




Central European  
Labour Studies  
Institute

# The use of social clauses in public procurement

A circular illustration in a light brown, sketchy style depicting a crowd of people. Some individuals are standing, while others are sitting or crouching. The drawing is composed of simple lines and shading, giving it a textured, hand-drawn appearance.

Slovak Report

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# The use of social clauses in public procurement



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## **ABSTRACT**

This paper investigates the concept of creating public value through social public procurement. The primary objective is to assess the effectiveness of social public procurement in enhancing public value. The paper is structured into five chapters. The first chapter establishes a theoretical framework, defining and operationalizing public value and public value theory. It also elucidates the concept of social public procurement and explores how bounded rationality, uncertainty, and information asymmetry restrict public procurement actors. The second chapter presents the methodological framework, detailing the data collection and analysis methods employed. Additionally, it outlines the main research question, sub-questions, and hypotheses. The third chapter presents the key findings derived from content analysis and interviews. Finally, the fourth chapter provides an interpretation of these findings, highlighting their significance and offering fresh insights into the ability of social public procurement to enhance public value in Slovakia. While it is too challenging to measure the impact of social public procurement on increasing public value, we identify certain factors that can significantly enhance the likelihood of successfully increasing public value through social public procurement. These factors include the operational capacity of actors involved, their legitimacy, support, and efforts to minimize information asymmetry and uncertainty.

**Key words:** social clauses; public procurement; social public procurement; public value; responsible public procurement

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## INTRODUCTION

Every year, over 250 000 public authorities in the EU spend around 14% of GDP (around €2 trillion per year) on the purchase of services, works and supplies. In many sectors such as energy, transport, waste management, social protection and the provision of health or education services, public authorities are the principal buyers. There is potential for public authorities to adopt a more strategic approach in order to maximize the value obtained from each euro spent and to foster an economy that is characterized by innovation, sustainability, inclusivity, and competitiveness (European Commission, n.d.). Although contracting authorities (such as the state, regional or local authorities and bodies governed by public law) commonly make their decision on the basis of price, public procurement is now starting to be seen in a broader context and value for money is also being evaluated on the basis of other criteria. That is also why a major aim of the new EU Public Procurement Directives, adopted in February 2014, is to enlarge the possibilities for using public procurement in support of broader social and environmental goals. These Directives open several opportunities for public authorities to show greater consideration for social standards (Wiesbrock, 2015). These include buying ethical products and services, using public tenders to create job opportunities, decent work, social and professional inclusion and better conditions for disabled and disadvantaged people. These standards should be taken into consideration when choosing the winning contractor of a public service (European Commission, 2021).

Despite the Directives, strategic procurement possibilities are not being sufficiently used, as 55 % of procurement procedures still use the lowest price as the only award criterion (European Commission, 2017). Why is this the case? Social public procurement is still a relatively new concept and not a lot of research can be found on the topic. Despite the growing body of literature on green public procurement, research on social public procurement is lacking. There is a clear research gap regarding whether public bodies incorporate social clauses in public procurement successfully and without difficulties, therefore increasing public value. Previous studies have predominantly concentrated on good practices of social public procurement, neglecting the clear assessment of which ‘ingredients’ need to be present for a successful social public procurement that increases public value. This study seeks to fill this gap by applying the framework of Moore's strategic triangle on social public procurement.

The main goal of the paper is to look at how successful social public procurement is in increasing public value. It fills in the research gap by exploring the actual application of the social clauses in public procurement in the context of six Slovak higher territorial units and two municipalities. Moreover, the perceptions of these contracting authorities regarding social public procurement are examined. Since the paper is trying to look at whether social public procurement successfully increases public value, the central research question guiding it is: How successful is social public procurement in increasing public value? We conduct a study to assess the operational capacity, legitimacy and support of the Slovak higher territorial units, as well as the municipality of Bratislava and Kosice. We also assess their ability to reduce their uncertainty and information asymmetry connected to social public procurement. Our objective is to explore whether these actors possess the necessary resources to effectively increase public value through social public procurement.

With regards to structure, the first chapter goes on to explain the concept of public value as presented by relevant authors. A comparison of the public value management to two other relevant approaches is provided – traditional public management and new public management. It moves on to the topic of measuring public value, presenting the ‘Strategic Triangle’ framework created by Mark Moore used to explore the presence of public value. Then, the focus is moved onto the methodology of the paper used to answer our research question. Firstly, we introduce our research aim, main research question and sub-questions. Our hypotheses are proposed. Secondly, our research sample is introduced. Semi-structured interviews, relevant national laws and a methodological guideline published by the Slovak Public Procurement Office are used for the data collection. For the analysis of the data, content analysis and coding are used. The process of preparing the interview questions, informed consent, contacting the interviewees and coding the interviews is also mentioned. The interview questionnaire was prepared based on Moore's strategic triangle and divides the questions into two categories: those dealing with operational capacity, those dealing with legitimacy and support and those dealing with reduction of uncertainty and information asymmetry. The last chapters present the research results and discuss them and what they indicate in the appropriate context.

# 1 THEORETICAL FRAMEWORK

The theoretical chapter of the paper lays down the main concepts, definitions and theories that serve as the foundation for our research. Firstly, we explore the concept of public value and public value theory as presented by Mark Moore. Next, we connect the public value concept to the public service ethos. We also provide a comparison of approaches to public management and show the differences between traditional public management, new public management and public value management. Supported by Mark Moore's 'Strategic Triangle' and 'Public Value Scorecard', we explain how to operationalize public value. Lastly, we clarify what social public procurement is and how it relates to public value. We identify the actors involved in the creation of public value through social public procurement and introduce three concepts that influence their decision-making: bounded rationality, information asymmetry and uncertainty.

## 1.1 The concept of public value and public value theory

There has yet to be a definitive consensus among scholars regarding the definition of public value. Nonetheless, the work of Mark Moore has been instrumental in pioneering the exploration of the concept. According to him, public value is created when public managers effectively address societal needs and concerns. It is about producing outcomes that are valuable to the public and contribute to the society's overall well-being. Public value goes beyond simply achieving organizational goals; it requires organizations to consider the broader public interest and make a positive difference in people's lives (Moore, 1995). Bozeman (2007) builds on this narrative and says that public value encompasses "normative consensus about (a) the rights, benefits, and prerogatives to which citizens should (and should not) be entitled; (b) the obligations of citizens to society, the state, and one another; and (c) the principles on which governments and policies should be based" (p. 13). Meynhardt (2009) situates the relationship between the individual and society at the forefront of public value as well.

But are not these definitions still quite vague? Luckily, Benington (2009) expands on these ideas and defines public value as including ecological, political, economical, social and cultural dimensions. For the purpose of this paper which deals with social public procurement, the main focus lays on the economic and social dimensions of public value. According to Benington, economic public value adds value through fostering economic productivity and



generating job opportunities. Social public value does so by enriching social capital, promoting social cohesion, nurturing social relationships, and fostering social meaning (Benington, 2009).

Public value theory sees beyond the provision of services as a justification for publicly financed state intervention - it is imperative that the intervention has the capacity to yield far-reaching positive social or economic effects. Therefore, procurement of public services should be characterized by certain adherence to public service ethos. Moreover, the relationship between the client and the contractor of public services should be based on equality and partnership (Stoker, 2006).

A pamphlet written by Aldridge and Stoker (2002) proposes that when providing public services, the public sector should adhere to public service ethos that has five key elements. These are shown in Table 1.

**Table 1. Five elements of public service ethos**

<ul style="list-style-type: none"><li>■ <b>Performance culture</b> A strong commitment to service for individuals and the community, reflected in service delivery and reinforced by training, support and systems to ensure a sustainable service culture and continuous improvement.</li><li>■ <b>A commitment to accountability</b> An emphasis on open access to information both to individuals and to groups of interested citizens with strong public accountability.</li><li>■ <b>A capacity to support universal access</b> A recognition of a special responsibility to support the rights of all service users in an environment where their choice in their use of the service is restricted.</li><li>■ <b>Responsible employment practices</b> Well trained, well managed and well motivated staff who can act professionally and be fairly rewarded.</li><li>■ <b>Contribution to community well-being</b> A recognition of the need to work in partnership with others to contribute to the promotion of community well-being and to meet the needs of individuals.</li></ul>
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Source: Aldridge and Stoker (2002)

Two of those elements are particularly important for the topic of this paper – responsible employment practices and contribution to community well-being. Firstly, the two authors suggest that fair working conditions and proper rewarding of the employees that deliver a service are essential for the provision of a quality service to the public. Secondly, similar to other eminent authors mentioned, they claim that public services must be provided in a socially responsible way and bring value to communities that goes beyond contractual agreements. These propositions are complementary to the public value theory. Additionally, they are also in accordance with the very idea of social public procurement, which will be presented in later subchapter.

However, it is also crucial to recognize that public value is not the sole lens through which public management can be understood (Kelly, Mulgan, & Muers, 2002). In the realm of public management, the concept of public value is acknowledged as just one among several perspectives used to examine and analyze the field. Relevant scholars see public value management as a successor of traditional public management and new public management (Brown, 2021; Bryson, Crosby, & Bloomberg, 2014; Liddle, 2018).

The traditional public management approach was developed in response to the practice of appointing civil servants based on political patronage, which supposedly led to inefficiency and corruption. Bureaucracy is seen as the preferred organizational structure, aiming to optimize efficiency (Zia & Khan, 2014). The creation of new public management came as a response to the administrative inefficiencies of traditional public management. New public management completely moves away from the bureaucratic pillar of traditional public administration (Stoker, 2006). It is defined by performance targets, focus on market-based solutions and more reliance on the private sector (Turkel & Turkel, 2016). Contracts are widely used to define and govern relationships (O'Flynn, 2007). However, this type of public management has also been criticized – mainly for being unable to tackle bigger, complex issues such as the government's declining financial and non-financial resources and growing cooperation between state, non-state and civic actors when delivering services (Liddle, 2018). Thus, public value theory has been presented as another perspective on public management.

Traditional public management places utmost importance on efficiency as both an organizational framework and a means to achieve desired outcomes. Its primary objective is for administrators to devise strategies that maximize goal attainment by implementing government policies through effective state organization. On the other hand, NPM focuses on the optimal allocation of resources and overall effectiveness. It primarily aims to minimize costs while accomplishing objectives. Public value theory goes beyond these objectives and seeks to foster a dialogue between administrators and citizens regarding the values that should guide public endeavors. Public value is no longer seen only through minimizing costs – public administration is expected to have the goals and interests of the broader public in mind. When thinking of the resources/measures most suitable to reach an end, public administrators also must be aware of the consequences of using such resources/measures (Turkel & Turkel, 2016; Moore, 1995). To summarize, the primary objectives of these approaches to public management differ greatly.

As shown in Table 2, while traditional public management and new public management primarily focus on efficiency, effectiveness, and service delivery, public management based on public value goes beyond those aspects to consider the broader societal impact and value creation. It emphasizes the need for public organizations to actively engage with citizens, incorporate their perspectives, and address complex social challenges.

**Table 2. Approaches to Public Management**

	<b>Traditional public management</b>	<b>‘New public management’</b>	<b>Public value</b>
<b>Public interest</b>	Defined by politicians / experts	Aggregation of individual preferences, demonstrated by customer choice	Individual and public preferences (resulting from public deliberation)
<b>Performance objective</b>	Managing inputs	Managing inputs outputs	Multiple objectives <ul style="list-style-type: none"> <li>- Service outputs</li> <li>- Satisfaction</li> <li>- Outcomes</li> <li>- Maintaining trust / legitimacy</li> </ul>
<b>Dominant model of accountability</b>	Upwards through departments to politicians and through them to Parliament	Upwards through performance contracts; sometimes outwards to customers through market mechanisms	Multiple <ul style="list-style-type: none"> <li>- citizens as overseers of govt</li> <li>- customers as users</li> <li>- taxpayers as funders</li> </ul>
<b>Preferred system for delivery</b>	Hierarchical department or self-regulating profession	Private sector or tightly defined arms-length public agency	Menu of alternatives selected pragmatically (public sector agencies, private companies, JVCs, Community Interest Companies, community groups as well as increasing role for user choice)
<b>Approach to public service ethos</b>	Public sector has monopoly on service ethos, and all public bodies have it	Sceptical of public sector ethos (leads to inefficiency and empire building) – favours customer service	No one sector has a monopoly on ethos, and no one ethos always appropriate. As a valuable resource it needs to be carefully managed

<b>Role for public participation</b>	Limited to voting in elections and pressure on elected representatives	Limited – apart from use of customer satisfaction surveys	Crucial – multi-faceted (customers, citizens, key stakeholders)
<b>Goal of managers</b>	Respond to political direction	Meet agreed performance targets	Respond to citizen/user preferences, renew mandate and trust through guaranteeing quality services

Source: Kelly, Mulgan and Muers (2002)

Public value theory - as presented by Moore - has also encountered some criticism within the academic community. Rhodes & Wanna (2007) find fault in the belief that actors such as governments, public organizations, and interest groups are driven by altruistic motives. They believe that it is wrong to perceive these actors as being genuinely concerned with the well-being of others, rather than engaging in exploitative or self-serving behavior. However, this perspective embodies a zero-sum mindset predicated on the notion that it must necessarily be an either/or scenario.

