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The Covid-19 Pandemic as a Driver of More Responsive Social Procedures: between Theory and Practices in Slovenia

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Abstract:

Social and other administrative procedures are gaining importance because of the increasing complexity of administrative relationships brought about by the Covid-19 pandemic, digitalisation, and other societal changes. When exercising social rights, procedural elements should be seen – both at the level of regulation and enforcement of the rules – as factors contributing to the welfare state, the rule of law, and good administration, and not as an excuse for a bureaucratic attitude. In view of the multifunctionality of social procedures, including their casual-functional role in social relationships and their potential for a critical, value-based evaluation of the current regulation, the rationale for this study is to assess the impact of the Covid-19 pandemic on special administrative procedures conducted by the 16 social work centres (SWCs) in Slovenia. A special emphasis is placed on the informational calculation of social assistance payments, such as child benefits, kindergarten subsidies or state scholarships – by far the most numerous procedures involving social rights in Slovenia, with over one million cases annually. Drawing upon a normative analysis, available statistics, semi-structured interviews with SWCs managers and surveys among employees, the findings reveal that the response of SWCs to the crisis has improved. However, largely due to the lack of coordination on the part of the line ministry, the simplifications introduced mainly benefit the public administration rather than particularly vulnerable parties to the procedure. Consequently, there is a need to pay greater attention to providing the parties with adequate protection of their constitutional rights and other elements of good public governance.

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Points for Practitioners:
In addition to analysing the direct practical implications of the legislative, organisational, and IT adaptations to the Covid-19 pandemic, the article provides a broader study of the multifunctionality of social procedures and their role in ensuring citizens' fundamental rights in times of socially unstable conditions. The findings are thus directly applicable for practitioners deciding on social procedures in the broader European setting, and for policymakers and legislators in the respective fields. As the conclusions are grounded on a strong methodological framework, this should contribute to advocating the much-needed change in ensuring the protection of the basic constitutional rights in social procedures in times of crisis in Central Europe and beyond.

Keywords:
administrative procedure, Covid-19 pandemic, digitalisation, good governance, rule of law, Slovenia, social rights

1. Introduction

As set out in several international instruments and most national constitutions, social rights are among the key elements of the rule of law and the welfare state. Slovenia guarantees them at the highest level through the provisions of Articles 1, 2, 3, 14, 21–25, 50 et seq. of the Constitution of the Republic of Slovenia (Avbelj, 2019). However, in addition to constitutional and statutory regulation, a welfare state governed by the rule of law must also have in place the relevant procedures and organisational and IT measures. If procedures are not predictable and user-friendly, it will be difficult or impossible for the parties to exercise their legal rights, especially considering the frequent lack of knowledge and experience among vulnerable citizens (Ranchordas, 2022). Therefore, in cases involving social rights, the above elements should be seen at both normative and implementation levels in a cross-section between the rule of law and the welfare state rather than perceiving the constitutional guarantees as administrative barriers and the rules as an excuse for bureaucratism (Kovač, 2021). Social affairs are largely dealt with in administrative procedures. The legality of administrative acts is subsequently reviewed in a social or administrative dispute, sometimes even through constitutional review based on a constitutional complaint or the assessment of the consistency of lower general acts with higher regulations. According to the majority view, social rights require special administrative procedures (Jerovšek & Kovač, 2008) where the general law on administrative procedure (GAPA) applies subsidiarily to sector-specific legislation.[3] These procedures mainly fall within

3 *ZUP, Zakon o splošnem upravnem postopku*, Official Gazette of the Republic of Slovenia, Nos 80/99, 70/00, 52/02, 73/04, 119/05, 105/06-ZUS-1, 126/07, 65/08, 8/10, 82/13, 175/20-ZIUOPDVE, 3/22-ZDeb.

the competence of social institutions – such as social work centres (SWCs) – or institutions providing compulsory social insurance (e.g. pension or health insurance). Other related services include the tax service, municipalities or administrative units, schools, health institutions, and the like. The topic under consideration is particularly varied in content and rich in scope. It concerns each member of a community, whether a net contributor to or a beneficiary of the social system on which some EUR 2.155 billion was spent in Slovenia in 2020 alone. What all social-administrative procedures have in common is the relationship between authorities (State and municipal bodies or delegated public authorities, whose primary task is to protect the public interest, i.e. to develop a socially sustainable society with limited resources) and individual parties exercising their rights or legal benefits to improve their social situation.
Social rights are part of the general administrative system, which in the EU and Slovenia is subject to global trends, including good administration, debureaucratisation, and digitalisation. These come especially to the fore in times of crisis, such as the Covid-19 pandemic. With the spreading of the virus and the measures taken to contain it, the pandemic affected almost every dimension of social life, including administrative and, in particular, social relationships. Administrative procedures – particularly in the social sphere – were simplified to better cope with the situation. Thus, for example, it was possible to file applications and serve administrative acts without the otherwise formal requirement of identification (of the will) of the parties, while efforts were also made toward digitalisation (for Slovenia, see Aristovnik et al., 2021; for V4 countries, Horvat et al., 2021; more broadly Hirsh et al., 2022).

Moreover, countries provided various forms of social assistance, at least in the first waves of the pandemic. However, even or especially during crises, the simplification of procedures must not undermine the balance between responsiveness and efficiency on the one hand and the legitimate protection of citizens' rights and inclusion on the other. is the aforementioned are dictated by the concept of good administration, an element of good public governance (Galetta et al., 2015). In this context, responsiveness should be perceived as pursuing public interest in a timely and accurate matter, providing the appropriate services for citizens by acknowledging both citizen-driven and expert-driven approaches in designing social public policies (Liao, 2016). Responsive social procedures are value-based and have a strong ideological substrate significant for a specific administrative space (Barnes, 2010). A proportionate balance between the public interest and the rights of the parties requires a constant weighing up between legal certainty and flexibility in the codification of procedural rules (Kovač & Kerševan, 2020). However, theoretical guidelines do not necessarily match actual practice.

In economic theory, efficiency as the management of resources to achieve (public) goals should be differentiated from effectiveness as a level of achieving those goals; however, for public administration (PA) and good governance theories, those definitions are too narrow. Efficiency in this sense, and the context of this article,

combines administrative rationality and represents the contribution of the administrative system to the functional requirements of the social environment in terms of social values in relation to the expected benefits and burdens (Zweckrationalität & Wertrationalität according to Weber; Kovač, 2021). However, where mentioned together (e.g. good governance principles by OECD, 2017) in this article, effectiveness and efficiency should be understood as one joined-up principle, targeting the economic aspect of rationalisation in a narrower sense and matching goals and results of (social) public policies (Venice Commission, 2011; cf. Agere, 2000).

The research question addressed in this article is: How has the Covid-19 pandemic affected the selected social procedures in Slovenia in the framework of good governance principles? Special attention is dedicated to exploring the rule of law and its proportional protection vs responsiveness and efficiency. The article studies the impact of Covid-19 related measures in terms of legislative amendments, and the organisational and IT measures taken in social procedures conducted by the 16 SWCs in Slovenia. The findings can be extrapolated to the same area in other countries and other sectoral areas, be it in terms of temporary approaches in crisis or permanent simplification, digitalisation, and the like. The authors draw on the assumption that the simplification and digitalisation of socio-administrative procedures have been largely positive for the beneficiaries as they have facilitated the exercise of rights, especially in conjunction with the systemic reorganisation of Slovenian SWCs pursued since 2018. At the same time, however, the dilemma arises as to whether every simplification is truly in the interest of the parties – especially when constitutional guarantees addressing the procedural rights of defence (e.g. the right to be heard and legal protection) are at stake. In the Slovenian (administrative) legal system, SWCs act as bearers of public authority to which the State has delegated several tasks, including basic social transfers such as child benefits and social assistance payments, decided by the SWCs in administrative procedures conducted under sector-specific laws with a subsidiary application of the GAPA. These are by far the most common procedures, totalling around 1.7 million annually per only two million population. Moreover, it is not so much about their number as it is about the fact that these are procedures granting social rights which, as part of the welfare state, are certainly also in the public interest.

This study aims to identify which systemic changes have been introduced in social procedures to achieve better administration, first with the reorganisation of SWCs pursued since 2018 and specifically as a result of the Covid-19 pandemic in 2020 and 2021. It also aims to compare the theory of the multifunctionality of administrative procedures with the state of play in practice. The purpose of exploring the impact of the Covid-19 pandemic on social affairs is to provide – through a critical evaluation of the measures from the perspective of the public administration as a party to social procedures – a basis for the design of sustainable solutions aimed at a simultaneous protection of the public interest and the social rights of individuals.

