, 1976. They allegedly raped her in a flat on Varinská Street in the Prievoz suburb, and drowned her in a thermal springs in Kráľová pri Senci, while

an accessory, Viera Zimáková, looked on but did nothing. Five days later, citizen Jozef Vrbovský found Cervanová's corpse floating in a nearby creek.

The Bratislava Regional Court convicted the seven men in 1982 and sentenced them to terms ranging from 4 to 24 years in jail. In 1983 the Supreme Court upheld the verdicts.

In 1990, however, the post-revolution Czechoslovak Supreme Court overturned the sentences, saying its communist predecessor had committed 72 legal and

The Iranian lead

The father of Ludmila Cervanová, Lieutenant-Colonel Ludovít Cervan, was the Czechoslovak military attaché to Iran and was a member of the country's military counter-intelligence service. The first investigations of his daughter's murder thus followed up on leads that the crime might have had to do with the father's job.

Two men from Piešťany who knew Cervan and called him by his nickname, "Lali", said he was involved in one of the largest arms deals in the history of Czechoslovakia with Iran, but were unable to provide details of the deal.

Investigator Karol Tóth, one of the first to work the Cervanová murder in 1976, told this reporter at his home in Šamorín that Cervan had also been the key witness in a trial in Iran, but said he did not remember the details of the case. Now in his eighties, Tóth said he had originally considered whether the murder of Cervan's daughter might have been revenge for his role in the trial.

Iran was one of the main third-world battlefields of the Cold War, featuring a US-supported Shah, Reza Pahlavi, who was installed in 1953 and toppled in 1980 by a popular revolution, and a communist movement sponsored by Moscow that was outlawed by Pahlavi in the 1970s.

In the mid-1970s, a group of 11 Iranians who had tried to assassinate Pahlavi were given asylum in Czechoslovakia after Iran issued a warrant for their arrest. They were in Slovakia at the time of Cervanová's murder, and as Tóth remembered were placed under heavy surveillance during the visit of Shah Pahlavi to Czechoslovakia in 1977.

Several of the witness statements contained in 8,000 pages of buried evidence stored in the Interior Ministry archives in Levoča identify suspects in the case as having dark skin, as if of Arab or African descent.

On the other hand, a certain Arab who was present at the UNIC disco on the night Cervanová was murdered fingered the first suspect, Ján Hrmo. Hrmo was later released for lack of evidence. This testimony as well is contained in the Levoča archive, which the courts have steadfastly refused to admit as evidence.

The Czechoslovak state television channel interrupted its broadcast of the Montreal Olympics in 1976 to report the discovery of the corpse of a young woman who it claimed had been murdered "in an unusually brutal fashion, as if in a ritual murder".

However, the autopsy report of the body presented as Cervanová's found no signs of either rape or violence save two bruises of 1.5 to 2 centimeters in diameter, one on her arm and the other on her thigh.

To this day, the defense is trying to get the courts to accept discrepancies discovered by a forensic specialist between the autopsy report and what the state alleged had been done to the victim.



PHOTOS TASR



Accused Milan Andrášik held a hunger strike outside the Slovak parliament before the September 27 hearing.

procedural errors, and that "on the basis of the trial that occurred, the guilt or innocence of the accused could not have been established".

The case then went back to the Bratislava Regional Court to start from the beginning. And even though the accused in the interim were awarded Sk2.3 million in damages because their right to a speedy trial was violated, in 2004 the regional court again found them guilty while continuing to ignore evidence suggesting their innocence that had been buried by the communists in a

police archive in Levoca. It sentenced them to a further 3 to 13 years in jail.

A final appeal brought the case back to the Supreme Court and the current September 27 session.

The accused

When we visited him at his Nitra home on the Zobor heights in early September, there was little about Milan Andrášik to suggest that he had spent nine years in maximum security jails save the fact that he had a

Cervanová case

timeline

July 9, 1976: Medical student Ludmila Cervanová disappears

July 14, 1976: The corpse of a woman is discovered in a creek near Bratislava

July 15, 1976: Massive murder investigation begins involving 47 investigators; 315 witnesses are interrogated in first three months

September 21, 1976: First suspect, Ján Hrmo, is charged, but later released for lack of evidence

1977: Case shelved, but soon reopened due to interest of leadership of Czechoslovak Communist Party, including President Gustáv Husák. A team of crack investigators is dispatched from Prague under the deputy director of the criminal branch of the VB federal police corps, Eduard Pálka, who reports directly to Deputy Interior Minister Ján Pješčák.