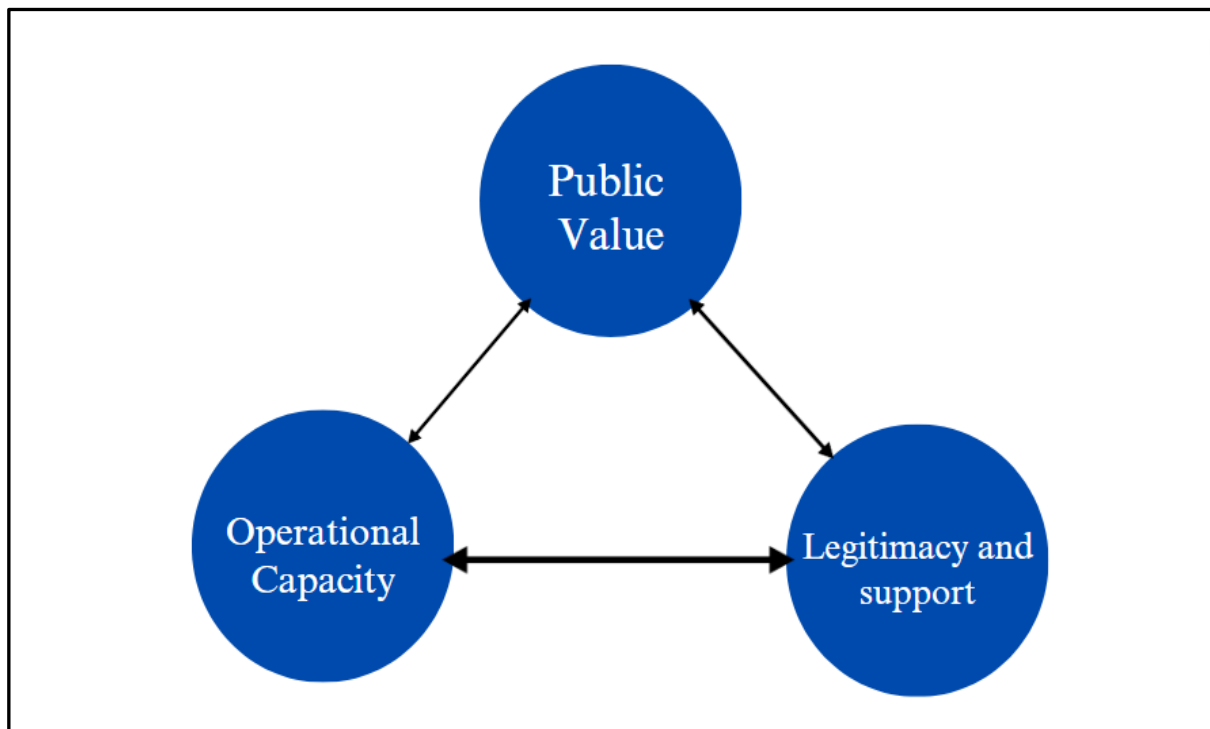
While it may be true that public actors can have different personal motivations, it is our belief that public value can be attained despite of such motivations. This notion has also been refuted in the earlier work of Aldridge and Stoker (2002), where they argue that profit has always been present in some parts of public services and that profit does not present a barrier to advancing public service ethos. Fukomoto and Bozeman (2018) present a similar view, as they agree that pure intentions and personal motivations can coexist by stating the following:

Although the motivations and justification of public values in the identification phase could more easily be pure and true motivation for the public values, the motivations in the instrumentation phase may involve more diverse stakes such as the opportunities for the companies and individuals to make a profit by providing the instrumentation or politician's stakes to support the public values-based policy to gain more support from the voters. (p. 642)

All in all, public value theory argues that the public sector needs to produce outcomes that do not only achieve their goals, but also contribute to the overall well-being of society. It believes that the public sector is capable of achieving both.



**Figure 2. The Strategic Triangle**



Source: Moore (1995)

According to this model, public value is generated when: a) the action of a government has democratic legitimacy and b) the government has the operational capacity to implement that action successfully. Moreover, a feedback loop gets created as Moore proposes that generating public value then in turn generates more legitimacy and operational capacity (Moore, 1995; Kavanagh, 2014). To use an example, we can imagine that when the government implements a policy that creates public value by reducing unemployment, that government is going to be given more financial resources to reduce it even further (thus increasing its operational capacity). Additionally, the public will have greater trust in the government (thus increasing its legitimacy and support).

The framework asks three main questions:

1. What is the value that we are aiming to create/increase?
2. What is the legitimacy and support we need to achieve an improvement in public value? Who needs to be on board?
3. What operational resources do we need to achieve this added public value?

In his later work, Moore (2013) went on to create the 'Public Value Scorecard'. Its purpose was to convert the theoretical concept of creating public value into specific

performance measures. These measures serve two purposes: assessing value creation in the past and providing guidance to managers on actions required to sustain or enhance value creation in the future. Table 3 shows different examples of what can be understood under the legitimacy and support and operational capacity concepts. Examples of legitimacy and support include media coverage, status of key legislative and public policy proposals to support the organization or standing with formal authorizers. Examples of operational capacity include human resources, quality of operational performance or organizational learning.

**Table 3. Legitimacy and Support and Operational Capacity Perspectives**

Legitimacy and Support Perspective	Operational Capacity Perspective
Mission alignment with values articulated by citizens	Flow of resources to the organization Financial and other
Inclusion of neglected values with latent constituencies	Human resources
Standing with formal authorizers	Public employees and volunteers
Media coverage	Operational policies, programs, and procedures
Standing with individuals in polity	Quality of operational performance
Position of organization in democratic political discourse	Organizational learning
Status of key legislative and public policy proposals to support the organization.	Internal resource allocation
Engagement of citizens as co-producers	Performance measurement and management systems
	Organizational outputs
	Quantity of outputs
	Quality of outputs

Source: Moore (2013)

Both the ‘Strategic Triangle’ framework and the ‘Public Value Scorecard’ can be seen as valuable tools for generating public value. The following subchapter is going to explain the concept of social public procurement and how it relates to increasing public value.

### 1.3 Social public procurement and public value

Public procurement is defined as a process that public authorities use to purchase goods, works and services from companies (European Commission, n.d.).

The procurement process encompasses several stages, namely: (i) the formulation of annual budgets by government agencies to assess their requirements, (ii) procurement planning based on allocated budgetary resources, and (iii) the implementation of procurement plans. These plans are carried out through a procurement cycle that involves activities such as tendering or bidding, contract award, and contract management. The primary aim of public procurement is to enhance the quality of life for individuals. It plays a crucial role in transforming limited resources into services that are delivered in a timely, cost-efficient, and

effective manner. Public procurement serves as a cornerstone for ensuring accountability in public spending, fostering good governance, and facilitating economic and social development while bolstering public trust in government. Sound procurement practices are essential for the prompt provision of goods, works and services to citizens. Additionally, they promote competitiveness, trade both domestically and internationally, and encourage investment. (Khan, 2018).

Social public procurement intends to tackle the societal implications associated with the acquisition of goods, services and works by the public sector. It acknowledges that public buyers' interests extend beyond securing purchases at the lowest cost or attaining optimal value for money. Therefore, social public procurement emphasizes the need for procurement to generate social advantages and prevent or minimize negative social consequences throughout the contract's execution (European Commission, 2021).

Taking into account Moore's analytical framework which deals with the legitimacy, support and operational capacity of involved actors, we are now going to focus on the actors that aim to create public value through social public procurement.

### **1.3.1 Actors involved in the creation of public value through social public procurement**

The main participants in the public procurement procedure that play a vital role are the procurement practitioners. Their primary responsibility is to ensure the achievement of the public procurement objective. In order to fulfill this duty, they must earn the trust of stakeholders and ensure that they have a comprehensive understanding of the procurement process and its underlying principles. Procurement practitioners are actively involved in various stages of the procurement process, ranging from assessing the requirements to finalizing the contract. While their direct involvement is primarily focused on the public procurement process itself, they also offer guidance and assistance throughout the execution of contracts. Stakeholders also play an important role. The term refers to individuals or groups who have a vested interest in the outcomes of public procurement, including those with a keen interest in the process and those who may be impacted, either directly or indirectly, by a specific procurement activity. The main distinction between actors and stakeholders lies in their level of involvement. Actors actively participate in the procurement process, while stakeholders have a more passive role. However, it is important to note that the actors themselves are also stakeholders due to the advantages they gain from utilizing public goods and services. (Lynch, 2013).



Other than the procurement practitioners, the public procurement process requires interaction with two other actors - public procurement advisors or brokers and bidder companies, which consist of private sector firms (EuroPAM, n.d.)

As stated before, the main goal of procurement practitioners is to achieve the public procurement objective successfully. Achieving this goal entails a lot of decision-making by these actors. In the present era, formal procedures and expertise in the regulatory framework for procurement have a significant influence on the prevailing dynamics of public procurement processes. That is why procurement practitioners have to be well-informed about both. The conduct of a public organization as a contracting authority, particularly in its capacity as a procurer, primarily relies on adherence to both EU and national regulations governing procurement procedures. These regulations serve as a necessary framework that must be adhered to. However, numerous aspects of the procurement procedures are subject to the interpretation of the contracting authority (Bodewes, et al., 2009). Due to this fact, we believe it is essential to connect the decision-making of contracting authorities to three theoretical concepts: bounded rationality, uncertainty and information asymmetry.

### **1.3.2 Actors' limitations caused by bounded rationality, uncertainty and information asymmetry**

The concept of bounded rationality was brought forward by authors as a response to the belief that people make rational choices. Instead, the premise of bounded rationality argues that while people want to make rational choices, it is not possible for them always to do so (Jones, 1999).

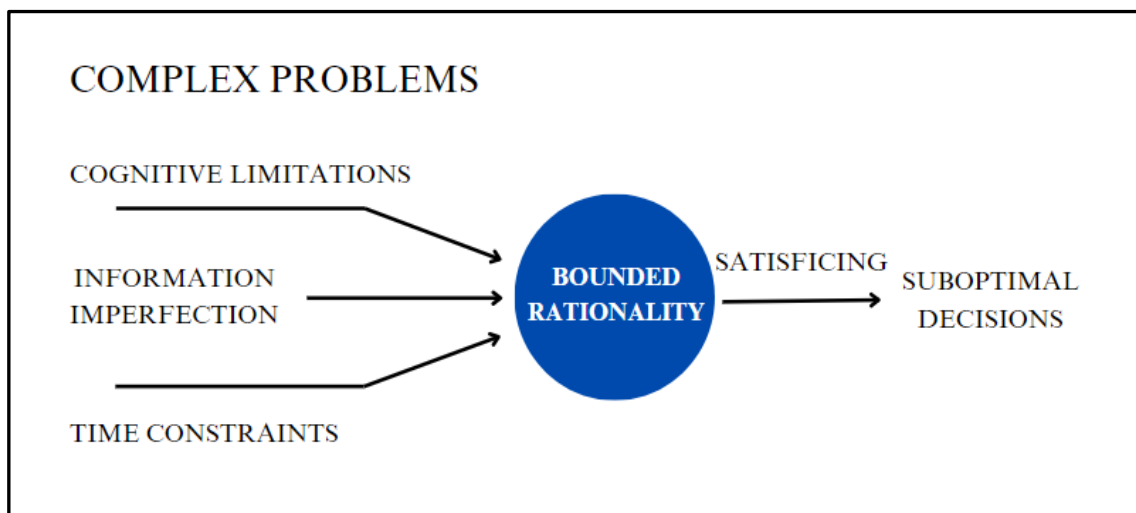
Rational choice theory, which views people as entirely rational agents, presumes that people make decisions while having complete information about alternatives and an unlimited ability to process such information correctly. They can successfully evaluate and compare the costs and benefits of each alternative according to their preferences and come to a decision that is consistent with such preferences and not influenced by uncertainty and biases (Jayles, 2017).

In contrast, Simon (1956) claims that the rationality of people is limited. The limited rationality is caused by several reasons. First of all, people resort to bounded rationality because the environment in which they are operating and making decisions is too complex compared to their limited mental capabilities. People have limited access to information instead of having it all. They are expected to pursue multiple, often conflicting objectives. Pursuing multiple

objectives is also the case for public procurers, as they are often expected to decide on the cheapest, but at the same time the most beneficial option.

Actors are not given a set of alternatives for achieving their goal beforehand. Instead, they are required to produce them and choose. However, the actors' naturally limited mental capacity causes them to be unable to consider all of the alternatives (Dequech, 2001). In addition to having a limited view of possible alternatives to choose from, in most cases, such actors are also bounded by a limited time given to them to make a decision. In order to save time, actors must use shortcuts, formulate educated guesses, and accept and rely on rough approximations (Forester, 1984). All of these factors cause the rationally bounded actors to not make the best, most optimal decision (See Figure 3). Instead, they make satisficing decisions, which are viewed as sufficient enough to pursue the goal in mind (Simon, 1956). Rather than examining the complete scenario and comparing various options, individuals with limited attention spans fail to fully assess the situation and consider different alternatives. Policy choices of actors are not based on rationality. When faced with significant policy changes, they tend to rely on their sequential processing capacity instead of making decisions that maximize utility (Jones, 1999).

**Figure 3. Illustration of the concept of bounded rationality**



Source: Jayles (2017)

The theory of bounded rationality suggests that the information available to actors is imperfect. Actors making decisions engage in incomplete information searches and disregard accessible information, particularly if it is unrelated to the factors they have identified as crucial for understanding the problem's structure. Obtaining information can be expensive and

unreliable. The recipient desires the information, but the sender may not be motivated to provide accurate information. When the sender does share the information, it helps diminish the doubts that influence the recipient's perception of the world. In information processing, the recipient must focus on and make sense of the incoming information (Jones, 1999).

Information asymmetry is one of the pivotal points of the principal-agent theory – a theory that describes the social interaction between contracting authorities and economic operators which supply goods, works or services in which they have expertise.

This social interaction is characterized by one individual depending on the action of another. The person responsible for performing the action is referred to as the agent, while the party impacted by the action is known as the principal (Pratt & Zeckhauser, 1985). The principal-agent theory is based on three premises. To begin, the effectiveness of the principal's operations relies on the actions and decisions of the agent. Following that, the parties involved in the relationship make decisions in situations characterized by uncertainty (Eisenhardt, 1989). Finally, the principal and the agent possess partially divergent objectives (Daly, 2015).

From an economic perspective, the agency relationship revolves around the optimizing appropriate legal and organizational solutions that address information asymmetry and incentivize the agent to align their actions with the principal's expectations. The literature on this subject considers optimization within the framework of acknowledging the existence of information asymmetry and a certain degree of conflicting interests between the principal and the agent. Each party pursues its own objectives to some extent. It does so because if the agent had a different role but lacked an information advantage, the principal could create a complete contract that covers all possible scenarios. However, a complete contract is an idealistic concept that belongs to the realm of first-best outcomes—a collaboration between the principal and the agent achievable only in a hypothetical world of complete and symmetrical information. The objective of optimization is to structure the agency relationship in a way that approximates the second-best outcome, which is an outcome that comes as close as possible to the first-best outcome (Chrisidu-Budnik & Przedańska, 2017).

