

# Requirement of Comprehensibility in Finnish Social Law

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## ABSTRACT

I denna artikel utforskas den avgörande rollen som begriplighet har i finsk socialrätt och särskilt betonas betydelsen av begriplighet för att säkerställa transparens, tillgänglighet och effektivt utövande av rättigheter. Begriplighet undersöks som ett kvalitetskrav för all information och kommunikation som tillhandahålls klienter inom välfärdstjänster. I artikeln behandlas två huvudfrågor: 1) vilka funktioner fyller begriplighetskraven i rättssystemet, och 2) vilka formella krav ingår i begriplighet i den finländska socialrätten?

Två primära funktioner för begriplighetskrav identifieras i lagstiftningen: att stödja offentlighet och transparens, och att främja självbestämmande och autonomi. Begriplighet säkerställer att information är tillgänglig för allmänheten, främjar förtroende för förvaltningen och gör det möjligt för individer att fatta välgrundade beslut om sina angelägenheter. I artikeln visas att det rättsliga kravet på begriplighet gradvis blir strängare och mer individualiserat, i takt med att olika kommunikationssituationer undersöks på ett kontinuum från allmän kommunikation till att ge individuellt samtycke.

Begriplighet kan också ses som en förutsättning för ett effektivt genomförande av rätten att delta, rätten till information och rätten till självbestämmande. Det betonas att myndigheter måste säkerställa att information som tillhandahålls allmänheten är tydlig, tillgänglig och begriplig. Tydlig kommunikation främjar transparens, stöder individuell autonomi och säkerställer att rättigheter utövas effektivt.

## 1. Introduction

The requirement to present things in a comprehensible manner is repeated frequently in our legal system, but usually without further specification. If the recipient of the message is not known, from whose point of view should the content be understandable? When an authority is required to give the information in a comprehensible manner, how can one be sure that one has fulfilled one's obligations? The easy answer is, that this will be determined based on the individual facts of each individual case. However, the right to information is a *prerequisite* for access to other rights – to knowing one's rights, applying for services and benefits, making agreements, giving consent, participating in social activities, and influencing decision-making concerning oneself.<sup>1</sup> Therefore, the intelligibility of the information received cannot be determined only in retrospect.

The requirement of comprehensibility in Finnish social law is not merely a technical or linguistic concern, but a deeply embedded legal and philosophical principle that intersects with human rights, administrative law, and the broader goals of social justice. The article delves into the various roles of comprehensibility requirements especially from the perspectives of transparency, autonomy, and self-determination. This research addresses two main questions: 1) what functions do comprehensibility requirements serve in the legal system, and 2) what formal requirements does comprehensibility include in Finnish social law? The analysis is based on legal sources, with a strong emphasis on the views of human rights monitors. As comprehension is primarily a psychological and linguistic phenomenon, research knowledge in these fields is utilized in defining the core concepts in chapter 2.1.

The article first delves into the linguistic aspects of comprehension, underscoring the need for legislation to present information clearly and accessibly, and to facilitate public understanding of legal texts and the rights they secure. As a socio-linguistic concept, the core components of comprehension are readability, understandability, accessibility, and access.<sup>2</sup> The latter two are essential in a socio-legal context: an indivi-

1 McDonagh, M., The Right to Information in International Human Rights Law, *Human Rights Law Review*, Vol. 13, Nr 1, pp. 26–28, 2013.

2 Heikkinen, V. Ymmärrettävyytutkimuksen kysymyksiä, *Kielikuvia*, Nr. 2, 2012.

dual can fully comprehend information only when given access to the creation, distribution, use, and interpretation of texts as part of a social community. Until then, the receiver remains in a subordinate position compared to the sender in terms of understanding. This can be described as *comprehension asymmetry*, which draws attention to the inequality caused by barriers to access and understanding.<sup>3</sup>

Two primary functions of comprehensibility requirements are identified in legislation: supporting publicity and transparency, and promoting self-determination and autonomy. Comprehensibility ensures that information is accessible to the public, fostering trust in administration and enabling individuals to make informed decisions about their affairs. The article also discusses the distinction between liberal and relational autonomy, and how comprehensibility promotes different variants of autonomy in different contexts.<sup>4</sup>

The choice of language and linguistic rights in the sense of the right to use one's first language with the authorities is not covered in this article. The focus is on the cognitive dimension of linguistic accessibility and the general requirements of comprehension that can be applied into any language. Also, the various practical solutions and methods developed to examine comprehension and promote comprehensibility are excluded from the scope of this article. Recent research has covered these solutions from the viewpoints of e.g. legal design and AI<sup>5</sup>, using comics as contracts<sup>6</sup>, layering complex information,<sup>7</sup> cognitive accessibility assessment

- 3 Wagner, W. & Walker, W., *Incomprehensible! A Study of How Our Legal System Encourages Incomprehensibility, Why It Matters, and What We Can Do About It*. Cambridge University Press, 2019 p. 15.
- 4 Koivisto, I., *Ohjattua vapautta? Itsemääräämisoikeus hallinnan välineenä*. *Lakimies*, Vol. 116 Nr. 6, pp. 630–632, 2018; Moilanen, M., *Sosiaalihuollon asiakkaan suostumuksen väärinkäytöstä*, *Lakimies*, Vol. 121 Nr. 6, pp. 924–927, 2023.
- 5 Toivonen N., Ketola A. & Haapio H., *Transforming Norms: Legal Design, Plain Language and AI for Personalized Law*, *Journal of Ethics and Legal Technologies*, Vol. 7, Nr. 1, pp. 159–181, 2025.
- 6 de Rooy, R., Kallioma-Puha, L. & Pitkäsalo, E., *Access to justice through projecting success in Comic Contracts*, *The Clarity Journal*, Vol. 89, pp. 47–53, 2024.
- 7 Waller, R., Passera, S. & Haapio, Helena, *Layered Contracts: Both Legally Functional and Human-Friendly*. In Jacob, K., Schindler, D., Strathausen, R., Waltl, B. (Eds) *Liquid Legal – Humanization and the Law*, Springer 2022.

of online service websites<sup>8</sup>, and plain language as a way to promote health literacy<sup>9</sup>. In legal literature, the concept of comprehensibility has raised interest mainly in the US and UK, from the viewpoints of informed consent<sup>10</sup>, Access to Law and plain legal language<sup>11</sup>. In Finland, comprehensibility is continuously referred to but seldom thoroughly analyzed, even when the scope of the research is heavily relying on the concept.<sup>12</sup> This article aims to fill the research gap especially in Finnish administrative and social law by presenting a systematic analysis of the concept and its normative implications.

