Reports of Cases

JUDGMENT OF THE GENERAL COURT (Tenth Chamber, Extended Composition)

11 December 2024*

(Arbitration clause – Grant agreement concerning the project TTD.EU ('European Quality Wines: Taste the Difference') – Information provision and promotion measures concerning agricultural products implemented in the internal market and in third countries – Suspension of the grant agreement – Suspicion of fraud in the context of a criminal investigation relating to another grant agreement – Contractual liability)

In Case T-440/22,

Unione Italiana Vini Servizi Soc. coop. arl (UIV Servizi), established in Milan (Italy), represented by B. Bonafini, D. Rovetta and V. Villante, lawyers,

applicant

v

European Research Executive Agency (REA), represented by S. Payan-Lagrou and V. Canetti, acting as Agents, and by D. Waelbroeck and A. Duron, lawyers,

defendant,

THE GENERAL COURT (Tenth Chamber, Extended Composition),

composed of O. Porchia (Rapporteur), President, M. Jaeger, L. Madise, P. Nihoul and S. Verschuur, Judges,

Registrar: P. Cullen, Administrator,

having regard to the written part of the procedure,

further to the hearing on 6 March 2024,

having regard to the application for a declaration that there is no need to adjudicate lodged by the REA on 10 September 2024,

having regard to the decision to reopen the oral part of the procedure,

having regard to the applicant's observations on the application for a declaration that there is no need to adjudicate lodged at the Registry of the General Court on 14 October 2024,

* Language of the case: English.

having regard to the decisions of 21 October 2024 to reserve its decision on the application for a declaration that there is no need to adjudicate until it rules on the substance of the case and to close the oral part of the procedure,

gives the following

Judgment

1 By its action under Article 272 TFEU, the applicant, Unione Italiana Vini Servizi Soc. coop. arl (UIV Servizi), asks the General Court (i) to declare invalid the decision of the European Research Executive Agency (REA) to suspend Grant Agreement No 874904 concerning the project entitled 'European Quality Wines: Taste the Difference – TTD.EU', contained in the REA's letter of 2 May 2022 ('the suspension confirmation letter'), (ii) to order the REA to lift the suspension of that grant agreement, and (iii) to order the REA to pay it compensation for the pecuniary and non-pecuniary damage which it claims to have suffered as a result.

Background to the dispute

2 The applicant is an Italian association that has represented undertakings in the Italian wine sector at European and international level since 1895. It offers a broad range of services to wine professionals, including consultancy on EU financing and projects.

3 On 6 December 2019, the applicant, acting as coordinator and beneficiary, and the Spanish association Organización Interprofesional del Vino de España (OIVE), as beneficiary, concluded Grant Agreement No 874904 with the Consumers, Health, Agriculture and Food Executive Agency (Chafea), for the purpose of carrying out a project entitled 'European Quality Wines: Taste the Difference – TTD.EU', aimed at promoting Italian and Spanish wines on the Chinese and United States markets ('the TTD.EU grant agreement'). From 1 April 2021, the REA was entrusted with the implementation of the actions carried out by Chafea.

4 The TTD.EU grant agreement was concluded in the context of a call for proposals of 15 January 2019 for grants for information provision and promotion measures concerning agricultural products implemented in the internal market and in third countries in accordance with Regulation (EU) No 1144/2014 of the European Parliament and of the Council (OJ 2019 C 18, p. 4).

5 Article 3 of the TTD.EU grant agreement provided that the duration of that agreement was to be 36 months from 1 March 2020.

6 By letter of 16 April 2020, the OIVE informed the applicant that it wished to terminate its participation in the TTD.EU grant agreement with effect from 1 March 2020.

7 By letter of 29 May 2020, the applicant asked Chafea, first, that an amendment be made to the TTD.EU grant agreement in order to record the termination of that agreement by the OIVE and, second, to add Promotora d'Exportacions Catalanes, SA (Prodeca) as a beneficiary. That amendment was concluded with Chafea on 6 July 2020.

8 Between 24 April and 1 November 2020 and between 18 January and 22 May 2021, the project was suspended on the basis of Article 35 of the TTD.EU grant agreement on account of the COVID-19 pandemic.

9 In February 2021, the applicant's selection of the implementing body of the project, forming the subject matter of the TTD.EU grant agreement, responsible for implementing the actions aimed at achieving the objectives of that project, was finalised. Ópera Business Dreams SLU was awarded the contract for the implementation of the actions of that project.

10 On 28 July 2021, the applicant informed the REA on the participants' portal that, on 27 May 2021, the Guardia di Finanza di Milano (Milan Financial Police, Italy) had carried out an audit of the applicant on the basis of a search and seizure warrant issued by the Italian Public Prosecutor at the Tribunale di Milano (District Court, Milan, Italy) on 24 May 2021. That audit was carried out in the context of criminal proceedings brought at national level against the applicant's Chief Executive Officer, the applicant's Chief Financial Officer and the external consultant for the applicant and for Veronafiere SpA for suspected fraud ('the criminal investigation'). Furthermore, that audit, concerning Grant Agreement No 826012, for which the applicant is the coordinator and beneficiary, namely 'Native Grapes Academy – NGA' ('the NGA grant agreement'), focused on the contractual relationship between Veronafiere and the applicant and the coexistence of two main contracts between those two companies.

11 On 6 August 2021, a meeting was held by videoconference ('the meeting by videoconference on 6 August 2021') between the applicant and the person in charge of the TTD.EU grant agreement at the REA, during which the applicant provided further information regarding the criminal investigation. On that occasion, the person in charge of the TTD.EU grant agreement at the REA observed, according to the applicant, that since the criminal investigation concerned a separate agreement, namely the NGA grant agreement, she did not consider it necessary to take any measure in relation to the implementation of the TTD.EU grant agreement, which could therefore continue to be implemented as normal.

12 Following the meeting by videoconference on 6 August 2021, the REA sent the European Anti-Fraud Office (OLAF) the information provided by the applicant. By note dated 13 January 2022, the REA was informed that, on 7 December 2021, OLAF had opened an investigation into allegations of fraud and other irregularities in the implementation of grant agreements concluded by the applicant, Veronafiere and other entities with the European Union, including the TTD.EU grant agreement ('the OLAF investigation'). Furthermore, that note stated that no precautionary administrative measures were envisaged at the stage of the initiation of the investigation.

13 On 27 January 2022, the European Public Prosecutor's Office in Milan applied to the judge responsible for preliminary investigations at the Tribunale di Milano (District Court, Milan) for a six-month extension of the time limit for the criminal investigation.

