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Credibility and truthfulness as fundamental normative attributes of testimony provided by a cooperating person in criminal proceedings

Zuzana Bejdová, Kristína Lacyková

ABSTRACT

The cooperating person represents a fully legitimate procedural institute within the Slovak criminal justice system; however, testimony obtained through cooperation is inherently burdened by the individual's personal criminal-law interest arising from the expectation of procedural or substantive benefits. This structural characteristic raises serious concerns regarding the evidentiary strength, epistemic value, and permissible limits of reliance on such testimony in criminal proceedings. The article examines the conceptual distinction between credibility and truthfulness as fundamental normative attributes of testimony provided by cooperating persons. While credibility traditionally dominates judicial assessment, it does not necessarily guarantee correspondence with objective reality, particularly where testimony is motivated by anticipated advantages. The authors analyse recent legislative developments introduced by Act No. 416/2025 Coll., which amended the Code of Criminal Procedure by transforming truthfulness from a predominantly epistemic criterion into an explicit normative condition governing the admissibility of cooperation-based evidence. Through doctrinal legal analysis, normative interpretation of statutory provisions, and examination of the case-law of the European Court of Human Rights, the article evaluates whether the Slovak legal framework adequately addresses the evidentiary risks inherent in motivated testimony. Particular attention is devoted to the requirement of independent corroboration and to the interaction between truthfulness as a threshold condition of admissibility and credibility as a subsequent evaluative criterion.

The authors conclude that the legislative emphasis on truthfulness constitutes a necessary corrective to the traditional reliance on credibility alone and strengthens safeguards against convictions based on unverified or distorted testimony. At the same time, the article assesses the compatibility of the national regulation with the requirements of a fair trial under Article 6(1) of the Convention for the Protection of Human Rights and Fundamental Freedoms and contributes to the broader discourse on the evidentiary limits of cooperation-based testimony in criminal proceedings.

Keywords: cooperating person; credibility; truthfulness; fair trial; European Court of Human Rights

1. Introduction

The cooperating person is a fully legitimate procedural institute of the Slovak legal system. Testimony obtained from a cooperating person within criminal proceedings, however, is systematically burdened by the individual's personal criminal-law interest. This structural characteristic raises fundamental questions concerning its evidentiary strength, epistemic value, and the permissible limits of its use in criminal adjudication.

The increasing reliance on cooperation-based testimony, particularly in cases involving organised, latent, or otherwise difficult-to-detect criminal activity, places considerable pressure on traditional evidentiary concepts. While cooperation may significantly enhance the effectiveness of criminal prosecution, it simultaneously

introduces a form of evidence whose reliability is inherently affected by the expectation of procedural or substantive benefits. As a result, testimony provided by a cooperating person cannot be assessed in the same manner as evidence originating from a neutral source.

Within the Slovak legal framework, the position of the cooperating person is expressly regulated by the Code of Criminal Procedure, which defines both the institute of the cooperating person and the notion of benefits granted in exchange for cooperation. The legislator thus openly acknowledges the existence of a motivational framework accompanying such testimony. This framework inevitably affects the assessment of the evidentiary value of the statement and requires enhanced judicial scrutiny in order to prevent distortions of factual findings. Traditionally, judicial reasoning has focused primarily on the credibility of cooperating persons, understood as the persuasive quality, internal consistency, and subjective trustworthiness of their testimony. However, credibility does not necessarily correspond to truthfulness. A statement may appear credible while remaining substantively inaccurate, incomplete, or selectively tailored to serve the interests of the cooperating person. This distinction is particularly important when testimony is provided in exchange for benefits, as the motivational pressure may influence not only how facts are presented, but also which facts are disclosed or omitted.

Recent legislative developments introduced by Act No. 416/2025 Coll. mark a significant shift in this respect. By amending the Code of Criminal Procedure, the legislator has transformed truthfulness from a predominantly epistemic criterion into a normative condition governing the admissibility of cooperation-based evidence. This change reflects a conscious effort to address the structural risks posed by motivated testimony and to strengthen safeguards against convictions based on unverified or distorted statements.