June 15, 1981: Seven young men from Nitra are arrested and charged with kidnapping, rape and murder.

September 22, 1982: Bratislava Regional Court sentences the seven accused to 4 to 24 years in jail. One year later the sentences are upheld on appeal by the Slovak Supreme Court.

1983 to 1989: Seven accused individually submit formal complaints from jail accusing state investigators and prosecutors of intimidation, mistreatment and illegal tactics during their interrogations, and demand their case be reopened.

1989: Lawyers for the seven men submit a petition claiming the Cervanová trial was mishandled; one of the signatories is Otakar Motejl, at the time an internationally known attorney, currently the Ombudsman of the Czech Republic. The petition is submitted to then-Czechoslovak Attorney General Ján Pješčák, who led the original investigation.

March 23, 1990: Pješčák's non-communist successor as attorney general, Tibor Bohm, files charges that the law was broken by the state in the Cervanová case with the Czechoslovak Supreme Court.

October 19, 1990: The Czechoslovak Supreme Court overturns the sentences of the seven men, who are released from jail. The court cites 72 procedural errors and legal infractions in the original decision, and returns the case to the Bratislava Regional

laptop computer full of documents and letters that he claimed pointed to his innocence.

"This case ruined half of my life," he said, as his mother and sister offered sandwiches to their visitors. "From one day to another I was persecuted and discriminated against for a crime I didn't commit, both during communism and now. It destroyed my family. I'm glad that my former wife and my son still believe in my innocence, but they were unable to deal with it all. My wife divorced me and my son went to live in London."

Andrášik is reluctant to talk about the years he spent in jail, but it is clear he did hard time. Other prisoners we spoke to who served with Andrášik said he was put in a cell with repeat offender Ivan Fagan, who forced him to eat his own feces. Andrášik says of Fagan only that "he tried to strangle me". He was interrogated on 33 occasions and changed his story 7 times.

František Čerman, now 52, says he was placed in a cell with an inmate named Štefan Rigo, who also beat him up and submitted him to humiliations he is unwilling to speak of.

Čerman is convincing in his lack of emotion and his factual approach to his own case. He was interrogated 22 times, but never confessed. However, as with Andrášik, his wife divorced him - not because she suspected him of having committed the crime, but because she couldn't handle the pressure. His daughter, on the other hand, has written a university thesis about his case.

"I don't expect to see justice in my lifetime, but maybe my daughter will," he said.

Another accused, Pavol Beďač, lives in a

luxurious house in Nitra - alone, because his wife left him as well. He has now been divorced three times, and in his house maintains an entire room devoted to the Cervanová case.

He is by far the most obviously wealthy of the seven men, who were portrayed by the pre-1989 court system as the corrupt "golden boys" of the communist era - a ruse, the defendants say, that allowed the state to claim its justice system was impartial because it "even" jailed the sons of minor Communist Party officials.

Beďač's wealth and equanimity contrasts with the fate of Roman Brázda, who was diagnosed with psychiatric problems during the case and had the charges against him referred to "independent proceedings". He is in a wheelchair, and in no danger now of being again convicted, but his father, František Brázda, continues to fight for the innocence of the other men.

It is one of the ironies of the Cervanová case that the seven men, rather than being united by their trial and suffering in jail, have actually been divided by their responses to it.

Beďač, Čerman and Stanislav Dubravický never cracked in 45 interrogations combined, while Andrášik, Juraj Lachman and Miloš Kocúr all confessed and fingered the others, and changed their stories a total of 24 times in 68 sessions with the police.

More than that, they are vastly different personalities with only two things in common - they all spent time in jail for the same horrendous crime, and they all say the group was framed.

"We are all protesting in different ways, and we are all different from each other, but we are united by our belief that each other is innocent," said Andrášik.



Accused František Čerman (left) confers with defense counsel Allan Bohm.



In a sign of how important the Cervanová case was to the Communist Party leadership, Deputy Interior Minister Ján Pješčák (left) was assigned to head up the investigation by a team of crack Prague detectives, and to deliver regular reports on his progress to Czechoslovak President Gustáv Husák.