Information asymmetry is caused by the principal lacking relevant information possessed by the agent. This imbalance of knowledge typically occurs in relation to the potential quality and cost arrangements of projects during the contracting process. As a result, there is an increased likelihood that the agent may engage in actions that exploit opportunities

for personal gain. This opportunistic behavior gives rise to agency costs, expenses incurred when the agent acts in their own self-interest and in bad faith. Agency costs serve as a means to address the challenges in contractual agreements that stem from information asymmetry and the expected opportunistic actions of the agent. Agency costs encompass all expenses incurred in addressing the possibility or occurrence of opportunistic behavior, which involves implementing measures to monitor and ensure the agent's compliance with the contract. Agency costs may involve offering incentives and/or investing in monitoring the agent's performance. Agency costs arise due to the presence of two concepts: moral hazard and adverse selection. Moral hazard refers to the situation where the agent may not exert sufficient effort due to the principal's inability to monitor all of their actions. Conversely, adverse selection occurs when the agent misrepresents their abilities and skills to the principal. The agent may claim to possess certain capabilities when selected for the contract. Adverse selection arises because the principal cannot fully verify these skills and abilities either during the selection process or while the agent is carrying out their tasks. Agency costs can be minimized by the agent and principal maintaining a long-term relationship. The principal gains a better understanding of the agent, leading to a reduction in information asymmetry (Amagoh, 2009).

As mentioned before, actors naturally confined by bounded rationality and the principal-agent relationship also deal with much uncertainty. They deal with uncertainty caused by a lack of information about an issue of interest (Cuzzolin, 2020). Wakeham (2015) defines uncertainty as “an epistemic state at the limits of knowledge” (p. 716). It is a state of not having clarity with regard to the truth.

Beckert (1996) builds on the simple dichotomy of rational vs. irrational and introduces the concept of intentional rationality. Intentional rationality suggests that while actors want to choose the optimal decision, they do not have the information needed to know which means to apply for realizing this end. Nonetheless, the formation of ends alone can help reduce uncertainty too. The author identifies several other tools that can help with reducing uncertainty: 1) tradition, habit and routines 2) norms and institution and 3) structural predispositions of decisions.

Tradition, habit and routines help reduce uncertainty because by behaving according to established habits or routines, individuals avoid the expenses associated with calculations and make their actions predictable to external observers. Institutions establish mutual expectations for interaction and restrict the options available to individuals, thereby reducing uncertainty.

The possibility of sanctions, influenced by the strength of relationships, social norms, or enforcement by third parties, decreases the likelihood of individuals deviating from previous commitments. By relying on institutional frameworks, choices are influenced by the social environment, resulting in informed decision-making. Finally, social networks, organizational structures and path-dependency constitute structural predispositions of decisions. Such structures exist precisely because the information required for maximizing efficiency and effectiveness is often unavailable. In other words, individuals often lack foreknowledge of which option will yield the highest profits or the lowest costs, for instance. In such situations, the actor's only concrete guidance comes from patterns and outcomes that emerge from interactions among actors. Organizational structures limit choices by prescribing actions and defining occupational roles. Regarding path dependency, past decisions constrain the options available for future decisions (Beckert, 1996). Having the tools for reducing uncertainty at hand can be enormously helpful for decision-makers.

## 2 METHODOLOGY

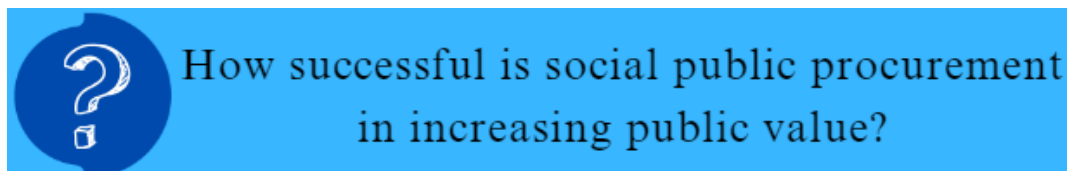
The first chapter of the paper introduced the concept of public value and how to identify its presence. It also demonstrated how social public procurement connects to public value. The next chapter will lay out our methodological framework. The chapter will set out our research aim and our research question. We present the analytical framework guiding our analysis. We clarify the sources of data obtained for the purpose of this research. We describe the selection of our research sample and the methods used for our data collection and analysis. Ethical issues concerning qualitative research are also discussed. We continue by mapping our research process. Lastly, the limitations of the research are identified.

### 2.1 Research aim and research question

The main goal of the report is to examine whether social public procurement successfully increases public value. It fills the research gap by exploring the application of the social clauses in public procurement by Slovak higher territorial units and municipalities. It also looks at the process behind creating public value through social public procurement. Moreover, the perceptions of contracting authorities regarding the social clauses in public procurement and their application are examined.

Taking into account the fact that practically no research has been done in Slovakia on social public procurement, the report relied on the theoretical background introduced in Chapter 1. Considering the framework of Moore's 'Strategic Triangle' on social public procurement, we aimed to find out what are the operational capacities, legitimacy and support of public procurers when it comes to applying social aspects to public procurement and whether they are successful at creating public value through social public procurement.

Since the report is trying to look at whether social public procurement successfully increases public value, we created the following research question:



The report posed several sub-questions that helped us answer the main research question:

- 1) How do Slovak public procurers view Slovakia's decision to impose mandatory quotas for using social aspects in public procurement?
- 2) How do Slovak public procurers view the Slovak legal framework on social public procurement?
- 3) What are the main problems that Slovak public procurers face during the realization of social public procurement?
- 4) Do Slovak public procurers supervise the fulfillment of social aspects in public procurement?
- 5) Do official bodies such as the Slovak Public Procurement Office and National Labor Inspectorate help decision-makers decrease uncertainty and information asymmetry related to social public procurement?

## 2.2 Established hypotheses

Based on the text analysis presented in our theoretical chapter, we have established the following hypotheses. The analytical part of the report deals with testing these hypotheses.

H1: If the examined actors have enough operational capacity, legitimacy and support, then social public procurement is more likely to increase public value.

The Strategic Triangle created by Moore (1995) argues that public value is created when 1) the action of actors has legitimacy and support and 2) the actors have the operational capacity needed to implement that action successfully.

Firstly, we assumed that this model is also accurate for the case of social public procurement. Secondly, we supposed that our examined research sample will show to have the operational capacity, legitimacy and support needed to successfully increase public value. Therefore, our assumption aligned with the theory presented by Moore (1995).

H2: If uncertainty and information asymmetry related to social public procurement decrease, then social public procurement is more likely to increase public value.

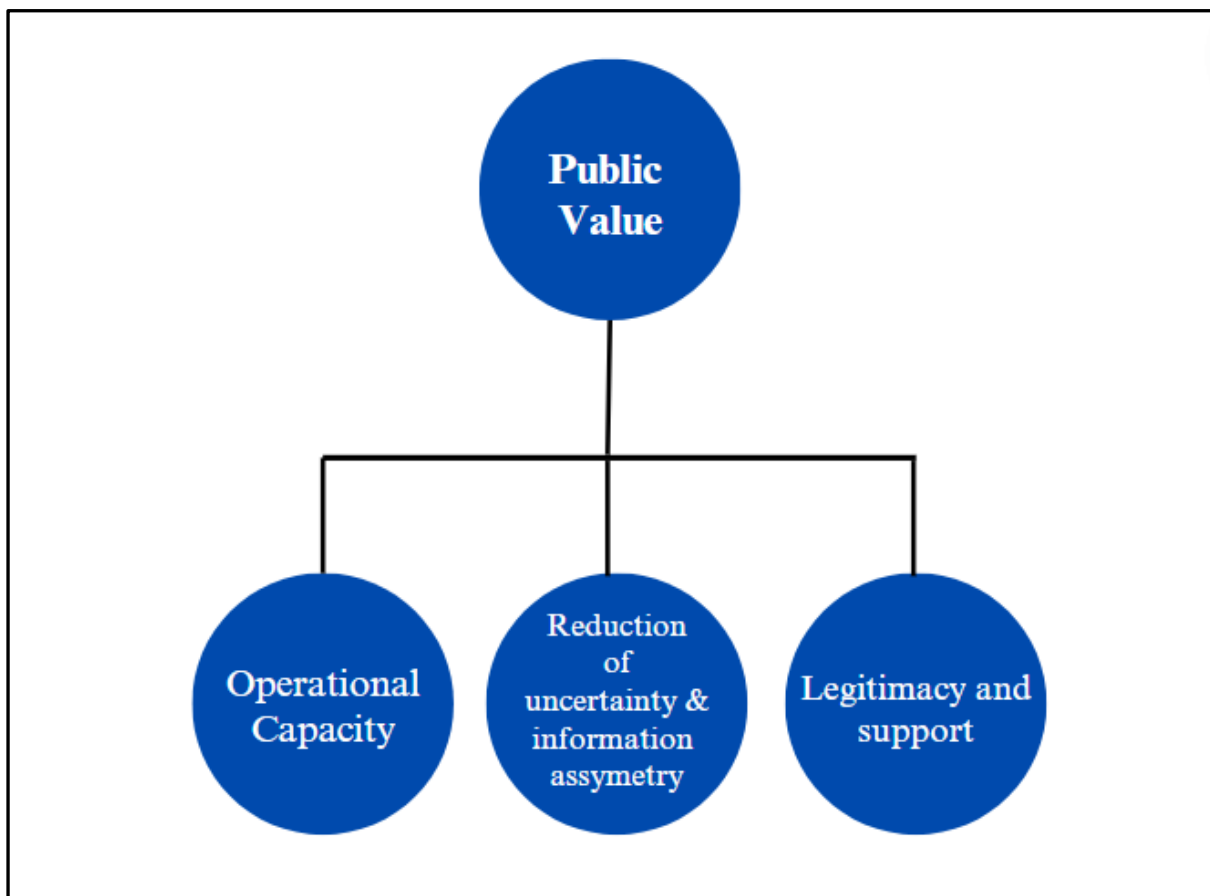
The theory of bounded rationality, as presented by Simon (1956), argues that information asymmetry and uncertainty cause relevant decision-makers to make decisions that are satisficing instead of optimal. The principal-agent theory argues that monitoring of the agent by the principal decreases information asymmetry and uncertainty, thus ensuring the

agent's compliance with the contract. Moreover, Beckert (1996) declares that tradition, norms and institutions all decrease uncertainty, therefore making it easier for decision-makers to make decisions. Because of this, we assumed that social public procurement is more likely to successfully increase public value when uncertainty and information asymmetry related to social public procurement decreases.

### 2.3 Analytical framework

It is important to show the model that explains how our data was organized and analyzed. Our analysis was conducted on the basis of our created analytical framework, which we named the 'modified model of public value creation'. The framework built on Moore's 'Strategic Triangle', and based on the literature, it added another intervening variable into the mix besides operational capacity and legitimacy and support – reduction of uncertainty and information asymmetry (See Figure 4).

**Figure 4. The modified model of public value creation**



Source: Author



The dependent and independent variables were set based on our research question. Social public procurement represented the independent variable, while public value represented the dependent variable. We also identified a set of intervening variables that must be present to successfully create public value through social public procurement – operational capacity, reduction of uncertainty and information asymmetry, and legitimacy and support. These intervening variables influence how successful contracting authorities are in creating public value through social public procurement.

It is important to operationalize each of the variables and show how they were observed during our research. According to Moore (1995), for a particular action to increase public value, such action has to possess legitimacy and support - both internally and externally. Examples provided by the author include standing with formal authorizers, engagement of citizens as co-producers of public value and key legislation supporting the organization's goal of creating public value. In the context of social public procurement, several examples can be given – agreeing views on the creation of public value through social public procurement by both official bodies and procurement actors, good legislation that supports the procurement actors' ability to create public value through social public procurement effectively, but also internal support between public procurement employees for performing social public procurements.

Based on the definition of Moore (1995), the operational capacity of actors refers to the operational resources needed to achieve public value. In terms of social public procurement, we assumed that operational capacity can be understood as human or financial resources allocated to the realization and monitoring of social public procurement, but also as internal structural procedures and policies.

Uncertainty and information asymmetry reduction was understood as all of the tools used by official bodies and the decision-makers themselves to provide the clarity needed for making the right, as-informed-as-can-be decisions regarding social public procurement. Beckert (1996) proposes that habits, norms, institutions and structural predispositions of decisions can all reduce uncertainty and information asymmetry. We argued that information provided through official bodies on social public procurement, its procedures or contract candidates, can be used as possible examples of such. Attending training courses, studying good practices and other educational materials published by the Public Procurement Office can also be understood as the public procurers' efforts to reduce uncertainty and information asymmetry.

The social public procurement variable was understood as a procurement that tackles some societal implication associated with acquiring goods, services, and works by the public sector.

The last variable, public value, is explained by public value theory. It is an outcome that is valuable to the public and contributes to society's overall well-being. Benington (2009) identifies economic and social dimensions of public value. Economic public value adds value by fostering economic productivity and generating job opportunities. Social public value adds value by enriching social capital, promoting social cohesion or nurturing social relationships. Together, these values improve the society as a whole.

## **2.4 Data sources**

Since the report deals with social public procurement, we decided to mainly study public subjects acting as contracting authorities for our analysis. Our unit of observation was supposed to consist of all eight Slovak higher territorial units and two municipalities – Bratislava and Kosice. The higher territorial units consist of Self-Governing Bratislava Region, Self-Governing Banska Bystrica Region, Self-Governing Trnava Region, Self-Governing Presov Region, Self-Governing Nitra Region, Self-Governing Zilina Region, Self-Governing Kosice Region and Self-Governing Trencin Region. However, due to time constraints and the unavailability of some subjects, we could only collect three interviews with higher territorial units. In addition, three of the higher territorial units sent us back the filled-out questionnaire for interviewing, declining to participate in an interview. The questionnaire used for interviewing can be found in Appendix A.

The reason why we chose this unit is quite simple. The legal framework of Slovakia declares that contracting authorities that launch at least ten procurements in a calendar year (excluding low-value contracts) are obliged to take social or environmental considerations into account in at least 6% of their under-value and over-value contracts (National Council of the Slovak Republic, 2018). Therefore, we chose units of observation that procure goods, services and works so often, that they can be expected to have experience with applying social aspects in public procurement.

