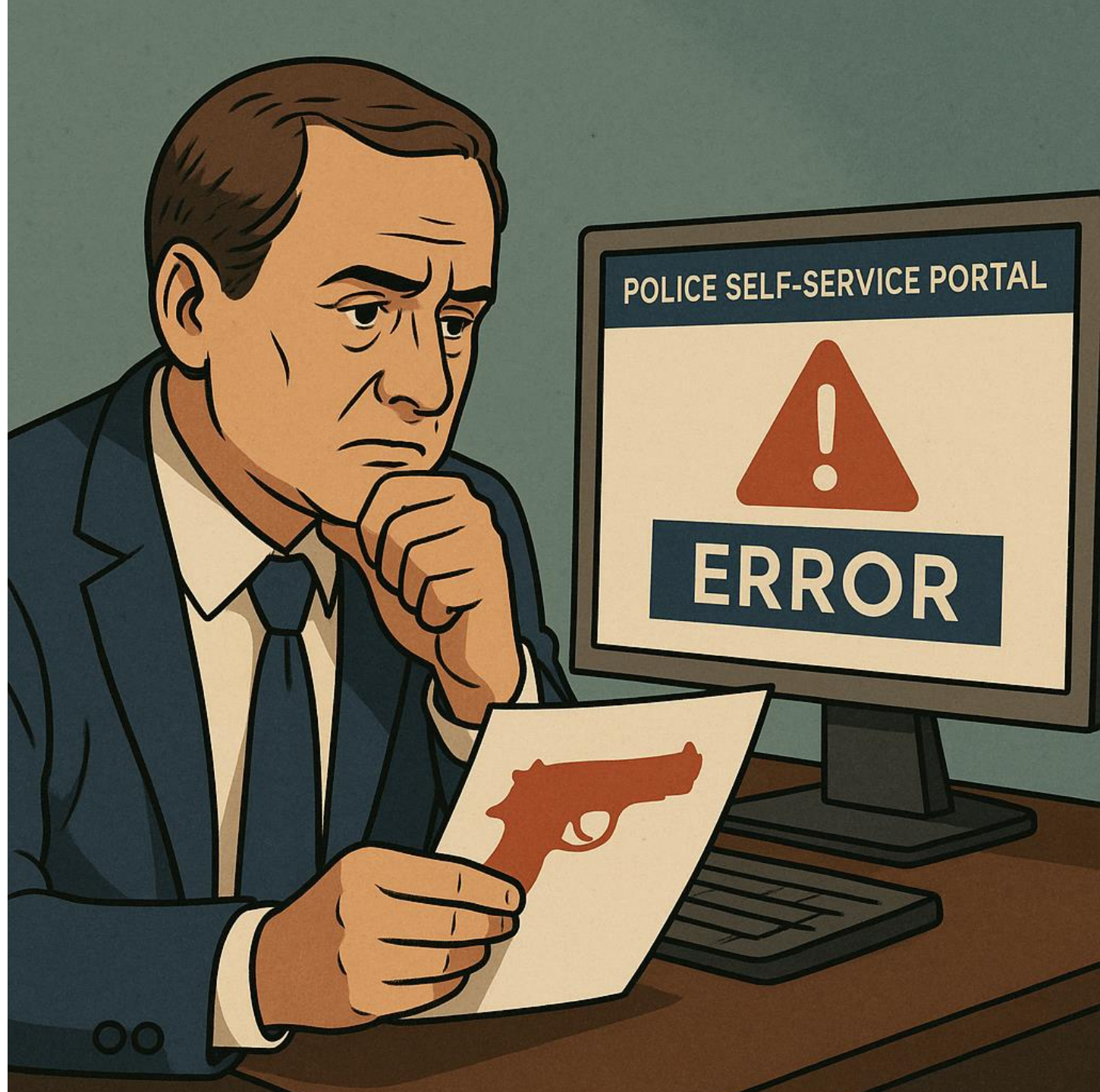


Requirements for electronic procedures in the recent case law of the Estonian Supreme Court

Ivo Pilving

Electronic Administrative Procedure: Case of Tammer



Facts of the case

- Mr. Tammer tried to renew his weapons permit through the police e-service portal.
- The portal refused to accept the incomplete application lacking mandatory documents (psychiatrist's certificate).
- Tammer could not get the certificate on time due to long waiting times.
- The rigid design of the information system blocked submissions with missing documents.

Conclusions of the Court

- The Supreme Court excused Tammer's late application.
- Under §15 of the Administrative Procedure Act, authorities must accept incomplete applications and provide a deadline to amend the deficiencies.
- Majority opinion of the court did not consider the structure of the police service environment to be unlawful.
- Dissenting opinion concluded that e-portals should accept incomplete applications and help correct them.
- The case is also politically relevant due to its connections to the simplification of weapons permits and national defense.

Automated decision-making: Case of Päraküla



Facts of the case

- Environmental Board used an automated "expert system" to issue forest cutting permits.
- Tens of thousands of permits issued annually, a permit could be issued within seconds of receiving it.
- The permits of the case were situated in a green network area.
- Local municipality did not provide specific conditions on how to protect the green network area, thus giving broad discretion to the Environmental Board.
- The automated system was not programmed to consider the specific environmental requirements of the green network areas.

Conclusions of the Court

- Supreme Court declared the automated permits to be unlawful.
- Failure to consider the specific requirements of the area made the system incomplete.
- Algorithmic decisions made by administrative authorities are administrative acts just like any other decision.
- Therefore, automated decisions are subject to the general principles of administrative procedure just like any other decision.
- Data of the system must be correct, up-to-date, and legally compliant.
- Standard discretionary decisions may be automated, but complex/atypical cases must be decided by a human official.