Pješčák had conducted one of the communist show trials in the 1950s, and after the Cervanová accused were found guilty in 1982 became attorney general and justice minister in communist Czechoslovakia. Today he lives in Prague.

Legal experts say that to understand how such a legal travesty as the Cervanová case could have occurred, it is important to remember that verdicts were delivered on the basis of political instructions rather than evidence.

Same old faces

Given that so many senior judges in the court establishment have had something to do with the Cervanová case over the years, the accused fear that even 30 years after the crime and 17 years after communism ended, they will still not get a fair trial.

"They're going to screw us again because the same judges who screwed us before are ruling on the case," Bedáč said.

The present case is being heard by a three-member Supreme Court panel of justices comprising Peter Hattala, Juraj Kliment and panel chairman Štefan Michálik.

The latter two, Kliment and Michálik, have already ruled on the Cervanová case, rejecting accusations of bias in 2001 against another judge who found the seven men guilty in the original 1982 verdict.

The former justice, Peter Hattala, was assigned the case in 1999 and sat on it for nine months without setting a court date, after which the Constitutional Court ruled that the right of the accused to a speedy trial had been violated.

Supreme Court Chief Justice Milan Karabín, meanwhile, turned down an appeal by one of the accused in 1985 as a member of the communist Supreme Court, and in 1988 ordered the destruction of important evidence before the case had been definitively resolved.

Not only judges but also prosecutors made a name for themselves on the Cervanová murder. For example, former prosecutor Milan Valašík was only 30 when he took the case, but rose to become the head of the criminal division at the Attorney General's Office during communism, and later the attorney of steel magnate Alexander Rezeš at the VSŽ works in Košice in eastern Slovakia. Today he runs several law offices in the Czech Republic and Slovakia.

Leading the investigation on the

Cervanová case was Ján Pješčák, who had conducted one of the communist show trials in the 1950s, and was tasked in 1977 by then-Interior Minister Jaroslav Obzina with finding the perpetrators of the Cervanová murder. He later became justice minister and attorney general in communist Czechoslovakia, and today lives in Prague.

Investigator Vladimír Lamačka also worked on the Cervanová case, and was named by the defendants as an expert in psychological coercion. It was he who remanded key witness Viera Zimáková in custody to secure a confession even though she was nursing a baby. He was the candidate of the former ruling coalition ANO party to head the SIS secret service in 2005, and today is a state prosecutor.

The defendants say that the investigators and prosecutors on the case terrorized them, threatened them with the death penalty, ignored their alibis and the evidence doubting their guilt, forced them to implicate each other, and portrayed them in public as decadent and venial criminals. Despite the tactics used to secure their confessions, the courts had no doubt as to their guilt.

Making the case

To understand how such a legal travesty could have occurred, legal experts say, one has to remember that verdicts in major cases in the communist court system were based on political instructions rather than evidence. And the Cervanová case was as "political" as murder cases got in those days - the father of the victim, Ludovít Cervan, was a military counter-intelligence agent and Czechoslovakia's military attaché in Iran. When Cervan refused a state decoration in 1977 until his daughter's murder was solved, Czechoslovak President Gustáv Husák began to take a personal interest in the case, and unleashed a squad of Prague investigators under Pješčák to find the perpetrators.

Court for retrial with orders to repair the errors. The court takes almost 12 years to set a new trial date.

June 25, 2002: Bratislava Regional Court again begins hearing Cervanová case.

