



## **Kela's electronic service and applying for social assistance online**

### **COMPLAINTS**

The complainant criticised the electronic service of the Social Insurance institution of Finland (Kela) in their complaints to the Chancellor of Justice on 17 June 2020 and 30 June 2020. When using the e-services, the social assistance application form for submitting information and applications cannot be opened if a decision has already been made on the application date to wait for some other measure from the applicant. When the period of validity of the decision is several months and the opening of the application form is conditional on the submission of a bank account statement in which the applicant does not have an account with their identifiers and passwords, the applicant cannot receive the social assistance they are entitled to and have already been granted, the applicant cannot report any changes in circumstances or submit new applications.

According to the complainant, Kela's online service was also made such that persons with disabilities or illnesses could not apply for and receive the statutory benefits they are entitled to. A time limit has been set for writing on the e-service form, after which the application text is lost. When writing is slow and difficult due to a disability or illness, the application cannot be submitted as it was completed. Instead, Kela destroys the application already during the registration stage without the applicant being given the opportunity to receive and even apply for the statutory benefits due to them.

## REPORT

Kela provided a report on the matter on 8 October 2020. The report shall be submitted to the complainant as an appendix to this decision.

## DECISION

### 1. Applicable legal rules

Under section 6, subsection 1 of the Constitution, everyone is equal before the law. According to section 19, subsection 1 of the Act, all those who cannot obtain the means necessary for a life of dignity have the right to receive indispensable subsistence and care.

Under section 1 of the Administrative Procedure Act (434/2003), the purpose of the Act is to implement and promote good governance and legal protection in administrative matters. The purpose of the Act is also to promote the quality and performance of administrative services.

Section 7 of the Administrative Procedure Act (368/2014) contains provisions on the service principle and the appropriateness of the service. Efforts must be made to ensure that customers of the administration receive appropriate administrative services and that the authority can perform its duties successfully. Under section 8, subsection 1 of the Act, an authority shall, within its competence, provide its customers, as necessary, with advice on attending to an administrative matter and answer questions and queries concerning the use of its services.

Under section 1 of the Non-Discrimination Act (1325/2014), the purpose of the Act is to promote equality, prevent discrimination and improve the legal protection of those who have been discriminated against. Under section 15, subsection 1 of the Act, the authorities shall make appropriate and necessary reasonable adjustments to enable persons with disabilities to deal with the authorities on an equal basis with others.

According to Chapter 1, section 1(1) of the Act on the Provision of Digital Services (306/2019), the purpose of the Act is to promote the availability, quality, information security and accessibility of content of digital services and thus to improve everyone's equal opportunities to use digital services. Under subsection 2 of the section, the Act implements Directive (EU) 2016/2102 of the European Parliament and of the Council on the accessibility of the websites and mobile applications of public sector bodies, the so called *Accessibility Directive*.

According to Chapter 1, section 2, paragraph 4 of the aforementioned Act, *accessibility* means the principles and techniques that must be complied with in the planning, development, mainte-

nance and updating of digital services in order to make them more accessible to users, especially persons with disabilities. Under chapter 2, section 4, subsection 1 of the Act, an authority shall plan and maintain its digital services in a way that ensures their information security, data protection, findability and ease of use. In addition, authorities must ensure the compatibility of their digital services with commonly used software and data connections.

According to Chapter 2, section 5, subsection 1 of the aforementioned Act, an authority shall provide everyone with the opportunity to send electronic messages and documents relating to their need for services by using digital services or other electronic means of data transfer. Under subsection 2 of the section, an authority shall clearly inform in its digital services how everyone can handle his or her affairs electronically with the authority. In the digital service, the authority must publish a contact information, which gives everyone the opportunity to receive advice on how to use the authority's digital service.

Under chapter 3, section 7, subsection 1 of the above-mentioned Act, the service provider shall ensure the noticeability and intelligibility of the contents of its digital services as well as the manageability and reliability of the user interfaces and navigation in accordance with the accessibility requirements.