## 2. Comprehensibility as a linguistic and legal concept

### 2.1 *Linguistic comprehension and comprehensibility*

In a general linguistic sense, there is a clear distinction between the concepts of *comprehension* and *comprehensibility*. According to Snow and her group, comprehension consist of three elements: 1) the person who is doing the comprehending, 2) the text (written, verbal or visual) that is to be comprehended, and 3) the activity in which comprehension is a part. All these occur within a sociocultural context that shapes and is shaped by the reader and that interacts with each of the three elements.<sup>13</sup>

- 8 Hyppönen, A., “Hyvä saavutettavuus hyödyttää kaikkia” – Kognitiivisen saavutettavuusarvioinnin käytänteitä, *VAKKI Publications*, Vol. 14, Nr. 1, pp. 43–59, 2022.
- 9 Maryke P., Maddocks, S., Tang, C. & Camp, P. G., Simplicity: Using the Power of Plain Language to Encourage Patient-Centered Communication, *Physical Therapy*, Vol. 104, Nr. 1, 2024.
- 10 Millum, J., & Bromwich, D., Informed Consent: What Must Be Disclosed and What Must Be Understood? *The American Journal of Bioethics*, Vol. 21, Nr. 5, pp. 46–58, 2021.
- 11 Doherty, M., Comprehensibility as a Rule of Law Requirement: The Role of Legal Design in Delivering Access to Law, *Journal of Open Access to Law* Vol. 8, Special Issue on “Visual Law”, 2020; Wagner & Walker 2019.
- 12 See, for example Voutilainen, T. & Galkin, D., Käyttäjän tiedollisten oikeuksien suhde tietoverkossa tarjottavan palvelun käyttöehtoihin, *Edilex* 2017; Turunen, M., Itsemääräämisoikeuden rajat ja rajoittaminen täysi-ikäisen potilaan somaattisessa hoidossa, *Lapin yliopisto* 2025.
- 13 Snow, C., Reading for Understanding: Toward an R&D Program in Reading Comprehension, RAND Corporation, 2002, pp. 11–12.

Comprehension is thereby human (inter)action, whereas comprehensibility is a property of texts.

Comprehension refers to the processing of everyday knowledge derived from experience. Linguistic comprehension is the product of two related skills: decoding, the ability to recognize individual words, and language comprehension, the process of interpreting words and connected discourse.<sup>14</sup> According to Winch, the concept of understanding is based on the distinction between *knowing*, *interpreting* and *explaining*. In everyday life, understanding means perceiving the meaning of a certain message or action, i.e. interpretation. If there is a deficiency in the interpretation – reflecting one’s own prior knowledge – then explanation is also needed. In this case, understanding is simultaneously the goal of explanation and the result of a successful explanation.<sup>15</sup>

Heikkinen has defined four language properties as the basic concepts of comprehensibility research as follows:

1. *Readability*: lengths of words, sentences, paragraphs, reading rhythm.
2. *Understandability*: meanings and complexity of the text; functions, text genre, reader’s prior knowledge, style; metatextuality (text’s references to itself), intertextuality (references to other texts and text genres).
3. *Accessibility*: the text can be found and opened; the reader understands who the text is intended for; the message is accessible despite functional limitations (enlarged, interpreted, heard, felt).
4. *Access*: participation; influencing what kinds of texts are made and who makes them; making and distributing texts; influencing the linguistic and other choices of texts; using texts; interpreting texts in a way that gains acceptance in the community.<sup>16</sup>

Heikkinen’s view of access as the highest form of comprehensibility is adapted also in this article. Participating in the making of texts is the only

14 Smith, R., Snow, P., Serry, T. & Hammond, L., *The Role of Background Knowledge in Reading Comprehension: A Critical Review*, *Reading Psychology*, p. 2, 2021.

15 Winch, P., *The Idea of a Social Science: And its Relation to Philosophy*. 2<sup>nd</sup> ed. Routledge, 1990, p. X, 115.

16 Heikkinen 2012.

way of guaranteeing the same understanding of their meaning between different parties. Information that is merely *given* to an individual is easily misunderstood and therefore should not affect the core area of any fundamental rights.<sup>17</sup>

Due to the differences in people's skills, abilities and prior knowledge, the availability of information does not guarantee accessing it. The information must be found, retrieved, perceived and comprehended, after which one needs to build up a picture of the available options and compare the advantages and disadvantages of each. Information is not readily available without effort; there are *costs* required to find and use information and these costs are different for different people.<sup>18</sup> Wagner and Walker refer to *processing costs*, meaning the costs needed to make reasonable sense of information so that it can be used: time, energy and self-education. Incomprehensibility occurs when the costs of processing information are greater than the perceived benefits of investing in the processing.<sup>19</sup> People who are less able to access information or who possess less prior information at the outset are in a disadvantaged position, which leads to deepening *comprehension asymmetry*. Asymmetry occurs when the sender of the message has a greater ability to understand or process information as compared to the audience, but the information is not provided in a way that a reasonable or median member of the audience would understand.<sup>20</sup> This causes incomprehension in individual communication situations, but comprehension asymmetry also has more severe consequences in the legal system and social context. As Wagner and Walker have observed, "Indeed, in extreme cases, if the imperative of comprehensibility is ignored, legal interventions initially intended to correct market failures or social inequities can actually make problems worse."<sup>21</sup>

Different kinds of barriers that complicate or deny access to information which have been identified in cognitive psychology. Depending on

17 See also Government Bill of the Act on the Provision of Digital Services, HE 60/2018 vp, p. 72.

18 Baxter et al. 2008, p. 198.

19 Wagner & Walker, 2019, pp. 15–16.

20 Wagner & Walker 2019, p. 15.

21 Wagner & Walker 2019, p. 4.

their form, these barriers can make it difficult for a recipient with or without disabilities to access and fully comprehend the content of a text. According to Rink, communication barriers include

- the *sensory barrier*: successful reception via the required sensory channel is not possible
- the *expert knowledge barrier*: lack of expert knowledge referred to in the text
- the *expert language barrier*: unfamiliar special terminology in the text
- the *cultural barrier*: cultural knowledge is not sufficient
- the *cognitive barrier*: complexity of a message exceeds the processing capacity of the recipient
- the *language barrier*: the language of the message is not the recipient's first language
- the *media barrier*: the media is not compatible with the recipient's special needs and ways of using language.<sup>22</sup>

Legislation on *information accessibility* aims to lower these barriers e.g. by the means of accessibility standards and the use of plain language, but there are limits to comprehensive language design. Paradoxically, there is empirical evidence that enhancing comprehensibility may lead to qualitatively poorer comprehension performance for recipients with a high level of prior knowledge, while it facilitates comprehension for recipients with little prior knowledge. Thus, the problem of optimizing comprehensibility should not only be tackled in the text, but also with the reader, since comprehension is an interactive process.<sup>23</sup>

This article focuses on comprehensibility requirements in social law, which refer to texts that are communicated by authorities and targeted to either general public or a specific client. The complex legal system produces ambiguity in legal texts, and the obscurity of legislation often

22 Rink, I., Communication barriers, in Maaß, C. & Rink, I. (Eds.), *Handbook of Accessible Communication*, Frank & Timme, 2024, pp. 34–36.

