Work and Health



Vilen Künnapu. House in the Desert. Acrylic on canvas. 2025 (fragment of the work)

The Chancellor is quite often asked what a dissatisfied patient should do if they have been unable to resolve a dispute with a health centre or hospital, that is, with a health care provider.

This may partly be due to the Compulsory Liability Insurance of Health Care Providers Act, which entered into force on 1 November 2024 and introduced what is known as patient insurance. The implementation of the new Act has also raised questions among health care professionals and health care institutions, particularly about the funding of the system.

The expert committee on the quality of health services, which previously dealt with patients' complaints, stopped accepting applications on 31 October 2024. As a result, it is not entirely clear to patients where they should turn with matters falling outside the scope of patient insurance. There is also concern that there is no effective way to resolve disagreements out of court. Nor is it clear when and to what extent the Health Board supervises the quality of health services.

People’s dissatisfaction is not always connected with a possible medical error, but may instead arise from disagreements between a doctor and a patient. People may hope that the Chancellor can resolve such disagreements, but unfortunately the Chancellor has no such authority.

Most complaints of this kind arise because the doctor has not listened to or understood the person seeking help. Clearly, preventing medical errors is of paramount importance, but it is equally important that health care professionals treat patients and their family members as equal partners. (For more information, see the article published on the Chancellor’s website, “The Quality of Communication Between Health Care Professionals and Patients as a Safeguard of Patient Safety”.)

Health Care

Compulsory Liability Insurance

The Chancellor was asked to assess whether it is lawful that the insurance premium for the compulsory liability insurance of health care providers is not proportionate to the health care professional’s salary and the level of risk involved in their work. The applicant explained that the Estonian Health Insurance Fund partially reimburses compulsory insurance premiums to its contractual partners, while health care providers that are not contractual partners of the Fund do not have this option.

According to the Chancellor’s explanation, there are no grounds for considering the provisions of the Compulsory Liability Insurance of Health Care Providers Act unconstitutional. The requirement to enter into a liability insurance contract is intended to avoid court disputes involving health care providers, which can be costly and take a long time to resolve. The Riigikogu is entitled to make policy choices about how insurance should be organised, for example whether through a state fund or private companies.

Although it may seem unfair that the Estonian Health Insurance Fund reimburses insurance premiums only to its contractual partners, this arrangement is nevertheless justified. The purpose of the Estonian Health Insurance Fund is not to finance all health care providers. The Fund organises health services for people covered by health insurance and, for this purpose, enters into the necessary contracts with health care providers.

The Chancellor explained that the Compulsory Liability Insurance of Health Care Providers Act has been in force for only a relatively short time and it is not yet clear how it will affect market participants and the availability of services. The Riigikogu has provided that, by 1 January 2029 at the latest, the Ministry of Social Affairs must carry out an ex-post evaluation of the impact and effectiveness of the compulsory liability insurance system and, if necessary, propose amendments to the relevant provisions (§ 27^1 of the Act).

Clear Rules on Restraining Patients

Based on letters received from health care professionals and observations made during the Chancellor's inspection visits, in 2023 the Chancellor drew the attention of the Ministry of Social Affairs to the need to improve the rules on restraining patients. The law regulated the restraint of patients receiving psychiatric care, but there was no clear legal basis or uniform requirements for situations in which a doctor or nurse in another field had to restrain a patient in order to ensure the safety of the patient or others while medical care was being provided. The need to restrain a patient may arise both for an emergency medical care team and for medical specialists.

The Chancellor emphasised that such an intensive restriction of fundamental rights must be based on clear provisions of law protecting the rights of both the patient and hospital staff.

In spring 2026, the Riigikogu adopted amendments to the Health Services Organisation Act. The Act laid down rules governing how and under what conditions health care professionals may use means of restraint.

Restraint is permitted during the provision of emergency care, emergency medical care, specialised in-patient care and in-patient nursing only where a patient without decision-making capacity poses an immediate threat to their own or another person's life or health and less restrictive measures have proved insufficient. The Act permits physical restraint, restraint by means of medicinal products and mechanical restraint; lays down the procedure for deciding on their use and the requirements for constant supervision and documentation; and requires restraint to be proportionate to the danger, to last for as short a time as possible and not to interrupt the patient's treatment.

The legislative amendment resolved the problem raised by the Chancellor: it established clear grounds for the use of restraint, strengthened the protection of patients' rights and provided health care professionals with legal certainty.

Exclusion from a Family Physician's Practice List

The Chancellor also dealt with a complaint from a patient who had been excluded from a family physician's practice list without being notified.

A person who no longer lives in Estonia and is not covered by health insurance must generally be excluded from a family physician's practice list. Where possible, the person should be notified, for example by email using an address known to the Estonian Health Insurance Fund. If the Fund does not have the person's contact details, the decision may, as an exception, be published in the official publication *Ametlikud Teadaanded*. The law also allows the decision to be published in *Ametlikud Teadaanded* if more than one hundred people are to be excluded from family physicians' practice lists at the same time.

A situation in which the Estonian Health Insurance Fund uses publication of the decision in *Ametlikud Teadaanded* as the first and only means of notifying a person is not consistent with the principles of good administration. A notice published in this way may not reach the person who is being excluded from the practice list.