14 By letter dated 23 February 2022 (reference Ares (2022)1381304; 'the pre-information letter'), the REA informed the applicant of its intention to suspend the TTD.EU grant agreement on the basis of Article 33.2 of that agreement. In that letter, the REA stated the following:

'based on the information received that your organisation is under Italian criminal investigation based on suspicion of fraud[,] [w]e consider that the implementation [of the TTD.EU grant agreement] cannot continue and should be suspended until the situation [is] clarified'.

15 On 22 March 2022, the applicant submitted its observations in response to the pre-information letter. The applicant argued inter alia that, as a legal entity, it was not involved in any criminal proceedings and that the criminal investigation referred to by the REA concerned two of its employees.

16 By the suspension confirmation letter, the REA confirmed its intention to suspend the TTD.EU grant agreement as from 8 May 2022 and rejected the observations submitted by the applicant, stating, inter alia, that the suspension of the TTD.EU grant agreement was based on Article 33.2.1(a) of that grant agreement. According to the REA, the natural persons who were the subject of the criminal investigation had the power to represent the applicant or take decisions on its behalf which, in accordance with Article 33.2.1(a) of the TTD.EU grant agreement, justified the suspension of that agreement. Furthermore, in that regard, the REA stated that, even if the criminal investigation was still ongoing and, at the time, there was no evidence of irregularities or fraud, it could, in order to protect the financial interests of the European Union, suspend the TTD.EU grant agreement in the event of suspicions of fraud as stated in that provision.

17 By email dated 6 May 2022, the applicant requested that a meeting be held in Brussels (Belgium) with the REA in order to discuss the suspension confirmation letter and to try to reach an amicable settlement.

18 On 24 May 2022, in connection with the OLAF investigation (see paragraph 12 above), an on-the-spot check was carried out at the applicant's premises in Italy in order to ascertain whether it had committed any irregularities in the context of EU-funded projects, including the project forming the subject matter of the TTD.EU grant agreement.

19 On 25 May 2022, the REA suspended the payment deadline on the basis of Article 31.1(c) of the TTD.EU grant agreement on account of doubts as to the eligibility of the costs declared in the annual accounts requiring additional checks, reviews, audits or investigations.

20 By email of 30 May 2022, the REA declined the applicant's request for a meeting (see paragraph 17 above) on account of the fact that, as the OLAF investigation was ongoing, it was not in a position to discuss concrete questions concerning the suspension of the TTD.EU grant agreement or that OLAF investigation.

21 The applicant brought the present action on 12 July 2022.

Factual and procedural matters subsequent to the bringing of the action

22 On 12 July 2022, the European Public Prosecutor's Office in Milan applied to the judge responsible for preliminary investigations at the Tribunale di Verona (District Court, Verona, Italy) for the preventive seizure of EUR 2 085 810.96 against the applicant. On 13 September 2022, the judge responsible for preliminary investigations at the Tribunale di Verona (District Court, Verona) granted that application and ordered the preventive seizure of EUR 2 085 810.96 against the applicant and, in the event that the seizure of that sum proved impossible, the seizure of assets belonging to the applicant up to that amount.

23 By letter of 23 September 2022, the applicant requested that the Tribunale di Verona (District Court, Verona) review the preventive seizure ordered by that court.

24 On 2 February 2023, the Public Prosecutor for the Corte dei conti (Court of Auditors, Italy) of the Lombardy region (Italy) applied for the precautionary seizure of the applicant's assets and bank accounts in order to protect EU funds in the context of the NGA grant agreement. By order No 2/2023 of 13 February 2023, a judge of the Corte dei conti (Court of Auditors) of the Lombardy region authorised the seizure of EUR 2.085 million, pending confirmation or amendment of the order, following a hearing scheduled for 16 March 2023. Since the applicant paid that amount on 23 February 2023, the seizure order of the Corte dei conti (Court of Auditors) of the Lombardy region was lifted and the proceedings were closed.

25 By response to a measure of organisation of the procedure proposed by the General Court, the parties confirmed, during the hearing, that the OLAF investigation was closed on 12 December 2022. In that regard, the parties also stated that, on the basis of the findings of that investigation, OLAF had sent the REA financial recommendations, the implementation of which, as regards the TTD.EU grant agreement, had not given rise, on the date of the hearing, to implementing measures.

26 On 10 September 2024, the REA lodged an application for a declaration that there is no need to adjudicate, in which it informed the General Court of the fact that the suspension of the TTD.EU grant agreement had been lifted. In that context, the REA produced a letter on 13 May 2024, by which it had informed the applicant that, further to the analysis of the findings of the OLAF investigation and the recent outcome of the criminal investigation, the suspension of that grant agreement could be lifted.

27 Following the reopening of the oral part of the procedure on 14 October 2024, the applicant lodged its observations regarding the application of the REA for a declaration that there is no need to adjudicate. In its observations, while confirming that the suspension of the TTD.EU grant agreement had been lifted and that the implementation of that grant agreement had resumed, the applicant opposed that application for a declaration that there is no need to adjudicate for a variety of reasons.

28 First, the applicant submits that the application for a declaration that there is no need to adjudicate was lodged by the REA at a very late stage and should therefore be declared inadmissible.

29 Second, the applicant claims that, while the REA has 'formally' lifted the suspension of the TTD.EU grant agreement, it is now placing 'technical obstacles' to its concrete implementation. Furthermore, in that regard, the applicant points out that the formal 'reactivation' of the TTD.EU grant agreement by the REA constitutes an admission that its original suspension was wrong, and that is all the more true, according to the applicant, given that all the circumstances of the present case have remained unchanged since the beginning.

30 Third, the applicant submits that instead of making an application for a declaration that there is no need to adjudicate to the Court, the REA could have contacted it to discuss the resumption of the TTD.EU grant agreement and the consequences for the present case. By acting without informing the applicant in advance, the REA did not demonstrate good faith.

31 Fourth, the applicant claims to have an interest in obtaining a ruling of the Court on the request for damages and, accordingly, on whether the initial suspension of the TTD.EU grant agreement was lawful or not. Recognition by the Court that the suspension was unlawful would itself constitute an interest in bringing proceedings and an essential form of reparation by restoring the applicant's reputation on the wine market.

Forms of order sought

32 The applicant claims, in essence, in the final version of its pleadings, that the Court should:

– declare the suspension of the TTD.EU grant agreement, as set out in the suspension confirmation letter, invalid;

– order the REA to lift the suspension of the TTD.EU grant agreement;

– order the REA to pay it the sum of EUR 500 000 by way of damages;

– declare that the action retains a purpose;

– order the REA to pay the costs.

33 The REA contends, in essence, in the final version of its pleadings, that the Court should:

– declare that there is no need to adjudicate on the action;

– in the alternative, dismiss the action as inadmissible in part and unfounded in its entirety;

– order the applicant to pay the costs.

