Questions referred

1. Does Article 50 of the Charter of Fundamental Rights of the European Union, interpreted in the light of Article 4 of Protocol No 7 to the European Convention on Protection of Human Rights and Fundamental Freedoms, the relevant case-law of the European Court of Human Rights and national law, preclude the possibility of conducting administrative proceedings in respect of an act (unlawful conduct consisting in market manipulation) for which the same person has been convicted by a decision that has the force or *res judicata*?

2. May the national court directly apply EU principles in connection with the *ne bis in idem* principle, on the basis of Article 50 of the Charter of Fundamental Rights of the European Union, interpreted in the light of Article 4 of Protocol No 7 to the European Convention on the Protection of Human Rights and Fundamental Freedoms, the relevant case-law of the European Court of Human Rights and national law?

Request for a preliminary ruling from the Órgano Administrativo de Recursos Contractuales de la Comunidad Autónoma de Euskadi (Spain) lodged on 28 October 2016 — Montte SL v Musikene

(Case C-546/16)

(2017/C 022/12)

Language of the case: Spanish

Referring court

Órgano Administrativo de Recursos Contractuales de la Comunidad Autónoma de Euskadi

Parties to the main proceedings

Applicant: Montte SL

Defendant: Musikene

Questions referred

1. Does Directive 2014/24/EU ([1]) of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC preclude national legislation such as Article 150(4) TRLCSP, ([2]) or a practice for interpreting and implementing that legislation, which authorises contracting authorities to establish in the documents governing an open tendering procedure award criteria which apply in successive elimination stages for tenders which do not exceed a predetermined minimum score threshold?

2. If the reply to question 1 is in the negative, does the aforementioned Directive 2014/24 preclude national legislation, or a practice for interpreting and implementing that legislation, which uses in the open procedure the aforementioned system of award criteria which apply in successive elimination stages in such a way that in the last stage there are not sufficient tenders to ensure genuine competition?

3. If the reply to question 2 is in the affirmative, does the aforementioned Directive 2014/24 preclude, because it does not ensure genuine competition or circumvents the mandate to award the contract to the tender with the best quality/price ratio, a clause such as that at issue, in which the price factor is evaluated only for tenders which have obtained 35 out of 50 points in the technical criteria?

([1]) OJ 2014 L 94, p. 65.
([2]) Consolidated text of the Law on Public Sector Contracts.