

Chancellor's Year in Review 2021/2022

Social state

Often people do not know their social rights: for whom and for what purpose are subsistence benefit and unemployment allowance intended; what assistance is available for the disabled from a local authority; [what role do parents play in ensuring their minor children's ability to cope](#); whose task it is to ensure health insurance for people; who should pay and how much for an elderly person's care home place, etc. As a result, people also do not understand social policy choices nor are they able to have a say on these issues during elections. It is easier to just assert that benefits are too small and the state should spend more on social protection than at present.

Due to insufficient knowledge, it may happen that someone in need or their next of kin are unable to stand up for themselves and protect their rights. It is also clear that when applying for assistance people avoid disputes with the assistance provider in fear of being deprived of assistance. This, in turn, creates a possibility for abuse of discretion and arbitrary decisions by officials.

The situation could be improved if the state were to engage more in enhancing awareness, supervise the work of officials more effectively, and if the attitude that errors must be corrected and work not done must be done immediately, kindly and competently were to become self-evident. People must also be ensured all simple and affordable possibilities for contesting decisions and, where necessary, for mutual conciliation of the person in need of assistance and the assistance provider.

Petitions sent to the Chancellor reveal, inter alia, a deep disappointment and distrust towards the Estonian state. It is difficult to reproach someone for such feelings if they have learned that years ago they would already have been entitled to a special pension from the state but the money they were deprived of would not be paid retrospectively and the existing pension would also not be increased by the corresponding amount. For this reason, initiatives that broaden [people's knowledge about the system of paying pensions](#) are welcome. Yet, this alone is not sufficient to understand the Estonian social security system and have a say in its development. Social cohesion presumes that everyone in Estonia knows what benefits and services they can obtain from the state (or local authority) in case of need, where the money

for this comes from and what the person themselves has to do in order to cope.

In quite a few cases, the Chancellor can successfully resolve a person's concern without much bureaucracy and without a formal proposal. For instance, the Chancellor was asked why, in granting a need-based study allowance, the income of a sister or brother who is married and created their own family is taken into account as the family's income. The Chancellor's advisers and specialists from the Ministry of Education and Research reached a joint conclusion that the income of a married sister or brother should not be taken into account when granting a need-based study allowance.

Since the Riigikogu was simultaneously dealing with a Draft Act amending the Study Allowances and Study Loans Act, the Ministry submitted the relevant proposal to the parliament and the law was amended.

Unfortunately, there have also been cases where nothing was done, even despite promises. Pärnu City Government social welfare department assessed the need for assistance of a family with two disabled children and decided to go and assist the family only when almost a year had passed from applying (see the [Chancellor's opinion](#)).

The Social Insurance Board deserves praise for the attitude that swift communication between officials is sufficient to resolve a problem. In one instance, the Chancellor was contacted by a pensioner from whom the Social Insurance Board had wanted to recover the pension paid to him for a period spent in prison. However, the precept issued by the Social Insurance Board was defective. References to laws were incorrect, some references and explanations were missing, and it was possible to interpret the decision so that extra pension should be paid to the person but not the pension unjustifiably paid to be recovered.

The Chancellor's advisers explained to the Social Insurance Board the errors contained in the Board's precept. The Social Insurance Board promised to send the person a new corrected precept and, based on the person's application, also reduce the monthly sum withheld from the pension.

Also worth acknowledging is that the Social Insurance Board of its own initiative changed the administrative practice for recovery of parental benefit once the Chancellor's adviser had drawn attention to the fact that administrative acts for recovery of parental benefit did not comply with the conditions laid down by the Family Benefits Act and the General Part of the Social Code Act.

The Chancellor also recommended that the Estonian Health Insurance Fund and the Estonian Unemployment Insurance Fund should change their administrative practice. The first recommendation concerned [suspension of health insurance cover](#) and the second [recalculation of the work ability allowance](#).

Reduction of assistance

A petition sent to the Chancellor revealed that a person's health insurance may be discontinued before they have an opportunity to comply with their tax obligation. This may happen if in any one month the tax obligation is not paid and the deadline for submission of the next social tax return falls on a holiday. This means that a person may be deprived of health insurance due to an incidental circumstance beyond their control.

This problem may be encountered by members of the management or controlling bodies of legal persons, payers of tax on business income, as well as people receiving remuneration or service fees paid on the basis of a contract for services. Insurance cover for these people depends on whether social tax paid or declared for them in any one calendar month amounts to at least the minimum social tax obligation. Under the Health Insurance Act, if the minimum social tax obligation has not been complied with for two consecutive months that person's insurance cover is suspended.

The [Chancellor found](#) that it is difficult to find any justification compatible with the spirit of the Health Insurance Act for the situation described in the petition. On that basis, the Chancellor recommended that the Estonian Health Insurance Fund should either change its administrative practice or propose that the Ministry of Social Affairs amend the Health Insurance Act.

The Chancellor was also asked about deadlines for recalculating the amount of the work ability allowance. A person's work ability allowance is reduced if their monthly income exceeds the amount laid down by law. However, if a person's monthly income is higher because they received holiday pay before going on holiday and thus the wages paid to them

next month are lower than normal, the amount of work ability allowance is recalculated and the Estonian Unemployment Insurance Fund pays the balance to the person retrospectively. The law does not lay down a deadline for recalculation.

The Estonian Unemployment Insurance Fund notified a person that recalculation will take up to one-and-a-half months. The Unemployment Insurance Fund justified this by relying on the deadline by which they receive information about a person's income from the Tax and Customs Board. When resolving the petition, it was found that the Unemployment Insurance Fund asks for this information only once a month from the Tax and Customs Board.