23 Christmann, U. & Groeben, N., Comprehensibility: the psychological perspective, in Maaß, C. & Rink, I. (Eds.), *Handbook of Accessible Communication*, Frank & Timme, 2024, pp. 133.

transfers into administrative decisions and client communication, since administrative language is largely built upon legislation. Surveys by the Finnish Language Centre to state and municipal authorities show that even authorities find texts from other authorities difficult to understand, especially when the subject matter of the texts does not correspond to their own field.<sup>24</sup> Lötscher has noted that the general characteristics of comprehensible texts may be in conflict with each other in legal context, where unambiguity is a central requirement. The simultaneous fulfilment of clearness, simplicity, and precision may turn out to be impossible, and precision is usually prioritized due to legal safety. Lötscher suggests that in these situations, focusing on transparency (i.e. the visual, structural and terminological order of the text) might solve the conflict, because a well-ordered text seems clear even when the content is complicated.<sup>25</sup>

## 2.2 *Comprehensibility as prerequisite for access to information and other fundamental rights*

*Access to information* is a fundamental right related to freedom of expression, which can be viewed both as an independent communication right and as an instrumental means to the realization of other rights.<sup>26</sup> International human rights treaty bodies have recognized the right to information on the enjoyment of such rights as: the right to respect for private life, the right to a fair trial, the right to life, social and economic rights, and the right to take part in public affairs.<sup>27</sup> Information is needed for making decisions, which, from the individual's viewpoint, means exercising the right to *self-determination*. According to Koivisto,

24 Viertiö, A., Kunnissa kaivataan aikaa tekstintekoon, Kielikello Nr. 1, 2014.

25 Lötscher, A., Conceptual and textual structure in legislative texts. In Wagner, A. & Cacciaguidi-Fahy, S. (Eds.) *Obscurity and Clarity in the Law. Prospects and Challenges*, Aldershot, 2008, pp. 129–130, 136.

26 Ala-Fossi, M., Alén-Savikko, A., Hilden, J., Horowitz, M., Jääsaari, J., Karppinen, K., Lehtisaari, K. & Nieminen, H., Operationalising communication rights: the case of a “digital welfare state”, *Internet Policy Review*, Vol. 8, Nr. 1, p. 4, 2019.

27 McDonagh 2013, pp. 26–28.

self-determination can also be understood as a “meta-right” that is a conceptual prerequisite for other rights.<sup>28</sup>

Self-determination can be broadly defined as the right of an individual to determine their actions. The term *autonomy* refers to the individual’s ability to determine one’s own affairs, while self-determination refers to a legitimate claim to be able to determine one’s own affairs.<sup>29</sup> The right to self-determination is one element, though not explicitly stated, in the personal freedom guaranteed in Section 7 of the Constitution of Finland (731/1999), which is a general fundamental right that guarantees both physical and mental freedom. It is also closely linked to the protection of private life (Section 10), which includes the right to decide on oneself and one’s body.<sup>30</sup>

In the context of social rights, the right to sufficient and timely information can be regarded as a *procedural right* that acts as a prerequisite for accessing substantive rights.<sup>31</sup> The starting point of social welfare legislation is that the client makes *informed choices* about what services to seek and what services to receive. The client cannot participate in the planning of their services or the handling of their case, or give their consent to measures, unless they have sufficient information about the different options and their effects.<sup>32</sup> Kotkas has presented procedural rights as a problematic way of assigning responsibilities upon vulnerable individuals as part of promoting *active citizenship*.<sup>33</sup>

28 Koivisto 2018, p. 632.

29 Mäki-Petäjä-Leinonen, A., *Autonomia relaatioissa – ikääntyvien ihmisten kokemuk-  
sia autonomiansa toteutumisesta*. In Tiensuu, P., Aalto-Heinilä, M. & Mäki-Petäjä-  
Leinonen, A. (Eds.), *Itsemääräämisoikeus: teoriasta käytäntöön*, Vastapaino 2023.

30 See Government Bill of the Constitution of Finland, HE 309/1993 vp, pp. 42, 46,  
52–53.

31 Alexander, L., *Are Procedural Rights Derivative Substantive Rights? Law and  
Philosophy*, Vol. 17, Nr. 1, p. 19, 1997. Alexander argues that procedural rights are  
“rights against risks”, which can be regarded as components of substantive rights with  
no independent status.

32 Baxter, K., Glendinning, C. & Clarke, S., *Making informed choices in social care:  
the importance of accessible information*, *Health and Social Care in the Community*,  
Vol. 16, Nr. 2, p. 198, 2008.

33 Kotkas, T., *Terveysten ja sosiaalisen turvallisuuden hallinnointi 2000-luvun Suomessa  
– menettelylliset oikeudet ja aktiivinen kansalaisuus*, *Lakimies*, Vol. 107, Nr. 2,  
pp. 222, 2009.

Koivisto has approached the same dilemma by dividing the concept of self-determination into a liberal and a social variant, which are based on different conceptions of citizenship but are interconnected in many ways. A liberal variant of the right to self-determination, as well as *liberal autonomy*, can be approached as the absence of interference by public authority: a person is free to determine oneself and one's actions, and the restriction of this freedom must have a basis provided for by law. Moilanen has argued that in Finnish social law, the liberal concept of autonomy is reflected in the general principles medical law and elder care, which emphasize active citizenship and rational decision-making by the individual.<sup>34</sup> The starting point of the social variant is more collective than in the liberal concept of autonomy and self-determination. It can be understood as the pursuit of so-called positive freedom and equality of opportunity, which aims for social integration and inclusion. The law is not blind to peoples' differences, as the liberal principle implies. Although everyone is equal before the law, some people need to be separately supported in order to achieve that equality.<sup>35</sup> The similar notion of *relational autonomy* emphasizes the importance of others in supporting the individual's ability to exercise self-determination.<sup>36</sup> This is linked to the possibility of *supported decision-making*, in which a support person is included in the decision-making process of a person with impaired decision-making capacity.<sup>37</sup>

34 Moilanen 2023, p. 924.

35 Koivisto 2018, pp. 630–632.

36 On relational autonomy, see, for example, Mackenzie, C. & Stoljar, N., 'Introduction: Autonomy Refigured', in Mackenzie C. & Stoljar, N. (Eds), *Relational Autonomy: Feminist Perspectives on Autonomy, Agency, and the Social Self*, Oxford University Press, 2000, p. 4; Harding, R., *Duties to Care: Dementia, Relationality and Law*, Cambridge University Press, 2017, pp. 21–26.

37 The right to supported decision-making is included in the UN Convention on the Rights of Persons with Disabilities, Article 12(3). For theoretical premises, see e.g. Bach, M. & Kerzner, L., A new paradigm for protecting autonomy and the right to legal capacity, *Law Commission of Ontario*, 2010, p. 6 and for research, see Davidson, G. et al., *Supported Decision Making: A Review of the International Literature*, *International Journal of Law and Psychiatry* 38(1), pp. 61–67, 2015. See also Mäki-Petäjä-Leinonen 2018, p. 9.