The aim of this article is to analyse the normative implications of this legislative shift and to examine the relationship between credibility and truthfulness as fundamental attributes of testimony provided by cooperating persons in criminal proceedings. The authors seek to assess whether the amended national regulation adequately responds to the evidentiary risks inherent in cooperation-based testimony and whether it complies with the requirements of a fair trial under Article 6(1) of the Convention for the Protection of Human Rights and Fundamental Freedoms.

From a methodological perspective, the article employs doctrinal legal analysis, normative interpretation of statutory provisions, and analysis of the case-law of the European Court of Human Rights. The central hypothesis advanced by the authors is that mere credibility assessment is insufficient to ensure the material correctness of factual findings when testimony is motivated by the expectation of benefits, and that explicit normative emphasis on truthfulness constitutes a necessary, albeit demanding, corrective. The ultimate objective of the article is to contribute to the ongoing academic and judicial discourse on the evidentiary limits of cooperation-based testimony and to evaluate the coherence of the Slovak legal framework with European human rights standards.

2. Scientific hypothesis

The article advances the scientific hypothesis that traditional judicial reliance on the credibility of testimony provided by a cooperating person is insufficient to ensure the material correctness of factual findings in criminal proceedings where such testimony is motivated by the expectation of benefits.

The hypothesis assumes that the explicit normative anchoring of truthfulness as a condition governing the admissibility of cooperation-based testimony, introduced by Act No. 416/2025 Coll., constitutes a necessary normative corrective to the evidentiary risks inherent in incentive-driven cooperation.

It further proceeds from the assumption that truthfulness and credibility represent distinct normative categories operating at different stages of evidentiary reasoning, and that their conflation undermines both the reliability of evidence and the effective protection of the right to a fair trial.

3. Objectives

The primary objective of the article is to analyse the normative implications of distinguishing between credibility and truthfulness of testimony provided by a cooperating person in criminal proceedings, with particular regard to their significance for the admissibility and evaluation of evidence and for ensuring a fair trial.

The secondary objectives of the article are, in a systematic sequence:

- to define the specific position of the cooperating person within the evidentiary system of criminal proceedings and to identify the evidentiary risks arising from incentive-driven testimony,
- to conceptually distinguish between credibility and truthfulness of a cooperating person's testimony and to examine the normative consequences of their conflation in evidentiary reasoning,

- to analyse the legislative changes introduced by Act No. 416/2025 Coll. with respect to the normative anchoring of truthfulness as a condition governing the admissibility of cooperation-based evidence,
- to examine the evaluation of testimony provided by a cooperating person in the context of the requirement of independent corroboration as a compensatory procedural mechanism,
- to assess the compatibility of the domestic legal framework and its application with the requirements of a fair trial as developed in the case-law of the European Court of Human Rights.

4. Methodology

This article is based on doctrinal legal research focused on the systematic analysis and critical evaluation of the legal regulation governing the position of cooperating persons in criminal proceedings. The methodological approach is grounded primarily in normative interpretation of statutory provisions, in particular the relevant provisions of the Code of Criminal Procedure as amended by Act No. 416/2025 Coll., with specific attention devoted to the normative function of truthfulness as a condition governing the admissibility of cooperation-based testimony.

The analysis further examines the relevant case law of the European Court of Human Rights, with a view to assessing the compatibility of the domestic evidentiary framework and its practical application with the requirements of a fair trial under Article 6(1) of the Convention for the Protection of Human Rights and Fundamental Freedoms. The methodological framework is based on systematic and teleological interpretation, as well as on the critical confrontation of domestic regulation with international human rights standards.

5. Results and Discussion

5.1. Cooperating Person and Their Specific Position within the Evidentiary System

The foreign academic literature emphasises that incentivised testimony poses a systemic risk to the fairness of criminal proceedings, as the prospect of procedural benefits may undermine the reliability of testimony and disturb the balance between effective prosecution and the protection of the right to a fair trial [15]. The cooperating person thus occupies a structurally ambivalent position within the evidentiary system, situated at the intersection of evidentiary necessity and procedural risk [1].

On the one hand, cooperation may substantially enhance the effectiveness of criminal prosecution, particularly in cases involving organised, latent, or otherwise difficult-to-detect criminal activity [3]. On the other hand, it raises fundamental questions concerning the limits of permissible reliance on motivated testimony and the procedural safeguards required to preserve the fairness of criminal proceedings [17].