The article is structured in several parts. The introductory chapter is followed by

two general chapters presenting the legal frameworks, content and meaning of social rights and their procedural regulation, as well as topical examples from Slovenian practice. The empirical part presents the study's methodological framework and the results of the survey and interviews among SWCs managers and employees relating to the planned reorganisation to make SWCs more accessible and to the measures and consequences of the Covid-19-related changes in their work. The study is based on mixed-method research inherent to administrative science (Hlongwane, 2020). The discussion section analyses the data obtained in light of the objectives and purpose of the study and aims to answer whether the regulation of social procedures during the Covid-19 pandemic has strengthened or undermined the rule of law. The discussion section is followed by recommendations for the way forward and conclusions.

2. Theoretical framework of social rights and administrative procedures

Since they are financed from public funds and should be recognised as being in the public interest, social rights are granted in administrative procedures. Administrative procedure is a term that, in different administrative and legal systems, denotes different phenomena or relationships (Auby, 2014). The differences depend on the overall social, political, and economic development, based on which individual countries or administrative traditions determine the relationship between the branches of government and the types of procedures and acts issued. Public relationships all aim at good public governance and the rights of good administration, deriving from the fundamental rights of the EU Charter, which is directly applicable in all Member States (Harlow & Rawlings, 2014). This means that in administrative relationships, different legal interests are confronted when designing and implementing effective public policies while providing democratic values and guarantees to the parties (Galetta et al., 2015; Kovač, 2016). Although the beneficiaries of such rights are subordinated to the public interest, respect for their dignity is expressed through procedural guarantees (Rose-Ackerman & Lindseth, 2010). Any unlawful conduct by administrative bodies such as social institutions puts both the public interest and the rights of the parties at risk. Despite an apparent formal legality, this is undoubtedly a sign of maladministration, which is to be reviewed by the courts and the Ombudsman.

In administrative relationships, the public interest *per definitionem* implies an a priori subordination of private parties and the recognition of their rights only insofar as they are not contrary to the public interest. Simply put, public interest is equivalent to the conditions for the acquisition of a right or the reduction or elimination of an obligation. In such regard, discretion is allowed only exceptionally and only within the purpose and scope laid down by law. In the field of social law, the right of a party often

coincides with the public interest since public authorities aim to ensure – through positive discrimination and social assistance – equal opportunities for vulnerable persons. Therefore, any collisions between the two must be considered teleologically since the acquisition of a social right is not only in the interest of an individual beneficiary but also in the interest of the community and the State. Thus, the beneficiary acquires at least some basic means for dignified subsistence without burdening the State or other persons. The public interest in granting a pension or similar social right is expressed in the decision of the Members of Parliament to adopt a law which considers certain rights as a general social benefit. Social protection, especially in the form of compulsory insurance, represents the minimum concern of the State for its population and is therefore considered to be in the public interest, both in Slovenia and in comparable countries (Đanić Čeko & Tomeković, 2021; Kekez, 2018). Similarly, a reduction of public funds, from which most social rights are drawn, cannot constitute a public interest and a basis for interfering with the existing regulation and the expected or existing social rights. Comparative and national constitutional case law further demonstrate this.

Through standards and basic principles of general procedural law, the administrative procedure is a mechanism of good administration, providing for a number of constitutional guarantees, such as equality and equal protection of rights, legality and autonomy, the rights of defence (e.g. to be heard, to have access to the file, to be given reasons for a decision), the right of appeal, and the right to a remedy or judicial review. The essence of the administrative procedure is the relationship between the private party and the authorities at the EU, national or municipal levels, or bodies delegated by authorities (Rose-Ackerman & Lindseth, 2010). In this context, the procedure is the fundamental framework to ensure equity through the reconciliation of legitimate interests, whether in the Anglo-Saxon or Germanic or any other tradition. Therefore, the GAPA or the procedural rules of sector-specific legislation should not be considered formalism *per se* but should be deemed tools to achieve democratic guarantees and the objectives of substantive law. Procedures must be at the least partially regulated by law since procedural rules often determine substantive outcomes. The codification of administrative procedures or procedural law – in particular a *lex generalis* – is therefore considered to be at the core of administrative relationships (Kovač & Kerševan, 2020). The importance of the administrative procedure for achieving the objectives of public law is a common feature of development in the EU and beyond, largely because of international and constitutional guarantees and convergence in global transactions. Administrative procedure thus serves the goal of granting a substantive right that is the subject of the procedure. Moreover, in the context of the development of public law, it is understood as a tool and an independent objective of the procedure. Therefore, the role of administrative processes and their legal regulation is increasing over time. This also applies to the sphere of social affairs in Slovenia since how a right is exercised is a matter of constitutional regulation (as explicitly stated by the Constitutional Court in case Up-195/13, U-I-67/16, 26 January

2017).

The role of the administrative procedure is thus multifunctional. A key function of administrative, procedural rules is to ensure the balanced protection of an individual party to the procedure meaning the public interest must prevail, but not absolutely. The procedure could thus be defined as a structured process of choosing between several possible alternatives through acquiring and processing information (Harlow & Rawlings, 2014). The goal of the procedure is not yet unambiguously determined at the time of its initiation, as a series of unpredictable interactions between the participants and the resulting procedural actions steer its course. Therefore, the procedure's purpose is to reduce uncertainty regarding the objective of the procedure, bearing in mind that a certain degree of uncertainty is inevitable as the procedure implies some creative input by the official person applying a general norm to a specific situation. In the context of a purely instrumental conception of the function of the procedure, formal legality leads to predictability and, thus, to legal certainty, transparency of public tasks, and consideration of legitimate expectations, particularly for vulnerable persons. Procedural rules (should) reflect the multiple functions of the procedure, e.g. expression of authority, acceptability of decisions, compensation of judicial protection, evaluation of the quality of legislation, economic development, political efficiency, and the democratic nature of authorities. Procedure is the path (Pavčnik, 2001) by which what is accepted as legitimate is or should be legally enforced. Public law (should) act as a safeguard of the public interest and the constitutional guarantees of individuals, as a deterrent against the abuse of executive-administrative power, and as an incentive for innovation (Stare & Pečarič, 2021).

Constitutional guarantees call for special regulation also in terms of procedure when there is a reasonable ground for differentiation, and only a differential treatment of different persons leads to equality before the law (Avbelj, 2019). The social sphere certainly encompasses a variety of parties and situations, hence the multitude of special procedural rules. Nevertheless, many still need to be included, while some of the existing ones are questionable. Given the principle of equal protection of rights under Article 22 of the Constitution, the "production" of special (administrative) procedures is systemically undesirable while, on the other hand, positive discrimination or at least an additional supporting procedural-institutional structure is necessary for vulnerable beneficiaries. Creating truly equal opportunities for all those unable to secure such for themselves due to their weaker social position requires an active role of the State in the provision of social rights (Kovač, Remic & Sever, 2015). This is reflected in special procedural rules aimed to help – rather than hinder – the parties to assert their rights. Thus, in addition to general principles, the Constitution provides special social rights, such as rights to social protection or health care, rights of persons with disabilities, protection of the family, parents and children, and provision of opportunities for free education (Avbelj, 2019). Procedural norms must therefore consider the identified

social differences and the related public interest and create tailored administrative procedures. Some positive yet also controversial solutions are available in such regard.

A typical example of a social protection law that is very important in terms of objectives and scope, regulating 13 different rights and reaching a wide range of beneficiaries, is the 2010 Exercise of Rights to Public Funds Act,[4] mainly falling within the competence of the SWCs. The Act concerns social assistance payments such as child benefits, financial, social assistance, income support, state scholarships, school meals and transport subsidies, kindergarten subsidies, and rent subsidies of non-profit rent apartments. Its purpose was to rearrange the previous regulation of social assistance so that individual parties and their social situations would be treated holistically. However, many of the procedures this important law addresses need to be sufficiently regulated, while certain rules are constitutionally disproportionate to the objective pursued. This further reflects in the often problematic practice of its enforcement (Kovač & Remic, 2012).