The principle of *informed consent* is considered the core principle of bioethics<sup>38</sup> and it can be seen as most clearly representing the right to information and comprehension as an independent human and fundamental right in social law. In the process of informed consent, a patient receives and understands information about a medical procedure, treatment, or clinical trial, including its risks, benefits, and alternatives before deciding to participate. The most precise legal definition of the principle of consent is in Article 5 of the Council of Europe Convention on Biomedicine (the Oviedo Convention), specifying that the conditions for valid consent are: 1) *competence* for giving consent, 2) *voluntariness* without coercion or pressure, 3) *access* to sufficient information) and 4) *understanding* the information in order to be able to consider the decision. Furthermore, consent must be given before any action is taken and must be able to be withdrawn at any time.<sup>39</sup> It must also be noted that Article 10 of Convention protects the patient's *right not to know*, meaning that the patient's possible wish not to be informed must be observed.<sup>40</sup>

Article 8 of the European Convention on Human Rights (ECHR), the right to respect for private and family life, covers the right to autonomy and self-determination, and the related requirement of understanding. Article 5(2) of ECHR requires that the grounds for deprivation of liberty be communicated in a language which is intelligible to the person concerned. This obligation has been interpreted in the case law of the European Court of Human Rights to mean *non-technical language*. The information may be given either in writing or orally.<sup>41</sup>

The European Social Charter protects the right to information in numerous ways, especially as a workers' right (Article 21). Regarding other groups, article 15(3) of the charter guarantees disabled persons

38 Villiger, D., Informed Consent Under Ignorance, *The American Journal of Bioethics*, Vol. 25, Nr. 7, p. 126, 2024.

39 European Treaty Series – No. 164, Explanatory Report to the Convention for the protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine: Convention on Human Rights and Biomedicine (Oviedo, 4.IV.1997), see paragraphs 34–38.

40 ETS no 164, paragraph 40. The need to seek consent still holds, even though the patient does not want to be informed.

41 ECtHR case *Fox, Campbell and Hartley v. the United Kingdom* (30.8.1990).

“full social integration and participation in the life of the community in particular through measures, including technical aids, aiming to overcome barriers to communication”. In addition, Article 23 requires states parties to enable elderly persons to remain full members of society for as long as possible, by means of adequate resources and “provision of information about services and facilities available for elderly persons and their opportunities to make use of them” (Article 23(1b)). The information must be provided in a form that is effectively accessible and understandable to them.<sup>42</sup> According to the European Committee of Social Rights (ECSR), information must be provided about the different service options, their scope and the costs incurred by the client.<sup>43</sup> The ECSR has stated to Finland that there should be a national legal framework related to *assisted decision making* for the elderly, pointing out that elderly persons cannot be assumed to be incapable of making their own decision just because they have a particular medical condition or disability, or lack legal capacity. The Committee considers that “elderly persons may need assistance to express their will and preferences, therefore all possible ways of communicating, including words, pictures and signs, should be used before concluding that they cannot make the particular decision on their own.”<sup>44</sup>

The UN Committee on Economic, Social and Cultural Rights has developed a doctrine called the *AAAQ framework* for the interpretation of Article 12 (right to health) of the International Covenant on Economic, Social and Cultural Rights. The AAAQ framework provides a tool for assessing the implementation of rights, which obliges states parties to ensure the availability, accessibility, acceptability and quality of health services on an equal basis. The aspect of *accessibility* is further divided into four basic requirements, which are equal treatment, safe physical accessibility, financial accessibility or affordability, and *information accessibility* or sufficient access to information about services.<sup>45</sup> Eight years later, the

42 Mikkola, M., *Social Human Rights of Europe*. Karelactio, 2010, p. 545.

43 ESCR, Conclusions 2003, p. 93; Mikkola 2010, p. 545.

44 ESCR, Conclusions 2013.

45 CESCR (2000), General Comment No. 14: The right to the highest attainable standard of health (article 12 of the International Covenant on Economic, Social and Cultural Rights). United Nations Committee on Economic, Social and Cultural Rights. E/C.12/2000/4, 11 August 2000, see paragraph 12.

Committee gave a general comment 19 on Article 9 of the Convention, on the right to social security. In regards of accessibility of social security, the Committee sees that beneficiaries of social security schemes must be able to participate in the administration of the social security system. The system should ensure the right of individuals and organizations to seek, receive and impart information on all social security entitlements in a clear and transparent manner.<sup>46</sup> Also in article 9(1) of the UN Convention on the Rights of Persons with Disabilities (CRPD), the right to information and communications is secured as an essential dimension of general accessibility requirements.

The right to support in exercising legal capacity is protected under Article 12(3) in the CRPD, aiming to empower persons with disabilities to make decisions with the support of trusted allies, rather than having decisions made for them by guardians or authorities. The CRPD reflects a paradigm shift towards a *social model* of disability, which understands barriers in society as disabling.<sup>47</sup> According to the Committee on the Rights of Persons with Disabilities, Article 9 of the CRPD requires the identification and elimination of barriers, such as lack of accessibility to information and communication, which may hinder the realization of legal capacity for some persons with disabilities. The purpose of the safeguards for supported decision-making in Article 12 is primarily to ensure the respect of the person's rights, will and preferences including the right to take risks and make mistakes.<sup>48</sup> In 2024, only 13 EU member states had established supported decision-making systems by law.<sup>49</sup> Since 2025, Finland is the 14<sup>th</sup> member state implementing legal rights instead of informal programmes in this matter.<sup>50</sup>

46 CESCR (2008), General comment no. 191: The right to social security (art. 9). United Nations Committee on Economic, Social and Cultural Rights. E/C.12/GC/19, 4 February 2008, see paragraph 26.

47 Government Bill for the Disability Act, HE 191/2022 vp, p. 250.

48 Committee on the Rights of Persons with Disabilities, General comment No. 1 (2014, CRPD/C/GC/1, paras. 20, 22, 37.

49 The European Disability Forum (2024), EDF Human Rights Report on legal capacity: Personal choice and control, Executive Summary.

50 See chapter 3.3.

### 3. Functions of legislative comprehensibility requirements in Finnish Social Law

#### 3.1 *Overview of comprehensibility as part of Administrative Law*

The individual's right to information, together with the publicity of administrative documents, are part of the legal protection under Section 21 of the Finnish Constitution. The same section also provides for other guarantees of good administration, of which the most important in terms of access to information are the *principle of publicity* (regulated by the Act on the Openness of Official Activities (621/1999, the Openness Act), and the *duty to advise* as well as the *principle of service* (regulated by the Administrative Procedure Act 434/2003 as a general law). In addition, in order to secure the right to participation, it has been stipulated in the Constitution that the public authorities shall promote the individual's opportunities to participate in social activities and influence decision-making concerning him or her (Section 14.4).

The right of the client to receive information about welfare services and benefits can also be derived directly from the principle of equality. The general equality clause in Section 6.1 of the Constitution includes a prohibition of arbitrariness and a requirement for similar treatment in similar cases. The principle of equality, defined in Section 6 of the Administrative Procedure Act, specifies the constitutional requirements for administrative activities in such a way that the authority must treat those dealing with the administration equally. When distributing scarce benefits such as social services, equality requires that decision-making takes place in accordance with predefined and equally applied criteria.<sup>51</sup>

In all official activities, the Administrative Procedure Act, Section 9 sets the general requirements for all language used by the authorities,

51 The same principle is applied in reverse in Article 23(b) of the European Social Charter; see Council of Europe (2022), *Digest of the Case Law of the European Committee of Social Rights*, p. 180: "Although Article 23 only refers to the provision of information about services and facilities, paragraph 1b presupposes the existence of services and facilities."