According to the government proposal on the Act on the Provision of Digital Services (government proposal 60/2018 vp, p. 6, 46), accessibility is part of the realisation of equality. As public services are becoming more digital, it is important that their digital services are of high quality, secure and easily accessible. The purpose of the Act is to ensure that digital services are available to every customer in the administrative branch, but their use is left to the customer's own discretion. Customers of public administration can also choose another available form of communication, which the authorities must continue to offer on an equal basis also in the future.

According to the government proposal 60/2018 vp, p. 64, section 4(1) of the proposed act would also require that the ease of use of digital services be ensured. Accessibility is related to the technical functionality of the digital service and the intelligibility and usability of the content as well as the logic and ease of using the digital service. Ensuring usability concerns the functionalities of those participating in the service and the logic of the service from the user's needs. In the Act, ease of use of the service would mean taking into account the usability requirements related to the use of digital services. The usability of digital services refers to functionalities that help the service user use the service for the desired purpose, for example to meet a specific service needs. A digital service should be easy to learn, its use should be efficient for its user, the service functions should comply with commonly used functions in different kinds of other services, and the service should identify and provide feedback on any errors made by the service user in the service. Navigation solutions that facilitate browsing on websites in the digital service should be clear and visible to service users.

The government proposal 60/2018 vp, p. 69 further states that section 5(2) of the Act would lay down an obligation for the authorities to publish in a digital service contact information that provides everyone with advice on how to use the authority's digital service. The contact information could be, for example, email address, telephone number, online form or chat service. The purpose of the proposed provision is to ensure that all authorities have organised sufficient support for the use of digital services and that it is actively offered to public administration customers. Contact information on digital support is necessary because there are many public administration customers who need support in using digital services. The purpose of the provision is, for its part, to promote the opportunities of different groups of public administration customers to deal with the authorities also by using digital services.

According to the detailed rationale for section 7 of the government proposal 60/2018 vp, p. 71-72), the section would lay down provisions on the general accessibility requirements for digital services. This section would implement Article 4 of the Accessibility Directive. The provision would list the basic accessibility requirements, which are the noticeability and understandability of the contents of digital services as well as the manageability and reliability of user interfaces and navigation. Manageability means that the components and navigation of the user interface must be manageable. In practice, this means that the use of a website or mobile application must be possible using a keyboard only, or the time limit for an event session in a service used via a website or mobile application must be long enough to allow users of various aids to go through the content of the website or mobile application, for example.

## 2. Assessment

According to a report received from Kela, if a positive or negative decision on basic social assistance already exists for the same period of time the client wishes to send an online application for basic social assistance, Kela's e-services will be directed to fill in the change notification. The submission of the bank statement has not been set as a condition for opening the online application. A new application or a change notification can be opened for completion regardless of the messages or attachment requests that Kela has otherwise sent to the customer, if the previous application has been processed by Kela. An online application for basic social assistance has not been made purposefully to prevent people with illnesses or disabilities from fulfilling it, nor does Kela purposefully destroy the client's applications during the filling process. However, there is a 30-minute time cut in the application applications, which will be described at the beginning of the application. If the customer has long reports on one or several issues to report, the customer should enter them with a word processing program and attach them to the application so that the 30 minute time limit/application page is not exceeded. Filling in the application can also be interrupted by pressing the Save draft button and continuing it later within a month.

Kela has also stated in its report that if filling in an online application is not possible for some reason, it is always possible for the client to send a message to Kela via the e-services and find out about the matter in it. The client is usually contacted by Kela if the processing of the matter so requires. Basic social assistance can also be applied for using a traditional paper form. According to Kela, all online applications will be subject to the changes required by the Accessibility Directive, which will make their appearance clearer to meet the accessibility requirements, which will hopefully also make it easier for people with different illnesses and disabilities to access the services online.

The complaint at hand concerns, in particular, the application for social assistance in Kela's e-services. The complainant has presented features related to the use and filling out of forms in the e-services which, according to the complainant, may make it more difficult, especially for persons with disabilities and ill health, to use e-services.