Law

The arbitration clause

34 The first paragraph of Article 41.2 of the TTD.EU grant agreement contains an arbitration clause within the meaning of Article 272 TFEU, conferring on the General Court and, on appeal, on the Court of Justice, exclusive jurisdiction to hear and determine any dispute concerning the interpretation, application or validity of that agreement which cannot be settled amicably.

The applicable law

35 When proceedings are brought before it pursuant to an arbitration clause under Article 272 TFEU, the General Court must resolve the dispute on the basis of the substantive law applicable to the contract (see, to that effect, judgment of 18 December 1986, *Commission* v *Zoubek*, 426/85, EU:C:1986:501, paragraph 4).

36 In the present case, under the applicable law clause in Article 41.1 of the TTD.EU grant agreement, the agreement is governed by the applicable EU law, supplemented if necessary by Belgian law.

37 It follows that, as confirmed by the parties during the hearing, the TTD.EU grant agreement is governed by the relevant provisions of EU law, inter alia, the TFEU and Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ 2018 L 193, p. 1; 'the Financial Regulation').

38 Moreover, it should be noted that, when the institutions, bodies, offices or agencies of the European Union perform a contract, they remain subject to their obligations under the Charter of Fundamental Rights of the European Union ('the Charter') and the general principles of EU law (see, to that effect, judgment of 16 July 2020, *ADR Center* v *Commission*, C-584/17 P, EU:C:2020:576, paragraph 86). Thus, if the parties decide, in their contract, to confer on the EU judicature, by means of an arbitration clause, jurisdiction over disputes relating to that contract, that judicature will have jurisdiction, independently of the applicable law stipulated in that contract, to examine any infringement of the Charter or of the general principles of EU law (judgment of 16 July 2020, *Inclusion Alliance for Europe* v *Commission*, C-378/16 P, EU:C:2020:575, paragraph 81).

39 Furthermore, in order to fill a gap in the contractual terms or in the relevant provisions of EU law, the TTD.EU grant agreement is governed by the national law designated in the agreement, namely, in the present case, Belgian law.

40 Thus, it is essential to clarify the rules governing the performance and interpretation of contracts in Belgian law as in force at the time of the conclusion and implementation of the TTD.EU grant agreement.

41 The first paragraph of Article 1134 of the Belgian Civil Code provides that 'agreements lawfully entered into shall be legally binding on the parties thereto' and, in the second paragraph of that article, that 'they may be revoked only by mutual consent or on grounds authorised by law'.

42 The third paragraph of Article 1134 of the Belgian Civil Code provides, moreover, that agreements must be performed in good faith. Article 1135 of the same code provides that 'agreements are binding not only as to their express terms but also as to all the consequences which fairness, custom or the law impose upon the obligation, according to its nature'.

43 As regards the interpretation of contracts, Article 1156 of the Belgian Civil Code states that it is necessary to 'seek the common intention of the contracting parties, rather than stop at the literal meaning of the words'.

44 Furthermore, according to Article 1157 of the Belgian Civil Code, 'where a clause may have two meanings, it should be accorded the meaning capable of producing effects'.

45 Lastly, under Article 1161 of the Belgian Civil Code, 'all the clauses of an agreement shall be interpreted by reference to one another, so that each is interpreted in the manner called for by the document as a whole' and, pursuant to Article 1162 of the same code, which enshrines the

principle of the *contra proferentem* interpretation rule, 'in case of doubt, the agreement shall be interpreted against the party that imposed and in favour of the party that undertook the obligation'.

The first head of claim, seeking a declaration from the Court that the letter confirming the suspension of the TTD.EU grant agreement is invalid

46 In support of the first head of claim, the applicant puts forward four pleas in law, alleging, respectively:

– first, the unlawful nature of the suspension confirmation letter and misapplication of Article 33.2.1(a) of the TTD.EU grant agreement;

– second, breach of the principle of proportionality;

– third, the unlawful nature of the suspension confirmation letter and failure to apply Article 33.2.1(b) of the TTD.EU grant agreement;

– fourth, failure to observe the principle of good administration referred to in Article 41 of the Charter and the general principles of EU law of legal certainty, the protection of legitimate expectations and proportionality, and breach of the obligation to state reasons referred to in the second paragraph of Article 296 TFEU.

47 Before examining those pleas in law, it is necessary to point out that, according to settled case-law, the applicant's interest in bringing proceedings must, in the light of the purpose of the action, exist at the stage of lodging the action, failing which it will be inadmissible. That objective of the dispute must continue, like the interest in bringing proceedings, until the final decision, failing which there will be no need to adjudicate, which presupposes that the action must be liable, if successful, to procure an advantage to the party bringing it (see judgment of 7 June 2007, *Wunenburger* v *Commission*, C-362/05 P, EU:C:2007:322, paragraph 42 and the case-law cited).

48 In the present case, the lifting of the suspension of the TTD.EU grant agreement (see paragraph 26 above), which, furthermore, does not amount to a withdrawal of the decision to suspend that agreement, is not such as to give satisfaction to the applicant in so far as, by its action, the applicant seeks to obtain a ruling from the General Court in the dispute between it and the REA concerning the application of the TTD.EU grant agreement and a declaration that the decision to suspend that agreement is invalid. More specifically, given that the implementation of the TTD.EU grant agreement will now continue, the action is likely to be of benefit to the applicant in that it clarifies the interpretation of Article 33.2.1 of the TTD.EU grant agreement and prevents the alleged infringement from recurring in the future.

49 Consequently, the application for a declaration that there is no need to adjudicate lodged by the REA must be dismissed as regards the first head of claim.

50 Accordingly, it is appropriate to examine first of all, and jointly, the first and third pleas, alleging the unlawful nature of the suspension confirmation letter, the misapplication of Article 33.2.1(a) of the TTD.EU grant agreement and the failure to apply Article 33.2.1(b) of that grant agreement.

51 By the first and third pleas, the applicant claims, in essence, that the REA infringed Article 33.2.1(a)(i) of the TTD.EU grant agreement in that, first, as a legal entity, it was not involved in the criminal investigation, which concerned two of its employees, namely natural persons, who, according to the applicant, lack decision-making power. Second, in view of the fact that, at the time of the suspension of the TTD.EU grant agreement, the criminal investigation was still at the preliminary stage, the two natural persons concerned by the criminal investigation could not be classified as 'persons suspected of having committed fraud' within the meaning of Article 33.2.1(a)(i) of that grant agreement. Third, the suspicions of fraud did not concern the TTD.EU grant agreement, but the NGA grant agreement, with the result that the REA should have based the suspension of the TTD.EU grant agreement on Article 33.2.1(b) thereof, which corresponds to Article 202(2) of the Financial Regulation, the conditions for application of which are not, however, satisfied in the present case.