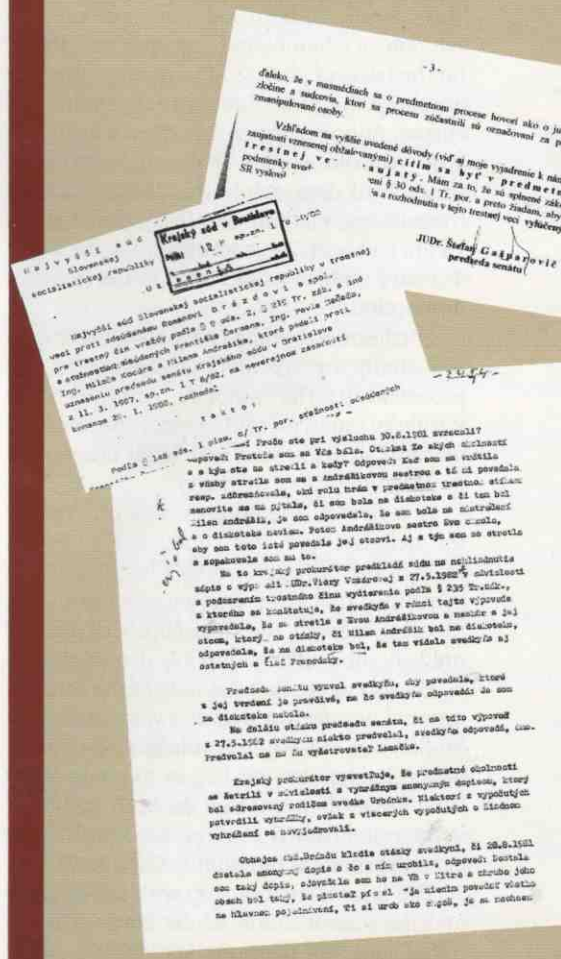
November 12, 2003: The Constitutional Court awards the accused Sk2.3 million in total because their right to a speedy trial was violated.

January 20, 2004: Bratislava Regional Court again finds the men guilty, sentencing them to another 3 to 13 years. Accused appeal to Supreme Court.

Summer 2004: Lawyers for accused find 8,000 pages of evidence that police collected from 1976 to 1981 and that conflict with the court verdict buried in an Interior Ministry archives in Levoča.

December 13, 2005: Supreme Court begins hearing appeal, but refuses to admit evidence from Levoča archives. Accused file charge of bias against panel of justices hearing appeal, Constitutional Court later rejects bias charge. Appeal is adjourned.

September 27, 2006: Supreme Court again begins hearing appeal, but postpones case after panel chairman calls in sick.



The accused have compiled hundreds of pages of case documentation.



Andrášik today is more hopeful than at any time in the past that the courts will eventually admit all the evidence.



Andrášik receiving his university diploma.

PHOTO © TK

By that time the case was extremely shaky. There was even significant doubt as to the identity of the corpse that had been found in the creek. For one thing, the body was never identified in person by Cervanová's family and friends, but instead on the basis of photographs and jewelry. For another, the first doctor to examine the corpse, Anna Kalašová, described it as that of a 40-year-old woman that had been in the water 7-10 days, while the doctor who led the autopsy, Vladimír Porubský, decided the victim had been 20 years old and in the water 4-5 days - which would have fit Cervanová's description.

Furthermore, while Cervanová was raped repeatedly by six men, according to the prosecution, the autopsy conducted by Porubský found no evidence of rape or of any physical struggle save two small bruises 1.5 to 2 centimeters in diameter.

A review of the autopsy was ordered by the defense, and was conducted by Patrik Fiala of the Slovak Coroner's Institute. Fiala concluded that given Cervanová's health and physical strength, the lack of bruising made it unlikely she had been forcibly drowned.

He also wrote that the state of the corpse's internal organs was that of a woman at least 30-35 years old, while Porubský's description of the hair as having begun to come away from the skull meant that the body had been in the water from 8-15 days - too long to have been the remains of Ludmila Cervanová.

The doubts did not stop with the autopsy and the identification of the corpse. In the initial stages of the investigation, the police questioned some 5,000 people, and initially took a suspect into custody who was later released for lack of evidence. Some 250

police and investigators were assigned to the case, although after President Husák began to take an interest, the Prague investigation team had many local investigators reassigned.

However, about 8,000 pages of evidence collected from witnesses, interrogations and the investigation between 1976 and 1981 was never brought forth at the trial of the seven men, but was instead stored in a police archive in Levoča. In the hidden evidence, witnesses described the abductors as tall, dark-skinned men, and described a getaway car that did not resemble the Fiat 126P model the prosecution said was used.

It is still not known who ordered the evidence to be buried, but even after it was unearthed in the summer of 2004, the Supreme Court still refused to admit it.

"I thought that when I presented the court with evidence [collected under the supervision of a state prosecutor] that had been concealed for so many years, the case would be over," said Allan Bohm, attorney for the accused.

"I was wrong."

The court also ruled inadmissible an alibi for Andrášik and German provided by two French women, Lydia and Sylvia Cohen, who said they had spent the night in question with the two men elsewhere. The women even produced a diary of their trip to Czechoslovakia that described how the foursome had spent their time on July 9, 1976, but were not regarded as credible witnesses.

