

## Botta v Italy

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(Case 153/1996/772/973)

EUROPEAN COURT OF HUMAN RIGHTS

JUDGES GÖLCÜKLÜ (PRESIDENT), MATSCHER, RUSSO, PEKKANEN, FREELAND, WILDHABER,  
MIFSUD BONNICI, REPIK AND JAMBREK

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25 SEPTEMBER 1997, 24 FEBRUARY 1998

*Privacy – Right to respect for private life – Disabled applicant unable to gain access to sea at private holiday resort – State failing to enforce legislation obliging private resort to provide appropriate facilities – Whether state obliged under convention to take positive steps to remedy situation – Whether direct and immediate link between required measures and applicant's private life – Convention for the Protection of Human Rights and Fundamental Freedoms, art 8.*

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The applicant, who was physically disabled, went on holiday to the Italian seaside resort of Lido degli Estensi. During his stay he was unable to gain access to the sea as a result of the failure by private bathing establishments to provide special facilities for disabled people. However, Italian legislation required the relevant concession contracts to contain a clause obliging private beaches to provide such facilities and the applicant made repeated fruitless attempts over subsequent years to have the situation remedied by the local authorities. Ultimately he complained to the European Commission of Human Rights that Italy's failure to take appropriate measures to remedy the omissions of the private bathing establishments of Lido degli Estensi violated his right under art 8<sup>1</sup> of the Convention for the Protection of Human Rights and Fundamental Freedoms to respect for his private and family life. The Commission expressed the opinion by 24 votes to 6 that there had been no violation of art 8 of the convention and referred the case to the European Court of Human Rights.

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**Held** – The essential object of art 8 of the convention was to protect the individual against arbitrary interference by public authorities which was primarily a negative undertaking on the part of the state. However, a state's duty to respect private and family life also included positive obligations, comprising the adoption of measures designed to secure respect for private life in the sphere of relations of individuals between themselves, where there was a direct and immediate link between the measures sought by the applicant and the applicant's private and family life. In the instant case the right asserted by the applicant—to gain access to the sea during his holiday at a place distant from his normal place of residence—concerned interpersonal relations of such broad and indeterminate scope, that no direct and immediate link could be established between the measures the state was urged to take in order to remedy the omissions of the private bathing establishments and the applicant's private life. Accordingly, Italy's failure to take positive steps to remedy the omissions of the private bathing establishments of Lido degli Estensi did not constitute a violation of the applicant's right under art 8 to respect for his private and family life (see p 88 *f g h* and p 89 *e*, post).

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<sup>1</sup> Article 8 is set out at p 87 *b c*, post

*Airey v Ireland* (1979) 2 EHRR 305, *Guerra v Italy* (1998) 4 BHRC 63, *X v Netherlands* (1985) 8 EHRR 235 and *López Ostra v Spain* (1994) 20 EHRR 277 distinguished. a

#### Cases cited

*Abdulaziz v UK* (1985) 7 EHRR 471, ECt HR.

*Airey v Ireland* (1979) 2 EHRR 305, ECt HR.

*Guerra v Italy* (1998) 4 BHRC 63, ECt HR. b

*Inze v Austria* (1987) 10 EHRR 394, ECt HR.

*López Ostra v Spain* (1994) 20 EHRR 277, ECt HR.

*Niemietz v Germany* (1992) 16 EHRR 97, ECt HR.

*Stjerna v Finland* (1994) 24 EHRR 195, ECt HR.

*X v Netherlands* (1985) 8 EHRR 235, ECt HR. c

#### Application

In an application (no 21439/93) to the European Commission of Human rights on 30 July 1992 Marizio Botta complained that the Italian state's failure to take appropriate measures to remedy the omissions imputable to private bathing establishments at an Italian seaside resort, namely the lack of disabled facilities, violated his right to respect for his private and family life under art 8 of the Convention for the Protection of Human Rights and Fundamental Freedoms (Rome, 4 November 1950; TS 71 (1953); Cmnd 8969). The Commission declared the application admissible on 15 January 1996 and on 4 December 1996 referred the case to the European Court of Human Rights. The facts are set out in the judgment of the court. d

