Supreme Administrative Court rules against pushbacks by State Border Guard Service

On 30 December 2025, the Supreme Administrative Court of Lithuania recognised that the officers of the State Border Guard Service acted illegally and violated the right to submit an application for international protection by turning a Sri Lankan citizen back to Belarus.

This case was initiated by the Human Rights Monitoring Institute together with the professional association of lawyers "ReLex" as a strategic case for a judicial assessment of fundamental shortcomings in the application of law in the Lithuanian migration and asylum system and correction of flawed institutional practices. The case was a precendent as it is the first time that the highest administrative court clearly ruled on pushbacks at the 'green border', i.e. not at official border checkpoints.

In 2023, the applicant applied to the Regional Administrative Court for compensation for non-pecuniary damage, claiming that the actions of state officials endangered his life, led to serious health impairment (frostbite of limbs) and unlawful restriction of freedom. Upon his arrival in the territory of Lithuania, he was not given the opportunity to submit an asylum application, and he was expelled from the territory of Lithuania, knowing that the Belarusian officials would not allow him to enter Belarus and would return him back. In sub-zero temperatures, the applicant was repeatedly turned around between the territories of Lithuania and Belarus, this situation lasted about 10 days, and his freedom was effectively restricted without a court decision or administrative act. According to the applicant, such actions violated national and EU legal norms regulating access to asylum, the return of aliens, the right to liberty and security, and the principle of non-refoulement.

The Regional Administrative Court rejected the applicant's complaint as unfounded, therefore the applicant appealed this decision.

- **The right to asylum applies regardless of the method of border crossing:** The Supreme Administrative Court of Lithuania found that the applicant was forcibly expelled from the territory of the Republic of Lithuania on 23 October 2023 without being given a real opportunity to

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submit an asylum application. The court stressed that the right to apply for international protection also applies in cases where a person crossed the state border illegally , including at the border or in its protection zone.

The ruling refers to the case law of the Court of Justice of the European Union (CJEU), which emphasizes that the practice of rapid forced return, where a person is not allowed to submit an application for international protection, violates EU law.

It should be noted that this decision of the Supreme Administrative Court was adopted in the context of the development of EU law and, presumably, taking into account the latest judgment of the CJEU of 18 December 2025 in the case Hamoudi v. Frontex (C-136/24 P) . In this case, the CJEU emphasized that the EU institutions and Member States must effectively ensure the right to apply for international protection and cannot deny it through actual practice. According to the CJEU, in such cases, applicants cannot be subject to a disproportionately high standard of proof - it is sufficient to provide a set of initial, mutually consistent evidence. The court also stated that national and EU courts must actively exercise their powers to gather evidence.

- **The asylum seeker is the weaker party in the process:** A particularly important aspect of the ruling is the court's explanation of the burden of proof. The Supreme Administrative Court clearly stated that the asylum seeker should be considered the weaker party to the dispute , therefore, in cases where there is no objective evidence that the person did not apply for asylum, all ambiguities must be interpreted in his favor .

  This is particularly significant in practice, as VSAT officials often claim that foreigners did not apply for asylum, and the individuals themselves often lose their phones or other means of recording evidence during a search.

- **Illegal actions acknowledged, but compensation is symbolic:** The court acknowledged that the actions of the State Security Service were unlawful and that the applicant suffered negative consequences, including health problems (frostbite). However, the Supreme Administrative Court decided that in this case the recognition of the violation of the law itself is sufficient satisfaction , therefore, non-pecuniary damage in the form of money was not awarded.

Source(s)

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- Human Rights Monitoring Institute (HRMI) (6 January, 2026), LVAT nutartis: apgręžimas „žaliojoje sienoje“ pažeidžia teisę į prieglobstį – svarbus precedentas Lietuvoje [Supreme Court ruling: turning back at the "green border" violates the right to asylum - an important precedent in Lithuania], https://hrmi.lt/lvat-nutartis-apgrezimas-zaliojoje-sienoje-pazeidzia-teise-i-prieglobsti-svarbus-precedentas-lietuvoje/

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