Considering the literature, we also used interviews with two other actors that play an important role in promoting legitimacy and reducing uncertainty and information asymmetry

– the Slovak Public Procurement Office and the National Labor Inspectorate of Slovakia. The Slovak Public Procurement serves as an official body whose function is to monitor the compliance of contracting authorities with public procurement law. The body also provides methodical guidance for participants of public procurement (The Slovak Public Procurement Office, n.d.). The National Labor Inspectorate oversees labor inspections to ensure compliance with labor laws, including the prohibition of illegal employment and work (Ministry of Labor, Social Affairs and Family of the Slovak Republic, n.d.).

The National Labor Inspectorate has also been identified as a relevant potential partner for the Slovak Public Procurement Office in terms of raising awareness about social public procurement (The Slovak Public Procurement Office, 2021).

Overall, our primary data for analysis consisted of five interviews. Three interviews were conducted with the Bratislava Self-Governing Region, Banska Bystrica Self-Governing Region and Presov Self-Governing Region. One interview was conducted with the municipality of Bratislava. One interview was conducted with the National Labor Inspectorate of Slovakia. Three filled-out questionnaires were collected from the Trencin Self-Governing Region, Nitra Self-Governing Region and the municipality of Kosice.

For the content analysis, the report worked with several types of secondary data. Firstly, two legal documents were used - Public Procurement Act No. 343/2015 and Act No. 112/2018 Coll. on Social Economy and Social Enterprises. Secondly, we also used methodological guidelines published by the Slovak Public Procurement Office. The methodological guidelines were published throughout 2021-2023. We viewed the legal documents and methodological guidelines as valuable sources that can provide more information on our intervening variables.

Our secondary data also consisted of the interview realized with Slovak Public Procurement Office mentioned above. This interview was obtained by our supervisor in 2022 for a project that dealt with public procurement and collective bargaining. The project's main aim was to analyze the current legal status and practice of social or labor clauses in national public procurement. The questions asked during the interview can be found in Appendix B.

For better navigation and clarity, Table 4, 5 and 6 provides an overview of our primary and secondary data.

**Table 4. Primary data sources – Interviews**

Primary data sources Interviews Interviewee	Date of interview	Type of interview	Type of actor	Interview code
Banska Bystrica Self-Governing Region	01.06.2023	Video call	Public procurer	SPP1
Presov Self-Governing Region	23.06.2023	Video call	Public procurer	SPP2
Municipality of Bratislava	26.06.2023	Video call	Public procurer	SPP3
Bratislava Self-Governing Region	27.06.2023	Face to face	Public procurer	SPP4
National Labor Inspectorate of Slovakia	29.06.2023	Video call	Consulting body	NLI

Source: Author

**Table 5. Primary data sources – Questionnaires**

Primary data sources Questionnaires Respondent	Type of actor	Questionnaire code
Nitra Self-Governing Region	Public procurer	SPP5
Trencin Self-Governing Region	Public procurer	SPP6
Municipality of Kosice	Public procurer	SPP7

Source: Author

**Table 6. Secondary data sources – Interview and legislative acts**

Secondary data sources	
Type of data	
Interview	Interview with the Slovak Public Procurement Office (monitoring body)
Document	The basic book on social aspects
Legislative act	Act No. 343/2015 Coll. on Public Procurement

Legislative act	Act No. 112/2018 Coll. on Social Economy and Social Enterprises
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Source: Author

**2.5 Methodological tools used for data collection and data analysis**

Research methodology refers to a systematic and planned approach or framework researchers utilize to outline their strategy for identifying or resolving problems. It can be seen as a strategic blueprint or structure guiding the researcher's actions and decisions in their pursuit of knowledge (Buckley & Chiang, 1976). Jamshed (2014) states that “qualitative research methodology is considered to be suitable when the researcher or the investigator either investigates a new field of study or intends to ascertain and theorize prominent issues” (p. 87). This subchapter explains why we chose to use qualitative methods for our research.

To collect the data, we firstly compiled the relevant laws on social public procurement and the document produced by the Public Procurement Office. To analyze the secondary data, we used content analysis with both deductive and inductive coding. Then, we collected primary data through interviews with public procurers. For the primary data analysis, we used deductive coding.

By combining content analysis and interviewing, our research triangulates multiple data sources, mitigating potential biases and enhancing the validity and reliability of our findings. Content analysis provides a broad overview of social public procurement by examining existing laws and documents, while interviews with public procurers, the Slovak Public Procurement Office and National Labor Inspectorate offer deeper insights into individual perspectives, experiences, and nuances that cannot be captured in the analyzed laws and documents.

**2.5.1 Content analysis as a method of secondary data analysis**

Content analysis encompasses a range of research methods employed to extract systematic and reliable inferences from various forms of communication, such as texts.

This report uses both deductive and inductive or so-called *emergent* coding. When using deductive coding, we define the codes based on our theoretical/analytical framework. With

emergent coding, patterns or categories are created after examining the data first (Stemler, 2001).

We decided to analyze the two laws concerning social public procurement, as these are the laws that public procurers rely on to implement social public procurement effectively and in accordance with the European and national law. We expected to find out whether these laws put some obligations on public procurers, whether these obligations are clearly stated and whether the laws reduce uncertainty and information asymmetry connected to social public procurement. However, since we did not know what the structure of the laws is like beforehand, we opted for using emergent coding where categories would be created only after examining the laws.

We analyzed the methodological guideline published by the Slovak Public Procurement Office because this body is supposed to provide methodological guidance to participants in public procurement. We chose this guideline because it was expected that the Public Procurement Office would communicate support for social public procurement, what are the operational capacities of public procurers needed to implement social public procurement and also provide information for public procurers to reduce their uncertainty and information asymmetry. Because of this, here we chose to use deductive coding where the codes were created based on the variables that we studied. We created three coding categories - operational capacity, legitimacy and support and reduction of uncertainty and information asymmetry.

The content analysis served us as the starting point for assessing the implementation of social public procurement in the context of Slovakia. By analyzing the laws and the methodological guideline, we were able to explore the framework created by the government with the aim of providing public procurers some “guidelines” for implementing social public procurement successfully. Following this, we decided to interview public procurers to find out more about their perceptions on social public procurement and their experiences with implementing such guidelines on social public procurement into practice.

### **2.5.2 Interviewing as a method of primary data collection**

In qualitative research, using interviews for data collection is widely prevalent (Jamshed, 2014). The method of interviewing has several advantages. It allows for discovering information that would probably not be discoverable using observations or questionnaires (Blaxter, Hughes, & Tight, 2006). Moreover, the interviewer's presence enables them and the

interviewee to ensure mutual understanding, as any confusing questions can be clarified or rephrased (Dörnyei, 2007).

Because the report focuses on social public procurement, actors working in public procurement were interviewed. Interviews were the best data collection method for our research, since it is of exploratory nature. By interviewing actors working in the public sector as contracting authorities, we were able to obtain their perceptions and experiences regarding the relatively new concept of social public procurement.

We opted for doing semi-structured interviews, which were based on open-ended questions. The questionnaires used can be found in Appendix A. The open-ended nature of the questions allowed us to discuss the topics in more detail. The main advantage of semi-structured interviews is that the interviewer can ask the interviewee to provide more details on their initial response or follow up on a topic originally brought forward by the interviewee (Mathers, Fox, & Hunn, 2000).

Interviews were either done face-to-face or through Zoom or Microsoft Teams. We informed the participants that their responses would be anonymized. Where consent was provided, the interviews were recorded for easier and faster transcription.

The questions used were created with the intent to tell us more about our intervening variables and their presence. For the data to be analyzed more easily later, each question was connected to the variable it explores (See Table 7).

**Table 7. Division of interview questions based on the variables examined**

<b>Questions covering legitimacy and support</b>	<b>Questions covering operational capacity</b>	<b>Questions covering reduction of uncertainty and information asymmetry</b>

<p>Ako vnímate rozhodnutie Slovenska zaviesť kvóty 6% pre sociálne a zelené hľadiská vo verejnom obstarávaní?</p>	<p>S akými hlavnými problémami sa stretávate pri snahe o implementovanie sociálneho hľadiska v rámci VO?</p>	<p>Obracajú sa na Vás verejní obstarávatelia ohľadom získania informácií týkajúcich sa uchádzačov o sociálne verejné obstarávanie? Ak áno, s akými problémami sa na Vás obracajú?</p>
<p>Ako hodnotíte aktuálny legislatívny rámec, ktorý upravuje uplatňovanie sociálneho hľadiska pri verejnom obstarávaní? Kde vidíte jeho výhody a nedostatky?</p>	<p>Využívate mechanizmy na kontrolu plnenia sociálnych požiadaviek dodávateľmi? Zdôvodnite a popíšte.</p>	<p>Obracajú sa na Vás verejní obstarávatelia, aby sa uistili, že dodávateľ služby, ktorý zamestnáva zamestnancov, ich zamestnáva legálne?</p>
<p>Ako vnímate pojem „sociálne hľadisko“?</p>	<p>Využívate sankčné mechanizmy v prípade zistenia neplnenia sociálnych požiadaviek dodávateľmi? Zdôvodnite a popíšte.</p>	<p>Ako vnímate snahy ÚVO o vzdelávanie obstarávateľov o postupoch verejného obstarávania s aplikáciou sociálnych aspektov?</p>
<p>Považujete definíciu sociálneho hľadiska, ktorá sa nachádza v zákone o verejnom obstarávaní za dostatočnú?</p>	<p>V ktorej fáze VO používate uplatňovanie sociálneho hľadiska? Zdôvodnite.</p>	<p>Sledujete/snažíte sa pri implementovaní sociálnych verejných obstarávaní inšpirovať príkladmi dobrej praxe zo zahraničia alebo inými verejnými obstarávateľmi?</p>
<p>Ako vnímate rozhodnutie EÚ zaviesť v rámci členských štátov koncept zohľadňovania sociálneho hľadiska?</p>	<p>Aké sú hlavné ponaučenia týkajúce sa uplatňovania sociálneho hľadiska v rámci VO, ktoré dosiaľ vďaka zavedeniu povinných kvót vaša organizácia získala?</p>	



<p>Vedeli by ste povedať niekoľko príkladov VO za posledné 3 roky, pri ktorých ste uplatnili sociálne hľadisko?</p>	
<p>Uplatňovali ste už niekedy sociálne hľadisko ešte pred zavedením povinných kvót?</p>	
<p>Kde vidíte najväčší potenciál pre uplatňovanie sociálneho hľadiska - pri obstarávaní služieb, tovarov alebo stavebných prác? Zdôvodnite.</p>	

Source: Author

After getting the transcripts ready, we moved on to analyzing our data. The next subchapter is going to introduce the method that we used for the interview analysis – deductive coding.

### 2.5.3 Deductive coding as a method of primary data analysis

Coding plays a crucial role in the analysis of qualitative data. It involves the process of categorizing and structuring qualitative data by assigning labels to identify recurring themes and patterns. The main objective of coding is to bring organization and structure to unstructured data, enabling a systematic examination and exploration of the information at hand. By assigning codes, the essence of each qualitative response can be effectively captured. This enables uncovering emerging themes and patterns. Through this process, comprehensive insights that contribute to a deeper exploration of the research topic can be extracted (Bodine, 2021).

The report employed a deductive coding approach, applying the analytical framework created to analyze the interviews. Therefore, we developed a predefined set of codes that were then assigned to the interview excerpts that fit those codes. Using the analytical framework to create codes ensures a solid theoretical foundation and enhances the credibility of our findings.

Table 8 presents our coding frame, which consists of root codes, parent codes and child codes. The coding frame was created based on the interview questions. The root codes present the overall theme of the set of questions. The parent codes are based on specific questions asked. The child codes are based on the expected overall answer.

**Table 8. Coding frame used for coding interviews**

<p><b>Root 1</b></p> <p><b>Perceptions of the legislative framework on public procurement in SK and EU</b></p>	<ul style="list-style-type: none"> <li>➔ <b>Perceptions of EU's decision to create a flexible legal framework for the use of SPP (Parent 1.1)</b> <ul style="list-style-type: none"> <li>• <b>Positive (Child 1.1.1)</b></li> <li>• <b>Negative (Child 1.1.2)</b></li> <li>• <b>Mixed (Child 1.1.3)</b></li> </ul> </li> <li>➔ <b>Overall perceptions of current SK legal framework on public procurement (Parent 1.2)</b> <ul style="list-style-type: none"> <li>• <b>Positive (Child 1.2.1)</b></li> <li>• <b>Negative (Child 1.2.2)</b></li> <li>• <b>Mixed (Child 1.2.3)</b></li> </ul> </li> <li>➔ <b>Perceptions of the 6% mandatory quotas (Parent 1.3)</b> <ul style="list-style-type: none"> <li>• <b>Positive (Child 1.3.1)</b></li> <li>• <b>Negative (Child 1.3.2)</b></li> <li>• <b>Mixed (Child 1.3.3)</b></li> </ul> </li> <li>➔ <b>Perceptions of the legal definition of social clauses (Parent 1.4)</b> <ul style="list-style-type: none"> <li>• <b>Positive (Child 1.4.1)</b></li> <li>• <b>Negative (Child 1.4.2)</b></li> <li>• <b>Mixed (Child 1.4.3)</b></li> </ul> </li> </ul>
<p><b>Root 2</b></p> <p><b>Other perceptions</b></p>	<ul style="list-style-type: none"> <li>➔ <b>Perceptions of the term 'social clause' (Parent 2.1)</b></li> <li>➔ <b>Perceptions of the Public Procurement Office (Parent 2.2)</b> <ul style="list-style-type: none"> <li>• <b>Positive (Child 2.2.1)</b></li> <li>• <b>Negative (Child 2.2.2)</b></li> <li>• <b>Mixed (Child 2.2.3)</b></li> </ul> </li> </ul>
<p><b>Root 3</b></p> <p><b>Application of social clauses in public procurement</b></p>	<ul style="list-style-type: none"> <li>➔ <b>Examples of social public procurements realized over the last 3 years (Parent 3.1)</b></li> <li>➔ <b>Using social clauses in public procurement before mandatory quotas (Parent 3.2)</b> <ul style="list-style-type: none"> <li>• <b>Yes (Child 3.2.1)</b></li> <li>• <b>No (Child 3.2.2)</b></li> </ul> </li> <li>➔ <b>Identification of the area with biggest potential for social public procurement (Parent 3.3)</b></li> <li>➔ <b>Realization of preliminary market consultations (Parent 3.4)</b></li> </ul>

	<ul style="list-style-type: none"> <li>• <b>Yes</b> (Child 3.4.1)</li> <li>• <b>No</b> (Child 3.4.2)</li> </ul> <p>➔ <b>Stage of public procurement cycle where social clauses most used</b> (Parent 3.5)</p>
<p><b>Root 4</b></p> <p><b>Implementation of social clauses in public procurement</b></p>	<p>➔ <b>Identification of problems most present with social public procurement</b> (Parent 4.1)</p> <p>➔ <b>Use of monitoring mechanisms to check compliance with social clauses</b> (Parent 4.2)</p> <ul style="list-style-type: none"> <li>• <b>Yes</b> (Child 4.2.1)</li> <li>• <b>No</b> (Child 4.2.2)</li> </ul> <p>➔ <b>Use of sanctions</b> (Parent 4.3)</p> <ul style="list-style-type: none"> <li>• <b>Yes</b> (Child 4.3.1)</li> <li>• <b>No</b> (Child 4.3.2)</li> </ul> <p>➔ <b>Following of good practices and other public procurers</b> (Parent 4.4)</p> <ul style="list-style-type: none"> <li>• <b>Yes</b> (Child 4.4.1)</li> <li>• <b>No</b> (Child 4.4.2)</li> </ul>
<p><b>Root 5</b></p> <p><b>General evaluation of social public procurement</b></p>	<p>➔ <b>Most valued social aspect in the context of Slovakia</b> (Parent 5.1)</p> <p>➔ <b>Lessons learned</b> (Parent 5.2)</p>

Source: Author

## 2.6 Ethical issues

There is a growing awareness that when research is conducted, it must be guided by ethics and moral principles. McNeill and Chapman (2005) argue that several points have to be kept in mind when researching people. Firstly, the research participants are entitled to be informed and have a clear understanding of the purpose and nature of the research being conducted. Secondly, they also have the right to decline participating in the research or answering certain questions. Finally, the authors state that providing the research participants with informed consent forms beforehand guarantees that they are allowed to make an intelligent choice on whether they want to engage.