From a doctrinal perspective, the cooperating person cannot be regarded as an ordinary evidentiary source. Their testimony is inherently shaped by a motivational structure driven by the expectation of benefits, which introduces a heightened risk of selective disclosure, factual distortion, or strategic narrative construction. This structural vulnerability has led legal scholarship to characterise cooperation-based testimony as epistemically fragile and normatively sensitive [18].

At the same time, domestic doctrine stresses that the legislator's decision to regulate the status of the cooperating person reflects an acknowledgment of both the functional importance and the systemic risks associated with such testimony. Legislative anchoring of cooperation mechanisms, therefore, represents an attempt to balance prosecutorial effectiveness with the protection of procedural guarantees and evidentiary reliability [16].

In this context, Slovak legal scholarship underlines that cooperation-based testimony must be approached with heightened methodological caution. The evidentiary value of such testimony cannot be assessed in isolation but must be situated within a broader framework of verification, corroboration, and judicial reasoning capable of mitigating the risks inherent in incentive-driven cooperation [31].

Recent academic debate further highlights that cooperation mechanisms generate a structural tension within the evidentiary system, insofar as they simultaneously expand the informational capacity of criminal justice authorities and increase the risk of epistemic distortion [40]. This tension is not merely practical but also normative, as it directly affects the legitimacy of fact-finding and the fairness of adjudication [38].

These systemic tensions form the normative context for the analysis that follows. The following chapter, therefore, clarifies the conceptual distinction between credibility and truthfulness as a necessary premise for

interpreting the legislative changes introduced by Act No. 416/2025 Coll. within the evidentiary framework governing cooperation-based evidence.

5.2. Conceptual Distinction between the Credibility and Truthfulness of a Cooperating Person's Testimony

The distinction between credibility and truthfulness is a fundamental analytical prerequisite for the proper evaluation of testimony from a cooperating person [4]. This distinction is not merely terminological; it carries direct normative significance for judicial reasoning in cases in which testimony is delivered in exchange for benefits. Conflating credibility and truthfulness risks obscuring the epistemic limits of testimony motivated by procedural advantages and may lead courts to rely on narrative persuasiveness rather than on verifiable factual consistency [19].

Scholarly literature has long emphasised that the psychological persuasiveness of testimony and its truth value represent distinct categories, the relationship between which is systematically disrupted in cases involving incentivised testimony [20].

In judicial practice, the assessment of cooperation-based testimony has traditionally focused primarily on credibility. Courts have tended to infer the reliability of factual assertions from the perceived trustworthiness of the cooperating person, the internal consistency of their statements, or the overall impression created during examination. Such an approach, however, constitutes a methodological shortcut that merges two qualitatively distinct categories and increases evidentiary risk [26], and [39].

Credibility relates to the assessment of the person as a source of evidence. It reflects an evaluation of the cooperating person's personal reliability, procedural conduct, and the extent to which their testimony appears trustworthy within the circumstances of the case. Importantly, credibility is inevitably influenced by the existence of benefits, as the expectation of advantages constitutes a permanent motivational factor accompanying cooperation-based testimony. For this reason, testimony provided by a cooperating person cannot be assessed in isolation from the procedural and motivational framework in which it is produced [28].

Where a testifying person has a personal interest in a particular outcome of the proceedings, the rational grounds for accepting their testimony as a source of true belief are weakened, even if the testimony appears sincere and persuasive [21].

In this context, space emerges for forensic psychology as an applied discipline concerned with examining the credibility of cooperating persons and other procedural actors whose testimony is subject to evidentiary evaluation [22].

Truthfulness, by contrast, concerns the substantive content of testimony and its correspondence with objective reality. It addresses whether the asserted facts accurately reflect the actual course of events, rather than how convincingly they are presented [24]. Truthfulness cannot be inferred from the subjective qualities of the cooperating person or from the persuasive force of their testimony. Instead, it presupposes independent verification through corroborating evidence, logical confrontation with other findings, and a critical examination of the completeness and precision of the information provided [30].