52 In so doing, the REA breached the principle of the presumption of innocence laid down in Article 48(1) of the Charter and committed a manifest error of assessment of the relevant facts. It also breached the principle of good faith in the implementation of the TTD.EU grant agreement and the obligations to provide prior information and 'prior warning' under Belgian law, which, moreover, from the point of view of EU law, constitutes a breach of the principles of the protection of legitimate expectations and legal certainty. According to the applicant, at the meeting by videoconference on 6 August 2021, the REA informed it that the criminal investigation had no impact on the TTD.EU grant agreement which, according to the REA, could therefore continue without difficulty. Next, the REA decided to change its position suddenly and inexplicably, without giving prior warning to the applicant, and sent the pre-information letter to the applicant directly.

53 The REA disputes the applicant's arguments.

54 In the first place, the REA states that the two employees of the applicant who are the subject of the criminal investigation have the power, as Chief Executive Officer and Chief Financial Officer, to represent it or take decisions on its behalf and that Article 33.2.1(a) of the TTD.EU grant agreement provides for the possibility of suspending that agreement on account of suspicions of substantial errors, irregularities or fraud in respect of natural persons who have the power to represent or take decisions on behalf of the beneficiary. It follows that the suspicions of fraud concerning the applicant's two employees justified the suspension of that grant agreement. Furthermore, in that regard, the REA adds that it follows from the information relating to the notice of closure of the preliminary phase of the criminal investigation of 12 December 2022 that the applicant, as a legal entity, was also the subject of the criminal investigation.

55 In the second place, the REA contends that, contrary to the applicant's submissions, it complied with the presumption of innocence of the employees subject to the criminal investigation since it regarded them as 'suspects' and not as 'accused persons' in the context of that investigation.

56 According to the REA, under Italian criminal procedural law, a distinction must be drawn between the situation of a 'suspect' and that of an 'accused person'. Under Article 60 of the Italian Code of Criminal Procedure, a suspect acquires the status of an accused person when he or she is charged with an offence in a request for committal to trial, after the Public Prosecutor has closed the investigation stage. In the present case, the applicant's employees who were the subject of the criminal investigation had not been charged at the time when the suspension procedure was initiated and they were not regarded as 'accused persons' within the meaning of Article 60 of the Italian Code of Criminal Procedure. The REA states that it essentially relied on

the fact that the employees of the applicant in question, in their capacity as natural persons with the power to represent or take decisions on behalf of the applicant, were the subject of a criminal investigation in Italy and were formally entered into the registry of criminal offence on 7 July 2021, in order to consider that those employees were suspected of having committed fraud within the meaning of Article 33.2.1(a) of the TTD.EU grant agreement and, accordingly, to suspend that grant agreement.

57 Furthermore, the REA submits that Article 33.2.1(a) of the TTD.EU grant agreement is intended to protect the financial interests of the European Union by allowing the suspension of an agreement awarding grants to a beneficiary where that beneficiary has committed or is suspected of having committed fraud. That provision, which is found in all standard grant agreements, implements Article 131(3) of the Financial Regulation. The purpose of the suspension measure provided for in Article 33.2.1(a) of the TTD.EU grant agreement would be undermined if the principle of the presumption of innocence required, as the applicant maintains, that the suspension could be implemented only once the accused has been found guilty by a criminal court.

58 Moreover, in the rejoinder, the REA argues that the interpretation advocated by the applicant, according to which only the project in respect of which allegations of irregularity and/or fraud have been made could be suspended, is not supported either by the applicable rules or by case-law. Although the criminal fraud investigation concerned the NGA grant agreement, the REA considered that the suspicions could also apply to the TTD.EU grant agreement.

59 In the third place, the REA reiterates its argument that, by suspending the TTD.EU grant agreement, it did not proceed on the basis of an incorrect premiss since it is established that the two employees of the applicant concerned by the criminal investigation were suspected of fraud under Italian criminal law, both when the REA sent its pre-information letter and when it sent the suspension confirmation letter.

60 In the fourth place, first of all, the REA submits that it applied the TTD.EU grant agreement in accordance with the principle of good faith guaranteed by Articles 1134 and 1156 of the Belgian Civil Code. In that regard, the REA asserts that it complied with Article 33.2.2 of the TTD.EU grant agreement, which provides that, where it intends to suspend the implementation of the agreement, it must formally notify the beneficiary of its intention and the reasons why, and invite it to submit its observations within 30 days of notification. The REA states that it fulfilled its contractual obligations by sending the applicant a pre-information letter on 23 February 2022, informing it, with reasons, of its intention to suspend that grant agreement and inviting it to submit its observations within the prescribed period.

61 Next, the REA adds that while it is indeed true that, in July 2021, the applicant had informed it of the ongoing criminal investigation in Italy, in accordance with its obligation to notify stipulated in Article 12 of the TTD.EU grant agreement, and that the person in charge of the TTD.EU grant agreement at the REA and the applicant had held a meeting by videoconference, during that meeting the REA did not take a formal position regarding the consequences of the criminal investigation.

62 In that regard, first, in the rejoinder, the REA points out that it contemplated suspending the TTD.EU grant agreement in the light of the elements raised during the criminal investigation. The REA states that the fact that it was aware of OLAF's investigation at the time of the pre-information letter is irrelevant, since it is bound by the secrecy of those investigations and the pre-information letter does not refer to that investigation or relate to it.

63 Second, during the hearing and in line with what it submitted in the statement of defence, the REA states that it was after having been informed that an OLAF investigation had been initiated in January 2022, an investigation which increased the suspicions of fraud committed by the applicant, that it contemplated suspending the TTD.EU grant agreement.

64 Moreover, the REA submits that, contrary to what the applicant claims, the applicant did not suffer serious harm as a result of the sending of the pre-information letter several months after the meeting by videoconference on 6 August 2021, since the applicant had time between the sending of the pre-information letter on 23 February 2022 and the suspension taking effect on 7 May 2022 to prepare for the suspension and to draw up a plan to mitigate its consequences.

65 Further, as regards the argument that the REA refused to meet the applicant and to examine the matter during the suspension procedure and after the adoption of the suspension, the REA states that it was not required, contrary to the applicant's submission, to meet the applicant after the suspension procedure had begun. In addition, the REA is not entitled to hold discussions with the beneficiary of a grant agreement when an OLAF investigation concerning that beneficiary is ongoing.

66 As regards the argument alleging breach of the principle of the protection of legitimate expectations and legal certainty, the REA contends that that argument is inadmissible and, in the alternative, considers that, contrary to what the applicant claims, it complied with those principles.