McNeill and Chapman (2005) also propose that by not disclosing the identity of research participants, the problem of maintaining privacy can be solved. Keeping the identity of research participants hidden secures that the data provided cannot be traced back to them. Anonymization of data also offers an advantage – research participants might be more likely to disclose information they otherwise would not.

Throughout our research process, several participants we contacted voiced their preference for staying anonymous. Taking this into consideration, we decided not to disclose the identity of the participants of our research. When requesting participants to participate in our research, an attachment comprising the informed consent form was sent. Each participant was asked to fill out the form. The consent form can be viewed in Appendix C. The consent form aimed to instruct the participants of the nature of the research and its goal. It also instructed them on their voluntary participation and their right to decline recording the interview or answering certain questions. We also contacted the Slovak Public Procurement Office to get consent to use their interview answers provided to our supervisor. Thanks to this, we acknowledged the ethical considerations regarding the use of interviews as a methodological tool.

We also provided the interview questionnaire we used to the Ethics Committee of our faculty. The Ethics Committee is responsible for reviewing and discussing applications for consent to conduct research. After our application was reviewed, we were given consent to conduct our research.

## **2.7 Research process**

The first phase of the research consisted of creating the questionnaire for the interviews in Microsoft Word. Then, we visited the official website of each higher territorial unit and municipality, looking for the e-mail addresses of persons responsible for the Department of Public Procurement. Using Google Documents, a tracking scheme was created. The tracking scheme included the names of the directors of each public procurement department, their official position, e-mail address, information about when they were contacted and whether an interview was booked and obtained. A cover letter was written (See Appendix D) and sent together with the questionnaire and informed consent to the acquired contacts. The respondents were contacted throughout the month of May. Our primary data consisting of semi-structured interviews was being collected from June 1<sup>st</sup> to June 29<sup>th</sup>.

During the second phase, reminders were sent to all of the contacts that did not respond to our e-mail. To those still unresponsive, another reminder was sent by the advisor. Later, the contacts that remained unresponsive were contacted by the phone.

In the third and last phase, we gathered secondary data consisting of Slovak legislative acts and documents published by the Slovak Public Procurement Office to conduct our content

analysis. The secondary data was analyzed in a coding software called Dedoose. Using an inductive coding frame, we created themes from the data itself. Next, we processed all of the primary data collected by transcribing the interviews in the online transcribing software Sonix. We analyzed the data using deductive coding in Dedoose. In this case, we also used the coding frame based on our analytical framework.

## **2.8 Limitations of research**

It is crucial to voice the limits of our research before presenting its results, which said limits can influence. Due to time constraints, two of the respondents decided to send back the filled-out questionnaire without the possibility of arranging a date for an interview with them. For some of the questions, the respondents answered using official documents or legal framework on public procurement instead of expressing their own views. Due to this, we were able to obtain only some relevant information intended concerning our research from them. Moreover, since some of the respondents we had in mind did not respond to e-mail reminders and phone calls, we could not collect data from all of the respondents we had in mind beforehand. Therefore, our research sample ended up smaller than intended.

Choosing interviews as a research method also has its disadvantages, and we are aware of those. The respondents' perceptions might be subjective and this should be kept in mind. On our part, allocating the deductive codes we created to the primary and secondary data can also be subjective. Furthermore, while the interviews were conducted in Slovak language, the report was written in English, which can also slightly intervene with the accuracy of the data presented. The analyzed laws and documents were also written in Slovak language.

### **3 RESEARCH FINDINGS**

This chapter presents the research findings derived from a multi-dimensional analysis of social public procurement in Slovakia. By combining the results of the content analysis with insights obtained from interviews with different actors, we provide a comprehensive overview of the current state of social public procurement in Slovakia.

#### **3.1 Content analysis of the Slovak social public procurement laws**

The adoption of Act No. 112/2018 Coll. on Social Economy and Social Enterprises (ASESE) was a significant turning point in the introduction of social clauses in public procurement in Slovakia. This act made two important changes to the Public Procurement Act No. 343/2015 Coll. (PPA). Firstly, it introduced a definition of the term "social" (as well as "environmental") aspect in public procurement. Secondly, it established mandatory quotas for social (and environmental) aspects in public procurement. The ASESE came into effect on May 1, 2018, except for the provisions introducing mandatory quotas on social aspects in public procurement, which were implemented on January 1, 2020 (Bulla & Kahancova, 2022).

In this specific subchapter of our research findings, we explore how these laws give obligations and offer support to public procurers, enabling them to effectively implement social public procurement through its clarification. As a result, this support helps reduce potential uncertainties and information asymmetry associated with social public procurement. Through examination of the legislative framework, we explore the provisions and regulations pertaining to social aspects in public procurement in Slovakia. The collected findings are organized and presented based on the themes that emerged as relevant during our inductive coding process.

#### **Definition of the social aspect (social clause)**

Social aspect is defined in Article 2 (5) p) of the PPA as such an aspect related to the subject of the contract, which may lead to a positive social impact of the performance of the subject of the contract, in particular:

- Job creation or support of job creation,
- Decent, fair and satisfactory working conditions beyond the statutory obligation to provide them,
- Inclusion of disadvantaged, endangered or excluded persons and facilitation of their labor market access,
- Increasing the accessibility and usability of goods, services and works for people with disabilities,
- Ethical and fair trade,
- Ensuring the growth of the knowledge and innovation-based economy, resource sustainability and social and territorial cohesion,
- Increasing the responsibility of suppliers in relation to the interests of society, in particular by integrating socially beneficial activities into the operation of the supplier and cooperating with entities affected by its activities or mitigating the consequences of economic and social underdevelopment of the least developed districts.

**The definition clearly aims to give an explanation of what is to be considered a social aspect by providing different examples. However, it can be seen that it is more so left to the imagination of the public procurer to decide what social aspect is.**

### **Positive social impact**

Concerning the term “positive social impact,” the PPA refers to the ASESE, where its definition is outlined in Article 2 (1). Positive social impact is interpreted as the fulfillment of either public interest or community interest.

### **Public interest**

Article 2 (2) of the ASESE states that meeting the public interest involves providing a socially beneficial service that benefits society as a whole or an extensive group of individuals. This includes offering socially beneficial services to disadvantaged or vulnerable individuals and providing socially beneficial services as described in paragraph 4, letters g) environment management and protection of public health, i) provision of housing and management, maintenance, and renewal of housing stock., and j) provision of funds to social economy entities for the performance of socially beneficial services.

### **Community interest**

Under article 2 (3) of the ASESE, pursuit of the community interest is understood as provision of a socially beneficial service for a group of persons that can be defined and identified on the basis of shared territory, membership, interest or another objective criterium except for the provision of a socially beneficial service to disadvantaged persons or vulnerable persons and a socially beneficial service according to paragraph 4 letter g), i) and j).

**The introduction of the terms “positive social impact”, “public interest” and “community interest” provides a clear identification of the main aim of social public procurement. These provisions communicate that social public procurement aims to increase public value.**

### **Mandatory quotas**

Article 10 (7) of the PPA states that contracting authorities referred to in points b) to e) 6 of Article 7 (1) and contracting entities shall, in the calendar year in which they have launched or carried out at least ten procurement procedures, excluding low-value contracts, be obliged to use the social aspect or the environmental aspect in the description of the subject-matter of the contract as a special condition for performance of contract or as a contract award criterium in at least 6 % of those procurement procedures. For the purpose of fulfilling these obligations:

- a) as procurement procedures with social or environmental aspect shall be counted also:
  - i. reserved contracts,
  - ii. modification of a contract, a framework agreement, or a concession during its duration without a new procurement procedure, if the change consists in extending their duration or increasing their value and the contract, framework agreement or the concession was concluded as a result of a procurement procedure using a social aspect or an environmental aspect,
- b) the procurement procedure using a social aspect, or an environmental aspect must be implemented,
- c) public procurement, which was started in one and completed in another calendar year, counts only in one of these years.

**This specific section of the law defines which contracting authorities are required to incorporate the social aspect or the environmental aspect in a minimum of 6% of their procurement procedures. The law imposes a legal obligation that has to be fulfilled. The**



**section also defines the possible areas of application of social and environmental clauses in public procurement.**

### **Conditions of participation**

Article 32 (1) declares that only those who fulfill the following conditions of participation relating to personal capacity may take part in the procurement procedure:

- a) neither they nor their statutory body, nor any member of their statutory body, nor any member of their supervisory body, nor any member of their procuratorial authority has been convicted of a criminal offence of corruption, an offence against the financial interests of the European Communities, an offence of money laundering, an offence of establishing, organizing or supporting a criminal group, the offence of establishing, organizing or supporting a terrorist group, the offence of terrorism and certain forms of participation in terrorism, the offence of trafficking human beings, an offence the substance of which is related to business or the offence of rigging public procurement and public auctions,
- b) has no registered arrears of social insurance premiums and the health insurance company does not register overdue claims against him/her pursuant to special regulations<sup>46b</sup>) in the Slovak Republic and in the State of his/her registered office, place of business or habitual residence,
- c) does not have any tax arrears registered against the tax authority and the customs authority pursuant to special regulations<sup>46c</sup>) in the Slovak Republic and in the State of its registered office, place of business or habitual residence,
- d) has not been declared bankrupt, restructured, liquidated or had bankruptcy proceedings against them terminated for lack of assets or bankruptcy annulled for lack of assets,
- e) it is authorized to supply goods, to carry out construction work or to provide a service,

**This Article shows to impose the obligation on public procurers to verify whether the participants fulfill the needed conditions. Thus, public procurers are expected to decrease the amount of uncertainty and information asymmetry related to the participants.**

## **Evaluation criteria for tenders**

Article 44 states that:

(1) The contracting authority and the contracting entity shall evaluate the tenders on the basis of objective criteria for the evaluation of tenders related to the subject-matter of the contract, with the aim to determine the most economically advantageous tender. The criteria determined by the contracting authority and the contracting entity shall be non-discriminatory and shall promote competition.

(2) A criterion for the evaluation of tenders shall be considered to be related to the subject-matter of the contract if it relates, in any respect and at any stage of the life cycle of the product, works or service, to the goods, works or service required, including factors relating to a particular process of production, supply of the goods, execution of the works or provision of the service, or trade therein, or to a particular process of any other stage of the life cycle of the product, works or service; this shall also apply if those factors are not part of their material nature.

(3) Tenders shall be evaluated on the basis of a) best value for money, b) cost, using a cost-effectiveness approach, in particular life-cycle costing; or c) the lowest price.

(4) The best value for money shall be assessed on the basis of price or cost and other criteria covering qualitative, environmental or social aspects related to the subject-matter of the contract, in particular quality, including technical merit, aesthetic and functional characteristics, accessibility, solutions suitable for all users, social, environmental and innovative characteristics, and commercial terms and conditions, the organization, qualifications and experience of the staff assigned to the performance of the contract or concession agreement, where the quality of such staff may have a significant impact on the level of performance, guarantee service, after-sales service, technical assistance, delivery conditions such as delivery date, delivery method, delivery period or completion date, and, in the case of a defense and security contract, security of supply, interoperability and operational characteristics.

**This particular Article defines how tenders should be evaluated. It also clearly proposes that tenders can be evaluated on the basis of criteria other than price or cost, such as social aspects. This proposition makes way for social public procurement.**

### **3.2 Content analysis of the Slovak Public Procurement Office's methodological guideline**

This subchapter focuses on the analysis of the methodological guideline published by the Slovak Public Procurement Office. Through content analysis, we examine the guidelines, recommendations, and best practices provided by the Public Procurement Office to support public procurers, reduce their uncertainty and information asymmetry, and promote the effective implementation of social aspects in public procurement.

#### **The basic book on social aspects**

The document starts with an introduction that proposes that

..social public procurement provides a unique opportunity for the state, which has the potential to bring about significant positive change in our society. It is therefore an opportunity for the state and its institutions to contribute to ensuring an increase in the quality of life of people in real need (p. 3)

**Language that communicates the legitimacy and support for the idea of social public procurement that increases public value can be seen throughout the whole methodological guideline.** The Slovak Public Procurement Office can be seen arguing that “the added value of the contract has a positive impact on a person or a group of people” (p. 13). It also states that “..if there is room for even a small positive change, and procurement entities can be its engine, it would surely be a shame not to take advantage of it” (p. 6). The methodological guideline aims to show to public procurers that social public procurement is a valuable tool, claiming that “it is important to look at the socially responsible public procurement not through the lens of obligation, but instead, of opportunity and chance to help something change for the better” (p. 6).