The conflation of credibility and truthfulness is one of the most significant risks in evaluating testimony from cooperating persons. Where truthfulness is implicitly replaced by an assessment of credibility, credibility itself becomes a substitute for proof, thereby lowering evidentiary standards and increasing the likelihood of convictions based on unverified or strategically framed narratives [41]. From a normative perspective, the separation between credibility and truthfulness provides the analytical foundation for understanding recent legislative developments in Slovak criminal procedure and the introduction of admissibility thresholds beyond traditional evidentiary assessment [23].

Against this conceptual background, the following chapter turns to the normative implications of linking the admissibility of testimony provided by cooperating persons to the requirement of truthfulness.

5.3. Normative Anchoring of the Truthfulness of a Cooperating Person's Testimony in Criminal Proceedings

The conceptual distinction between credibility and truthfulness provides an indispensable framework for understanding the recent amendment of criminal procedure in Slovakia introduced by Act No.

416/2025 Coll. This distinction no longer operates solely at the theoretical level. The requirement of truthfulness represents its transformation from an epistemic criterion into a normative condition governing the admissibility of evidence in criminal proceedings.

Section 119(6) of the Code of Criminal Procedure establishes that evidence obtained through the provision of an unlawful benefit is inadmissible. The law expressly clarifies that unlawfully obtained evidence includes testimony from a person who was granted benefits if that person failed to testify truthfully about essential facts or to disclose all essential facts. Deficiencies in the testimony of a cooperating person are thus no longer addressed exclusively at the level of evidentiary weight but may lead to the procedural disqualification of the evidence.

From a normative perspective, this constitutes a departure from the traditional model of free evaluation of evidence. Under the previous legal framework, inconsistencies, omissions, or doubts concerning the reliability of testimony were resolved primarily through judicial reasoning, corroboration, and the justification of decisions. By contrast, Section 119(6) introduces a threshold mechanism: where the requirement of truthfulness or completeness in relation to essential facts is not met, the testimony becomes procedurally unusable *ex lege*. Truthfulness thus serves as a primary criterion, while credibility assessment becomes relevant only subsequently [6].

At the same time, the Code of Criminal Procedure does not provide a statutory definition of truthfulness, nor does it establish methodological criteria for its assessment. This normative indeterminacy places heightened interpretative demands on courts. Truthfulness cannot be inferred from the persuasiveness of testimony or from the perceived credibility of the cooperating person. It presupposes independent verification through corroborating evidence and critical confrontation with the overall evidentiary record.

Further uncertainty arises from the statutory formulation, which refers to the failure to disclose “all essential facts.” The concept of essential facts is not defined in the Code of Criminal Procedure and is inherently context-dependent. Section 119(6) does not distinguish between deliberate concealment, subsequent supplementation of testimony, memory-related inaccuracies, or strategic distortion. All manifestations of untruthfulness or incompleteness are assessed in the same manner.

The rigidity of such an exclusionary construction significantly alters the evidentiary risk associated with the use of cooperation-based testimony. While it enhances protection against convictions based on distorted or fabricated statements, it simultaneously introduces an absolute exclusionary mechanism lacking internal gradation. As legal scholarship has observed regarding rigid inadmissibility regimes, such an approach raises concerns about proportionality and procedural balance, particularly in complex cases where evidentiary necessity and procedural integrity stand in tension [25].

From a normative standpoint, Section 119(6) must therefore be understood as a provision aimed at safeguarding material truth through tightened admissibility conditions for evidence obtained from cooperating persons. In this sense, the amendment reflects a deliberate legislative choice to prioritise truthfulness as a structural safeguard against the risks inherent in testimony motivated by benefits.

The practical consequences of this shift cannot be assessed in isolation. The exclusionary mechanism introduced by Section 119(6) is closely linked to the amended obligation to assess the credibility of a cooperating person in the reasoning of judicial decisions. While truthfulness determines whether testimony may enter the evidentiary process at all, credibility becomes relevant only after the admissibility threshold has been crossed [29].

The relationship between these two requirements and their combined impact on judicial reasoning forms the subject of the following chapter.