There are several examples of special procedural rules, often seemingly oriented only toward the simplification of ordinary filing of applications and serving of decisions, such as during the Covid-19 pandemic. For this very reason, in 2020, the GAPA was amended, introducing a temporary regulation for the first pandemic wave (Kovač & Kerševan, 2020) and later loosening the safeguards under Article 306a and the implementing rules, mainly in the practices of social institutions. Most of the measures under general and special laws and organisational measures in 2020 and 2021 were intended to simplify the filing of applications, deformalize serving, and suspend or extend time limits in procedures, all backed by IT (Aristovnik et al., 2021). The new rules seem to be more operational. However, one should not ignore the fact that by filing applications, citizens declare their will, that deadlines are intended to protect public and legal interests, and that serving is a necessary precondition for administrative acts to take effect and for legal, especially judicial, protection against such to apply. Applications, serving, time limits, and formality are all forms of implementation of constitutional guarantees, such as the right to be heard, legitimate expectations, to be given the reasons for a decision, or to initiate a judicial review of the administration.

[4] Exercise of Rights to Public Funds Act (*ZUPJS, Zakon o uveljavljanju pravic iz javnih sredstev*), Official Gazette of the Republic of Slovenia, Nos 62/10 and amendments. See also the 2018 amendments to the Exercise of Rights to Public Funds Act (Predlog ZUPJS-H), https://www.racunovodstvo.net/zakonodaja/predpis/11576/predlog-zakona-o-spremembah-in-dopolnitvi-zakona-o-uveljavljanju-pravic-iz-javnih-sredstev-zupjs-h.
Another law in such regard is the Social Assistance Payments Act (*ZSVarPre, Zakon o socialno varstvenih prejemkih*), OGRS, Nos 61/10 and amendments.

3. Examples of trends in exercising social rights from Slovenian practice

This chapter provides a qualitative analysis of selected systemic examples of changes in the conduct of administrative procedures directly or indirectly related to the Covid-19 pandemic. The chapter aims to provide a broader framework of thought with theoretical inputs for the empirical analysis of the situation and changes from the perspective of SWCs managers and staff. In addition to covering various social (sub)fields and illustrating the maladministration of certain specialised social institutions, the selected cases present many other common features. Almost all of them concern a large circle of persons and individual vulnerable groups. In all cases, the (main) problem is not the actions of a single official but rather a misdirection of procedures from the top down, starting with the line ministry. The selected cases also involve a combination of controversial regulation and enforcement in contradiction with social objectives. Moreover, the critical feedback on these procedures has been consistently delivered for decades by various sources, from academic analyses, experiences of legal representatives and civil society (Kogovšek Šalamon, 2019), comparisons (Đanić Čeko & Tomeković, 2021), to repeated warnings from inspections or *sui generis* state bodies (Ombudsman, 2021) and court decisions.

The first example concerns the informational calculation of social assistance payments which is one of the (rare) highly rated examples of procedural optimisation in Slovenia that follows the exemplary regulation which applies in the tax area under the Tax Procedure Act since 2008 (Babšek & Kovač, 2021). The informational calculation is *de iure* considered as an application filed by the party. However, the authority technically issues it based on the available data to which the party has the right and duty to object if the data is incorrect. If there is no objection, in most cases the calculation (fictitiously) becomes a decision or an enforcement title. Based on this model, the 2018 reform of SWCs envisaged the informational calculation also for periodic social transfers under the Exercise of Rights to Public Funds Act and the Social Assistance Payments Act, such as child benefits or financial, social assistance, which was finally introduced in 2021 after years of delays and a series of more or less justified fears. Such a calculation was introduced because in Slovenia, around 5% of the population receives social assistance payments, an increasing number of whom are long-term beneficiaries. In 2020, for example, EUR 295 million was paid to almost 63 thousand beneficiaries of financial, social assistance, EUR 42 million to about 21 thousand beneficiaries of income support, and EUR 252 million to over 190,000 beneficiaries of child benefits.

Although the above solution is a "legal transplant" from the tax area with a tradition of nearly 20 years, neither the relevant laws nor the IT system took it over in its entirety. Such a partial approach proved problematic when a massive error occurred between April and September 2021 in relation to the payment of child benefits, state

scholarships and kindergarten subsidies to employees in the health and social care sector and certain services where the staff was receiving non-taxable Covid-19 bonuses under the laws on emergency measures. In this period, the Covid-19 bonus was wrongly included in the taxable base, which means that around 20% of beneficiaries, such as nurses or workers in retirement homes, received lower social assistance payments. As this was not a legal error nor an error committed on the part of the parties, which would have constituted a basis for legal remedies, there were no grounds under the GAPA to intervene in over 5,000 final cases. For political reasons, though, the line ministry wished to remedy these defects. Some thought that a reopening of the procedure under Article 260 of the GAPA would be appropriate, while others advocated the possibility of annulment under Article 274 of the GAPA. At the same time, the line ministry and the SWCs were reluctant because of the administrative work such a solution would have implied (sic!).

Notwithstanding the above, under Article 158 of the Constitution, finality guarantees that the irreversibility of decisions and modifications are allowed only in exceptional cases provided by law (Avbelj, 2019). Interestingly, such an exception is provided in the Tax Procedure Act, which allows extraordinary annulment or modification of a decision due to "an obvious error" in tax assessment. However, the social laws failed to apply such to their informational calculation.

Therefore, a legally sustainable solution was practically impossible to find. However, instead of supplementing the social laws with the proven tax solution, at least for similar future excesses, the line ministry persistently tried to find a bypass and instructed the otherwise independent centres in the autumn of 2021 to invite the parties to file legal remedies or to issue a notice that they could require, without stating the legal basis (as there was none), new decisions and *ex officio* reopening of procedures. The authorities should not have afforded themselves to do this, nor should they have afforded themselves to publicly argue about which authority – tax or social security – was accountable for the error and which one would (not) correct it. Good intentions – in this case, a joint correction of a systemic disregard of the facts, albeit with some apparent reservations – alone do not suffice. The welfare state cannot be built on unlawful, even unconstitutional, actions. This case shows that, when it comes to regulating specific institutions of social procedures, it is also necessary to pay attention to the procedural framework and to act comprehensively in this respect. Comprehensiveness is further reflected in the interconnection between the tax and social systems. Eventually, those in charge will realise that when errors occur, they cannot afford to take shortcuts, especially not *praeter* constitutional rights and socially disadvantaged beneficiaries, but rather address the problem at the systemic level.

Furthermore, simplifications regarding the filing of applications and services were adopted in the context of the pandemic to restrict contacts and curb the spread of Covid-19. However, the solutions initially planned as temporary (Kovač & Kerševan, 2020) soon became permanent, which is particularly true for social affairs. In fact, for 2020,

when the temporary adjustments were in place, social institutions' managers reported no problems in practice, even though the once formal identification in filing applications was no longer necessary and the acknowledgement of service was no longer a precondition for legal effects to take effect. The temporary arrangement eventually became permanent following the entry into force of the Debureaucratisation Act in January 2022. This Act envisages simplifications as regards service and formality of the acts. However, despite various stakeholders – from scholars to trade unions and NGOs – emphasising that improvements were welcome as long as they were balanced with the protection of a certain type of party in social procedures, it seems that the changes were not really well-considered. It is, therefore, to be feared that uninformed parties will realise the boomerang effect of seemingly welcome simplifications that eventually lead to finality without the usual legal protection only after several months or years. However, this was not the case in Slovenia only. Governments have used the pandemic to implement changes in institutional settings and administrative procedures throughout Europe, in countries such as Germany, France and Sweden (Kuhlmann et al., 2021) and in Central and Eastern Europe (Hintea et al., 2022) where well-known issues of authoritarianism, central government, the role of civil society, and rule of experts were once again exposed (Nemec et al., 2020).

One of the aspects repeatedly highlighted in the context of the debureaucratisation of social affairs is indeed digitalisation. Comparisons show that the digitalisation of procedures is inevitable. The current pandemic has expanded the use of IT in PA, and some believe digitalisation will be more likely to change things for the better than worse (Drechsler, 2022). However, given a lack of empathy (Ranchordas, 2022) – in the sense of social objectives and a lack of understanding of the importance of procedural safeguards both *ex-ante*, before a procedure is initiated, and *ex-post*, if a party is negatively affected – it often leads to counterproductive, even fatal consequences. Moreover, this is contrary to achieving the desired benefits for both the authorities and the beneficiaries. In the Netherlands, for example, between 2011 and 2021, some 26,000 recipients of child benefits were wrongly identified as potential abusers of social rights because an artificial intelligence algorithm built into the fraud detection system biased people of a certain race, contrary to the principle of equality before the law and the guarantees of fair procedure (algorithmic fairness) (Goossens et al., 2021; Van Bruxvoort & Van Keulen, 2021). The authorities' response was exemplary: no excuses were sought, but a systemic upgrade was undertaken, with the government assuming political responsibility, apologising to those affected and resigning *pro forma* for the sake of correct administrative and social procedures.