**The document also proposes in different ways for public procurers to increase their operational capacity, so that they can successfully execute public procurements that increase public value.**

Firstly, the document argues that

Strategic public procurement can be a way how to simplify the whole approach by setting and defining achievable goals that are to be met in the context of the contracts, and then specifying these goals by incorporating the specific tools that will be used to achieve them into internal documents or directives. An important step is to inform all employees within the institution as well as the public about our responsible approach to public procurement and, of course also informing potential bidders of the opportunities available to them in the form of public procurement contracts (p. 18-19)

Moreover, the Slovak Public Procurement Office states that

It is important not to underestimate the contract execution phase, as this is where the social aspect gets fulfilled, so it is important to focus on the correct setting of the appropriate control and sanction mechanisms. Setting up the social aspect right in the tender documentation and its compliance with the Public Procurement Act are very important. To achieve social impact, however, it is most important that the successful bidder actually delivers what they guaranteed in their bid. It is therefore important that the contracting authority ensures to verify that the actual delivery of the subject-matter of the contract is taking place. It is therefore necessary to set up already within the contract such monitoring mechanisms that will enable the contracting authority to evaluate this delivery and, in the event of non-compliance, apply adequate and appropriate sanctions and further action in accordance with the Public Procurement Act (p. 18)

**However, monitoring and sanctioning mechanisms are not clearly defined in the Public Procurement Act. Therefore, it is left to the public procurers to decide on such mechanisms.**

In another segment that we found, the Public Procurement Office once again stresses that it is crucial for social public procurement to increase public value by saying that

..in order for such an effect to occur, it is necessary to first set up the social aspect in the preparatory phase before the tender is launched. The next step is to apply it correctly in the tender documents in compliance with all the principles laid down in the Public Procurement Act. It is also important for the contracting authority to check, during the performance of the contract in question, whether the social aspect is actually being met. If the social requirements are not met by the successful tenderer or tenderers, the contract would not have a positive impact on society (p. 11)

The aim of the methodological guideline is to “increase awareness not only of contracting authorities, but also economic operators” (p. 4). **The biggest portion of the text is dedicated to showing public procurers how to apply different social aspects in practice, therefore aiming to reduce their uncertainty and information asymmetry related to social public procurement.** By reducing uncertainty and information asymmetry, the Public Procurement Office also shows support for both public procurers and social public procurement.

Finally, the Public Procurement Office itself highlights the importance of reducing uncertainty and information asymmetry by stating the following:

“Every contract, whether successful, unsuccessful or cancelled, certainly deserves a retrospective look, which evaluates not only the contract as a whole, but also in terms of the individual steps or actions that were necessary to be carried out as part of the process. The answer to the question of why it is important to place a high importance to the evaluation of public procurement is very simple. All the lessons learned, whether positive or negative, can lead to even better-quality contracts in the future, precisely by identifying and recognizing mistakes and then not repeating them, or identifying which tasks can be made easier, which have been underestimated and which will require perhaps more time, staff or effort” (p. 18)

After analyzing the relevant laws and the methodological guideline published by the Slovak Public Procurement Office, we are now going to present the findings concluded from the interviews with Slovak public procurers.

### 3.3 Interviews with public procurers, Public Procurement Office and the National Labor Inspectorate

The following subchapter presents the findings concluded from our interviews. These findings allow us to answer our research question, which explores whether social public procurement successfully increases public value. Our main research question will be answered by firstly answering the five sub-questions introduced at the beginning of the methodology chapter. For easier navigation, the findings are divided into three subchapters according to the three studied variables. Firstly, findings regarding legitimacy and support of the examined Slovak public procurers are presented. Next, we explore the operational capacity of the examined Slovak public procurers. The third subchapter delivers the findings on the last intervening variable of our research - reduction of uncertainty and information asymmetry. In contrast with the analyzed laws and documents, the interviews allow us to look at the perceptions of Slovak public procurers and implementation of social public procurement in practice.

#### 3.3.1 Legitimacy and support of the examined Slovak public procurers

This subchapter presents findings regarding one of our intervening variables titled “legitimacy and support”. We were mainly interested in finding out whether public procurers support social public procurement, mandatory 6% quotas on the use of social and green aspects in public procurement and the current Slovak legal framework on social public procurement.

The main findings on the legitimacy and support of the examined Slovak public procurers can be viewed in Table 9.

**Table 9. Legitimacy and support of the examined Slovak public procurers**

Area	Focus of investigation	Main findings
Mandatory 6% quotas on the use of social and green aspects in public procurement	Perceptions of Slovak public procurers regarding mandatory 6% quotas on the use of social and green aspects in public procurement	Differences between views of Slovak public procurers (easily achievable to some, not easily achievable to others)

		Viewed as administrative burden to some
		Real impact of quotas hard to evaluate
Current Slovak legal framework on social public procurement	Perceptions of public procurers regarding the current Slovak legal framework on social public procurement, its advantages and disadvantages	Differences between views of Slovak public procurers (insufficient to some, functional to others)
		Legal definitions viewed as vague, which is also acknowledged by the Public Procurement Office
		Legal definitions left purely to interpretation and arbitrariness, as no enforceable obligation imposed
		The vagueness of the legal framework is explained by some to be caused by the impossibility to cover all existing social aspects (different regions may need to tackle different social issues)

Source: Author

### **Perceptions of the 6% mandatory quotas on social and green public procurement**

The data available from the interview conducted with Public Procurement Office in 2022 shows that it was initially proposed to introduce 10% mandatory quotas. The Public Procurement Office was not highly supportive of mandatory quotas, rather proposing other, more positive incentives such as favoring those who implement social public procurement, e.g. by increasing budget revenues. However, this idea was not supported at the time (Public Procurement Office, c.f. Bulla and Kahancova, 2022).

We asked the respondents about their views on Slovakia's decision to introduce the 6% quotas for social and green aspects in public procurement. **Two of the respondents viewed the decision positively, while five of the respondents viewed it rather negatively.**

Respondent SPP5 and Respondent SPP6 argued that the cumulative value of a 6% quotas that includes both social and environmental aspects is **sufficient and easy to achieve**. **Setting the quotas effectively might be problematic though**, as Respondent SPP1 noted that

..the way quotas work is that if you set it too low like it is now at 6%, and in the sum of green and social public procurement, it does not hurt anybody. But if it is too high, then public procurers would take it in a formalistic way and it would not serve the purpose. So, like, that obligation.. Okay, it exists, but it is set so low that it does not hurt anybody (Respondent SPP1, 2023).

Respondent SPP2 stated that mandatory quotas mean **more bureaucracy and administrative burden**. Respondent SPP4 also expressed concern that

..in the sense of administrative procedures, procurement planning is a living organism because it is directly linked to budgetary rules. It is tied to how public funds are handled and external funding is provided, which cannot be predicted and may change during the year. If we fall out of social procurement contracts that we had planned for the year, we get to the edge of the six percent mentioned. So the way in which our law is laid down is not appropriate, and it is wrong, in my opinion, to set a quota only as a percentage of the number of contracts carried out (Respondent SPP4, 2023)

**Whether using quotas truly has a positive impact was also contested.** Starting the discussion, respondent SPP3 remarked that “there is a huge debate about whether quotas make sense at all” (Respondent SPP3, 2023). Respondent SPP3 claimed that quotas could have a positive effect, but more so in terms of forcing public procurers to think about indicators other than price. In spite of this, Respondent SPP3 held the overall view that **quotas alone would not convince public procurers to implement public procurements that genuinely have a positive impact on society**. As the respondent suggested, this is because it is quite easy for public procurers to “check off” the use of social aspects. Using examples to demonstrate, the respondent went on to say that even just the request for the construction diary to be printed double-sided can be defined as a green clause. Therefore, a public procurer can check that off as a green public procurement, even though that only saves you a couple of notebooks. The respondent said that

..it is just the same with social public procurement. It is not tied to real impact. We can set a criterion: if a company pledges to employ a disabled person, they will be given a bonus



of 0.001%. Well, since it is a small bonus, nobody applied. However, we can already claim that procurement as social (Respondent SPP3, 2023)

### **Perceptions of the current Slovak legal framework on social public procurement**

We asked the respondents their views on the current Slovak legal framework on social public procurement. **Four respondents viewed the law defining social public procurement as insufficient.** Respondent SPP2 stated that **the legal framework is inadequate, as no single coherent material could be relied upon and would be binding on all contracting authorities.** The legal framework needs to be more direct in identifying social aspects with a real impact. Respondent SPP4 held similar opinions, voicing that “..the legal definition of the social aspects is insufficient. It is vague and undefined. **It does not impose any enforceable obligation on the contracting authority because it is left purely to interpretation, arbitrariness and methodological action,** which is not universally binding and is therefore essentially unreviewable by us” (Respondent SPP4).

During the interview with Public Procurement Office, it was agreed that **the law is indeed vague and insufficient in some ways.** However, the Public Procurement Office raised that creating the legal framework was also a political issue. Some rules resulted from a compromise, as both political and legitimate objectives of social public procurement had to be balanced (Public Procurement Office, c.f. Bulla and Kahancova, 2022).

On the other hand, Respondent SPP3 showed **agreement with the current legal framework.** They explained that any attempt at defining social aspects must fail because life is infinite and the definition will always be finite. There are too many positive impacts possible. Therefore, **the law can only attempt to create a general definition that is somehow all-encompassing.** Creating a more specific framework could unintentionally leave some good policies out. The Public Procurement Office shared a similar perspective, arguing that while it understands that some public procurers want detailed rules, **it would never be possible for the law to cover all existing social aspects.** A balance has to be achieved by making the standard clear enough but not too restrictive.

The Public Procurement Office also claimed that **different regions may need to tackle different social issues.** For a region with high unemployment, the goal may be to employ marginalized communities. However, setting different social goals could be more suitable for a region that does not have a problem with unemployment. That is also one of the reasons why

the law has to be somehow all-encompassing. Respondent SPP3 highlighted the same issue – different regions need to tackle different social challenges.

### **3.3.2 Operational capacity of the examined Slovak public procurers**

This subchapter explores findings regarding the next intervening variable titled “operational capacity”. We were interested in the main challenges of implementing social public procurement as viewed by Slovak public procurers. We also explored whether Slovak public procurers have monitoring mechanisms in place to monitor whether social clauses are being fulfilled.

The main findings on the operational capacity of the examined Slovak public procurers can be viewed in Table 10.

**Table 10. Operational capacity of the examined Slovak public procurers**

<b>Area</b>	<b>Focus of investigation</b>	<b>Main findings</b>
Main challenges of implementing social public procurement in Slovakia	Perceptions of Slovak public procurers regarding the main challenges they face when implementing social public procurement	Resistance among some colleagues to apply social clauses on public procurement
		Monitoring the fulfillment of social clauses often omitted by the gestors in charge
		Inadequate monitoring mechanisms of contractor compliance with social clauses in contracts
		Problem with monitoring social public procurement also caused by the General Data Protection Regulation
Monitoring contractors' compliance with social clauses	Current mechanisms in place for monitoring of contractors' compliance with social clauses	Monitoring contractors' compliance with social clauses is problematic
		Monitoring mechanisms mentioned were the use of transparent accounts for suppliers and paying the contractor only after they prove that they have no overdue obligations to subcontractors

		Capacity shortages related to monitoring – a need to employ a civil servant whose responsibility would be solely monitoring contractors' compliance with social clauses
		The law on social public procurement should be more specific about how to monitor contractors' compliance with social clauses

Source: Author

### **Main challenges of implementing social public procurement in Slovakia**

Several challenges connected to social public procurement have been brought up, with only **Respondent SPP1 and Respondent SPP6 identifying none.**

Respondent SPP7 and Respondent SPP3 mentioned **issues with co-workers working on public procurement.** Respondent SPP7 argued that there is some **reluctance to go the extra mile on the part of those who prepare the expert materials for public procurement.** The lack of communication with the procurement department in the preparation of these documents, in particular with the officer who will carry out the procurement process, is also often present. Respondent SPP3 noted that they often encounter **resistance to applying social clauses on public procurement from their gestor colleagues.** The colleagues often try to convince them to keep the public procurement processes simple and quick, without applying any social or green clauses. The respondent said they often have to convince colleagues to go for social public procurement. On the other hand, the respondent **could not recall any example where the contractors would be against applying social clauses.** The respondent went on to say that

..we were often told that the contractors would be opposed to it, or that it will be more expensive, and we have no experience of either. Sometimes it even happens that tenders are won by contractors that are not only the cheapest but also committed to creating some positive environmental or social impact (Respondent SPP3, 2023)

For three respondents, **insufficient monitoring mechanisms on whether contractors fulfill the social clauses present in the contract** were the main challenge. Respondent SPP2

and SPP4 stated that **some of the gestors who are in charge of monitoring the fulfillment of social clauses often omit this responsibility** on their part. In some instances, the respondents found out about this ex-post after the contract was already over.

As Respondent SPP4 highlighted, monitoring some types of social clauses is more easily done than others: “..it is easy to monitor those contracts that are reserved for sheltered workshops, for sheltered workplaces because that status is legal and proving that status throughout the performance of the contract is fundamentally simple” (Respondent SPP4).

**If the social aspect is not based on the performance of a legal obligation, but on the contractor promising to provide something, monitoring is not as easy.** Respondent SPP4 explained:

..if the contractor has to ensure an increase in the employment rate or the participation of disabled people in the implementation of the contract beyond what is required by law, that is to say, outside the protected places that we have in fact created, he has to demonstrate to us that he has implemented exactly some part of the contract through a person with a disability. This is a problem, because in the case of construction work, this is not within the competence of the construction supervisor, nor the so-called technical supervisor of the investor. Nor is it within the legal reach of the procurers. And in the case of goods and services, we cannot, in principle, prove who produced what. So, unless we are talking about sheltered workshops or sheltered workplaces, then yes, there is a problem with monitoring (Respondent SPP4, 2023)

According to Respondent 4, **the problem with monitoring social public procurements is also caused by the General Data Protection Regulation.** The respondent went on to demonstrate, saying that

..the question has arisen whether we can prove it retrospectively or not, because we are bumping into the application of the General Data Protection Regulation. The employment of the long-term unemployed, the promotion of employment and so on, comes up against the handling of personal data. Because we, as a contracting authority, let alone a contracting authority for construction work, we are not entitled to request such data from the Central Office of Labor or from the Social Insurance Agency. They cannot give us a list of such persons for us to submit to our contractor, who would then employ someone” (Respondent 4).

