

Case C-357/06

Frigerio Luigi & C. Snc

v

Comune di Triuggio

(Reference for a preliminary ruling
from the Tribunale amministrativo regionale per la Lombardia)

(Directive 92/50/EEC — Public service contracts — National legislation restricting
the award of local public services of economic interest to companies
with share capital — Compatibility)

Judgment of the Court (Fourth Chamber), 18 December 2007 I - 12313

Summary of the Judgment

1. *Approximation of laws — Procedures for the award of public service contracts — Directive 92/50 — Economic operators*
(Council Directive 92/50, Art. 26(1) and (2))

2. *Community law — Direct effect — Directly applicable provision of the Treaty — Obligations of national courts*

1. Article 26(1) and (2) of Directive 92/50 relating to the coordination of procedures for the award of public service contracts, as amended by Commission Directive 2001/78, precludes national provisions which exclude candidates or tenderers entitled under the law of the Member State concerned to provide the service in question, including those composed of groups of service providers, from submitting a tender, in a procedure for the award of a public service contract with a value greater than the threshold for application of Directive 92/50, solely on the ground that those candidates or tenderers do not have a legal form corresponding to a specific category of legal persons, namely that of a company with share capital.
2. It is for the national court, to the full extent of its discretion under national law, to interpret and apply national law in accordance with the requirements of Community law and, in so far as such an interpretation is not possible, to disapply any provision of national law which is contrary to those requirements.

(see paras 22, 29, operative part)

(see paras 28, 29, operative part)