In Slovenia, digitalisation is progressing slowly and only partially. However, this does not mean that the existing system is exemplary or faultless. The underlying problem is the wide dispersion of information systems (one for the administration – eUprava, one for taxes – eDavki, one for social affairs – eSociala, and one for health –

zVEM), each with its own characteristics, which makes it difficult for individuals to use the digital portals and exercise their rights online. Under the circumstances, digitalisation is seen as a factor that increases bureaucratisation rather than being considered a mechanism to reduce such by creating a new digital divide (Ranchordas, 2022). The latter would require more physical contact between vulnerable groups and the administration, which is quite the opposite of the objectives pursued by rationalisation and response to the pandemic. According to the Slovenian Ombudsman, numerous procedures in the fields of healthcare and social affairs were conducted only in the form of videoconferences, which reduces the possibility of protection of personal dignity and the exercise of the right to be heard, as the party should not be the object but rather the subject of the administrative procedure. In this context, attention should be paid, inter alia, to the use of the languages of ethnic minorities or foreigners (Ombudsman, 2021), especially when important guarantees are at stake, such as the clear expression of the will of the party, de facto participation in the procedure, and effective legal protection. Worst of all: the information system is conceived on potential abuses by social assistance beneficiaries. Thus, for example, a party is better off withdrawing an application for income support if the SWC or the line ministry consider that such is unlikely to be granted since a decision by which they reject the application – which, in normal circumstances, is open to judicial review (Articles 23 and 157 of the Constitution) – automatically implies a reduction in social assistance payments as the system also takes into account the potential, albeit unallocated social support. Since 2011, there has been recurring evidence of problems in implementation, even of a several-month-long failure of information systems, particularly those supporting the SWCs. This has indeed been a major setback. Even if the system were to work smoothly, it is legally questionable. Namely, among other things, it only produces acts in fixed form, without the possibility of modifying parts thereof, which is a clear infringement of the principles of legality and autonomy, especially given the many examples of shortcomings regarding certain types of decisions, e.g. in the case of social assistance payments (Kovač & Remic, 2012). In automated, computer-driven procedures, citizens are not considered as subjects, while the constitutional rights to dignity and protection of rights are violated (Avbelj, 2019). Similarly, the findings of administrative inspections show that SWCs do not inform the parties of their findings, which violates the parties' procedural rights (e.g. the right to be heard and other guarantees) and, consequently, other rights (Kogovšek Šalamon, 2019).

A further example of systemic problems is the length of social procedures. Analyses conducted at government level show that social affairs and healthcare are the areas that suffer the most delays. Out of a total of 54,902 backlogs (according to the latest aggregated data processed in 2017), 43 per cent fall under the ministry responsible for social affairs and a further 24 per cent under the ministry of health (Dragos, Kovač & Tolsma, 2020; Sever, Đanić Čeko & Kovač, 2016). The overrun of deadlines in social affairs – with 177,419 backlogs out of 346,717 cases at the first instance and 5,522 out of 10,778 at the second instance – was indeed excessive. However, by the end of 2019, the

line ministry had reduced the backlogs to around a third of those recorded in 2017 and by October 2020 to only several hundred (Ombudsman, 2021). Especially considering that they mainly involve social rights where eligibility conditions are already strict, which results in a relatively low number of applicants for whom swift decision-making is vitally important. For this very reason, certain laws, specifically those relating to social rights, envisage expedited procedures (Đanić Čeko & Tomeković, 2021). In administrative (social) cases, decisions must be taken quickly, but not at the expense of accurately determining the actual state of facts, nor can speed of resolution be at the expense of procedural rights that guarantee a fair procedure. The exceptional cases in which shortened procedures are conducted without the parties' participation must be provided for by law, without the authorities having the possibility to take advantage thereof to ease their work. It is thus no surprise that the Ombudsman detects the systemic problems regarding delays in the field of social affairs. A qualitative review of the above cases and problems shows that neither the rule-makers nor the social institutions or other competent authorities seem to have a proper understanding of when social-administrative procedures are so specific that a special or simplified regulation is reasonable and desirable or when it is in direct contradiction with the fundamental guarantees of democratic government (Galetta et al., 2015). Therefore, changes would be necessary at the levels of the GAPA (Kovač, 2016) and the laws governing social affairs.

4. Empirical analysis of selected social procedures during reorganisation and the Covid-19 pandemic

4.1 Research methods

Mixed research methods typical of administrative science were used to obtain information on the conduct of selected social procedures under the responsibility of SWCs, primarily in light of the changed social situation resulting from the Covid-19 pandemic. These intertwine qualitative and quantitative aspects, both in data collection and in data processing and interpretation (Mele & Belardinelli, 2018). Nowadays, qualitative methods dominate administrative science, which is also due to the complexity of research questions in individual studies (Hlongwane, 2020). However, in interdisciplinary administrative studies, there is also a growing use of mixed methods, which, due to their uniqueness and adaptability to both research questions and social reality, offer a better understanding of and provide solutions to contemporary challenges (Mele & Belardinelli, 2018). Thus, in this specific study, the interplaying of qualitative and quantitative aspects allows for parallel verification of the same research aspects in terms of validity and triangulation. Moreover, the study is grounded on the sequential elaboration and complementation of previous findings (Hlongwane, 2020),

which is the case both at the implementation level, in terms of the outcomes of selected social-administrative relationships, and at the institutional level, in the sense of creation of a legislative and organisational framework for the enforcement of the constitutional principles of the rule of law and the welfare state.

The research was conducted in two phases, following the research question set out in the introduction. In the first phase, semi-structured interviews were conducted with the heads of SWCs' internal organisational units to gain a general insight into the functioning of the SWCs during the pandemic. They were chosen for the interviews because they have the best overview of the social procedures conducted under the auspices of SWCs, both from a legal and an organisational point of view. Moreover, since they are usually not directly involved in these procedures, their answers can be more objective than those of employees conducting them. For example, in June and July 2021, seven interviews were conducted with the representatives of the SWC in Ljubljana – the largest SWC in Slovenia, which covers almost a quarter (453,478) of Slovenia's two million population. The findings are, therefore, easily generalised to other Slovenian SWCs, and institutions with a similar remit in the Central European area.

Based on the findings of the qualitative part of the research, a survey was designed and sent out in the form of an online questionnaire to employees and managers of the 16 SWCs across Slovenia. The questions specifically addressed the impact of the 2018 reorganisation of SWCs on the conduct of administrative procedures in general and the exercise of rights to public funds under the Exercise of Rights to Public Funds Act, focusing on the changed social circumstances as a result of the pandemic and the consequences thereof. Questions also concerned the principles of good governance (following the Venice Commission, 2011) and the introduction of the informational calculation of social assistance payments, comparing the situation before and after the reorganisation and before and during the pandemic. The survey was conducted between October 2021 and January 2022 and involved 253 employees from 16 SWCs. Out of 1,387 SWCs employees in October 2021, 18.2 per cent were included in the survey. The sample was representative of different areas and types of social procedures. However, not all participants answered all questions; therefore, the results show the number of respondents in each section (240 or 241 in Table 2, which still represents a very high response rate and offers legitimate results). The replies of the respondents who did not answer all the questions were also taken into account for individual topics. The data obtained were then analysed using computer software. Quantitative data were analysed using IBM SPSS 28.0, while data from the semi-open-ended survey and semi-structured interviews were analysed using Atlas.ti 22 and MS Excel.

4.2 Results

The changes related to the measures to contain the pandemic and manage its consequences are just one aspect of the dynamic environment in which SWCs conduct social procedures. Therefore, in addition to the impact of Covid-19 in 2020 and 2021, we also analysed the progress anticipated by the SWCs reorganisation ongoing since

2018. Slovenian SWCs act as independent legal entities, i.e. public institutions to which the State has delegated specific tasks. Although centres as such conduct their tasks autonomously per GAPA and special procedural legislation, their work is still primarily steered by the Ministry of Labour, Family, Social Affairs and Equal Opportunities as the line ministry and social policy maker (cf. Werkman, 2009). For such reasons, we also analysed the ministry's role concerning the hierarchically inferior or dependent SWCs. As is evident from the interviewees' responses, this dependency stems from the institutional-legislative framework and organisational, IT, HR and financial solutions (supposedly) provided for the SWCs by the ministry. The interviews with the heads of the internal organisational units of the Ljubljana SWC (7) were analysed using the open coding method. The interview coding results and the interviewees' most significant statements are presented in Table 1.

