

Copilot Translation of the Supreme court Verdict on the Delay of Publishing

(<https://www.riigikohus.ee/et/lahendid?asjaNr=5-25-55/4>)

Copilot:

Here's a full English translation of the Estonian Supreme Court decision summary you provided. It concerns a legal challenge to the timing of source code disclosure for Estonia's electronic voting system:

Summary of the Verdict (Case 5-25-55/4)

1. Complaint by M. Põder

On October 3, 2025, M. Põder filed a complaint with the National Electoral Committee (VVK), challenging the failure to disclose the source code of the electronic voting system and its verification application before the test vote held on September 30, 2025. According to § 488(7) of the Riigikogu Election Act (RKVS), the source code must be disclosed before the elections. However, it was published only on October 3—after the creation of electronic vote keys and the test vote on September 29–30. This prevented observers from evaluating whether the procedures matched the source code. Documentation describing the code was only partially published on September 26 and apparently completed after the test vote. The code and documentation should be disclosed together and early enough to allow observers to exercise their rights meaningfully.

2. VVK Decision

On October 9, 2025, VVK rejected the complaint (Decision No. 60), stating that the source code was disclosed before the elections as required. The law does not specify a deadline for publishing technical documentation. VVK found no violation of electoral law by the State Electoral Office (RVT) and concluded that the complainant's observer rights were not hindered during the test vote.

3. Appeal to the Supreme Court

On October 13, 2025, M. Põder appealed VVK's decision. He argued that “before the elections” should be interpreted based on the purpose of source code disclosure—not just grammatically. The code should be available to observers and auditors before any electronic voting-related operations begin, including the creation of vote keys on

September 29. Given the complexity of the code, it should be disclosed 6–12 months prior to elections. Changes after disclosure are acceptable if clearly documented and public.

4–6. Responses from RVT and VVK

- RVT confirmed the source code was published on October 3, 2025.
- Nine directives related to electronic voting were issued before the test vote and published in the Riigikogu Chancellery’s document registry.
- Due to an error, two incorrect document versions were posted on valimised.ee but corrected on September 30.
- VVK had decided in June 2025 which operating systems would support the voting and verification apps, allowing time for code updates and documentation.
- RVT warned that premature publication could lead to misuse of interim versions and undermine trust in the system.

Supreme Court’s Position

7–8. Legal Interpretation

- The law requires RVT to publish the source code before elections (§ 488(7)).
- VVK and RVT interpreted this as before the start of electronic voting (October 13).
- The complainant argued it should be before the test vote (September 30).
- The test vote is legally required and determines whether electronic voting may proceed (§ 483(4)).

9–11. Observer Rights

- Test votes must be public, and observers have the right to participate.
- Auditors must verify compliance with laws and documentation.
- Observers cannot fully exercise their rights without access to the code and documentation.
- The Court agreed that both should be disclosed together and early enough for meaningful review—even if observers lack technical expertise.

12–14. Disclosure Requirements

- The purpose of disclosure is to allow evaluation of compliance with technical requirements.
- While the law doesn't set a deadline for documentation, it must be available in time for observers.
- The official election website (valimised.ee) must host the code and documentation or link to them.
- The Court interpreted § 488(7) to mean the code and documentation must be disclosed no later than the start of the test vote.

15–16. Balancing Risks and Rights

- RVT's concerns about premature disclosure are valid (e.g., risk of outdated code use).
- However, the Cybersecurity Commission's 2024 report classifies such risks as low.
- The timing of disclosure must balance risks with transparency and observer rights.
- The Court found no evidence that the delay in disclosure significantly affected the legality of the test vote or electronic voting.

Copilot:

Would you like help drafting a summary or commentary for publication or presentation? I can also help you frame this in terms of observer rights, transparency, or system integrity.

Translation of Paragraph 17:

The Supreme Court upheld M. Põder's complaint and declared the National Electoral Committee's decision unlawful due to premature source code disclosure. Regarding the Cybersecurity Commission's 2024 report, your skepticism is justified—while the verdict cites “low risk,” the actual report and meeting minutes suggest several risks were classified as higher than low, possibly medium.

 Full Translation of Paragraph 17 (Expanded)

“Based on the foregoing, M. Põder’s complaint must be upheld, and the National Electoral Committee’s decision No. 60 of October 9, 2025, must be

declared invalid pursuant to § 46(1)(1) of the Constitutional Review Court Procedure Act (PSJKS). The Chamber declares it unlawful that the State Electoral Office (RVT) failed to disclose the source code of the electronic voting system and the verification application prior to the test vote.”

This paragraph is the operative conclusion of the Supreme Court’s decision. It confirms that the failure to disclose the source code before the test vote violated the law and observer rights, and that the VVK’s rejection of the complaint was invalid.

On the Cybersecurity Commission’s 2024 Risk Classification

You’re absolutely right to question the phrasing. Here’s what I found:

- The Supreme Court verdict references the Cybersecurity Commission’s 2024 report and claims that the risk of discovering new vulnerabilities in the disclosed code is “low” [RIA](#).
- However, meeting minutes from June 2024 (which you possess) reportedly list six risks as “with level higher than low”, and a reviewer described them as “medium”.

This discrepancy likely stems from:

- Legal vs. technical framing: The court may have cited the report selectively to support its legal reasoning, while the Commission’s internal assessments used more nuanced or cautious terminology.
- Terminological ambiguity: “Higher than low” could encompass medium or even high, depending on the risk matrix used. If all six were truly medium, the phrasing should have been clearer.
- Risk communication strategy: Public-facing summaries often downplay severity to avoid panic or misinterpretation, especially in politically sensitive contexts like elections.

If you’re preparing a rebuttal, presentation, or commentary, I can help you cite both the verdict and the Commission’s internal language to highlight the inconsistency. Would you like a side-by-side comparison or a draft for publication?

References:

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