24 February 1998. **The EUROPEAN COURT OF HUMAN RIGHTS** delivered the following judgment. e

#### PROCEDURE

1. The case was referred to the court by the European Commission of Human Rights on 4 December 1996, within the three-month period laid down by arts 32 (1) and 47 of the Convention for the Protection of Human Rights and Fundamental Freedoms (Rome, 4 November 1950; TS 71 (1953); Cmnd 8969). It originated in an application (no 21439/93) against the Italian Republic lodged with the Commission under art 25 by an Italian national, Mr Maurizio Botta, on 30 July 1992. f

The Commission's request referred to arts 44 and 48 and to the declaration whereby Italy recognised the compulsory jurisdiction of the court (art 46). The object of the request was to obtain a decision as to whether the facts of the case disclosed a breach by the respondent state of its obligations under arts 8 and 14 of the convention. g

2. In response to the enquiry made in accordance with r 35(3)(d) of Rules of Court B, the applicant stated that he wished to take part in the proceedings and designated the lawyer who would represent him (r 31). The lawyer was given leave by the President of the Court, Mr R Ryssdal, to use the Italian language during the written proceedings (r 28(3)). h

3. The Chamber to be constituted included ex officio Mr C Russo, the elected judge of Italian nationality (art 43 of the convention) and Mr Ryssdal, the President of the Court (r 21(4)(b)). On 20 January 1997, in the presence of the registrar, the President drew by lot the names of the other seven members, namely Mr F i

- Gölcüklü, Mr F Matscher, Mr B Walsh, Sir John Freeland, Mr L Wildhaber, Mr G Mifsud Bonnici and Mr P Jambrek (art 43 in fine of the convention and r 21(5)).
- a Subsequently, Mr R Pekkanen, substitute judge, replaced Mr Walsh, who was unable to take part in the further consideration of the case (rr 22(1) and 24(1)).
4. As President of the Chamber (r 21(6)), Mr Ryssdal, acting through the registrar, consulted the agent of the Italian government, the applicant's lawyer and the delegate of the Commission on the organisation of the proceedings (rr 39(1) and 40). Pursuant to the order made in consequence, the registrar received the
- b applicant's and the government's memorials on 18 July 1997.
5. On 9 September 1997 the Commission produced the file on the proceedings before it, as requested by the registrar on the President's instructions.
6. In accordance with the President's decision, the hearing took place in public in the Human Rights Building, Strasbourg, on 25 September 1997. The court had
- c held a preparatory meeting beforehand.
- There appeared before the court: (a) for the government, Mr V Esposito, Divisional President, Court of Cassation (co-agent); (b) for the Commission, Mr F Martinez (delegate); (c) for the applicant, Mr B Nascimbene of the Milan Bar and Professor of International Law (counsel) and Mr M Condinanzi (adviser).
- The court heard addresses by Mr Martinez, Mr Nascimbene and Mr Esposito.
- d 7. As Mr Ryssdal was unable to take part in the deliberations on 2 February 1998, Mr Gölcüklü replaced him as President of the Chamber (r 21(6)(ii)) and Mr Repik, substitute judge, replaced him as a full member of the Chamber (r 22(1)).

## AS TO THE FACTS

- e 1. *The circumstances of the case*
8. Mr Botta, who was born in 1939 and lives in GRO-C (Milan province), is physically disabled.
9. In August 1990 he went on holiday to the seaside resort of Lido degli Estensi, near to the town of Comacchio (Ferrara province) with a friend, who is also
- f physically disabled. There he discovered that the bathing establishments were not equipped with the facilities needed to enable disabled people to gain access to the beach and the sea (particularly special access ramps and specially equipped lavatories and washrooms), in breach of Italian legislation, which required a clause obliging private beaches to facilitate the access of disabled people to be added to the relevant concession contracts and made provision for compliance to be
- g enforced by the competent local authorities. According to Comacchio District Council, the compulsory clause was, however, only added to concession contracts signed after the adoption of the provisions concerned.
10. The applicant asserts that he was for a time able to gain access in his vehicle to certain public beaches without facilities, but was later prevented from doing so
- h because a barrier had been erected across the entrance by order of the Ravenna harbourmaster.
11. On 26 March 1991 the applicant sent a letter to the mayor of Comacchio asking him to take the necessary measures to remedy the shortcomings noted the previous year. No reply was received.
- i 12. In August 1991 Mr Botta returned to Lido degli Estensi, where he found that none of the measures requested had been implemented, although they were mandatory. He was therefore obliged to ask the local coastal authority for permission to drive his vehicle onto a public beach without facilities. He also

wrote to various local bodies, receiving the following replies: the president of the co-operative which ran the resort's private beaches informed him that the concession contracts did not stipulate any obligation to install the facilities requested; the local coastal authority replied that it had to receive an official request before it could authorise the construction of special access ramps on the beaches; the mayor asserted that it was the private beaches' responsibility to install the facilities in question, but nevertheless gave the applicant permission to drive onto a public beach in his vehicle.