Table 1:

Results of interviews with the heads of organisational units of the Ljubljana SWC

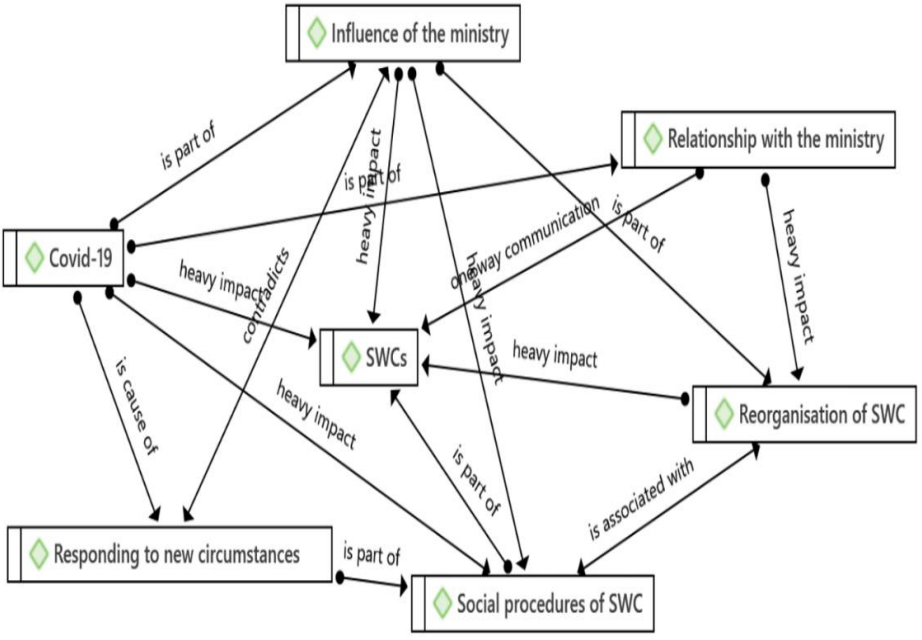
Code	***Quotation Content***
The role of the line ministry as a policy maker in relation to SWCs	*… through its social policy, through the adoption of legislation… From the national social protection programme, on its basis, policies are adopted. … guidelines and instructions for work… They set the framework for our work… determine our tasks and frameworks of action, propose new legislation.… change comes more from the outside. I don't think they respond well to our needs… we don't have the right communication channels… employees should be rewarded and motivated… our work is basically influenced by other institutions… we should emphasise our views more, present our competencies. We do not have an open communication. We are constantly fighting and defending…*
Responding to new circumstances	*… constantly adapting to new needs, new situations, developing new ways of working… needs of the parties, we are responding, looking for solutions, work methods are changing… We are very flexible and that is the nature of our work. We had to strongly adjust the way we worked… we have an open attitude, an accessibility attitude… Social work is a changing profession that must drive change.*
Reorganisation of SWCs	*… we have also been a little overlooked in these major changes…. external, organisational change… unrealistic expectations about our work… no transfer of information here… Employees no longer identify themselves with the new organisation.*
Social procedures of SWC	*How important it is to work with quality, professionalism and respect for the parties… being reactive… respond to these needs quite individually… We must listen… also explain that sometimes a solution is not possible or at least not in the way expected… The state automatically extended rights in the crisis. We do a lot of e-operations…. e-submission of applications …*
Code	*Quotation Content*
Covid-19 impacts	*The pandemic has forced us to develop new methods and processes of work. In these times of crisis, our role is key to ensuring social peace and prosperity. The work in the pandemic was going on as before… we worked in difficult conditions… we responded to needs, we were accessible, if not otherwise at least by phone. … we worked from home. Despite the situation, everyone must be able to access us… this change came suddenly… use new technologies, organise work differently…*

Source: authors' own, 2023

SWCs are used to adapting to the changes and needs of their users and did not have any significant problems adjusting the procedures, which all ran more or less smoothly during the pandemic. However, there were problems, as expected, in the relationship between SWCs and the line ministry which, during the pandemic but also otherwise (Kovač & Remic, 2012; Babšek & Kovač, 2021), does not enable broader and systemically coordinated approaches and solutions for deciding on social affairs. The correlations between individual factors are shown in the grid in Figure 1. In particular, the impact of the pandemic and the line ministry on the work of SWCs and, consequently, on the conduct of social procedures under their responsibility stands out. Although by 2021, more than three years had passed since the 2018 reorganisation of SWCs, it still had a substantial impact on their functioning.

Figure 1:

Impact of individual factors on the work of SWCs



Source: own analysis, 2023

In the quantitative research phase, we further explored – employing a questionnaire – the basic principles pursued by SWCs when deciding on social rights

during the pandemic. Descriptive statistics of the selected principles are shown in Table 2, where 1 represents the most important principle, and 6 represents the least important guideline or principle. The principles listed in the survey are the fundamental principles of good governance as highlighted by theory and case law in the European context, such as legality and responsiveness (cf. Galetta et al., 2015). In addition, we included factors that guide SWCs' work, such as quantity and quality of work and, particularly for the area of social affairs, equity.

Table 2:

Guidelines and principles pursued by SWCs when deciding on social rights

	A	B	C	D	E	F
No. of respondents	240	241	240	241	241	241
Mean	2.90	2.76	4.00	2.80	4.56	3.95
Standard. deviation	2.01	1.51	1.48	1.38	1.39	1.51
Skewness	0.54	0.79	-0.37	0.23	-0.88	-0.28
Kurtosis	-1.40	-0.44	-0.74	-0.67	-0.14	-0.79

Note: A – amount of work done, B – speed of case resolution, C – quality of treatment, D – legality, E – equity, F – user needs' satisfaction

Source: authors' own, 2023

As shown by Table 2, the employees' rate is particularly high in the speed of case resolution (2.76) and the amount of work done (2.90), which indicates the importance of promptly responding to the parties' needs. Legality is also highly rated (2.80), leading to the conclusion that responsiveness and efficiency should not come at the expense of compliance with the rules. However, when this figure is compared with the quality of treatment (4.00) and equity (4.56), the situation is worrying, particularly from the point of view of a teleological understanding of the regulation of social procedures. The large standard deviation values indicate a dispersion of the estimated values. However, the asymmetrical coefficient of the amount of work done (-1.40) shows that the distribution of values deviates significantly to the left – the respondents' answers concentrate on the amount of work done as the most important guideline pursued by the SWCs in these procedures, which may well be understandable from the point of view of the employees who are in direct contact with the parties but should not be an overriding social policy perspective, since the purpose of social policy is to ensure the welfare state, not to minimise the work of SWCs.

Comparing these results with similar analyses in the 58 administrative units in Slovenia, which are competent for different (non-social) administrative procedures, e.g. construction or foreigners, the analyses show similar results and rely on similar research

approaches, including a survey among the heads of administrative units (Aristovnik et al., 2021). In times of crisis, efficiency in its narrowest sense – i.e. as speed and deformalisation of procedures – also takes precedence over the rule of law in its broader sense (cf. Ansell et al., 2021); this is understandable in the short run, but highly questionable in terms of a sustainable regulation and development of the rule of law and the welfare state.

Furthermore, we explored the principles of good governance as a fundamental systemic administrative framework for SWCs' deciding on rights to public funds. The OECD principles of good governance (8) were taken as a basis (cf. Galetta, 2015; Kovač, 2016; OECD, 2017). Table 3 shows the correlation matrix of Pearson's correlation coefficients of individual principles of good governance according to their presence in decision-making during the pandemic, compared to the situation before it.