including the language of legislation.<sup>52</sup> The *requirement of appropriate language* in section 9 states that “authority shall use appropriate, clear and comprehensible language”. According to the Government Bill of the Act, comprehensibility here refers to the formation of an individual overall meaning. The law requires a manner of expression “on the basis of which the client of the administration can be assumed to unambiguously understand the content of the matter and to obtain sufficient information from it in relation to the nature of the matter.” The provision covers both *linguistic clarity* and *content comprehensibility* in the manner of presentation: documents must be prepared in clearly distinguishable parts that form a coherent and easily understandable whole in terms of content. Text that is heavy in structure and contains technical details should be avoided as much as possible.<sup>53</sup> Official language expert Tiililä associates comprehensibility with content order serving plot flow and information delivery, case-specific language, the opportunity to identify to the topic, avoiding abstractness and using illustrations. According to Tiililä, comprehensibility reveals the author’s chains of thought, causality and reasoning, giving the opportunity to understand the meaning effortlessly.<sup>54</sup>

In contrast to the requirement of appropriate language, the principle of publicity in the Openness Act is built upon a purely technical definition of comprehension. In the Government Bill, several mentions of comprehension all refer to reaching the content of a document through sensory perception, and if necessary, by utilizing technology: “If a document cannot be understood without aids, the necessary aids shall be used when providing information.”<sup>55</sup> Although the legislative preparation stated that European openness regulation aims at the intelligibility of

52 See Puurunen, T., *Perus- ja ihmisoikeusrajoitusten sääntelytarkkuudesta eduskunnan perustuslakivaliokunnan ja Euroopan ihmisoikeustuomioistuimen käytännössä*, Oikeustiede – Jurisprudentia L:2017, p. 349. The Act is not applicable in the legislative work of the Parliament, but application of section 9 to legislation is based on the fact that law drafting is done by Ministry officials.

53 Government Bill of the Administrative Procedure Act, HE 72/2002 vp, p. 59.

54 Tiililä, U., *Mitä on asiallinen, selkeä ja ymmärrettävä virkakieli?* Kielikello, Nr. 3, p. 7–9, 2015.

55 Government Bill of the Act on the Openness of Official Activities, HE 30/1998 vp, p. 73.

both provisions on openness and official information, the same goal was not set for the Finnish Openness Act or the obligations derived from it.<sup>56</sup>

The latest legal requirement of comprehensibility comes from the EU Accessibility Directive<sup>57</sup> and its national implementation, which regulate the accessibility of all web content and digital services by authorities. Section 7 of the Act on the Provision of Digital Services (306/2019) sets four basic requirements for the accessibility of digital services: the *perceptibility* and *comprehensibility* of the content of the services, and the *manageability* and *reliability* of the user interfaces and navigation. These accessibility requirements are specified in the harmonised European standard EN 301 549, which in turn refers to the Web Content Accessibility Guidelines (WCAG) 2.1. Accessibility requirements promote the ability of everyone to use digital services, and also include general requirements such as “give users enough time to read and use the content”, which regulates the settings of timings used on webpages and in applications.<sup>58</sup> In terms of the language used in digital services, the comprehensibility requirement refers to *predictability* and *consistency* of the content, as well as the use of clear and good general language and, in certain cases, *plain language*, as well as the use of various images, graphics, video or audio materials that describe the content. The Government Bill states that “The importance of intelligibility is particularly emphasized in digital services related to the implementation of fundamental rights, where at least the central content of fundamental rights should be available in illustrated plain language”.<sup>59</sup> Otherwise, the obligation to use plain language or illustrations in order to improve comprehensibility cannot be indicated in Finnish social law legislation.

56 The Government Bill stated that the comprehensibility of public regulation is a key principle in, for example, Iceland; whereas the comprehensibility of official information is required particularly in the Netherlands, Belgium and Hungary. See HE 30/1998 vp, pp. 20–27.

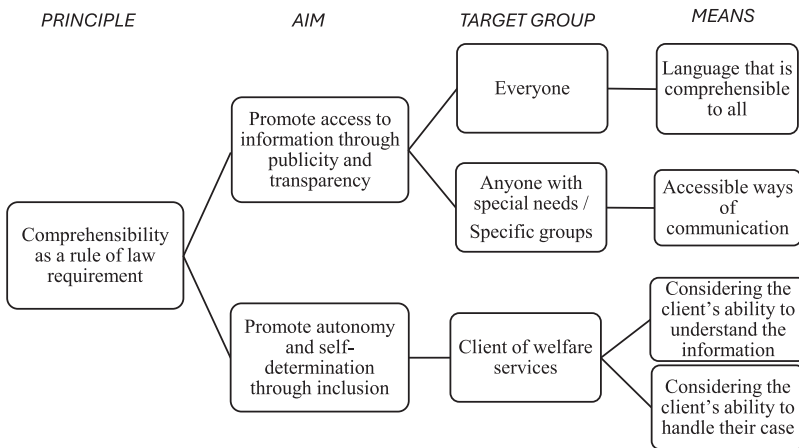
57 Directive (EU) 2016/2102 on the accessibility of the websites and mobile applications of public sector bodies.

58 Web Content Accessibility Guidelines 2.1. (2023) W3C Recommendation 21, September 2023, section 2.2.

59 HE 60/2018 vp, p. 72.

In the field of Finnish social and administrative law, the comprehensibility requirement can be seen as having two basic functions: to secure publicity and transparency of public information, and to support individual self-determination and autonomy. The comprehensibility requirements that support the principle of publicity and transparency concern *language that is understandable to everyone*, while the requirements that support self-determination and autonomy require *individual considerations of the client’s abilities*. The basic functions and implications of comprehensibility requirements in Finnish social law are presented in figure 1. In the next chapters, we will look closer into the specifics of comprehensibility requirements in different circumstances.

Figure 1. Basic functions and implications of the comprehensibility requirements in the Finnish social law legislation.



### 3.2 Comprehensibility that supports publicity and transparency

In Finland, wellbeing services counties (*hyvinvointialue* in Finnish, *väl-färdsområde* in Swedish) have been in charge of all social and health services since 2023. Section 34.3 of the Act on Wellbeing Services Counties (611/2021) reinforces the requirement of appropriate language, adding that communication must consider the needs of different resident groups and be implemented through accessible means. According to the Govern-

ment Bill, increasing plain language communication is a way to improve the comprehensibility of messages and equal access to information for different resident groups.<sup>60</sup> Regarding the obligation to provide information about services, Section 33.4 of the Social Welfare Act (1301/2014) requires “diverse communication that takes into account different means of communication” and that the information is equally accessible and understandable to all residents.<sup>61</sup>

The Parliamentary Ombudsman has emphasized the importance of the obligation to provide information, especially in *situations of change*: when changes occur in social services that affect the status and rights of the client, both clients and all residents must be informed about them clearly and equally.<sup>62</sup>

Clarity and equality of communication were both endangered during the first outburst of Covid-19 in 2020, when the Finnish Government advised older people to avoid all social contacts: “As a guideline, people over 70 are required to stay away from contact with other people as much as possible. This means quarantine-like conditions. The Government urges people over 70 to avoid moving outside the home, as this increases the risk of infection.”<sup>63</sup> No end date was specified for the restriction instructions, and the same formulation was included in the citizen letter that was posted to every household in April 2020. The simultaneous use of the words *guideline* and *be required to* caused confusion, and many people understood the guideline as an order to stay at home until further notice.<sup>64</sup>