In an undated memorandum the coastal authority gave him permission to drive onto a public beach without facilities in his vehicle for a limited period expiring on 31 August 1991.

13. On 9 August 1991 the applicant decided to lodge a complaint with the carabinieri against the Minister for Merchant Shipping, the Ravenna harbourmaster and the mayor and deputy mayor of Comacchio. He alleged that, by failing to take any steps whatsoever to oblige the private beaches to install the facilities for disabled people prescribed by law on pain of cancellation of their licences, these authorities had committed the offence of omitting to perform an official duty (omissione d'atti d'ufficio), as defined in art 328 of the criminal code.

On 20 December 1991 he asked the Ferrara public prosecutor's office to inform him where matters stood in the case.

On 5 May 1992 the public prosecutor's office submitted that the proceedings should be discontinued.

14. In an order of 12 May 1992 the judge responsible for preliminary investigations (giudice per le indagini preliminari) attached to the Ferrara District Court ordered the discontinuation of the proceedings on the ground that, having completed his inquiry, he had not found any evidence that the offence defined in art 328 of the criminal code had been committed, given that the beaches' concession contracts all contained a clause which obliged bathing establishments to make the beaches accessible to disabled people and to install at least one changing cubicle and one lavatory for their use.

On 1 September 1992 Mr Botta once again wrote to the Ferrara public prosecutor's office seeking information about the state of the proceedings.

On 16 September 1992 he was informed by telephone that the proceedings relating to his complaint had been discontinued.

15. According to information supplied by the applicant and not contradicted by the government, although some of the private beaches in Lido degli Estensi have subsequently installed changing cubicles and lavatories for disabled people, in July 1997 none of them had yet built a ramp designed to permit disabled people to gain access to the beach and the sea. On 29 August 1997 Comacchio District Council informed the registry of the court of the adoption, on 11 August 1997, of the resort's new improvements plan, under which compliance with the law on bathing establishments had to be achieved by 30 April 1999 at the latest.

## II. *Relevant law*

### A. *Domestic law*

16. Law 13 of 9 January 1989 contains provisions intended to guarantee disabled people effective access to private buildings and establishments and the removal of architectural obstructions (barriere architettoniche). Article 1(2) laid down in particular that within three months of its entry into force the Minister of

*a* Public Works had to publish in the form of a decree the technical specifications to be used for the construction of private buildings and low-rent housing. The law also gives mayors certain duties, including an obligation to ensure that work to adapt facilities for use by disabled people is carried out at their request. In particular, art 11 provides that, after receiving a request from a disabled person, a mayor must calculate what sum the district council requires to do the work and inform the region accordingly. The region then ascertains its own needs and requests the necessary funds from the Ministry of Public Works. This money is paid out from the ad hoc fund set up pursuant to art 10 of Law 13/89.

*b* 17. On 14 June 1989, pursuant to art 1(2) of the law, the Ministry of Public Works adopted a decree (no 236) requiring all future contracts awarding concessions to private beaches to include a clause obliging the beaches to install at least one changing cubicle and one lavatory specially designed for the use of disabled people and in addition to construct a special ramp enabling them to gain access to the beach and the sea.

*c* On 23 January 1990 the Ministry of Merchant Shipping drew the attention of all harbourmasters to these provisions.

*d* 18. Moreover, art 23(3) of Law 104 of 5 February 1992 makes the grant of a concession in respect of public land, and its renewal, subject to implementation of the above measures by the establishments concerned. In addition, Law 118 of 30 March 1971 lays down equivalent provisions regarding the removal of architectural obstructions from public buildings and buildings open to the public.

19. Lastly art 41(8) of Law 104/92 requires the competent administrative authorities to send the Prime Minister an annual report on the measures to assist disabled people for which they bear responsibility.