67 Lastly, as regards the argument that the suspension of the TTD.EU grant agreement should have been based on Article 33.2.1(b) of that agreement, which reflects Article 202(2) of the Financial Regulation and in respect of which, however, the conditions of application are not satisfied, the REA submits that that argument is moot since, in the present case, the TTD.EU grant agreement was suspended pursuant to Article 33.2.1(a) thereof, which reflects Article 131 of the Financial Regulation.

68 The first and third pleas raise, in essence, the preliminary question whether, as the applicant submits, by adopting the decision to suspend the TTD.EU grant agreement, the REA infringed Article 33.2.1(a)(i) of the TTD.EU grant agreement.

69 Accordingly, it is necessary to interpret Article 33.2.1 of the TTD.EU grant agreement under which the REA may suspend that agreement.

70 Article 33.2.1 of the TTD.EU grant agreement stipulates:

'The Agency may suspend implementation of the action or any part of it, if:

(a) a beneficiary (or a natural person who has the power to represent or take decisions on its behalf) has committed or is suspected of having committed:
(i) substantial errors, irregularities or fraud, or

(ii) serious breach of obligations under this Agreement or during the award procedure (including improper implementation of the action, submission of false declaration, failure to provide required information, breach of ethical principles); or

(b) a beneficiary (or a natural person who has the power to represent or take decisions on its behalf) has committed – in other EU or Euratom grants awarded to it under similar conditions – systemic or recurrent errors, irregularities, fraud or serious breach of obligations that have a material impact on this grant (extension of findings from other grants to this grant – see Article 17.5.2).'

71 In the present case, it should be noted that the suspension of the TTD.EU grant agreement was decided by the REA pursuant to Article 33.2.1(a)(i) thereof, on account of the fact that the applicant's Chief Executive Officer and Chief Financial Officer were the subject of the criminal investigation into suspicions of fraud linked to the implementation of a grant agreement other than the TTD.EU grant agreement, namely the NGA grant agreement.

72 In the first place, it is apparent from the wording of Article 33.2.1(a) of the TTD.EU grant agreement that the REA may suspend the implementation of that agreement, inter alia, because of suspicions of fraud concerning both the company benefiting from that agreement and any 'natural person who has the power to represent or take decisions on its behalf'. It follows that, as the REA correctly submits, suspicions of fraud concerning the applicant's Chief Executive Officer and Chief Financial Officer could, in principle, justify the suspension of the TTD.EU grant agreement, in so far as the Chief Executive Officer and the Chief Financial Officer are, as in the present case, authorised to represent or take decisions on behalf of the applicant.

73 Despite the applicant's attempts to present its Chief Executive Officer and Chief Financial Officer as mere employees without decision-making power, it is apparent from the case file that it was the applicant's Chief Financial Officer who signed both the TTD.EU grant agreement and the NGA grant agreement on its behalf, and it was the applicant's Chief Executive Officer who signed, on behalf of the applicant, the letter of interim assignment of 19 March 2021, by which Ópera Business Dreams was awarded the contract for the implementation of actions linked to the TTD.EU grant agreement.

74 In the second place, it follows from the wording of Article 33.2.1(a)(i) of the TTD.EU grant agreement that it is sufficient that the beneficiary (or any natural person who has the power to represent or take decisions on its behalf) has committed or is 'suspected of having committed' a substantial error, irregularity or fraud in order for the grant agreement to be suspended. It follows that the very existence of the fraud or proof thereof is not required for the REA to be able to suspend the TTD.EU grant agreement (see, to that effect, judgment of 12 December 2013, *ANKO* v *Commission*, T-118/12, not published, EU:T:2013:641, paragraph 46).

75 In the present case, it is necessary to determine whether the REA was entitled to classify the applicant's Chief Executive Officer and Chief Financial Officer as 'persons suspected of having committed fraud' within the meaning of Article 33.2.1(a)(i) of the TTD.EU grant agreement on the ground that they were the subject of the criminal investigation, particularly in view of the fact that, in the present case, at the time when the suspension confirmation letter was sent, the criminal investigation was still at a preliminary stage.

76 In that regard, the applicant submits that, in order to interpret the concept of 'person suspected of having committed fraud' for the purposes of Article 33.2.1(a)(i) of the TTD.EU grant agreement, the REA should have taken account of the way in which that concept was applied in Italian criminal law and thus concluded that the persons in question could not be regarded, as a result of the criminal investigation, as 'suspects' under Italian law. According to the applicant, since the criminal investigation is a preliminary investigation and has not yet been closed by a decision to refer the case to the relevant court with a view to a trial, the REA cannot treat the individuals in question as persons suspected of having committed fraud. In that respect, the applicant points out that, according to Article 60 of the Italian Code of Criminal Procedure, it is only when the prosecutor's office closes the preliminary investigation and decides to request that the person concerned be sent to trial that that person may be formally regarded as having 'been placed under investigation' and, therefore, 'suspected of having committed fraud'.

77 In that regard, it should be noted that Article 33.2.1(a)(i) of the TTD.EU grant agreement refers in a general manner to the suspicions of having committed 'substantial errors, irregularities or fraud', without specifying the origin or source of such suspicions. Accordingly, the existence of a criminal investigation based on suspicions of fraud carried out in respect of the two natural persons who have the power to represent the applicant or take decisions on its behalf may constitute a source of 'suspected fraud' within the meaning of Article 33.2.1(a)(i) of the TTD.EU grant agreement.

78 Furthermore, without ruling on the relevance and scope of Article 60 of the Italian Code of Criminal Procedure in order to interpret the provisions of the TTD.EU grant agreement, that finding cannot be called into question by the fact that, at the time of the suspension of the TTD.EU grant agreement, that criminal investigation was, according to the interpretation of Italian criminal law relied on by the applicant, at a preliminary stage.

79 Having clarified that point, it is necessary to determine whether, in the present case, the REA could suspend the TTD.EU grant agreement pursuant to Article 33.2.1(a)(i) thereof, despite the fact that the suspicions of fraud against the applicant's Chief Executive Officer and Chief Financial Officer arose from the criminal investigation concerning a grant agreement other than the TTD.EU grant agreement, namely the NGA grant agreement.

80 On that point, the parties disagree as to the interpretation of Article 33.2.1 of the TTD.EU grant agreement and, in particular, the difference between point (a) and point (b) of that article.

81 When questioned in that regard at the hearing, the REA submitted, in essence, that while Article 33.2.1(b) of the TTD.EU grant agreement justified the suspension of the TTD.EU grant agreement where it was found that fraud had been 'committed' in the context of other agreements, Article 33.2.1(a)(i) allowed for the possibility of suspending the TTD.EU grant agreement where there were mere 'suspicions of fraud'. In addition, according to the REA, given that the wording of Article 33.2.1(a)(i) of the TTD.EU grant agreement does not contain any reference to that agreement, suspicions of fraud relating to the performance of other grant agreements could be classified as suspicions of fraud capable of justifying the suspension of the TTD.EU grant agreement within the meaning of that provision. If the drafter of that agreement had wished to limit the possibility of suspending it solely to cases of suspected fraud linked to the TTD.EU grant agreement, it would have made this clear, as it did in Article 33.2.1(a)(ii) of that agreement.