Section 9 of the Administrative Procedure Act has been applied very rarely in case law and legality control, but some examples of linguistic expressions to be avoided can be found. For example, according to the decision of the Hämeenlinna Administrative Court, the use of abbre-

60 Government Bill of the Act on Wellbeing Services Counties, HE 241/2020 vp, p. 552.

61 Government Bill of the Social Welfare Act, HE 164/2014 vp, p. 126.

62 Parliamentary Ombudsman, decision EOA 31.5.2010 no. 2684/4/08.

63 Release from the Government on 16.3.2020.

64 See also Topo, P., Koronarajoitukset suojasivat taudilta, mutta monen iäkkään ja vammaisen henkilön hyvinvointi heikkeni, in Valtakunnallinen sosiaali- ja terveysalan eettinen neuvottelukunta ETENE: COVID-19-epidemiaan eettinen arviointi, The Ministry of Social Affairs and Health, 2020, p. 48.

viations and references to information presented in other documents that are not explained in terms of the matter being dealt with make it difficult to understand.<sup>65</sup> The Parliamentary Ombudsman has, in turn, stated that unclear headings may lead to misunderstandings about the content of the information.<sup>66</sup>

According to Section 8.1 of the Administrative Procedure Act, an authority must, within the limits of its competence, provide its clients with advice on dealing with administrative matters and respond to questions and enquiries concerning the use of its services. The client's need for advice may sometimes be difficult to distinguish from *feedback*, for which there is no legal obligation to respond.<sup>67</sup>

### 3.3 *Comprehensibility that supports self-determination and autonomy*

In social and health care, the common basic condition of implementing the right to self-determination is the client's right to information. The client cannot participate in planning their services, in handling their case, or in giving consent to treatment or care measures unless they have sufficient information about the available options and their effects.<sup>68</sup> According to Section 6 of the Act on the Status and Rights of Patients (785/1992, *Patient Act*), a patient must be treated in mutual agreement. This requirement, together with section 5 on the patient's right to information, reflects the principle of informed consent in Finnish health law. If the patient refuses a certain treatment or treatment procedure, they must, if possible, be treated in mutual agreement in another medically acceptable way. Section 5 of the Patient Act stipulates the patient's right to information: in order for the patient to consider whether to consent to treatment, they must be explained their health condition, the meaning of the treatment, the different treatment options and their effects,

65 Hämeenlinna Administrative Court decision 16/0565/3, 22.6.2016.

66 EOAK/1124/2002, 9.3.2004.

67 EOAK/5826/2018, 25.10.2019.

68 See Government Bill of the Social Welfare Client Act, HE 137/1999 vp, p. 20; Tuori, K. & Kotkas, T., *Sosiaalioikeus*, Alma Talent, 2023, pp. 531–532, 553.

and other relevant matters related to the treatment.<sup>69</sup> *The explanation must be given in such a way that the patient sufficiently understands its content.* However, an explanation of the patient's treatment and health condition must not be given against their will. The patient therefore has the right to refuse to receive information and still give consent as provided in Section 6 of the Patient Act.<sup>70</sup>

The Patient Act and its preparatory work do not specify in more detail the form or extent of information that must be provided to the patient. In legal literature, it has been argued that the benchmark for the scope and content of information must be *the individual need for information of each patient*.<sup>71</sup> Even the most understandable information may not necessarily be understood in the intended way. When providing an explanation of treatment, professional language expressions that the patient cannot be expected to be familiar with should be avoided. When providing an explanation, the patient's age, education, mother tongue and other personal characteristics should be considered.<sup>72</sup>

The provision of information to a patient is considered appropriate when, in the professional's judgement, the information provided is sufficient, accurate, correct and honest in the matter in question.<sup>73</sup> The forma-

69 Government Bill of the Patient Act, HE 185/1991 vp p. 15.

70 Pahlman 2003, p. 188. The patient must also be left uninformed of their status when it is obvious that giving the information would cause serious hazard to the life or health of the patient (Patient Act, section 5, sub-section 1). This situation is possible, for example, in some cases of terminal illness, but the provision must be interpreted narrowly. In Finland, suspicion of negative consequences is not sufficient justification for concealing information, nor is the request from family members, see Lohiniva-Kerkelä, M., Potilaan oikeudet, in Lehtonen, L. -, Lohiniva-Kerkelä, M. & Pahlman, I. (Eds.), *Terveysjuridiikka*, Alma Media, 2024. On international debate on this matter, see for example Sleeman, K. E. & Collis, E., *Caring for a dying patient in hospital*, *BMJ*, Apr 17:346:f2174, 2013, and the debate that followed in the same journal.

71 Turunen 2025, p. 201–203; Perttola, L., *Informoidun valinnan edellytykset vanhuspalveluissa*, *Oikeus*, Vol. 47, Nr. 2, p. 137, 2018; Tuori & Kotkas 2023, pp. 531–532; Ilveskivi, P., *Potilaan tiedonsaantioikeus*, *Lakimies*, p. 785, 1997. Rynning, E., *Samtycke till medicinsk vård och behandling: En rättsvetenskaplig studie*, *Iustus*, 1994, pp. 274–276 has made the same interpretation for Sweden.

72 HE 185/1991 vp p. 15.

73 Pahlman 2003 p. 190; Leino-Kilpi, H. et al., *Patient's Autonomy, Privacy and Informed Consent*. IOS Press, 2020, p. 112.

tion of the patient's opinion must not be influenced inappropriately by an outside party by coercion, manipulation, or by patronizing. Views on *persuasion* are controversial, but it is considered appropriate if it is based on a reasonable, fair and balanced argument about the patient's condition and treatment options.<sup>74</sup> The patient's understanding is affected, for example, by the patient's mood and ability to concentrate at the time of decision-making, as well as stress, anxiety and fear. In addition, illness, pain, irrationality and mental immaturity have been found to limit the ability to understand.<sup>75</sup>

The Supreme Administrative Court has, relying on the ECtHR case law, specified the comprehensibility requirement concerning the patient's right to information about the reasons for involuntary treatment. According to Article 5(2) of the ECHR, a person deprived of their liberty must be informed promptly, in a language they understand, of the grounds for their deprivation of liberty. The information must be given in a non-technical language, covering the essential legal and factual grounds for his deprivation of liberty, so that the patient may apply to a court to challenge the lawfulness of the deprivation of liberty in accordance with Article 5(4). This obligation can also be fulfilled by providing oral information. When it comes to a matter concerning the legal status of a person, the aim must be to use linguistic expression that is as precise and unambiguous as possible so that instructions related to the client's opportunities to influence or, for example, appeals do not give rise to different interpretations.<sup>76</sup>

Act on the Status and Rights of Social Welfare Clients (812/2000, Social Welfare Client Act) has similar provisions on the status of the client

74 Turunen, 2025, p. 204–205.

75 See Turunen, 2025, p. 201; Beauchamp, T. L. & Childress, J. F., *Principles of Biomedical Ethics*, 5th ed. Oxford University Press, 2001, pp. 88–93; Välimäki, M. et al., *Potilaan itsemääräminen ja suostumus pitkäaikaisessa laitoshoidossa: Vanhusten ja hoitajien näkökulma*, *Gerontologia*, Vol. 15, Nr. 2, pp. 137–138, 2001.