*e* In 1995 no report for the purposes of art 41(8) of Law 104/92 was submitted by the Ministry of Transport and Shipping, which had replaced the Ministry of Merchant Shipping in 1994, and the report submitted by the Ministry of Public Works merely stated that in 1994 none of the work for which it bore responsibility had been carried out because the relevant procedures had not yet been laid down.

*f* B. Work by the Council of Europe

*g* 20. Recommendation no R(92)6 of the Committee of Ministers, of 9 April 1992, on a coherent policy for people with disabilities, defines a handicap as: 'a social disadvantage, for a given individual, resulting from an impairment or a disability, that limits or prevents the fulfilment of a role that is normal (depending on age, sex, and social and cultural factors) for that individual.'

*h* The recommendation urges member states of the Council of Europe to 'guarantee the right of people with disabilities to an independent life and full integration into society, and recognise society's duty to make this possible' so as to ensure 'equality of opportunity' for people with disabilities. The public authorities should aim, inter alia, to enable people with disabilities 'to have as much mobility as possible, and access to buildings and means of transport' and 'to play a full role in society and take part in economic, social, leisure, recreational and cultural activities'.

As regards leisure time and cultural activities in particular, recommendation no R(92)6 states:

*i* 'All leisure, cultural and holiday activities should be made accessible to people with disabilities; Structural, technical, physical and attitudinal obstacles which limit the enjoyment of the above activities should be



removed. In particular, access to cinemas, theatres, museums, art galleries, tourist venues and holiday centres should be improved ... Cultural and leisure venues should be planned and equipped so that they are accessible and can be enjoyed by people with disabilities.'

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The recommendation also states: 'The exercise of basic legal rights of people with disabilities should be protected, including being free from discrimination.'

21. Recommendation 1185 (1992), adopted by the Parliamentary Assembly of the Council of Europe on 7 May 1992, on rehabilitation policies for the disabled, emphasises: 'Society has a duty to adapt its standards to the specific needs of disabled people in order to ensure that they can lead independent lives.' In furtherance of that aim, it calls on the governments and agencies concerned 'to strive for and encourage genuine active participation by disabled people ... in the community and society' and, to that end, 'to guarantee ease of access to buildings'.

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22. The revised European Social Charter (Strasbourg, 3 May 1996; ETS 163), adopted by the Committee of Ministers on 1-4 April 1996 and opened for signature on 3 May 1996, provides in its art 15 entitled 'Right of persons with disabilities to independence, social integration and participation in the life of the community':

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'With a view to ensuring to persons with disabilities, irrespective of age and the nature and origin of their disabilities, the effective exercise of the right to independence, social integration and participation in the life of the community, the Parties undertake, in particular ... (3) to promote their full social integration and participation in the life of the community, in particular through measures, including technical aids, aiming to overcome barriers to communication and mobility and enabling access to transport, housing, cultural activities and leisure.'

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#### PROCEEDINGS BEFORE THE COMMISSION

23. Mr Botta applied to the Commission on 30 July 1992. He complained: (a) that he had been subjected to inhuman and degrading treatment (art 3 of the convention); (b) of restrictions on his right to liberty and security of person (art 5); (c) of discrimination affecting the enjoyment of his rights on account of his physical disability (art 14); (d) that he had not had an effective remedy before a national authority (art 13); and (e) of an infringement of his right to a fair hearing within a reasonable time by an independent and impartial tribunal (art 6(1)).

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24. On 15 January 1996 the Commission declared the application (no 21439/93) admissible in so far as it concerned the first three complaints, after considering the facts underlying the first two of these from the standpoint of art 8, taken both separately and in conjunction with art 14, and declared the remainder of the application inadmissible.

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In its report of 15 October 1996 (art 31) it expressed the opinion by 24 votes to 6 that there had been no violation of art 8 of the convention and unanimously that there had been no violation of art 14 taken in conjunction with art 8.<sup>2</sup>

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#### FINAL SUBMISSIONS TO THE COURT

25. The government asked the court to hold that there had been no violation of the convention, whether under art 8 or under art 14 read in conjunction with art 8.

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<sup>2</sup> The full text of the Commission's opinion and of the three separate opinions contained in the report accompanies the official published text of this judgment.

26. The applicant's lawyer asked the court to hold that those provisions had been breached and to award his client just satisfaction.