The Chancellor [asked](#) the Estonian Unemployment Insurance Fund to make arrangements so that income data are requested at intervals enabling them to recalculate and pay work ability allowance within a shorter time-limit than at present.

The Estonian Unemployment Insurance Fund promised to review the process of recalculating the work ability allowance together with the Tax and Customs Board and arrange the process so that all applications will be resolved promptly and within a reasonable time.

The Chancellor was also asked to verify whether Tapa Rural Municipal Council was entitled to annul the regulation of 28 September 2017 based on which targeted grants were paid to students residing in the rural municipality. The petition asserted that students entering a higher educational institution in autumn 2021 had already reckoned with the possibility of receiving the grant.

Under the 2017 regulation, students were entitled to a grant of a thousand euros from the rural municipality if complying with the conditions set out in the regulation. In line with the conditions, a person had to be a resident of Tapa rural municipality according to the population register data, they had to have acquired at least basic education at a school in Tapa rural municipality, be enrolled in full-time study at a higher educational institution, and have collected at least 75 per cent of credit points under the approved curriculum.

The Chancellor [found](#) that since not much time remained to the end of the semester and there may have been students about whom it was possible to state with certainty on 30 December 2021 that they would collect 75 per cent of credit points by the end of the semester, then it could not be ruled out that some students had fulfilled all the conditions for applying for the grant by that time.

The purpose of paying the grant was to reward residents of Tapa rural municipality who had

enrolled in higher education so as to encourage them to tie their life to the municipality in the future as well. At the same time, the municipal regulation did not contain provisions that would have contributed to achieving that aim. It was also revealed that in actuality that aim had not been achieved by paying the grant.

In the process of approving the Tapa rural municipality budget for 2022 it had become clear that the municipality lacked money to cover various expenses and make urgent investments. Thus, the longer the regulation that did not fulfil its purpose remained in force, the more taxpayers' money the municipality was spending inconsistently while leaving other municipal tasks unfunded.

Some months before annulling the regulation on grants, municipal council elections had taken place. In line with the principle of democracy, a municipal council may also change legal relationships when circumstances change. On that basis, ending the payment of grants was in the public interest and also outweighed the expectation of students who had fulfilled the conditions for the grant and were also expecting to receive the grant in 2021.

Welfare

The Chancellor was asked whether, in granting subsistence benefit, a local authority was entitled to take into account assets withdrawn from the mandatory funded pension fund which the person had used to repay loans. Under the Social Welfare Act in force before 1 July 2022, a person's debts (except student loans) were not included in their expenses for the purposes of granting subsistence benefit, and a person's accumulated savings (e.g. disbursement from the second pension pillar) and loan money at their disposal (except student loans) were also deemed to be available means of subsistence.

The Chancellor [explained](#) that, under the Constitution, the state is not responsible for repaying loans taken out by an individual nor does it indirectly have to pay their debts when granting subsistence benefit. The Riigikogu is empowered to decide to what extent and how the state provides assistance to the deprived. This social policy choice depends on the state's economic situation (Supreme Court judgment No 520-1/15, para. 20). However, this does not mean that the state could not be more generous and also take a person's loans into consideration when assisting a deprived person, or leave untouched their savings collected for retirement or for their funeral.

The Riigikogu [amended the law](#) and, as of 1 July 2022, in granting subsistence benefit,

repayments for a loan taken out for buying housing may also be taken into account (to a limited extent) as a housing expense.

The Chancellor was contacted by a person who had applied for subsistence assistance from Tallinn city. Nõmme city district administration had asked the person's permission to visit their home, which had left the person with the impression that in case of refusal they would be deprived of benefit. However, Nõmme social welfare department justified the need for a home visit to the Chancellor's adviser by the argument that the applicant for subsistence assistance might actually not live in Tallinn. At the same time, in granting support by the city it is not relevant whether a person in need lives in Nõmme or, for example, in Mustamäe city district.

The Chancellor [did not consider](#) the justification by the city district administration to be adequate. A home visit must be substantively justified, the applicant's last three months' income and expenditure are assessed when adopting a decision. However, a home visit cannot be excluded, and it may be carried out to verify assertions by the applicant. For instance, if in applying for compensation of the price of medication a person has explained that a large amount withdrawn from their bank account was spent on repairing a fireplace, or the like, it may prove to be necessary to verify on-site whether the person's claims are true.

The Chancellor was contacted by a wheelchair user who complained that he had not received sufficient assistance from the rural municipality government to ease access to their apartment. Communication with the rural municipality government revealed that at first the person had wanted a lift inside the house but this could not be installed in the stairway. The person declined an outdoor lift for various reasons and, instead, preferred a stair crawler.

The Chancellor [found](#) that it is one of the local authority's duties to help ascertain how a person could actually be helped. Where necessary, a local authority should ask for assistance from an expert who is able to assess the person's need for assistance and suggest specific solutions. The person should also be able to test whether the suggested aid device is suitable for them. The rural municipality government promised to provide all-round support until the person has been able to obtain a suitable device enabling access to their apartment.

The Chancellor also dealt with a worry of a family with a disabled child. The local authority assessed the family's need for assistance when almost a year had passed from the moment of applying. Then, the city granted a carer's allowance to the disabled child's family but no decisions were made about applied supportive services.

The Chancellor [explained](#) that a person in need must be contacted as soon as reasonably possible if the situation so requires. After assessing the need for assistance, the local authority must decide whether and what assistance a person needs and to what extent and under what conditions it will be provided. A local authority may not limit itself only to carrying out assessment. A decision on provision of assistance must be made within ten working days.