5.4. Evaluation of the Testimony of a Cooperating Person and the Requirement of Corroboration

The normative anchoring of truthfulness as a condition of admissibility fundamentally reshapes the subsequent evaluation of testimony provided by a cooperating person. Once the admissibility threshold under Section 119(6) of the Code of Criminal Procedure has been satisfied, the court is required to proceed to the assessment of the evidentiary value of such testimony in accordance with the principles

governing the evaluation of evidence. At this stage, credibility regains relevance, but only within the limits defined by the prior assessment of truthfulness [2].

Legal scholarship emphasises that separating the admissibility threshold of evidence from the subsequent evaluation of its probative force is necessary in order to prevent the persuasiveness of testimony from becoming a substitute for truthfulness as a normative criterion of proof [32].

The evaluation of cooperation-based testimony is inseparably linked to the requirement of corroboration. Given the motivational structure inherent in cooperation, reliance on uncorroborated testimony entails a greater risk of distorting factual findings. Legal doctrine has long stressed that testimony provided in exchange for benefits cannot constitute the sole or decisive basis for a conviction unless it is supported by independent evidence confirming its essential elements [1].

From an epistemic perspective, it is noted that motivated testimony systematically weakens the link between the psychological persuasiveness of testimony and its truth value, thereby further underscoring the importance of independent verification of factual assertions [33].

In this context, corroboration fulfils a dual function. On the one hand, it serves as an epistemic safeguard, reducing the risk that factual findings rest on selectively presented or strategically constructed narratives. On the other hand, it fulfils a normative function by compensating for the structural imbalance resulting from the incentive-based position of the cooperating person, thereby strengthening the reliability of criminal proceedings [5].

Comparative studies further point out that, in particular, cases involving so-called jailhouse informants illustrate how motivation by benefits may increase the narrative persuasiveness of testimony while simultaneously creating a structural risk of false or fabricated statements leading to serious miscarriages of justice [34].

The requirement of corroboration does not imply that every detail of the cooperating person's testimony must be independently verified. Corroborating evidence must confirm the essential facts decisive for the establishment of criminal liability, such as the existence of the offence, the participation of the accused, or the temporal and causal framework of the criminal activity. Where corroboration relates only to marginal or peripheral aspects, the evidentiary risk associated with reliance on cooperation-based testimony persists.

Legal scholarship also warns that conflating credibility as an impression-based category with truthfulness as a question of factual correspondence between testimony and the factual state of affairs leads to a weakening of evidentiary standards and an unjustified lowering of requirements for verifying factual assertions [35].

Judicial reasoning must therefore explicitly address the relationship between the testimony of the cooperating person and the corroborating evidence relied upon. A mere reference to the existence of supporting evidence is insufficient; the court is required to explain how such evidence independently confirms the decisive factual assertions and why the cooperating person's testimony may be regarded as reliable in light of the entire evidentiary record [31].

Empirical research likewise emphasises that the assessment of evidentiary reliability must transparently reflect the limits of perception, memory, and communication of the witness; otherwise, the evaluation of evidence becomes untestable and escapes rational scrutiny [36].

Particular difficulties arise when corroboration is indirect or based on circumstantial evidence. Although circumstantial evidence may, in principle, fulfil a corroborative function, its probative force must be carefully examined, especially with regard to the risk of circular reasoning, whereby the testimony of the cooperating person implicitly shapes the interpretation of corroborating evidence. Comparative analyses indicate that exclusionary rules primarily serve to regulate the sources of information used in judicial decision-making and to protect the integrity of the factual basis of judgments, regardless of the procedural technique employed [37].

The evidentiary framework created by the amendment thus requires courts to apply a structured, multi-layered approach. Truthfulness determines whether testimony may enter the evidentiary process at all. Credibility governs its persuasive force once admitted. Corroboration serves as a stabilising element that connects these two levels and mitigates the risks inherent in motivated testimony. Only the

combined application of these criteria can ensure that cooperation-based evidence contributes to the establishment of facts without compromising the integrity of criminal proceedings [27].

This evaluative model does not function in a normative vacuum. Its contours and limits are shaped by international human rights standards, in particular the jurisprudence of the European Court of Human Rights concerning the use of testimony obtained under conditions of incentive or dependency. The following chapter, therefore, examines the relevant case law of the European Court of Human Rights and its implications for the admissibility and evaluation of cooperation-based testimony under Article 6 of the Convention.