Table 3:

Correlation matrix of principles of good governance in SWCs decision-making during the pandemic

GG principle	***A***	***B***	***C***	***D***	***E***	***F***	***G***	***H***
Rule of Law (A)	1							
Transparency (B)	0.60**	1						
Responsiveness (C)	0.33*	0.55**	1					
Consensus oriented (D)	0.54**	0.54**	0.55**	1				
Equity and inclusiveness (E)	0.44*	0.57**	0.53**	0.68**	1			
Efficiency and effectiveness (F)	0.35*	0.44*	0.66**	0.41*	0.50**	1		
Accountability (G)	0.29	0.32*	0.35*	0.33*	0.39*	0.40*	1	
Participation (H)	0.25	0.41*	0.49*	0.46*	0.55**	0.45*	0.57**	1

Note: ** high positive correlation ($0.50 \leq \rho \leq 1$),
* moderate positive correlation ($0.30 \leq \rho \leq 0.49$)

Source: authors' own, 2023

Although good governance is conditional on the synergy and complementarity of all principles that define it (Venice Commission, 2011), the principle of the rule of law, not least because of the predominantly legal determinism of Central European administrative systems, determines how all the other principles act, thus constituting the institutional framework for the functioning of the public administration in general. As seen from the correlation matrix in Table 3, as regards the decisions on social rights at SWCs, the principle of the rule of law is associated chiefly with transparency (ρ=0.60) and consensus orientation (ρ=0.54) and the least with participation (ρ=0.25) and accountability (ρ=0.29). The highest correlation, however, is between equity and inclusiveness and consensus orientation (ρ=0.68) and between efficiency and

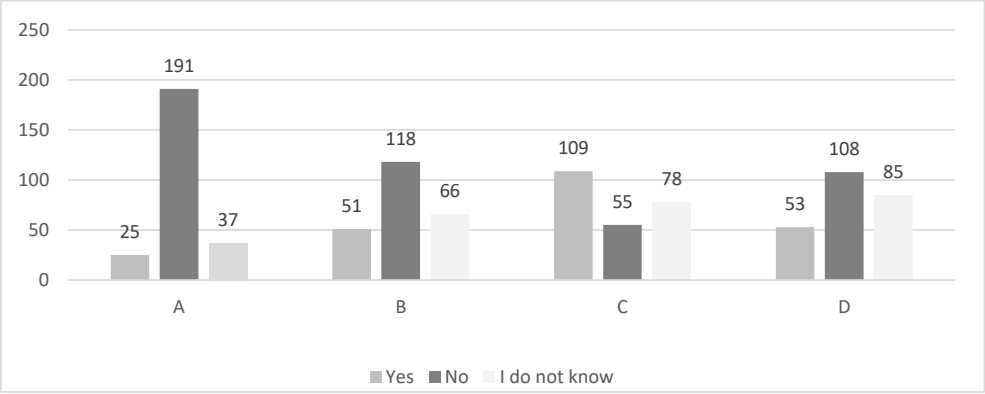
effectiveness and responsiveness (ρ=0.66). It needs to be stressed here that the fact that two principles are linearly correlated does not mean that one principle influences the other and vice versa.

Similar results emerge from the analysis in administrative units (Aristovnik et al., 2021; Hirsch et al., 2022), albeit with some specificities depending, for example, on the size of the administrative unit. Thus, among all administrative units, inclusiveness or participation of the parties stood out during the pandemic, while in the most significant units comparable to the Ljubljana SWC, the principle of efficiency emerged as dominant. At the same time, administrative units highlighted legality, although the latter seems – in the light of other results and especially in a crisis – clearly subordinated to efficiency and responsiveness. Contrary to SWCs, in the administrative units, digitised procedures in social affairs are conducted from a top-down perspective In contrast, in other areas, there is a more bottom-up approach that considers the parties' expectations and demands e.g. e-commerce.

The measures to deal with the Covid-19 pandemic are only one of the many changes in the internal and external environment that SWCs face when deciding on the rights of materially deprived and socially excluded beneficiaries. The reorganisation of SWCs launched in 2018 continues to shape how these social institutions exercise their public tasks. On the other hand, with the digitalisation of the Slovenian public administration, the informational calculation of social assistance payments such as child benefits, state scholarships, and kindergarten subsidies was gradually introduced in the field of social rights following the example of income tax assessment. However, the full implementation of this mechanism has yet to be achieved by 2022. The impact of the above-mentioned organisational and IT changes on the conduct of social procedures in a period marked by the measures to curb the pandemic is shown in Figure 2 based on respondents' opinions. The most significant factor affecting the conduct of procedures for exercising various social rights in the context of the Covid-19 pandemic was the introduction of informational calculation in deciding on the eligibility to and assessment of such rights (C). The informational calculation in the field of income tax assessment is indeed an advanced mechanism also in global terms, combining the procedural protection of the rights of the parties with legal adequacy and IT innovation and primarily benefiting the parties (Babšek & Kovač, 2021). A related aspect is establishing a service (B) specialised in more straightforward decision-making procedures involving the entitlement to an assessment of such rights. The respondents identified organisational structure as the least likely influence on the conduct of administrative procedures in the competence of SWCs (Figure 2).

Figure 2:

Impact of organisational and IT changes on the conduct of social procedures during Covid-19



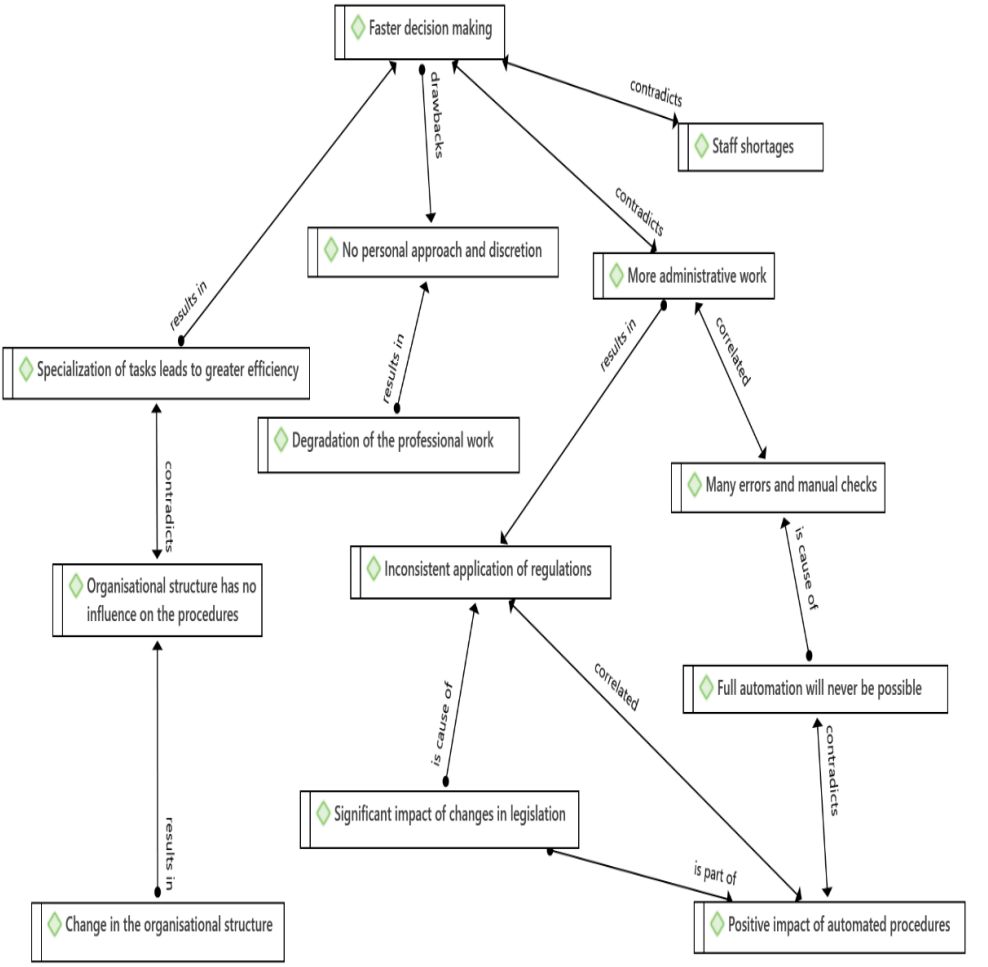
Note: A – Has the change in the organisational structure had an impact on the management of the SWCs in general? (N=253); B – Has the introduction of the special Service for Exercising Rights to Public Funds had an impact on the simplification of procedures? (N=235); C – Has the informational calculation had an impact on simplifying the exercise of these rights by the parties? (N=242); D – Has the introduction of the informational calculation reduced the workload of SWC staff (less administrative tasks)? (N=246).