76 KHO 2004:4; ECHR case *Fox, Campbell and Hartley v. the United Kingdom* (30.8.1990). It must be noted, that according to Section 91 of the Administrative Judicial Procedure Act (808/2019), oral service is only possible for a document of which the party concerned understands the content and meaning without doubt. The recipient must understand what the document means in their case; see Government Bill of the Administrative Judicial Procedure Act, HE 29/2018 vp, p. 163.

of welfare services; Section 5 guarantees the client's right to receive an *explanation of the service options*, and Section 6 stipulates how the client's self-determination and participation must be ensured while planning and implementing services. According to Section 5 of the Social Welfare Client Act, a social welfare client has the right to receive an explanation of the options for action: "Social welfare personnel must explain to the client their rights and obligations, as well as the different options and their effects, as well as other matters that are relevant to their case. The explanation must be provided in such a way that the *client sufficiently understands its content and meaning*." The definition of comprehensible information is left to be considered on a case-by-case basis, considering the client's age, education, native language, cultural background and other personal characteristics.<sup>77</sup> Section 7.2 stipulates that the service plan must be drawn up in agreement with the client, unless there are "obvious impediments" to it. This includes cases where the client may not have a genuine choice between different options if alternative services are not available, but also situations where the assessment capacity of the client is considered insufficient.<sup>78</sup>

It is essential that the information must be provided on the personnel's own initiative and not only at the client's request, so that the client's trust in the authorities is not jeopardized.<sup>79</sup> The provision or its justifications do not directly address when the client must be considered to have been properly informed. The minimum level of sufficiency and comprehensibility of the information provided is defined quite loosely, so the client's right to information and the corresponding duty of the authority to inform is very broad, as it covers *all matters that are relevant to the client's case*. However, the requirement for comprehensible presentation can be considered more important than the amount of information provided to the client. A large amount of difficult-to-understand information does not ensure the realization of the client's right to self-determination; instead, *information overload* can be seen as jeopardizing the access to

77 HE 137/1999 vp, p. 20; Perttola 2018, p. 134.

78 HE 137/1999 vp, p. 22.

79 HE 137/1999 vp, p. 20.

information.<sup>80</sup> The law does not explicitly offer security from excessive information, but the word “sufficiently” in Section 5 of the Social Welfare Client Act can be considered require the authorities to *filter* the most relevant information by focusing on the relevant issues in the case.

When it comes to a matter concerning the legal status of a person, the aim must be to use linguistic expression that is as precise and unambiguous as possible. Instructions related to the client’s opportunities to influence or appeal must not give rise to different interpretations.<sup>81</sup> Proper documentation of all measures and ensuring the client’s access to their own records is a prerequisite for ensuring that the client’s rights can be ensured afterwards.<sup>82</sup> There is little support in case law for a more precise definition of the requirement that information provided to the client must be intelligible, because the person’s ability to understand the information has typically been assessed in expert opinions and in hearings held in earlier proceedings, which are not described in detail in the court’s decision.

In the Supreme Administrative Court case concerning guardianship of an older person, the complainant had changed his mind regarding the application. He was considered to have understood the meaning of guardianship, but to still be incapable of protecting his interests and taking care of matters concerning himself and his assets. The assessment was based on a report submitted by the local registry office, a medical report and a statement from the city’s social worker. The oral hearing requested by the party concerned was not arranged in the Court.<sup>83</sup>

During the Covid-19 pandemic, The Parliamentary Ombudsman paid attention to the oral notification of quarantine decisions. Prisoners were not always informed

80 Wagner & Walker 2019, p. 15.

81 HE 72/2002 vp, p. 59. The importance of clear and unambiguous language in relation to legal protection can also be seen in the provisions on the obligation to state reasons for decisions. The Supreme Administrative Court may annul a final decision of an administrative authority or an administrative court if the decision is so unclear or incomplete that it does not indicate how the matter has been resolved (section 117, sub-section 1, para. 4 of the Act on Trials in Administrative Matters, 808/2019).

82 EOAK/815/2024, 17.1.2025, p. 30. The Act on the Processing of Client Information in Social and Health Care (703/2023) contains the general provisions on recording and handling client information.

83 KHO 2002:11.

about the quarantine and their health status in a way that they could understand. Particular attention should be paid to ensuring that prisoners who speak languages other than the national languages have sufficient access to information.<sup>84</sup>

It is also important to note that *consent cannot primarily justify limiting the basic rights of the individual*, although consent may serve as one of the criteria for assessing the acceptability of a restriction measure.<sup>85</sup> In the view of the Constitutional Law Committee, an exceptional measure that is strongly directed against private life and personal integrity cannot be based solely on the consent of the party concerned, but the preconditions for the use of the measure must be laid down by law.<sup>86</sup>

Section 5 of the Child Welfare Act (417/2007) emphasizes the authority's obligation to provide the child with objective information for the purpose of forming an opinion and expressing views and wishes. According to the Government Bill, the child must be able to form his or her understanding of the child welfare matter freely so that he or she actually understands what is at stake and what are the conceivable alternatives.<sup>87</sup> The information must be provided in a comprehensible manner, considering the personal characteristics of the child and the guardian and the circumstances of the case. Special attention must be paid to the child's age and developmental level and their ability to receive and understand the information provided.<sup>88</sup> Section 43.1 of the Child Welfare Act requires that making decisions on taking a child into care and placement in substitute care requires consent by the guardian or a child who has reached the age of 12; otherwise the case is decided by an administrative court (Section 43.2). Huhtanen has pointed out that although consent-based care is commonly referred to, the Child Welfare Act does not explicitly require consent and does not specifically provide

84 EOAK/1185/2021, 29.4.2021, p. 5.

85 Moilanen 2023, p. 931; EOAK/1823/2020, 15.2.2021, p. 14; EOAK/5595/2019, 9.3.2020, p. 9.

86 PeVL 4/2013 vp, p. 5.

87 Government Bill of the Child Welfare Act, HE 252/2006 vp, p. 118; Huhtanen, R., Suostumus huostaanottoon, Lakimies, Vol. 118, Nr. 3-4, p. 312, 2020.

88 Huhtanen 2020, p. 313.

for the authority's obligation to inform or to ensure that the parties concerned have understood the information relevant to giving consent.<sup>89</sup>

Finally, we delve into the newest provision with connections to comprehensibility requirements, i. e. the disabled person's right to assisted decision-making. Section 3.1 of the new Disability Act (675/2023) re-enforces the general right for all persons with a disability to support in obtaining information and in forming and expressing their own opinion. This right for supported decision-making in Section 14 has not been protected at the level of the law before, and it came into force from the beginning of 2025, as part of implementing the social model of disability reflected in the CRPD into national disability legislation.<sup>90</sup> The target group for this new provision includes people with intellectual disabilities and groups excluded from previous laws, for example, some people on the autism spectrum, people with brain damage and people with early-onset memory disorders.<sup>91</sup> Supported decision-making includes support in both receiving information and expressing one's own will, without making decisions on behalf of the person with a disability or influencing the matters in any way. The Government Bill emphasizes that support from the client's family or care personnel is important in making small daily decisions, whereas supported decision-making is restricted to significant life decisions. The service is under the responsibility of the Wellbeing Services County, and implementation must not involve undue influence or conflicts of interest.<sup>92</sup>

Supported decision-making includes the support needed in all the phases of the decision-making process, including comprehending (Section 14.3 of the Disability Act). The means of supporting comprehension are not defined in the preparatory works of the law or in the official hand-

89 Huhtanen 2020, p. 302.

90 HE 191/2022 vp, p. 158, 250.

91 HE 191/2022 vp, p. 66. Older people are in danger of falling out of the scope of the new Disability Act due to a limitation related to ageing, formulated as "services are provided to a person with a disability only if their essential need for help and support differ from what is the usual need at that stage of life". The limitation was first removed from the original law in Parliamentary proceedings in 2023, the second attempt to implement the limitation was rejected in 2024 (see PeVL 44/2024 vp), and the third attempt is currently in the process (see HE 92/2025 vp).