5.5 Case-Law of the European Court of Human Rights on Testimony Provided by Cooperating Persons

The amended Slovak evidentiary framework governing testimony from cooperating persons must be interpreted in light of the jurisprudence of the European Court of Human Rights. While the Convention for the Protection of Human Rights and Fundamental Freedoms does not regulate the admissibility of evidence as such, the Court consistently examines whether criminal proceedings, taken as a whole, were fair within the meaning of Article 6(1) of the Convention.

The Court does not prohibit the use of testimony obtained from cooperating persons. However, it has repeatedly emphasised that testimony affected by personal interest or dependency is inherently problematic and requires heightened judicial caution and adequate counterbalancing safeguards. Where a person testifies in exchange for procedural or substantive advantages, the risk of distorting factual findings increases substantially, and domestic courts must exercise particular care when assessing the probative value of such statements [7].

A central element of the Court's approach lies in the distinction between credibility and truthfulness. While credibility concerns the personal reliability of the cooperating person and the persuasive quality of their testimony, truthfulness relates to the substantive correspondence of that testimony with objective reality. The Court's case law underscores that credibility alone cannot substitute for the requirement of independent verification, especially where testimony plays a decisive or significant role in securing a conviction [8].

In *Lucà v. Italy*, the Court held that a conviction based to a decisive extent on the statement of a person whom the accused had no opportunity to examine or have examined violated Article 6 of the Convention, particularly in the absence of independent supporting evidence [9]. This judgment established an enduring standard holding that the decisive use of untested testimony, especially where the witness has a vested interest, undermines procedural fairness.

The need for objective verification and careful treatment of testimony given under conditions of incentive or vulnerability is also reflected in *Xenofontos and Others v. Cyprus* [10]. Although the case did not concern cooperating persons in the narrow procedural sense, the Court's reasoning is directly relevant, as it underlined the necessity of corroboration capable of confirming essential factual assertions. In *Habran and Dalem v. Belgium*, the Court reiterated that where testimony affected by personal interest plays a significant role in securing a conviction, domestic courts must ensure the existence of strong procedural safeguards. These include effective opportunities for cross-examination, transparent judicial reasoning, and independent evidence capable of confirming the decisive elements of the testimony [11].

The judgment in *Opalenko v. Ukraine* further illustrates the Court's concern with the substitution of credibility for truthfulness. The Court criticised domestic courts for accepting testimony primarily on the basis of a witness's perceived reliability, without adequately addressing inconsistencies or ensuring independent corroboration of the core allegations. Such an approach jeopardises the fairness of the proceedings [12].

Of particular relevance to Slovak judicial practice is the judgment in *Erik Adamčo v. Slovakia*, in which the Court explicitly addressed the risks arising from the use of testimony provided by cooperating persons without sufficient independent corroboration. The Court emphasised that domestic courts must carefully assess the motivation of such witnesses, transparently evaluate the evidentiary weight of their

statements, and avoid basing convictions on cooperation-based testimony that is not adequately supported by other evidence [13].

A significant contribution to the conceptual debate on credibility and truthfulness can be found in Judge Serghides's separate opinion in *Fajstavr v. the Czech Republic*. Judge Serghides criticised approaches that attach excessive weight to the credibility of cooperating persons while neglecting the requirement of truthfulness. According to his reasoning, credibility constitutes a secondary evaluative category that cannot remedy the fundamental epistemic deficit inherent in testimony given in expectation of benefits. Truthfulness must be demonstrated through objective and independent verification, not inferred from subjective impressions of the witness [14].

Although this separate opinion does not represent the view of the majority, Judge Serghides has consistently advanced similar arguments in earlier cases, including *Xenofontos and Others v. Cyprus*, *Habran and Dalem v. Belgium*, and *Opalenko v. Ukraine*, where he repeatedly warned against substituting truthfulness with assessments of personal credibility [10], [10], and [12].