Respondent 4 concluded with saying that

..we have encountered requests for clarification by providing a list of the long-term unemployed from which the candidates could choose from, to ensure that they will fulfill this condition in the contract. Basically, when we applied this condition the first, second, third time, we got these requests for clarification. We dealt with them in some form, and then basically we found that with time, it died down. The candidates stopped making enquiries about the list, they found that it was possible to comply without breaching the General Data Protection Regulation and without us insisting in some way on disclosure of data, names and so on. But then that degree of reviewability is really questionable (Respondent 4, 2023)

### **Monitoring contractors' compliance with social clauses**

Some of the issues with monitoring contractors' compliance with social clauses were already brought up by respondents in the previous subchapter. This subchapter looks more closely at what they had to say about monitoring contractors' compliance with social clauses and the mechanisms they use.

Respondent SPP5 explained that they use transparent accounts for suppliers as a tool to check payments and compliance with fair relations in supply chains. Respondent SPP1 mentioned that the contractor has to prove that they paid their obligations to subcontractors or that they have no overdue obligations to subcontractors, and only then can the contractor get their payment.

Five respondents agreed that **monitoring contractors' compliance with social clauses is problematic**.

Respondent SPP2 argued **the need to employ a civil servant whose responsibility would be solely monitoring contractors' compliance with social clauses**. Respondent SPP3 held a similar view, claiming that there certainly are **capacity shortages when it comes to monitoring**. Respondent SPP3 stated that

..usually, public procurement is a fast-paced process; you get a request, you try to procure it as soon as possible, you throw away the request and let whoever do whatever they want with the contract, that is not your problem. That is a mistake (Respondent SPP3)

Respondent SSP7 also stated that they do not have enough time to monitor whether social clauses are being fulfilled.

Respondent SPP4 claimed that they would **prefer the law on social public procurement to be more specific about how to monitor contractors' compliance with social clauses**. They noted that “if there were statutory regulations of the social aspects as such, they would be easier to monitor, and certainly if the law gives you a set of elements from which you can choose, it is easier for the contracting authorities as well” (Respondent SPP4). They also once again mentioned the **need for the law to address the clash between the monitoring responsibility and the General Data Protection Regulation**.

Respondent SPP3 clarified that monitoring contractors' compliance with social clauses is under the competence of the procurement gestor, stating that “if the contract says that the successful bidder was supposed to employ a student within two weeks or two months, then we are already procuring something else by that time. It is then up to the gestor to check that” (Respondent SPP3). Interestingly, Respondent SPP3 mentioned that their department did an internal survey where they surveyed their gestors on all their social public procurements and asked whether they monitored the fulfillment of the social aspects. Apparently, in two-thirds of the cases, the social aspect was fulfilled. **However, they noted that naturally, the gestors do not always monitor each procurement**. Overall, they concluded that while they do not systematically check whether contractors' compliance with social clauses is being monitored, they do try to do a spot check once a year.

During the interview with the Public Procurement Office, it was asserted that it is important to monitor the implementation of the social clauses in the contract, otherwise, the desired positive effect cannot be achieved. On the other hand, **The Public Procurement Office was aware that the legislation regarding the monitoring of social clauses is insufficient**. It was stated that monitoring of public procurers is also very difficult for the Public Procurement Office, as it is needed to laboriously go through all the contracts in the profile, in the public procurement bulletin, result notices, tender documents, and summary reports (Public Procurement Office, c.f. Bulla and Kahancova, 2022).

### 3.3.3 Reduction of uncertainty and information asymmetry in social public procurement

This subchapter explores findings regarding the last intervening variable titled “reduction of uncertainty and information asymmetry”. We were interested in whether Slovak public procurers are aware of the Slovak Public Procurement Office's efforts to educate public procurers on social public procurement, aiming to reduce their uncertainty and information asymmetry. We were also interested in whether Slovak public procurers get inspired by other public procurers and good practices. Lastly, we aimed to find out whether the National Labor Inspectorate also helps public procurers reduce their uncertainty and information asymmetry.

The main findings on the reduction of uncertainty and information asymmetry in social public procurement can be found in Table 11 below.

**Table 11. Reduction of uncertainty and information asymmetry in social public procurement**

Area	Focus of investigation	Main findings
Reduction of uncertainty and information asymmetry in social public procurement	Procedures in place to reduce the uncertainty and information asymmetry connected to contractors and social public procurement itself	The Slovak Public Procurement Office provides methodological documents and various training courses aimed at the clarification of social public procurement – public procurers are aware of and support such efforts
		Public procurers share good practices of social public procurement with each other
		Public procurers use the official database on entities that have violated the prohibition of illegal employment provided by the National Labor Inspectorate
		The National Labor Inspectorate also gets requests to provide information when the contracting authorities examines whether the wage amount or hourly rate to be paid to the employees corresponds with some

		minimum standards or minimum wage
		The National Labor Inspectorate sees an evident issue with inspecting whether contractors fulfill certain conditions provided by the Public Procurement Act, as the law is vague and no central database is in place

Source: Author

During the interview with the Slovak Public Procurement Office, it was expressed that while the institution still has a lot to work on, it is making progress on educating and motivating public procurers to implement social public procurements that can have a positive societal impact. The Slovak Public Procurement Office **aimed to provide methodological documents and various training courses where good practices get distributed among procurers to help them clarify how to apply social clauses** (Slovak Public Procurement Office, c.f. Bulla and Kahancova, 2022).

During the interviews with public procurers, we were interested in whether they take notice of the educational efforts of the Slovak Public Procurement Office. **All of the respondents answered that they do.** Respondent SPP5 and Respondent SPP6 answered that they **use the educational materials published by the Slovak Public Procurement Office for inspiration on social public procurements.** Respondent SPP7 and Respondent SPP4 stated that they had **attended the training courses provided by the Slovak Public Procurement Office.** Respondent SPP4 explained that they attend these courses because

..the decision-making practice and methodological activity is changing. When we apply the social aspect, we must know that we do so correctly and sufficiently. That also serves as a prevention measure because if we do not apply the social aspect correctly at the time, it will come back to us in the form of some kind of inspection from the Public Procurement Office itself (Respondent SPP4, 2023)



Respondent SPP4 also **brought a different practice of information asymmetry reduction to our attention**, claiming that “if a subcontractor complains to us that the contractor has not paid them, we reserve the right, for example, to modify their reference or to disclose that information, which may have an impact on the contractor's participation in subsequent tenders” (Respondent SPP4). The respondent also mentioned that since the market with public procurers is narrow, **public procurers share good practices of social public procurement with each other.**

Since the National Labor Inspectorate is also seen as a consulting body for public procurers, we were interested in finding out how the institution helps public procurers reduce uncertainty and information asymmetry.

Firstly, we need to clarify the role of the National Labor Inspectorate. Respondent NLI informed us that the National Labor Inspectorate is the body that covers labor inspection as such. Labor inspection is carried out by labor inspectorates. It mainly covers the area of labor relations or supervision of the provisions of the Labor Code, state-employee relations, illegal employment and other areas. The National Labor Inspectorate has nationwide data concerning information on infringements of specific provisions of the Labor Code. One of the conditions of the Public Procurement Act is that the contracting authority must have proof that the entity bidding for a contract fulfills certain conditions, and one of those conditions is some kind of confirmation that the entity has not committed any serious breaches in some area of labor or social law. The National Labor Inspectorate is a suitable addressee for providing such confirmation. Respondent NLI also **confirmed the existence of such requests addressed to the National Labor Inspectorate.**

The National Labor Inspectorate provides **a central publicly accessible list of entities that have violated the prohibition of illegal employment.** This list can be accessed through the National Labor Inspectorate website, which makes it easy for public procurers to check whether the contractor in mind committed such violation. However, Respondent NLI also noted that if the public procurer wishes to verify an entity not on the list, such determination can only be given with an on-site inspection of the contractor. The other instance of the National Labor Inspectorate getting information requests is when **the contracting authority examines whether the wage amount or hourly rate to be paid to the employees corresponds with some minimum standards or minimum wage.**

However, Respondent NLI also mentioned an **evident issue with inspecting whether contractors fulfill certain conditions provided by the Public Procurement Act**. The respondent argued that the law is very vague and that there is no single database that would inform procurers on whether contractors fulfill such conditions. The existence of multiple institutions, each with its own competencies, fines, sanctions and databases, makes it difficult for public procurers to get all the information needed.

Respondent NLI informed us that the National Labor Inspectorate is not really obliged to provide such information either, as it does not have a direct legal obligation to do so. However, they concluded that **the National Labor Inspectorate welcomes providing support for public procurers during the public procurement processes**.

## 4 DISCUSSION

After presenting the findings, the last chapter is going to answer our research question. We review our findings against the existing literature. The two hypotheses we created are going to be supported or refuted.

The main goal of the report was to examine whether social public procurement successfully increases public value. The clear lack of research on social public procurement was one of the reasons why this problem deserved our attention. Social public procurement is a relatively new tool for achieving social benefits and while the European Union clearly promotes its use, it was relatively difficult to find any information on what exactly needs to be done to ensure that social public procurement truly increases public value.

The research question of this paper was “How successful is social public procurement in increasing public value?”. Based on the work of Moore (1995), our analytical framework argued that to successfully create public value, actors have to possess enough operational capacity, legitimacy, support and be able to reduce their uncertainty and information asymmetry.

Our findings indeed show that all of those things are needed to create a positive impact through social public procurement. Therefore, our findings support Moore's (1995) framework on creating public value. Evidence for this can be found in both of the laws concerning social public procurement, in the methodological guideline published by the Slovak Public Procurement Office and also in the interviews with Slovak public procurers. However, our findings go on to expand the knowledge on the framework for creating public value by suggesting that for certain actions to increase public value, the actors involved also have to reduce their uncertainty and information asymmetry.

In 2021, the Slovak Public Procurement Office created a survey where the office employees and public procurers were asked questions related to social public procurement. The survey found that public procurers struggle to implement social public procurement because of their lack of knowledge about social clauses and ways of implementing them in practice. Public procurers also voiced that due to the excessive workload connected to various public procurement processes, they do not have the space for a deeper individual examination of social public procurements (The Slovak Public Procurement Office, 2021).

These findings correlate with the findings gathered through our interviews, as public procurers continue to argue that social clauses in public procurement are vague, undefined and insufficient. Many of the respondents also viewed the legislative framework concerning social public procurement and the mandatory quotas negatively, which can have an impact on their support for social public procurement. The excessive workload was also mentioned in our interviews by several of the respondents. The excessive workload often times prevents public procurers from following all of the procurement procedures as needed.

Most importantly, we find that in the case of social public procurement, actors need to have monitoring mechanisms in place to actually be able to tell whether contractors fulfill their social obligations put down in the contract. Without this, it is not possible to assess whether the social public procurement in question truly increases public value. Monitoring mechanisms are an essential operational resource for increasing public value through social public procurement. In spite of that, as we found out, monitoring mechanisms are not clearly set out in the laws and the methodological guideline and most of the interviewed Slovak public procurers find monitoring contractors' compliance with social clauses problematic.

Taking all of this into consideration, **the results of our analysis support the hypothesis that social public procurement is more likely to increase public value if the examined actors have enough operational capacity, legitimacy and support.**

✓ H1: If the examined actors have enough operational capacity, legitimacy and support, then social public procurement is more likely to increase public value.

The second hypothesis proposed the idea that social public procurement is more likely to successfully increase public value when uncertainty and information asymmetry related to social public procurement decreases.

As our findings showed, all of the examined actors are aware of the importance of reducing uncertainty and information asymmetry related to social public procurement. The Slovak Public Procurement Office provides methodological documents and various training courses aimed at the clarification of social public procurement. The body aims to show public procurers how to apply social aspects to public procurement correctly, so that the procurements they pursue can actually show to have a positive impact on the society. The Slovak Public Procurement Office suggested that public procurers need to look retrospectively on their contracts to identify lessons learned which can help them make better informed decisions in

the future. The main findings from the interview with the National Labor Inspectorate also suggested that public procurers try to reduce their uncertainty and information asymmetry connected to the contractors and their ability to successfully fulfill their social obligations by collaborating with the National Labor Inspectorate. Public procurers do so by working with a publicly accessible list of entities that have violated the prohibition of illegal employment. Some procurers also come to the National Labor Inspectorate to request information on whether the wage amount or hourly rate to be paid to the employees in the contract corresponds with some minimum standards or minimum wage. Last but not least, public procurers share good practices with each other to help clarify how social public procurement can be implemented successfully.

**These results support our second hypothesis which suggested that if uncertainty and information asymmetry related to social public procurement decrease, then social public procurement is more likely to increase public value.**

✓ H2: If uncertainty and information asymmetry related to social public procurement decrease, then social public procurement is more likely to increase public value.

To answer our research question, it is important to say that while the ability of social public procurement to increase public value cannot be easily measured, this paper provides findings that show that when the aim of creating public value is supported by actors' operational capacity, legitimacy, support and reduced information asymmetry and uncertainty, it is more likely that this aim will be successfully achieved. What is more, monitoring mechanisms need to be in place to assess whether social public procurement successfully increases public value.

It is important to mention that the time constraints of some of the respondents could have possibly influenced our results. The generalizability of the results is also limited, due to the fact that our research sample was fairly small. Nonetheless, we believe that the results are valid for the purpose of answering our research question and that they contribute to the image on the overall landscape of social public procurement in Slovakia.

## **5 CONCLUSION**

Over the last years, the European Union has been aiming to promote using public procurement in support of broader social and environmental goals. Despite this, the concept of social public procurement remains an unknown to many. This research aimed to examine whether social public procurement successfully increases public value.

Based on a qualitative analysis of the process of implementing social public procurement, it can be concluded that operational capacity, legitimacy, support and reduction of uncertainty and information asymmetry are important factors to consider when aiming to increase public value through social public procurement. The report confirms the existing theory on generating public value, while also revising it and adding another intervening variable into the mix – reduction of uncertainty and information asymmetry. The results also indicate the importance of following up with monitoring the fulfillment of social clauses. Monitoring mechanisms are needed to truly ensure that social public procurement successfully increases public value.