"We already experienced such a trial in 1982, when the Supreme Court refused to hear the witnesses we brought forward," said Beďač, noting that one of the reasons the

post-1989 Czechoslovak Supreme Court overturned the original verdict was because important evidence was not heard.

"Now this court is doing the same - ignoring the Levoča archive and the medical evidence brought by Dr. Fiala. And I'm afraid they're going to reach the same verdict."

Not only did investigators and prosecutors ignore evidence that contradicted their version of the crime, they also allegedly forced confessions from some of the accused.

Four of the men charged - Andrášik, Brázda, Lachman and Kocúr - confessed to kidnapping, raping and murdering Cervanová, but later alleged in court that they were physically and mentally coerced into doing so.

The "Nitra Seven" were arrested on June 15, 1981. Kocúr was interrogated 18 times, on 11 occasions without counsel present. After a month he confessed, but at the end of October proclaimed that he could "no longer take the psychological pressure and the false accusations". In November he told the court that he had only confessed because we was afraid of prosecutor Valašík, investigator Jiskra and prison psychologist Dobrotka. He said that the investigators had told him that Andrášik, Brázda, and Lachman had blamed everything on him, that he would face the death penalty, and that his sister would be jailed. He said he had merely signed a confession that had been prepared for him.

Kocúr's alibi for the day of the murder, that he had been swimming in Ivánka pri Nitre, was supported by five witnesses, but was dismissed by the Bratislava Regional Court, in both 1982 and 2002. "The court, guided by its inner conviction, decided not to believe the witnesses who testified that the accused Kocúr was present at Ivánka pri Nitre," read the court's decision in 2004.

The court's failure in 1982 to take Kocúr's alibi into account was one of the 72 errors identified by the Czechoslovak Supreme Court in 1990.

Andrášik held out until August 27, more than two months after his arrest, but then was put in a cell with career criminal Ivan Fagan. He too confessed his own involvement and fingered the others. In December he retracted his confession and said that the investigators had threatened him with the death penalty.

Lachman was interrogated 17 times,

confessing in August. He too said he was threatened with death, and had a repeat offender named Janžetič assigned to terrorize him. He added that investigators had discovered that he had met with Polish dissidents in Prague and that he had stolen some construction materials to build his cottage. Told he would be charged with treason, which carried the death penalty, he said, he repeated the confession that investigators had coached him to make.

Brázda confessed almost immediately, but clearly was not in his right mind. "With this confession I give up the galaxy. I no longer want to be God, I'm too weak," one statement reads.

The state's key witness, Viera Zimáková, suffered as much as the accused during her interrogations. She was at an advanced stage of pregnancy when it began, and only testified to having watched the seven accused rape and kill Cervanová, she said, after she was given a choice by the investigators: either testify, or be charged herself.

After two months she retracted her testimony, whereupon the case investigators jailed her for 48 hours. Her daughter was nine months old, and she was unable to breastfeed her during this time. After two days in jail she returned to her former testimony as to the guilt of the accused.

Six weeks later, she offered investigators proof that during the night in question she had been on a canoe trip in Revištské Podzámčie, some 180 kilometers from Bratislava. She was again taken into custody, where after two days she amended her story to claim that she had slipped away from her fellow students on the trip between 17:00 and 18:00, hitchhiked the 180 kilometers to Bratislava, gone to a disco and then witnessed a rape and a murder, hitchhiked back to the wilderness camp during the night, and again slipped back among her colleagues unobserved.

During the trial in 1982 Zimáková again retracted her absurd testimony, saying the case investigators had forced her to bear false witness by repeatedly separating her from her nursing daughter.

The court sentenced her to 2.5 years in jail for perjury.

In 2002 Zimáková testified that Valášik had forced her to write certain statements by threatening to charge her as an accomplice to rape and murder if she refused. She said that during one interrogation she had been so scared that she had vomited, and had been forced to clean it up herself.

Back in court

As the September 27 court date approached, Andrášik staged a hunger strike in front of parliament in Bratislava, saying he hoped the Slovak public might finally begin to doubt the version of the Cervanová case presented over three decades by the state.