82 By contrast, according to the applicant, Article 33.2.1 of the TTD.EU grant agreement must be interpreted as meaning that point (a) justifies the suspension of the TTD.EU grant agreement only where there are suspicions of fraud linked to the performance of that same agreement, whereas point (b) allows for the suspension of the TTD.EU grant agreement where fraud has been committed in the context of other agreements. Furthermore, in that regard, it emphasises that, if the interpretation advocated by the REA were valid, there would be no difference between point (a) and point (b) of Article 33.2.1 of the TTD.EU grant agreement.

83 In that regard, so far as concerns the interpretation of Article 33.2.1 of the TTD.EU grant agreement, it should be recalled that, in accordance with Article 1156 of the Belgian Civil Code, in interpreting an agreement, it is necessary to 'seek the common intention of the contracting parties, rather than stop at the literal meaning of the words'.

84 In addition, it should be noted that, according to Article 33.2.1(a) of the TTD.EU grant agreement, the REA may suspend that grant agreement both if the beneficiary 'has committed' fraud and if the beneficiary is 'suspected of having committed' fraud.

85 It is true, as the REA observes, that the wording of Article 33.2.1(a)(i) of the TTD.EU grant agreement contains no reference to that agreement, with the result that suspicions of fraud relating to the performance of another agreement could justify the suspension of the TTD.EU grant agreement.

86 However, it should be noted, first, that Article 33.2.1(a)(ii) of the TTD.EU grant agreement contains a reference to that agreement and, second, that, according to Article 33.2.1(b), the REA may suspend the TTD.EU grant agreement if the beneficiary of that agreement has 'committed – in other EU or Euratom grants awarded to it under similar conditions – … fraud'.

87 Thus, in accordance with Article 1161 of the Belgian Civil Code, according to which 'all the clauses of an agreement shall be interpreted by reference to one another, so that each is interpreted in the manner called for by the document as a whole', an overall reading of Article 33.2.1(a)(i) and (ii) of the TTD.EU grant agreement and of Article 33.2.1(b) of that same agreement allows the conclusion to be drawn that Article 33.2.1(a)(i) justifies the suspension of the TTD.EU grant agreement when the beneficiary (or any natural person who has the power to represent or take decisions on its behalf) has committed or is suspected of having committed fraud in the context of the implementation of that agreement. By contrast, Article 33.2.1(b) allows the TTD.EU grant agreement to be suspended where the beneficiary (or any natural person who has the power to represent or take decisions on its behalf) has committed fraud in the performance of another agreement, provided that it is proved that the fraud has a material impact on the TTD.EU grant agreement.

88 In that regard, first, it should be noted that, in accordance with Article 1157 of the Belgian Civil Code (see paragraph 44 above), that interpretation ensures that Article 33.2.1(b) of the TTD.EU grant agreement has practical effect.

89 As the applicant rightly submits, the interpretation of Article 33.2.1(a)(i) of the TTD.EU grant agreement proposed by the REA (see paragraph 81 above) ultimately renders the provision laid down in Article 33.2.1(b) of that agreement meaningless, given that the possibility of suspending the TTD.EU grant agreement on the ground of fraud committed in another grant agreement would – according to the REA's interpretation – already be provided for under Article 33.2.1(a), with the result that it would not have been necessary to provide for point (b) of that provision.

90 Second, that interpretation is consistent with the principle of the *contra proferentem* interpretation rule enshrined in Article 1162 of the Belgian Civil Code, according to which 'in case of doubt, the agreement shall be interpreted against the party that imposed and in favour of the party that undertook the obligation'. Consequently, Article 33.2.1(a) of the TTD.EU grant agreement must be interpreted against the REA, which imposed it, and in favour of the applicant, which undertook it.

91 Accordingly, it must be held that mere suspicions of fraud concerning the implementation of a grant agreement other than the TTD.EU grant agreement, in which the applicant participated, cannot be classified as suspicions of fraud within the meaning of Article 33.2.1(a)(i) of the TTD.EU grant agreement capable of justifying the suspension of that agreement.

92 Furthermore, as pointed out in paragraph 87 above, fraud concerning the implementation of a grant agreement other than the TTD.EU grant agreement could have justified the suspension of the latter agreement, if the conditions set out in Article 33.2.1(b) thereof, namely the commission of fraud having a material impact on the TTD.EU grant agreement, were satisfied, which was not the case here. Since the REA did not base the decision to suspend the TTD.EU grant agreement on Article 33.2.1(b) of that agreement on the ground that the commission of fraud had not been established, it did not examine whether the second condition was satisfied in the present case, namely whether that fraud had a material impact on the TTD.EU grant agreement.

93 That conclusion cannot be called into question by the other arguments raised by the REA.

94 First, as regards the argument that, in essence, the REA decided to suspend the TTD.EU grant agreement after having been informed of the opening of OLAF's investigation, which concerned a number of grant agreements signed by the applicant, including the TTD.EU grant agreement, it should be noted, at the outset, that that argument is contradicted by the fact, acknowledged by the REA itself in the rejoinder (see paragraph 62 above), that both the pre-information letter and the suspension confirmation letter justify the suspension of the TTD.EU grant agreement solely on the basis of the criminal investigation into the applicant's Chief Executive Officer and Chief Financial Officer. No reference is made, in either document, to the OLAF investigation.

95 Furthermore, in that regard, it should be noted that the note of 13 January 2022, by which OLAF informed the REA of the opening of its investigation, did not envisage the suspension of the TTD.EU grant agreement as a precautionary administrative measure (see paragraph 12 above).

96 Thus, the information in the case file (see paragraph 94 above) permits the inference that the suspension of the TTD.EU grant agreement was based solely on the criminal investigation into suspected fraud in the implementation of the NGA grant agreement.

97 It is true that the REA, like any institution, body, office or agency of the European Union, is required, under Article 10(3) of Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by OLAF and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ 2013 L 248, p. 1), to ensure that the confidentiality of investigations conducted by OLAF is respected.

98 However, it is apparent from the case-law that the rule on the confidentiality of OLAF investigations, laid down in Article 10(3) of Regulation No 883/2013, must be interpreted in its context and, in particular, in the light of recital 12 of that regulation, which provides that OLAF

investigations must be conducted in full respect of the fundamental freedoms (see, to that effect, judgment of 6 June 2019, *Dalli* v *Commission*, T-399/17, not published, EU:T:2019:384, paragraph 169).