Considering the limitations of our research, future studies could use a larger sample size of contracting authorities to confirm the generalizability of our findings. Monitoring mechanisms used in social public procurement could also benefit from further exploration, since our research revealed that while important, such mechanisms are problematic and often skipped because of the fast-paced environment of public procurement.

Social public procurement deserves further attention, as it presents a significant tool that can serve as a vehicle for positive changes in our society. This research aimed to study this vehicle and provide findings that can help involved actors understand what is needed to successfully reach the main goal of social public procurement – increasing public value.

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## **Appendix A. Questionnaires used during the interviews with Slovak public procurers and NLI**

### **Slovak public procurers**

#### **1. Informácie o respondentovi**

- 1.1. Organizácia
- 1.2. Ciele/poslanie a/alebo hlavné činnosti organizácie
- 1.3. Pôsobenie/funkcia respondenta v organizácii

#### **2. Vnímanie pojmov a legislatívneho rámca, ktorý upravuje verejné obstarávanie na SR a v EÚ**

- 2.1. Ako vnímate rozhodnutie EÚ zaviesť v rámci členských štátov povinné zohľadňovanie sociálneho hľadiska?
- 2.2. Ako vnímate pojem „sociálne hľadisko“?
- 2.3. Považujete definíciu sociálneho hľadiska, ktorá sa nachádza v zákone o verejnom obstarávaní za dostatočnú?
- 2.4. Ako vnímate zavedenie kvóty 6% pre sociálne hľadiská vo verejnom obstarávaní?
- 2.5. Ako hodnotíte aktuálny legislatívny rámec, ktorý upravuje uplatňovanie sociálneho hľadiska pri verejnom obstarávaní? Kde vidíte jeho výhody a nedostatky?
- 2.6. Ako vnímate snahy ÚVO o vzdelávanie obstarávateľov o postupoch verejného obstarávania s aplikáciou sociálnych aspektov?

#### **3. Uplatňovanie sociálneho hľadiska pri verejnom obstarávaní**

- 3.1. Vedeli by ste povedať niekoľko príkladov VO za posledné 3 roky, pri ktorých ste uplatnili sociálne hľadisko? (podpora zamestnanosti, vzdelávania, MaSP, zlepšenie pracovných podmienok, dostupnosť tovarov, služieb a stavebných prác pre zdravotne znevýhodnených, spravodlivé dodávateľské vzťahy, etické nákupy, vyhradené zákazky..)

- 3.2. Uplatňovali ste už niekedy sociálne hľadisko ešte pred zavedením povinných kvót?
- 3.3. Kde vidíte najväčší potenciál pre uplatňovanie sociálneho hľadiska - pri obstarávaní služieb, tovarov alebo stavebných prác? Zdôvodnite.
- 3.4. Uskutočňuje vaša samospráva pred oznámením o vyhlásení sociálneho verejného obstarávania prípravné trhové konzultácie? Zdôvodnite a popíšte.
- 3.5. V ktorej fáze VO používate uplatňovanie sociálneho hľadiska? Zdôvodnite.

#### **4. Implementácia sociálneho hľadiska pri verejnom obstarávaní**

- 4.1. S akými hlavnými problémami sa stretávate pri snahe o implementovanie sociálneho hľadiska v rámci VO?
- 4.2. Využívate mechanizmy na kontrolu plnenia sociálnych požiadaviek dodávateľmi? Popíšte.
- 4.3. Využívate sankčné mechanizmy v prípade zistenia neplnenia sociálnych požiadaviek dodávateľmi? Popíšte.
- 4.4. Sledujete/snažíte sa pri implementovaní sociálnych verejných obstarávaní inšpirovať príkladmi dobrej praxe zo zahraničia alebo inými verejnými obstarávateľmi?

#### **5. Celkové zhodnotenie uplatňovania sociálneho hľadiska v rámci verejného obstarávania**

- 5.1. Ktorý zo sociálnych aspektov má podľa Vás najväčší prínos pre slovenskú spoločnosť a prečo?
- 5.2. Aké sú hlavné ponaučenia týkajúce sa uplatňovania sociálneho hľadiska v rámci VO, ktoré dosiaľ vďaka zavedeniu povinných kvót vaša organizácia získala?

Ďakujeme vám za spoluprácu!

Upozornenie: Rozhovor slúži výlučne na účely tejto diplomovej práce. S údajmi sa zaobchádza

v súlade s príslušnými nariadeniami GDPR.

Pre ďalšie informácie ma prosím kontaktujte na môj študentský e-mail [brunnerova2@uniba.sk](mailto:brunnerova2@uniba.sk).

## **NLI**

### **Informácie o respondentovi**

1.1. Organizácia

1.2. Pôsobenie/funkcia respondenta v organizácii

1.3. Vedeli by ste v krátkosti zhrnúť, aké sú hlavné kompetencie Národného inšpektorátu práce?

2. Zapája sa NIP do formovania verejného obstarávania?

3. Vedeli by ste v krátkosti zhrnúť, ktorí aktéri verejného obstarávania sa na Vás obracajú?

4. Odkedy sa na Vás začali obracať?

5. Prečo/s akými problémami sa na Vás obracajú? Viete použiť nejaké príklady?

6. V ktorej fáze verejného obstarávania Vás zvyknú kontaktovať?

7. Obracajú sa na Vás jednotlivci, aby sa uistili, či dodávateľ služby, ktorý zamestnáva zamestnancov:

- ich zamestnáva legálne a platí za nich odvody?

- dodržiava bezpečnosť a ochranu zdravia pri práci?

- dodržiava zavedené kolektívne zmluvy?

- dodržiava vyplácanie zamestnancov načas?

8. Ako vy vnímate koncept sociálne zodpovedného verejného obstarávania? Zvyšuje podľa Vás verejnú hodnotu?

## **Appendix B. Questionnaire used during the interview with the Slovak Public Procurement Office**

### **Legislatíva vo verejnom obstarávaní**

1. Akú úlohu zohrával Úrad pre verejné obstarávanie pri príprave slovenskej právnej úpravy sociálnych hľadísk vo verejnom obstarávaní?
2. Aká bola genéza vzniku tejto právnej úpravy? (inšpiráciami zahraničnými úpravami, diskusie so stakeholdermi, analýzy, iné..)
3. Ako vznikala definícia pojmu sociálne hľadisko?
4. Akým spôsobom zákonodarca dospel ku kvóte „6%“ (resp. v súčasnosti 6% zdieľaných s environmentálnym hľadiskom a 6% osobitne pre štát ako verejného obstarávateľa)?
5. Ako hodnotíte hlavné zmeny v legislatíve od roku 2018, resp. od platnosti Zákona č. 343/2015 Z. z. o verejnom obstarávaní a o zmene a doplnení niektorých zákonov (ďalej aj len ako „ZVO“) a Zákona č. 112/2018 Z. z. o sociálnej ekonomike a sociálnych podnikoch a o zmene a doplnení niektorých zákonov (ďalej aj len ako „ZSESP“)?
6. Kde vidíte výhody a nedostatky aktuálnej právnej úpravy z pohľadu uplatňovania sociálneho hľadiska pri verejnom obstarávaní?
7. Ako hodnotíte vplyv Európskej legislatívy na národnú legislatívu v oblasti verejného obstarávania?

### **Uplatňovanie sociálneho hľadiska vo verejnom obstarávaní**

1. Legislatíva zaviedla definíciu sociálneho hľadiska vo verejnom obstarávaní. Považujete túto definíciu za dostatočnú?
2. Ako vykladáte formuláciu „aspekt (...), ktorý môže viesť k (...) dôstojným, spravodlivým a uspokojivým pracovným podmienkam nad rámec zákonom vyžadovanej povinnosti ich zabezpečenia“?
3. Ako hodnotíte vypustenie písmen g) a h) z § 32 ods. 1 ZVO (a presun týchto podmienok do § 40 ods. 8 ako písm. b) a c), kde majú podobu tzv. fakultatívnych dôvodov vylúčenia

uchádzača alebo záujemcu)? Nie je z pohľadu uplatňovania sociálneho hľadiska vo VO efektívnejšie stanoviť niektoré požiadavky ako podmienky účasti?

4. Ste spokojní s rozsahom uplatňovania sociálneho hľadiska vo verejnom obstarávaní?

5. Ako sa dodržiava sociálne hľadisko od roku 2018, kedy bolo ukotvené v legislatíve? Viete menovať konkrétne príklady o (ne)dodržiavaní?

6. V ktorej z oblastí (kritériá na vyhodnotenie ponúk, osobitné podmienky plnenia zmluvy a pod.) môže byť uplatnenie sociálneho hľadiska najefektívnejšie?

### **Verejné obstarávanie a kolektívne vyjednávanie**

1. Ako by ste ďalej definíciu sociálneho hľadiska konkretizovali, resp. prepojili s funkciami kolektívneho vyjednávania?

2. Možno podľa Vášho názoru požiadavku na dodržanie existujúcej kolektívnej zmluvy alebo požiadavku zahájiť rokovania o kolektívnej zmluve v zmysle platnej právnej úpravy považovať za požiadavku, ktorá napĺňa definičné znaky sociálneho hľadiska vo VO?

3. Pri tvorbe legislatívy došlo k interakcii ÚVO so sociálnymi partnermi? V akom kontexte a v akých otázkach?

4. Aké konkrétne kroky podnikli odbory pri tvorbe resp. pripomienkovaní legislatívy? Boli požiadavky odborov zohľadnené v legislatíve?

5. Myslíte si, že verejné obstarávanie s kritériom sociálneho hľadiska má potenciál posilniť kolektívne vyjednávanie (napr. tým že bude požadovať dodržiavanie štandardov z kolektívnych zmlúv aj pre účastníkov resp. víťaza verejného obstarávania)?

6. V akých odvetviach vidíte potenciál posilnenia kolektívneho vyjednávania prostredníctvom verejného obstarávania (zohľadnením ustanovení z kol. Zmlúv aj pri výbere víťaza verejného obstarávania a monitorovanie ich dodržiavania)?

7. Okrem odborov aké ďalšie typy organizácií považujete za relevantné pri implementácii



sociálneho hľadiska vo verejnom obstarávaní? Ktoré z týchto organizácií podporujú svojou činnosťou prepojenie verejného obstarávania s kolektívnym vyjednávaním?

8. Aký má podľa Vás vplyv lepšie prepojenie verejného obstarávania a kolektívneho vyjednávania na (a) samotný inštitút kolektívneho vyjednávania, (b) na sociálne partnerstvo, a (c) na pracovné podmienky vzniknuté z verejného obstarávania?

Ďakujeme za spoluprácu!

Výsledky štúdie budú použité výlučne pre projekt financovaný UNI Europa a European Trade Unions Institute so sídlom v Bruseli. V prípade záujmu ponúkame možnosť zorganizovať seminár s prezentáciou výsledkov po dokončení štúdie, cca. v zimných mesiacoch 2022 – 2023.

## Appendix C. Informed consent form

### INFORMOVANÝ SÚHLAS

Ďakujeme vám za váš súhlas s účasťou na rozhovore, ktorý je súčasťou zberu dát v rámci diplomovej práce s názvom „Uplatňovanie sociálneho hľadiska pri verejnom obstarávaní“. Študentka pracujúca so získanými údajmi je viazaná mlčanlivosťou o Vašich odpovediach. Budete požiadaný o súhlas s nahrávaním rozhovoru. Pomôže to zabezpečiť, aby bol každý rozhovor správne prepísaný. Ak si neželáte, aby bol rozhovor nahrávaný, oznámte to, prosím, študentke, ktorá rozhovor vedie. Vaša účasť na tomto rozhovore je dobrovoľná, a hoci dúfame, že budete ochotní odpovedať na všetky naše otázky, môžete vynechať akékoľvek otázky, na ktoré nechcete odpovedať. Rozhovor môžete tiež kedykoľvek prerušiť tak, že o tom študentku budete informovať.

1. Bol(a) som informovaný(á), že moja účasť na pohovore je dobrovoľná.

ÁNO  NIE

2. Bol(a) som informovaný(á), že moje odpovede nebudú bez môjho výslovného súhlasu zdieľané

ani prepojené s mojou organizáciou.

ÁNO  NIE

3. Poskytujem svoj súhlas s tým, že počas rozhovoru budú moje odpovede nahrávané.

ÁNO  NIE

4. Poskytujem svoj súhlas s tým, že moje odpovede bez osobných identifikátorov budú uchovávané pre ďalší licencovaný výskum v archíve, ktorý spĺňa kritériá pre trvalú archiváciu kvalitatívnych výskumných údajov.

ÁNO  NIE

V prípade, že sa tento rozhovor uskutoční na diaľku, prosím naskenujte a pošlite tento informovaný súhlas na adresu [brunnerova2@uniba.sk](mailto:brunnerova2@uniba.sk) pred uskutočnením rozhovoru. Ďakujeme.

## **Appendix D. Cover letter sent to potential respondents**

Dobrý deň pán/pani ...

Som študentkou 2. ročníka magisterského študijného odboru Verejná politika na Fakulte sociálnych a ekonomických vied Univerzity Komenského a obraciam sa na Vás s prosbou o poskytnutie rozhovoru k mojej diplomovej práci s názvom „Uplatňovanie sociálneho hľadiska pri verejnom obstarávaní“.

Moja diplomová práca sa snaží zodpovedať najmä otázku, či sociálne verejné obstarávanie zvyšuje verejnú hodnotu ale taktiež otázku, ako sa darí uplatňovať sociálne hľadisko verejným obstarávateľom na Slovensku. V rámci rozhovorov ma zaujíma najmä vnímanie legislatívneho rámca, ktorý upravuje verejné obstarávanie na SR a v EÚ a uplatňovanie a implementácia sociálneho hľadiska pri VO z pohľadu ...

Tento rozhovor by mal trvať maximálne hodinu a konal by sa online cez platformu Zoom, prípadne MS Teams.

Vedeli by ste si na mňa niekedy v najbližších týždňoch nájsť hodinku času? Prispôbim sa Vášmu termínu.

V prílohe Vám posiadam vypracovaný dotazník s otázkami, ktoré budú použité v rozhovore a informovaný súhlas, ktorý by som Vás v prípade súhlasu s rozhovorom poprosila podpísať, oskenovať a zaslať mi na túto e-mailovú adresu.

Ďakujem,

Simona Brunnerová

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