"I just wanted people to start to doubt my guilt and that of the others," he said. "I hoped people might start to concentrate more on the facts than on their prejudices from the past, when our characters were demonized and assassinated in the communist media. I want people to ask why the courts are still refusing to even look at the Levoča archive evidence, and why the courts are still ignoring the fact that someone illegally detached half of the evidence collected from the case file and hid it away for 15 years."

The refusal of the courts to listen to the evidence remains the core of the case presented by the accused. Bohm cites paragraph 2, section 5 of the Criminal Code: "Organs active within the criminal justice system must investigate, with equal diligence, both circumstances that support the guilt of the accused, as well as circumstances that point to their innocence. They must seek and follow up evidence in both directions without being prompted. Even if the accused confess, this does not relieve the criminal justice system of the obligation to expose all aspects of the case."

Attorney General Dobroslav Trnka, who is ultimately responsible for ensuring that the law is observed in Slovakia, has not taken action in the case despite appeals from the accused and their counsel. Trnka's position is that it is entirely up to the Supreme Court whether it rules the evidence from Levoča is admissible.

None of those involved in the case for the state so far - including Supreme Court Chief Justice Milan Karabín, prosecutor Vladimír Lamačka and attorney Milan Valášik - would comment on whether justice had been served in the case of the "Nitra Seven".

Lamačka protested the accusations made against the Cervanová case investigators by the accused, according to the SITA news agency, while in 1991 the *Pravda* daily quoted him as saying: "An investigator as a matter of professional pride will try to solve a crime in a manner that allows him to sleep well. Charging seven people with murder is not a lottery."

Valášik has been presented by several media as an independent legal expert, and in December 2005 was interviewed by the Markíza TV station in the case of an innocent man found guilty by a court that ignored the testimony of several key witnesses.

"Not enough has been done [in Slovakia] to address the issue of people who were wrongly and unjustly charged," he said.

When contacted by this reporter for a comment on the Cervanová case, Valášik said the accused were "murderers and communist conspirators", and that if this article were published, he would "destroy" the writer of it.

Old habits die hard, as the Nitra Seven have learned.

"I'm worn out from 30 years of having all evidence of our innocence ignored," said Čerman. ■

The Levoča evidence

In the summer of 2004, lawyers for the accused discovered eight boxes containing about 1,000 pages each hidden in an Interior Ministry archives in Levoča in eastern Slovakia. The pages contained evidence and witness testimony in the Cervanová case collected under the auspices of the lead prosecutor from 1976 to 1981, and were available to selected state prosecutors as late as 1987. During that year the files were separated from the main case file and buried; it has not been established on whose authority this was done, or for what reason.

The lawyers said that they had been looking for the evidence for 15 years, as it represented information collected during the first five years after the Cervanová murder, when the young men from Nitra were not under suspicion, and witnesses testified to the presence of other men and vehicles at the site from which Cervanová was kidnapped.

They also said that the Interior Ministry at first refused to grant them access, and then allowed them in but only gave them time to photocopy 200 pages. This was enough to show them that the missing material still existed, but not enough to bring the full picture to light without a court decision admitting the evidence. They have never been able to obtain such a decision.

This reporter was shown three witness statements from the Levoča archives identifying the suspects as "tall, dark-skinned men", and the getaway car as "a large limousine".

Witness Anna Šalgovičová, questioned on August 20, 1976, said about an hour before Cervanová disappeared she saw "a large limousine" on the access road to the Mlynská Dolina dormitory, which the driver stopped to ask for directions.

"I noticed that the man sitting beside the driver was very tall, as his head was close to the roof of the car. He had dark skin, as if he was an Arab or an African, and dark curly hair as if he was wearing a large hat," Šalgovičová told the police.

Miloš Kocúr, the tallest of the Cervanová accused, was only 1.83 metres (6 feet) tall and had blond hair at the time.

Witness Veronika Bačová, questioned on August 23, 1976, also saw a strange car near the dormitory, which she identified as a Volkswagen beetle. The car stopped to pick up a girl, who got in and sat beside the driver. As the interior light went on she saw that all three men were dark-skinned, and that the driver had a goatee.

According to the prosecution, the driver of the getaway car was Roman Brázda, who had no beard.

Another witness said that the strange car she noticed had rear lights aligned in a different way than those of the Fiat 125 that the prosecution said Brázda was driving, and identified the car as "a Ford Cortina or a Chrysler... certainly not a Škoda, Volga or Fiat or anything like that."