I would like to point out that the legislative history of the Act on the provision of digital services (government proposal 60/2018 vp) emphasises the accessibility of digital public sector services as part of the realisation of constitutional equality. The accessibility of digital services also promotes the implementation of the guarantees of good governance laid down in the Constitution, which includes everyone's right to receive appropriate services and advice from the authorities. With the help of accessible digital services, it is possible to significantly promote the realisation of the right to self-determination, especially of persons belonging to special groups, and to improve their operating conditions in dealings with authorities. According to the drafting history of the Act, accessibility is related to the technical functionality of digital services and the understandability of content, and usability is related to the logic and ease of use of digital services.

In my opinion, when assessing the accessibility, functionality and usability of Kela's electronic services and the electronic application procedure for social assistance, special attention should be paid to the fact that social assistance is last-resort financial assistance within social welfare, the purpose of which is to secure the livelihood of a person and family and to promote independent coping. Under section 19, subsection 1 of the Constitution, everyone who cannot obtain the means necessary for a life of dignity has the right to receive indispensable subsistence and care. The provision guarantees every person within the jurisdiction of Finland a subjective right to a level of income and services that ensure a minimum level of decent living. In relation to the above, I consider that Kela has a particularly pronounced obligation and responsibility in the implementation of digital services and e-services related to this form of support to ensure the accessibility and usability of services, taking into account the challenges, capabilities and needs of different customer groups.

As an example of accessibility, the drafting history of the Act on the Provision of Digital Services (Government proposal 68/2018 vp) noted, among other things, that the time limit for the event

session in a service used through a website or a mobile application should be long enough so that users of various aids, for example, can go through the content of the website or mobile application. According to a report from the Social Insurance institution, filling in an application for social assistance online involves a 30-minute time cut by page, after which the content of the Article will be lost. Although Kela says that information about the time cut was provided at the beginning of the application, I consider the time limit too short and the related complete loss of the information recorded in the application unreasonable for the user. What is particularly problematic is that the characteristics of the system may in practice also cause difficulties and delays in applying for and receiving social assistance. According to the guidance provided by Kela in its report, it would be advisable for those using the online service to first write their text on a separate document using a word processing program and then attach the document to the application in case of a time cut. Considering that ensuring the functionality and usability of an electronic service is the responsibility of the authority providing the service, I do not consider it appropriate that users of the system are required to take measures to correct the technical shortcomings of the system.

In its report, Kela has also referred to the user's possibility to suspend the filling of the application temporarily, save the text as a draft and return to it within one month. Considering the above considerations, I consider that a longer storage period than one month would better meet the requirements of the accessibility legislation.

Considering the difficulties and shortcomings related to filling in the e-services and social assistance applications mentioned above, I consider it necessary that the basic social assistance application is also available and accessible on paper, as Kela has stated in its report.

Finally, I wish to point out that section 5 of the Act on the Provision of Digital Services imposes on service providers the obligation to publish in a digital service a contact information that gives everyone the opportunity to receive advice on how to use the authority's digital service. Kela has stated in its report that it is always possible for a customer using the online service to send a message to Kela via the e-services, and the customer is usually contacted by Kela if the processing of the matter so requires. In my view, the customer's contacts are therefore not always responded to. However, the purpose of the provision was to ensure that all authorities have organised sufficient support for the use of digital services and that it is actively offered to public administration customers. In my view, a procedure where a person using the e-services receives advice on how to use the service only in a situation where this is necessary from Kela's perspective does not fulfil the requirements of the accessibility legislation and the service and counselling principles of good governance.

### 3. Measures

I would like to draw Kela's attention to compliance with the provisions of the Administrative Procedure Act and the Act on the Provision of Digital Services in the implementation of their e-services.

By 30 September 2021 at the latest, I kindly ask Kela to report on the measures it has taken on the basis of this decision to improve the accessibility of its services.

This document has been signed electronically.

Chancellor of Justice

Tuomas Pöysti

Referendary Counsellor

Tuula Karjalainen