



C/2024/3308

3.6.2024

**Request for a preliminary ruling from the Lietuvos Aukščiausiasis Teismas (Lithuania) lodged on
1 February 2024 – ‘EM SYSTEM’ UAB v SEB bankas AB, ‘Citadele banka’ Lietuvos filialas AS**

(Case C-84/24, EM SYSTEM)

(C/2024/3308)

Language of the case: Lithuanian

Referring court

Lietuvos Aukščiausiasis Teismas

Parties to the main proceedings

Appellant in the appeal on a point of law: ‘EM SYSTEM’ UAB

Defendants in the appeal on a point of law: SEB bankas AB, ‘Citadele banka’ Lietuvos filialas AS

Questions referred

1. Are Articles 2(1) and (2) of Regulation No 765/2006 ⁽¹⁾ to be interpreted as meaning that, where it is established that a person listed in Annex I to the Regulation owns exactly 50% of the shares in a company, it is presumed that the funds of the company, are owned, held or controlled by the entity listed in Annex I to the Regulation?
2. In proceedings before a national court, such as those at issue in the main proceedings, where a company whose funds have been frozen because exactly 50% of its shares are held by a person listed in Annex I to Regulation No 765/2006 seeks an order from the court to require the banks as defendants to perform the agreements to operate a bank account allowing that company to access the funds in its bank accounts without restrictions, can the bank’s decision to freeze its funds be challenged on the basis of the argument that the company’s funds are not used by, or for the benefit of, a person listed in Annex I to that Regulation?
3. If the answer to the second question is in the affirmative, which criteria must be applied to assess in such proceedings before a national court in order to determine whether the funds are not used by, or for the benefit of, a person listed in Annex I to Regulation No 765/2006? Could circumstances such as (1) the separation of the assets of the company from those of its shareholders, (2) the fact that the head of the company (other than a person listed in Annex I to the Regulation) acts on behalf of the company, and (3) the fact that access to the company’s bank accounts is granted only to the head of the company, be regarded as precluding the use of the company’s funds for the benefit of a person listed in Annex I to the Regulation whose shareholding in the company is exactly 50%?

⁽¹⁾ Council Regulation (EC) No 765/2006 of 18 May 2006 concerning restrictive measures against President Lukashenko and certain officials of Belarus (OJ 2006 L 134, 2006, p. 1).