Taken together, the case-law of the European Court of Human Rights provides a coherent interpretative framework within which the Slovak legislative amendments introduced by Act No. 416/2025 Coll. may be understood not as a conceptual departure, but as a normative consolidation. The Code of Criminal Procedure does not prohibit the use of testimony provided by cooperating persons. Rather, it seeks to align domestic evidentiary standards with the requirements of material fairness under Article 6(1) of the Convention, ensuring that convictions are not based on unverified and motivation-driven testimony.

CONCLUSION

A cooperating person constitutes a fully legitimate procedural institute within the Slovak legal order. At the same time, testimony obtained from a cooperating person in criminal proceedings is systematically burdened by the individual's personal interest arising from their own criminal liability and the expectation of benefits granted in exchange for cooperation. This structural feature raises fundamental questions concerning the evidentiary strength, epistemic value, and permissible limits of reliance on such testimony in criminal adjudication.

The use of cooperation-based testimony is particularly significant in cases involving organised, latent, or otherwise difficult-to-detect criminal activity, where insider information may substantially enhance the effectiveness of criminal prosecution. However, the same incentive-based framework that renders cooperation useful also increases the risk of distorting factual findings. Testimony provided in the expectation of procedural or substantive advantages cannot be equated with evidence from a neutral source, as it is inherently influenced by motivational pressures that may lead to selective disclosure, exaggeration, or the strategic omission of relevant facts.

Traditionally, the assessment of testimony given by a cooperating person has been predominantly centred on credibility. Judicial evaluation has often focused on the internal consistency of the testimony, the persuasiveness of its presentation, and the perceived reliability of the cooperating person as a source of evidence. Such an approach, however, tends to conflate two analytically and normatively distinct categories: credibility and truthfulness. While credibility relates to the assessment of the person providing testimony, truthfulness concerns the correspondence of the asserted facts with objective reality. In the context of incentive-based cooperation, reliance on credibility alone may prove insufficient to ensure the material correctness of judicial findings.

This conceptual distinction has gained particular normative relevance following the legislative amendment introduced by Act No. 416/2025 Coll., which amended the Code of Criminal Procedure. By linking the admissibility of evidence obtained from a cooperating person to the requirement of truthfulness with respect to essential facts, the legislature transformed truthfulness from a predominantly epistemic criterion into a normative condition governing the use of such evidence in criminal proceedings. This shift represents a qualitative change in the evidentiary framework, as deficiencies in cooperation-based testimony may now lead not merely to a reduction of evidentiary weight, but to the procedural exclusion of the evidence itself.

Against this background, the aim of this article is to analyse the normative implications of the distinction between credibility and truthfulness in relation to the testimony of a cooperating person, with particular emphasis on its role in determining the admissibility and evaluation of evidence under the amended Code of Criminal Procedure. The authors employ doctrinal legal analysis, normative interpretation, and a critical examination of relevant case law to assess whether the current domestic framework adequately addresses the structural risks inherent in incentive-based testimony.

Special attention is devoted to the jurisprudence of the European Court of Human Rights, which has consistently emphasised the need for heightened judicial caution, independent corroboration, and transparent reasoning when convictions are based to a decisive or significant extent on testimony obtained in exchange for benefits. In this context, the article assesses the compatibility of the Slovak evidentiary framework with the requirements of a fair trial under Article 6(1) of the Convention for the Protection of Human Rights and Fundamental Freedoms.

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Contact Address:**Zuzana Bejdová**

Affiliation: Matej Bel University in Banská Bystrica, Faculty of Law, Department of Penal Law, Criminology, Criminalistics and Forensic Sciences, Komenského 20, 974 01 Banská Bystrica, Slovak Republic

Tel.: +421905323129

E-mail: zuzana.bejdova@student.umb.sk

ORCID: <https://orcid.org/0009-0006-0759-2792>

Author contribution: conceptualisation, methodology, investigation, resources, writing – original draft, writing – review & editing.

Kristína Lacyková

Affiliation: Matej Bel University in Banská Bystrica, Faculty of Law, Department of Penal Law, Criminology, Criminalistics and Forensic Sciences, Komenského 20, 974 01 Banská Bystrica, Slovak Republic

Tel.: +421949843633

E-mail: kristina.lacykova@student.umb.sk

ORCID: <https://orcid.org/0009-0003-9339-145-x>

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* Corresponding author: **Zuzana Bejdová**

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