Source: authors' own, 2023

As regards the changes in the organisational structure of SWCs and the introduction of modern IT solutions in their work, specifically the introduction of the informational calculation of the rights to public funds, in the semi-open-ended questions, the respondents provided their perspectives on deciding on social rights during the pandemic. Based on their arguments reported in Figure 3, the 2018 reorganisation of the SWCs did not in itself impact on the conduct of procedures during the pandemic. It even contributed to more administrative work and consequently less time for users due to new procedures of a purely technical nature (filling in forms, reports, extended decision-making chain, and the like). While establishing the Service for Exercising Rights to Public Funds with specialised decision-making has positively reduced the administrative burden on the parties in exercising such rights, SWCs employees point to its poor temporal and spatial accessibility. Particularly in a pandemic, the main risk seen by respondents is the legal and IT illiteracy of the parties on whose rights the organisational changes could have a highly adverse effect (cf. Drechsler, 2022). The same risks apply to introducing the informational calculation of the rights to public funds. However, the respondents still see more advantages than disadvantages, particularly in the automatic and *ex officio* extension of rights and a less complex procedure for the parties in general (Figure 3).

Figure 3:

Critical legal and organisational/IT elements in exercising social rights during Covid-19



Source: authors' own, 2023

The figure above reveals that the factors and consequences of the Covid-19 pandemic are more likely to threaten the rule of law and the welfare state than to contribute to social sustainability. The above is partly understandable as this is a global and unpredictable crisis. However, one needs to bear in mind that such crises (financial,

migration, war, environmental, and the like) are and will be a constant feature of the social environment. Therefore, there is a need to develop systems agility through organisational learning (Huysman, 2000).

Furthermore, the empirical results of the study highlight some possible solutions in the SWC work practice that can at least mitigate the risk factors in their pursuit of the rule of law principle, shown in Figures 1 and 3, which were potentiated by the Covid-19 pandemic, SWC reorganisation and inadequate response of the line ministry in those circumstances. As shown in Table 2, SWC employees are very much aware of the amount of work done and the fast decision-making as the crucial elements of administrative responsiveness in critical situations. Even more, as evident in Table 3, their perception of responsiveness in social procedures tightly connects with principles of transparency, consensus, equity and inclusiveness, and with effectiveness and efficiency (Venice Commission, 2011). Moreover, such an intertwining of the principles of good governance in the European administrative space strengthens the rule of law and represents the holy grail of contemporary public administrations that are up to the complex challenges of the society of today and in the future (Agere, 2000).

5. Discussion and recommendations

If the purpose of social rights is to be also pursued in times of pandemics and crises in general, a swift and efficient conduct of procedures is imperative while at the same time ensuring the basic procedural guarantees and, consequently, legally recognised and enforceable social rights for the beneficiaries. Besides respecting human dignity, the public interest in these procedures also requires that the principles of equity and targeting of benefits be respected. Thus, in addition to the content of social rights, an effective procedure for their enforcement must be ensured in order to mitigate the impact of the pandemic on the most vulnerable groups of the population while also providing for the implementation of the rule of law and the welfare state (Avbelj, 2019).

The paradox is that due to the shortcomings in the regulation of procedural aspects, even fundamental laws such as the Exercise of Rights to Public Funds Act and the Social Assistance Payments Act do not achieve their purpose or do not achieve it optimally. The above has been a problem for decades (Kovač & Remic, 2012). It may thus happen that public funds, already increasingly scarce, are not allocated to the most eligible parties, contrary to what the GAPA would require based on a sectorally defined public interest. The accessibility of social rights should, as a rule, be ensured through efficient access to the procedure for all beneficiaries, meaning that in certain situations, a formal rather than a simplified regime would be more appropriate for social rights beneficiaries, which is contrary to the often argued stance that informality and simpler rules of conduct should secure the social objectives of uninformed parties better than the GAPA. Nevertheless, this does not seem right, particularly if the GAPA is considered

a tool to ensure constitutional guarantees in all administrative spheres (Kovač, 2016). Moreover, not even a sincere desire to improve the social situation in a community can constitute a permissible deviation from the established ways of defining rights at the general and abstract levels and granting them to individuals at the concrete level. It is clear that the impairment of a particular guarantee almost always leads to the simultaneous impairment of other guarantees since only the sum of all principles of good governance constitutes a systemically democratic procedure.

Furthermore, it is vital that procedural rights, especially those pertaining to vulnerable groups, are not just dead letters on paper. Instead, the actual accessibility of the system, including personalised and confidential information and strict respect for the right to be heard, must be guaranteed, all the more so by social institutions when the parties cannot assert such on their own (Kogovšek Šalamon, 2019). It is not right that in social affairs, these postulates are curtailed or that because of the notoriously defective information system SWCs procedures have been handled in a bureaucratic and thus illegal manner for more than a decade. Alternatively, in social affairs, deadlines are excessively long ex lege and all the more so in practice where the backlogs are the most pronounced (Dragos, Kovač & Tolsma, 2020; Sever, Đanić Čeko & Kovač, 2016). Such problems in the field put the welfare state at risk and bring evident dissatisfaction among the beneficiaries, as errors in the assessment of, for example, social scholarships, child benefits or social insurance rights directly affect the daily lives of several thousand people. Such conduct, particularly when it comes to controversial moves at the level of institutional public governance, and individuals enforcing regulations at the instrumental level (Stare & Pečarič, 2021), is not compatible with the constitutional principles of the welfare state and the rule of law.

Although some elements of egalitarianism may be detected in the public discourse in the context of containment of Covid-19 – as no one is safe from the virus and it can only be defeated collectively – the negative feedback loop of the pandemic only exacerbated the socioeconomic disparities among the population rather than increasing social solidarity (Ferraz & Motta, 2021; cf. Ranchordas, 2022). Thus, to ensure the basic social security of citizens, in addition to the new rights provided by the laws on emergency measures, the authorities' role in enforcing such rights is crucial. Significance is shown in the sense of the multifunctionality of social-administrative procedures that must go beyond merely being a mechanism for enforcing substantive rights but rather be the objective of administrative action per se.

As confirmed by the research results, systemically incoherent solutions are often also controversial from the point of view of fundamental constitutional guarantees and the principles of EU law, and the GAPA (Galetta et al., 2015) bring more dilemmas than solutions. In such regard, it is not disputable that administrations also adopt innovative informal approaches in pursuit of good governance principles in times of a pandemic. However, from the perspective of the principle of the rule of law, it is imperative that

these also comply with the law and that legal, organisational and IT measures are coherently implemented (Horvat et al., 2021; Aristovnik et al., 2021; Hirsch et al., 2022). Therefore, authorities should not create new obligations for the parties; they should be accessible to everyone and respect the principles of equality, transparency, participation, and accountability. The need for administrative action to follow the principles of good governance in times of a pandemic is also confirmed by the results of our research, where the interplay of all principles, with the rule of law as the basic framework for these procedures, is important for effective decision-making on social rights in accordance with their purpose. Economy must not override legality, and bridging approaches must be sought at the cross-section of the two. However, this is only possible if, in addition to the relevant substantive and procedural laws on social affairs, SWCs are also provided with a broader institutional framework for action matching the organisational, HR, IT and technical requirements. Although turbulent times call for robust governance solutions, implementing the fundamental constitutional principles in these circumstances should fall within an adaptable, agile and pragmatic legislative framework (Ansell et al., 2021; Hirsh et al., 2022).

Furthermore, one should not disregard the – more proactive and system-oriented – role of the line ministry as a social policy maker and coordinator of territorially dispersed SWCs. Public sector organisations are generally characterised by a high degree of centralisation and externally imposed formalisation (Werkman, 2009), which is also highlighted by the research into the conduct of social procedures under the responsibility of SWCs. The role of the line ministry in this context has proved problematic, as a result of which, according to several analyses (cf. Kovač, Remic & Sever, 2015), the ministry, instead of establishing systemic solutions and networking among the key stakeholders, usually only seeks partial solutions that result from a lack of communication and ignorance of the basic needs of SWCs for the implementation of social procedures. Even if SWCs have been proactive and user-oriented during the pandemic, the reform potential offered by the multifunctionality of administrative and social procedures has not been exploited. The insufficient planning of public policies and legislative measures within the remit of the line ministry has not allowed for systemic changes but only for temporary and limited adjustments of social procedures, which has not brought sufficient positive results. The reorganisation of the SWCs in 2018 also demonstrates that such solutions do not work. The reorganisation did not have the intended effects – on the contrary, it increased the administrative burden for both the parties and the employees conducting the procedures. Unfortunately, social security reforms – albeit declaratively based on the principles of effectiveness, efficiency and participation in social services – are often used to develop partisan patronage networks (Kekez, 2018).