99 In that regard, it should be borne in mind that, according to Article 33.2.2 of the TTD.EU grant agreement, 'before suspending the implementation of [the TTD.EU grant agreement], the Agency will formally notify the coordinator or beneficiary concerned[,] informing it of its intention to suspend the implementation and the reasons why and inviting it to submit observations within 30 days of receiving notification.'

100 Consequently, while, pursuant to Article 10(3) of Regulation No 883/2013, the REA was under an obligation to ensure that the confidentiality of the OLAF investigation was respected, it was also required, in accordance with Article 33.2.2 of the TTD.EU grant agreement, to comply with the obligation to state reasons for the decision to suspend that agreement, in order to enable the applicant to defend itself.

101 As such, in that context and taking into account the information in the case file (see paragraph 94 above), the obligation of confidentiality as regards the OLAF investigation, which, moreover, was referred to by the REA in general terms, after the application was lodged, is not convincing because the suspension of the TTD.EU grant agreement was justified by suspicions of fraud concerning the implementation of that same agreement and not the NGA grant agreement.

102 Second, as regards the argument that, by suspending the TTD.EU grant agreement, the REA acted in the interests of prudence, in order to safeguard the financial interests of the European Union, it should be noted that the REA's obligation of sound financial management of EU resources as an agency under Article 317 TFEU (see, to that effect, judgment of 21 February 2024, *Greenspider* v *Eismea*, T-733/21, not published, EU:T:2024:104, paragraph 39) cannot authorise it to suspend the TTD.EU grant agreement in breach of Article 33.2.1(a)(i) thereof.

103 Thus, it must be held that, by deciding to suspend the TTD.EU grant agreement on account of the fact that the applicant's Chief Executive Officer and Chief Financial Officer, namely two natural persons who have the power to represent or take decisions on behalf of the applicant, were suspected of fraud in the context of a grant agreement other than the TTD.EU grant agreement, the REA infringed Article 33.2.1(a)(i) of the TTD.EU grant agreement.

104 Therefore, in light of all of the foregoing, it is appropriate to uphold the first and third pleas put forward in support of the first head of claim, without it being necessary to rule on the other arguments put forward by the applicant in support of those pleas, nor on the other pleas put forward in support of that head of claim.

The second head of claim, requesting that the Court order the REA to lift the suspension of the TTD.EU grant agreement

105 As regards the second head of claim, it must be borne in mind that, by letter of 10 September 2024, the REA informed the General Court of the fact that the suspension of the TTD.EU grant agreement had been lifted and that the REA and the applicant had agreed to resume the implementation of that grant agreement, which the applicant confirmed (see paragraphs 26 and 27 above). Accordingly, there is no longer any need to adjudicate on the second head of claim.

The third head of claim, requesting that the REA be ordered to pay the applicant the sum of EUR 500 000 by way of damages

106 The applicant argues that it suffered serious economic harm as a result of the suspension of the TTD.EU grant agreement and claims damages from the REA in the amount of EUR 500 000, an amount which, it states, may be subject to further specification in the course of the proceedings.

107 The applicant asserts, on the basis of a report by an expert appointed by it ('the report by the appointed expert'), that the suspension of the TTD.EU grant agreement could have a negative economic impact on its implementation, should it be resumed. According to the applicant, although the objectives and budget of the TTD.EU grant agreement remain unchanged, the international economic and geopolitical context, characterised in particular by an increase in the prices of raw materials and energy as well as difficulties with transport and logistics, will likely lead to a revision of the quotations it obtained in January 2022 for fairs, workshops, conferences and other events, which will force the applicant to carry out the activities in a markedly reduced manner compared with what was initially envisaged, to forgo the implementation of certain activities, or, as a last resort, to forgo the implementation of the entire TTD.EU grant agreement.

108 Moreover, after stating that it is a recognised professional player in the wine sector both at national level as well as globally and at EU level, the applicant submits that the hasty suspension of the TTD.EU grant agreement damages its reputation and image in terms of commercial reliability, credibility, fairness and good faith in its relations with partners.

109 Furthermore, according to the applicant, the damage suffered is certain given that the assessment of the negative consequences likely to result from the suspension of the TTD.EU grant agreement was detailed in the application.

110 In addition, contrary to the REA's submissions, the applicant maintains that there is a causal link between the damage suffered and the REA's conduct since, without the suspension of the TTD.EU grant agreement, it would not have suffered any damage.

111 The REA disputes those arguments and contends that the claim for compensation for pecuniary and non-pecuniary damage is manifestly unfounded.

112 At the outset, it must be noted that, while it is true that the suspension of the TTD.EU grant agreement has been lifted (see paragraph 26 above), the resumption of its implementation does not enable the applicant to obtain an outcome equivalent to that which it seeks by the submission of the claim for compensation for the damage that it claims to have suffered as a result of the suspension of that grant agreement.

113 As such, it is also necessary to give a ruling on the applicant's claim for compensation.

114 As a preliminary point, it should be noted that the applicant's claim for compensation is exclusively contractual in nature.

115 Thus, it should be borne in mind that, in accordance with the first paragraph of Article 340 TFEU, the contractual liability of the European Union is governed by the law applicable to the contract in question, which, in the present case, as has already been stated in paragraph 36 above, is the applicable EU law supplemented, if necessary, by Belgian law.

116 It follows that, as has been noted in paragraphs 37 and 38 above, the TTD.EU grant agreement is governed by the relevant provisions of EU law, namely, in the present case, the TFEU, the Charter and the Financial Regulation and, in order to fill a gap in the contractual provisions or in the relevant provisions of EU law, by the national law designated in the agreement, namely, in the present case, Belgian law.

117 Thus, in that context, in the absence of relevant provisions of EU law, it is necessary to recall the conditions under which contractual liability may be incurred under the Belgian law in force at the time of the conclusion and implementation of the TTD.EU grant agreement.

118 In the first place, Article 1142 of the Belgian Civil Code, which comes within Title III of Book III, entitled 'Contracts and contractual obligations in general', provides that 'any obligation to do something or not to do something shall result in payment of damages where that obligation is not performed by the debtor'.

119 In the second place, according to Article 1147 of the Belgian Civil Code, 'the debtor shall, where appropriate, be ordered to pay damages either for non-performance of the obligation or for a delay in performing it, whenever it is not shown that the reason for non-performance was not attributable to the debtor, and that there was no bad faith on his [or her] part'.

120 It follows from those provisions that the event giving rise to contractual liability, under the Belgian Civil Code, is the non-performance, in whole or in part, of the contract, attributable to one of the contracting parties. In order to obtain compensation for loss suffered due to the non-performance of a contract, whether or not relating to property, it is for the party claiming compensation to establish a causal link between the non-performance of the contractual obligations and the loss, as it has materialised (see judgment of 4 May 2017, *Meta Group* v *Commission*, T-744/14, not published, EU:T:2017:304, paragraph 270 and the case-law cited).