92 HE 191/2022 vp, pp. 197–198.

book for disability services. There are, however, two important general guidelines given to support comprehension for persons with disabilities. Firstly, it must be recognized, that the decision-making process takes time and evolves slowly. The bigger the decision, the more it will take time and require support.<sup>93</sup> Secondly, the person's right to make objectively assessed "bad" decisions is acknowledged in the Government Bill, with accordance to the principals of the CRPD.<sup>94</sup>

The right to make bad decisions can be seen as representing the very core of autonomy and the right to self-determination, and it has traditionally been restricted for those who have limited capacity under the principle of protecting the individual's best interest.<sup>95</sup> It should be noted, however, that making bad decisions cannot be the basis for assessing decision-making ability, as individuals have the right to act in accordance with their own values, beliefs and perceptions.<sup>96</sup> The right to make bad decisions, also when receiving support, represents, in Cave's words, a shift from *ideal desire autonomy* (what a person should want) to supporting *best desire autonomy* (reflecting the person's values).<sup>97</sup> Comprehensibility requirements in Finnish social law leave room to subjective conclusions that may lead to bizarre or irrational decisions, even for persons with disabilities.

#### 4. Conclusions

This article has addressed two main questions: 1) what functions do comprehensibility requirements serve in the legal system, and 2) what formal requirements does comprehensibility include in Finnish social law? The two basic functions of requiring comprehensibility were identified as supporting publicity and transparency, and promoting self-determina-

93 Vammaispalvelujen käsikirja, THL, 2025, <https://thl.fi/julkaisut/kasikirjat/vammaispalvelujen-kasikirja/tuki-ja-palvelut/tuettu-paatoksenteko>.

94 HE 191/2022 vp, p. 198; CRPD/C/GC/1, para. 22.

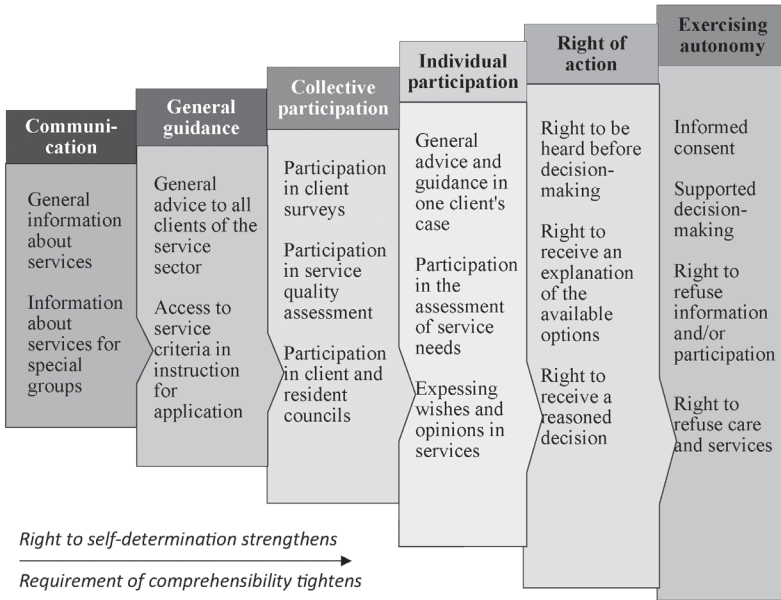
95 See Turunen 2025, p. 202, 429; Cave, E., Protecting patients from their bad decisions: rebalancing rights, relationships, and risk, *Medical Law Review*, Vol. 25, Nr. 4, pp. 528, 2017; Tuori & Kotkas 2023, p. 552, 559; Perttola 2018, pp. 137–138.

96 Turunen 2025, p. 196; Cave 2017, pp. 530–531, 538.

97 Cave 2017, p. 537, with reference to Coggon 2007.

tion and autonomy. These functions are interconnected in many ways as access to public information (e.g. finding and reading instructions and criteria for applying services) precedes handling the client’s own matter. The distinctive feature is *considering the audience*: public communications are targeted to anyone, whereas communicating to a specific client must be adapted to the client’s individual communicative capacity.

Figure 2. Communication-related rights of the client in Finnish social law.<sup>98</sup>



The formal requirements for comprehensibility can be seen as becoming stricter and demanding more individual consideration when the communicative situation is closer to the core of client’s autonomous decision-making. When publishing service criteria, the authorities must follow the basic requirements of common language, informative headings and clear textual structure. In service planning for a specific client, the mode of expression must be adapted to the client’s age, background, education and other personal characteristics, in order for the client to gain a

98 Adapted from Perttola 2019, p. 12.

*sufficient* understanding of the information. And finally, in matters such as giving consent to a vital medical treatment, even persuasion can be used in order to assure that the patient has understood are the risks and benefits of the proposed treatment. The client's right to support follows the increasing significance of self-determination; from general advice to individual guidance in one's own case, and the recently established right to supported decision-making in significant life choices for persons with disabilities. The client's right to autonomy in comprehension culminates in the right to refuse services, to withdraw consent and to make objectively bad or irrational decisions. The client's right to comprehensible information in different communication settings is illustrated in figure 2.

This analysis does not fully support Moilanen's notion of mainly liberal autonomy being reflected in the general doctrines of Finnish social welfare, emphasizing rational decision-making and active citizenship.<sup>99</sup> Both Section 5 of the Patient Act and Section 7.2 of the Social Welfare Client Act require mutual understanding with the client, and reaching this understanding is considered to include various forms of cognitive support from both professionals and the client's relatives, up to the point of gentle persuasion – yet recognizing the client's right to make irrational decisions. The threshold of informal cognitive support and the participation of the client's relatives or friends in the decision-making process is set quite low in both Social Welfare Client Act and the new Disability Act.<sup>100</sup> The comprehensibility requirements do not stretch to the client's full understanding but instead, set the limit to sufficient comprehension. While the requirement of reaching mutual understanding is strong, the legal basis of decision-making is still the objective assessment of best interest of the client rather than the client's own will. This indicates the balancing of liberal and relational autonomy in Finnish social law. While the client is entitled to full access to information and thereby also full comprehension, the law also secures the individual's right to refuse information and remain ignorant.

99 Moilanen 2023, p. 924.

100 HE 137/1999 vp, p. 22; HE 191/2022 vp, pp. 197–198.

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