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AS TO THE LAW

*I. Alleged violation of art 8 of the convention*

27. The applicant complained, firstly, of impairment of his private life and the development of his personality resulting from the Italian state's failure to take appropriate measures to remedy the omissions imputable to the private bathing establishments of Lido degli Estensi (Comacchio), namely the lack of lavatories and ramps providing access to the sea for the use of disabled people. He relied on art 8 of the convention, which provides:

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'(1) Everyone has the right to respect for his private and family life, his home and his correspondence. (2) There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.'

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He asserted that he was unable to enjoy a normal social life which would enable him to participate in the life of the community and to exercise essential rights, such as his non-pecuniary personal rights, not because of interference by the state but on account of its failure to discharge its positive obligations to adopt measures and to monitor compliance with domestic provisions relating to private beaches.

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By adopting Laws 13/89 and 104/92, the Italian state had taken on the obligation to guarantee disabled people full respect for their human dignity, namely the right to freedom and independence, integration into the family, education, employment and society. The state also, as in the present case, imposed obligations on third parties and had a duty to enforce the law. It therefore had positive obligations falling within the scope of art 8 of the convention.

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Limiting the concept of private life to its affective aspects only would not be consonant with the trend of the court's case law, which was based on a pragmatic, commonsense approach rather than a formalistic or purely legal one.

28. In the Commission's view, the sphere of human relations at issue in the present case concerned a particularly broad range of social relations. The rights asserted by the applicant were social in character, concerning as they did participation by disabled people in recreational and leisure activities associated with beaches, the scope of which went beyond the concept of legal obligation inherent in the idea of 'respect' for 'private life' contained in art 8(1).

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In that context fulfilment by states of their domestic or international legislative or administrative obligations depended on a number of factors, in particular financial ones. As states had a wide margin of appreciation regarding the choice of the means to be employed to discharge the obligations set forth in the relevant legislation, the right asserted by the applicant fell outside the scope of art 8.

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In any event, the social nature of the right concerned required more flexible protection machinery, such as that set up under the European Social Charter. Article 8 was accordingly inapplicable.

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29. The government agreed. Interpreting art 8 so broadly as to include in states' positive obligations the obligation to ensure the satisfactory development of each

individual's recreational activities would amount to altering the meaning of the provision in question to such an extent that it would be unrecognisable to those who had drafted it.

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Once the door was open for a development of that type, it would be extremely difficult to set limits. It would be necessary, for example, to take into consideration obstacles resulting from the insufficient means of those who wished to take part in such activities. That approach was likely to transform the convention institutions into arbiters of the social policies of the states party to the convention, a role which did not form part of either the object or the purpose of the convention.

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30. In the applicant's submission, the Commission's argument about the social character of the right in question was unacceptably reductionist. The right did, admittedly, have economic and social aspects and consequences, but it indubitably had all the features required to bring it within the concept of a legal obligation inherent in respect for family life.

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The wide margin of appreciation to be left to the state according to the Commission, which had referred in particular to available financial resources, should not be taken to mean that arbitrary action by the state was justified or that it was legitimate to plead economic difficulties.

In connection with the latter point, the applicant referred to the provisions of Law 104/92, art 42 of which provided for funds to be made available for all work designed to remove architectural obstacles. The fact that expenditure had not been properly estimated was something for which private individuals could not be held to blame.

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Lastly, the reference to the new version of the European Social Charter was all the more unacceptable because it had not been opened for signature until 3 May 1996, that is four years after the application had been lodged with the Commission.

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31. The court must determine whether the right asserted by Mr Botta falls within the scope of the concept of 'respect' for 'private life' set forth in art 8 of the convention.

32. Private life, in the court's view, includes a person's physical and psychological integrity; the guarantee afforded by art 8 of the convention is primarily intended to ensure the development, without outside interference, of the personality of each individual in his relations with other human beings (see *Niemietz v Germany* (1992) 16 EHRR 97 at 111–112 (para 29)).