121 As the REA points out, without being contradicted by the applicant, three conditions must be satisfied in order for damage of contractual origin to be compensated, namely non-performance of the contract, harm and a causal link between the non-performance and the harm (see judgment of 4 May 2017, *Meta Group* v *Commission*, T-744/14, not published, EU:T:2017:304, paragraph 271 and the case-law cited).

122 As regards the first condition, it should be noted that, as is apparent from the examination of the first head of claim, the REA decided to suspend the TTD.EU grant agreement in breach of Article 33.2.1(a)(i) thereof.

123 Therefore, since the three conditions referred to in paragraph 121 above are cumulative (judgment of 11 June 2015, *EMA* v *Commission*, C-100/14 P, not published, EU:C:2015:382, paragraph 100), it is necessary to examine whether the other conditions referred to in paragraph 121 above are satisfied.

124 As regards the second condition, the applicant seeks compensation for both pecuniary and non-pecuniary damage.

125 In particular, as regards pecuniary damage, the applicant seeks compensation for the negative economic consequences which, in its view, arise from the suspension of the TTD.EU grant agreement (see paragraph 107 above).

126 Although it is indeed likely that, following the suspension of the TTD.EU grant agreement, the applicant probably had to suspend or cancel certain fairs, workshops, conferences and other events scheduled for the implementation of the TTD.EU grant agreement, it does not prove that the pecuniary damage which it alleges actually materialised in the present case.

127 In that regard, it should be noted that the applicant has adduced the report by the appointed expert drawn up on 7 July 2022.

128 However, the report by the appointed expert states that, at the time of writing, 'no actual financial losses or advances [had] materialised: by way of example, no advance [had been] paid …, no penalty [had been] paid and no payment on account [had] been paid'. For that reason, the report by the appointed expert merely illustrates the 'potential economic, financial, pecuniary and non-pecuniary risks that the applicant could face following the suspension'.

129 Thus, the report by the appointed expert points out, by way of example, that Prodeca, the Spanish beneficiary, 'found itself in the position of having to withdraw from the China Food & Drinks Fair in Chengdu, China, which was initially scheduled to take place in March, then postponed to April, then subsequently postponed to July-August 2022', whilst having 'already confirmed the event in early February 2022, and already paid to the organising body of the event an advance of EUR 33 500 to opt for the area where the 85 square metre stand would be set up'. However, although the applicant has indeed produced a draft quote to prove that an advance payment of EUR 33 500 was required to reserve the area where the 85-square-metre stand was to be located, it does not adduce any evidence to show that that amount was actually paid.

130 In addition, the report by the appointed expert listed a whole series of planned trade fairs, which were subsequently cancelled or suspended. However, as regards, inter alia, the event entitled 'ProWine Shangai', the report by the appointed expert merely provides an estimate of the potential costs without producing documents proving that those costs were actually incurred. Similarly, proof of the purely indicative costs estimated for the applicant's participation in the other annulled events mentioned in the report by the appointed expert, such as 'WineTo Asia Shenzhen', 'Bellavita Chicago Expo', 'Summer Fancy Food edition' and 'Texom in Dallas', is provided by brochures or schedules of activities which do not include invoices proving that those costs were actually incurred.

131 Lastly, as regards the list of workshops, intercompany e-commerce events, seminars, training courses and future professional exhibitions contained in the report by the appointed expert, it should be noted that this is a mere list of events, including, moreover, a certain number of events which took place before the date on which the suspension took effect, which is not accompanied by an estimate, even indicative, of costs.

132 Furthermore, when questioned in that regard at the hearing, after stating that the pecuniary damage on which it relied had to be regarded as actual damage already produced, the applicant was not in a position to indicate which documents in the file made it possible to prove the pecuniary damage alleged and, in particular, the costs which it allegedly had to bear as a result of the suspension of the TTD.EU grant agreement.

133 Accordingly, it must be held that the applicant has not proved that the pecuniary damage which it claims to have suffered as a result of the suspension of the TTD.EU grant agreement had actually materialised when the application was lodged. As the REA submits, it bases its claims on mere projections, which, moreover, is confirmed by the fact that the applicant does not specify exactly the amount of the pecuniary damage for which it seeks compensation.

134 As regards non-pecuniary damage, the applicant seeks compensation for the alleged damage to reputation and image which, in its view, arises from the suspension of the TTD.EU grant agreement. However, the applicant provides no proof demonstrating such damage.

135 Lastly and in the alternative, as regards the third condition, relating to the existence of contractual liability, it should be noted that the applicant has not proved with certainty a causal link between the REA's alleged conduct and the damage allegedly suffered.

136 As regards the pecuniary damage alleged, even if such damage were established (see paragraph 133 above), it is apparent from the report by the appointed expert that, 'due to the COVID-19 pandemic and the resulting suspension of activities […], the programme, since its creation, has had to continually respond to new market needs and to the objective difficulties of implementing activities, due to the ongoing need for cancellations and deferrals of events'. Therefore, it cannot be excluded that at least part of the additional costs that the applicant claims to have incurred as a result of the suspension of the TTD.EU grant agreement are in fact linked to the COVID-19 pandemic.

137 As regards non-pecuniary damage, assuming that such damage is established (see paragraph 134 above), it cannot be ruled out that it may be linked to the criminal investigation and not to the suspension of the TTD.EU grant agreement.

138 In the light of all of the above considerations, the third head of claim must be rejected.

Costs

139 Under Article 134(1) of the Rules of Procedure of the General Court, the unsuccessful party is to be ordered to pay the costs if they have been applied for in the successful party's pleadings. Since the REA has essentially been unsuccessful, it must be ordered to pay the costs in accordance with the form of order sought by the applicant.

On those grounds,

THE GENERAL COURT (Tenth Chamber, Extended Composition),

hereby:

1. **Declares invalid the decision of the European Research Executive Agency (REA) to suspend Grant Agreement No 874904 concerning the project entitled 'European Quality Wines: Taste the Difference – TTD.EU' contained in the letter of the REA dated 2 May 2022;**

2. **Declares that there is no longer any need to adjudicate on the second head of claim requesting that the REA be ordered to lift the suspension of Grant Agreement No 874904 concerning the project entitled 'European Quality Wines: Taste the Difference – TTD.EU';**

3. **Dismisses the action as to the remainder;**

4. **Orders the REA to pay the costs.**

Porchia Jaeger Madise

Nihoul Verschuur

Delivered in open court in Luxembourg on 11 December 2024.

V. Di Bucci M. van der Woude
Registrar President

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