The Chancellor recommended that the Estonian Health Insurance Fund change its arrangements for delivering decisions on exclusion from a family physician's practice list where the Fund has the person's contact details. The Estonian Health Insurance Fund informed the Chancellor that it would change its administrative practice.

Employment Relations

In the field of employment relations, the reporting year could be called the year of leave, as most of the questions put to the Chancellor concerned different types of leave and the conditions for taking them. The Chancellor was also asked to assess the working time arrangements of a minor employee.

Length of Annual Holiday for an Assistant Teacher

One person who contacted the Chancellor considered that assistant teachers in kindergartens are treated unjustifiably differently from teachers because teachers are entitled to longer annual holiday than assistant teachers, even though assistant teachers largely perform similar work.

The Chancellor explained to the applicant that the state is entitled to prescribe annual holidays of different lengths for teachers and assistant teachers, for example because they may have different needs for recovery from work or for reasons related to motivating employees. Such different treatment does not violate the requirement of equal treatment laid down in the Constitution. Under the law, the content and responsibilities of a teacher's work are not the same as those of an assistant teacher. Different qualification requirements also apply to these positions.

Taking Child Leave

The Chancellor was also asked about benefit for child leave. A person explained that the Social Insurance Board had granted them benefit for child leave for only ten days, even though they were the child's sole parent with parental legal custody. The person described their situation as being similar to that of families where the population register contains no information about the child's other parent or where the other parent has died. The applicant asked the Chancellor to assess whether the Board was applying the law correctly.

The Chancellor found that the Social Insurance Board was applying the law correctly. Section 63(2) of the Employment Contracts Act allows the other parent's child leave to be transferred to the parent wishing to take the leave only if the other parent is deceased or the population register contains no data concerning that parent. The requirement of equal treatment is not violated if 20 days of child leave are not granted to parents who have agreed between themselves that only one parent is to have parental legal custody of the child.

Accrual of Annual Holiday During Parental Leave

The Gender Equality and Equal Treatment Commissioner asked the Chancellor to assess the constitutionality of § 68(2) of the Employment Contracts Act. Under this provision, in addition to time worked, the time serving as the basis for the right to annual holiday includes time of temporary incapacity for work, time of holiday (except for parental leave and holiday without

pay granted by agreement of the parties), time when the employee has the right under the law to refuse to work in the case specified in § 19(3) of the Employment Contracts Act, and other time agreed upon between the parties.

The Chancellor found that § 68(2) of the Employment Contracts Act, insofar as it excludes time spent on parental leave from the time serving as the basis for the right to annual holiday, is not contrary to the general fundamental right to equality laid down in § 12(1) of the Constitution. Annual holiday releases a person from their obligation to work for their employer, but not from family and other private-life responsibilities. Paid annual holiday is intended to provide rest from work performed for the employer.

Rights of a Replacement Employee

A person who contacted the Chancellor considered that the rights of an employee hired as a replacement are not sufficiently protected by law because the law does not specify how far in advance the replacement employee must be informed that the temporarily absent employee is returning to work. In addition, the law does not give a replacement employee whose employment ends the same rights as an employee who is laid off, such as advance notice and compensation paid by the employer upon lay-off.

The Chancellor explained to the applicant that, although the different position of a replacement employee — generally an employee working under a fixed-term employment contract — compared with that of an employee working under an employment contract for an unspecified term may cause frustration, the Chancellor has no grounds for requiring the Riigikogu to grant replacement employees the same rights as employees working under employment contracts for an unspecified term.

Replacing an employee who is on parental leave under a fixed-term employment contract is an exception to an ordinary employment relationship. This difference must be taken into account when accepting work as a replacement employee.

Rules Governing the Employment of Young People

The Chancellor was also asked about changes to the rules governing the employment of young people, more specifically an amendment defining the compulsory education obligation for the purposes of the Employment Contracts Act.

In the Chancellor’s assessment, an abstract review of constitutionality does not provide grounds for concluding that the requirements imposed by the Employment Contracts Act on the working time of minors are clearly contrary to the Constitution. The Constitution does not prescribe how many hours young people of different ages should be allowed to work on a school day, on a day off or during school holidays, or how many consecutive hours of rest they should have.

The working time limits do not require any young person to work the maximum number of hours permitted. It may generally be assumed that a young person, together with their parents, will choose work and working conditions that do not harm their health, well-being or development or interfere with their education. A young person cannot work without the prior consent of their legal representative — a parent or guardian — or the representative’s subsequent approval.

The Chancellor noted that the requirements concerning the working time of minors arising from Article 7 of the Revised European Social Charter are not sufficiently specific to provide grounds for considering the amendments to the Estonian Employment Contracts Act contrary to the Charter.

Compliance with the Social Charter is assessed by the European Committee of Social Rights, which examines, based on reports submitted by states, whether they are fulfilling their obligations under the Charter. Estonia is required to report on compliance with Article 7 of the Social Charter in 2026. The European Committee of Social Rights will therefore assess Estonia’s compliance with Article 7 in the coming years.