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33. In the instant case the applicant complained in substance not of action but of a lack of action by the state. While the essential object of art 8 is to protect the individual against arbitrary interference by the public authorities, it does not merely compel the state to abstain from such interference: in addition to this negative undertaking, there may be positive obligations inherent in effective respect for private or family life. These obligations may involve the adoption of measures designed to secure respect for private life even in the sphere of the relations of individuals between themselves (see *X v Netherlands* (1985) 8 EHRR 235 at 239–240 (para 23) and *Stjerna v Finland* (1994) 24 EHRR 195 at 214 (para 38)). However, the concept of respect is not precisely defined. In order to determine whether such obligations exist, regard must be had to the fair balance that has to be struck between the general interest and the interests of the individual, while the state has, in any event, a margin of appreciation.

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34. The court has held that a state has obligations of this type where it has found a direct and immediate link between the measures sought by an applicant and the latter's private and/or family life.

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a Thus, in *Airey v Ireland* (1979) 2 EHRR 305, the court held that the applicant had been the victim of a violation of art 8 on the ground that under domestic law there was no system of legal aid in separation proceedings, which directly affected her private and family life.

b In *X v Netherlands* (1985) 8 EHRR 235, which concerned the rape of a mentally handicapped person and accordingly related to her physical and psychological integrity, the court found that because of its shortcomings the Dutch criminal code had not provided the person concerned with practical and effective protection (see (1985) 8 EHRR 235 at 242 (para 30)).

c More recently, in *López Ostra v Spain* (1994) 20 EHRR 277 at 297 (para 58), in connection with the harmful effects of pollution caused by the activity of a waste-water treatment plant situated near the applicant's home, the court held that the respondent state had not succeeded in striking a fair balance between the interest of the town of [GRO-C] economic well-being—that of having a waste-treatment plant—and the applicant's effective enjoyment of her right to respect for her home and her private and family life.

d Lastly, in *Guerra v Italy* (1998) 4 BHRC 63 at 75 (para 57) the court held that the direct effect of the toxic emissions from the Enichem factory on the applicants' right to respect for their private and family life meant that art 8 was applicable. It decided that Italy had breached that provision in that it had not communicated to the applicants essential information that would have enabled them to assess the risks they and their families might run if they continued to live in [GRO-C] a town particularly exposed to danger in the event of an accident within the confines of the factory (see (1998) 4 BHRC 63 at 76 (para 60)).

e 35. In the instant case, however, the right asserted by Mr Botta, namely the right to gain access to the beach and the sea at a place distant from his normal place of residence during his holidays, concerns interpersonal relations of such broad and indeterminate scope that there can be no conceivable direct link between the measures the state was urged to take in order to make good the omissions of the private bathing establishments and the applicant's private life.

f Accordingly, art 8 is not applicable.

## II. Alleged violation of art 14 of the convention taken in conjunction with art 8

36. Article 14 of the convention provides:

g 'The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.'

h 37. Relying on art 14 in conjunction with art 8, the applicant asserted that he was the victim of discrimination against him as a disabled person in the exercise of fundamental rights secured to all. If the concept of discrimination covered all cases in which an individual was treated less favourably than another individual, without proper justification, then a disabled person suffered different, or differentiated, treatment, without objective or reasonable justification, in relation to people who were not disabled. Admittedly, there was no longer any such discrimination de jure since Italian legislation not only contained various provisions designed to ensure equality but also laid down 'positive measures' in favour of disabled people. The disparity continued to exist, however, de facto, as could be seen in the

situation and circumstances which had obtained in the present case. Moreover, it was the court's practice to consider the particular circumstances of a given case in order to decide whether there had been any discriminatory treatment; it did not assess the impugned domestic rules in the abstract but rather the manner in which they had been applied to the person concerned.

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38. The government and the Commission rejected this argument.

39. According to the court's case law art 14 complements the other substantive provisions of the convention and its protocols. It has no independent existence, since it has effect solely in relation to enjoyment of the rights and freedoms safeguarded by those provisions. Although the application of art 14 does not presuppose a breach of those provisions—and to this extent it is autonomous—there can be no room for its application unless the facts of the case fall within the ambit of one or more of the latter (see *Abdulaziz v UK* (1985) 7 EHRR 471 at 499 (para 71) and *Inze v Austria* (1987) 10 EHRR 394 at 404 (para 36)).

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As the court has concluded that art 8 is not applicable, art 14 cannot apply to the present case.

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FOR THESE REASONS, THE COURT UNANIMOUSLY

- (1) *Holds* that art 8 of the convention is not applicable;
- (2) *Holds* that art 14 of the convention is not applicable.

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