According to the SWCs managers, the measures related to the Covid-19 pandemic facilitated the institutions' conduct of the procedures. Also, they eased the exercise of rights by the parties. Time tends to show, however, that the differences widen during crises and among uninformed parties. As the parties in social procedures are often

inexperienced, these differences deepen but are only perceived after a few years, be it in the region (Đanić Čeko & Tomeković, 2021) or the Western world (Ranchordas, 2022). Here again, the role of the line ministry is controversial, as it has been lowering the standards that institutions such as SWCs have been trying to pursue. Under the guise of rationality, attempts to take shortcuts are also quite frequent, whether at the legislative level or in implementing regulations (Kovač, Remic & Sever, 2015). However, neither according to the case law of the European Court of Human Rights, may a large number of applications – given the limited capacities of the authorities – result in the shrinking of the possibilities of the parties, regardless of economic or migration crisis or the Covid-19 pandemic. In such cases, the state has to provide adequate resources and their effective management without jeopardising legal guarantees (cf. Ansell et al., 2021).

It can be concluded that the trend among the managers of administrative bodies, in particular, to encourage the legislature to introduce simplifications is highly worrying. If a specific fact-finding procedure does not seem necessary, the relationships should be deregulated rather than merely procedurally automated, albeit sooner or later based on the law (Kovač, 2021). However, such regulation makes the situation more difficult for the parties because they still need to exercise their rights but do not have any real possibilities to participate in the procedure and obtain actual legal protection.

Surprisingly, survey results showed a non-significant correlation between the principle of the rule of law and the principle of accountability, although those principles should be, theoretically, interconnected. One of the reasons for that is perhaps to be found in the legislative framework of accountability of Slovenian public servants, which is well regulated (Stare & Klun, 2016), and respondents probably did not pay much attention to it, especially not in connection with the rule of law. On the contrary, Slovenian public servants' accountability system lacks so-called soft approaches focusing on work ethics education, development of administrative consciousness, career development and management ethics (ibid.). Indeed, the exposed gap suggests opportunities for further research.

The empirical results further confirm the initial assumptions of the justification of introducing the informational calculation of social assistance payments as a mechanism to facilitate the exercising of rights, at least in comparison with other organisational changes of that time. Although – thanks to organisational learning (Huysman, 2000) that involves both acquiring new and transforming existing knowledge – Slovenian SWCs have adapted their work to the changed situation and developed new approaches, work methods and services for the users, the informational calculation can be considered the key mechanism that enabled an effective assessment of social rights during the pandemic. The above can be claimed despite the fact that only 45 per cent of the survey participants believe that informational calculation of social rights simplified those procedures for the parties, as their views on introduction of organisational changes and influence of informational calculation on reducing red tape for the SWC

employees are significantly more damaging, as revealed in Figure 2. The introduction of the informational calculation is thus crucial for ensuring access to social rights during a crisis, also concerning the automatic extension of the rights that constitute a basic source of survival (e.g. financial, social assistance), provided ex officio when an epidemic is officially declared in the country. However, even this solution has its limitations, as the digital divide (Ranchordas, 2022) or systemic simplifications that are not necessarily supported by law can quickly lead to violations of the fundamental procedural rights of the parties, which is shown by the practical experience in 2021 and the assessments of the staff regarding the principles pursued by SWCs in their decisions during the 2020 pandemic and beyond. If SWCs primarily focus on the quantity of work and the speed of case resolution, and place significantly less emphasis on the quality of treatment and equity in decision-making, this is indeed a major systemic problem, especially in the social field. These two principles contribute the most to understanding social procedure by objectively treating the parties holistically. In addition, SWCs employees point out that the informational calculation, due to a number of problems, still requires manual verification, which entails certain risks for the parties involved resulting in increased administrative workload and, sometimes, significant errors. Many also consider that full automation of social procedures will never be possible, as vulnerable people, in particular, need personal contact and tailored support.

Finally, the study proves the need for the interconnectedness of social systems regarding public governance, particularly for social affairs. To begin with: what is not legal cannot be socially sustainable in the long run. For example, suppose the rights of vulnerable persons are infringed upon. In that case, sooner or later the same attitude of maladministration is established towards all parties, and vice versa: the respect for the rights of vulnerable persons brings benefit to any social group, as it increases the awareness of the importance of entitlements, social inclusion, and trust in government. This is all the more true regarding people with multiple vulnerabilities, e.g. poor children, older people with disabilities, and LGBT people as asylum seekers (Kogovšek Šalamon, 2019).

Furthermore, the fiscal-social system as a whole, whether it be in creating or limiting both social rights or public benefits, the sources of social rights must be proportionately considered, mainly when intervening in already acquired or justified expectations. Therefore, removing administrative barriers as an overarching programme of simplification should always pass through the prism of constitutional rights (Kovač, 2021), while digitalisation should be understood as a social and not just a technological transformation (Aristovnik et al., 2021; Ranchordas, 2022). All this implies a concern for inclusiveness to achieve societal, social and digital cohesion.

6. Conclusion

Social procedures are part of a broader administrative system that, in the relationships between public authorities and private parties, acts in the public interest. Given the specific rights at the heart of social procedures and the profile of the parties who are often uninformed or vulnerable, the need for adjustments of general procedural rules arises. This need for adjustments makes the whole issue rather complex as the Constitution provides the necessary guarantees for the protection of the parties' rights, in particular, social rights, while crises such as the Covid-19 pandemic call for maximum efficiency. Crises thus present a problem as well as an opportunity for progress. However, in times of crisis, the disparities deepen even further; services and procedures at the State level must show particular concern for equality and balance the legitimate rights of the parties and the public interest with efficiency-oriented measures. Shortcuts, e.g. broad acceptance of e-applications without verification of legal requirements or immediate service and enforceability with consequent loss of legal protection, might have adverse effects.

The present study shows some of the advantages of the approaches introduced in social procedures to curb the Covid-19 pandemic, particularly the introduction of the informational calculation of social assistance payments. Likewise justified are certain attempts at the deformalisation of procedural requirements, such as those regarding service under the new Debureaucratisation Act. On the other hand, reforms also bring side effects and problems, e.g. additional manual work due to failures of the information system or over-simplification that results in infringement of the rights of the parties that are only detected after months. The answer to the research question is thus not straightforward. The pandemic triggered some positive developments, yet specific measures only brought partial benefits or undermined the rule of law by failing to distinguish between the key principles and rules of the administrative procedures aimed at the protection of the rights of the parties and the restriction of authority. This seems to be primarily due to a lack of understanding of the multifunctionality of the procedure as a mechanism of democratic power and to prioritise particular aspects of good governance, such as the "naked" efficiency of the procedure, over an overall respect for all principles.

In a nutshell, it is time for a new social reform and a systemic approach to improvement after considering the (too) many controversial cases analysed in this and other studies, such as algorithmic decision-making, technical errors in informational calculations and the inadequate and strategically uncoordinated responses of the line ministry in the changed circumstances, to name just a few as elaborated more in-depth earlier. Awareness of the importance and correlation between the rule of law and the welfare state is key for improvement, primarily at the ministry responsible for social affairs, particularly since this authority is an umbrella institution and policy maker for

all social agencies and sub-policies in the country. Therefore, it is essential to explore the situation in the field as this study did to show decision-makers what values to comply with, the factors to consider and the potential gaps when policies are instigated, ignoring one or several sound governance principles. The above points include an understanding of the importance of procedural guarantees such as legitimate expectations, equal protection of rights, the right to be heard and informed, and effective legal (especially judicial) protection. These should never be considered administrative barriers, irrespective of the consequent burden on social institutions and other bodies conducting the procedures in question. First and foremost, they must be respected at the institutional level in the regulation and, equally, implementation, whether concerning the introduction of digitalisation or in individual social procedures, if national regulation and practice are to satisfy the values and rules of the EU and the national constitutional framework.

Consequently, to ensure responsiveness in social procedures, especially in a rapidly changing societal environment, the principles of rule of law and the welfare state should not focus only on concrete and individual administrative procedures. Above all, Central and Eastern Europe should expand to the cross-sectoral coordinated approaches of strategic governance at the institutional level, whereby administrative procedures should represent the salient mechanism of policy implementation in accordance with value-functional requirements of the democratic society as established in Western Europe (cf. (Van Bruxvoort & Van Keulen, 2021; Ranchordas, 2022).

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