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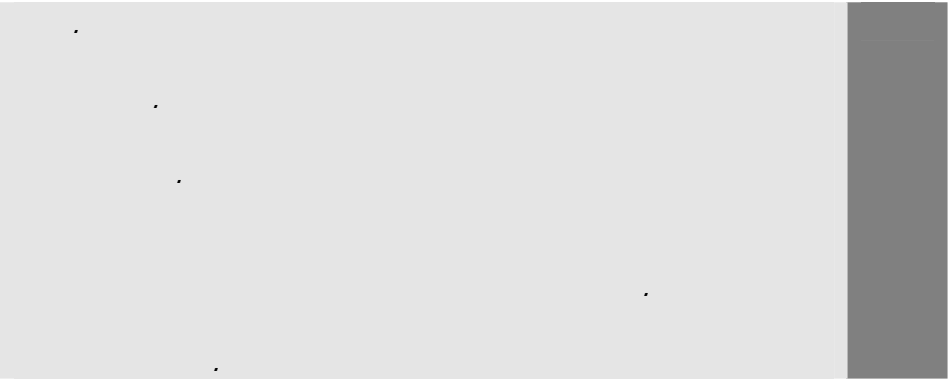
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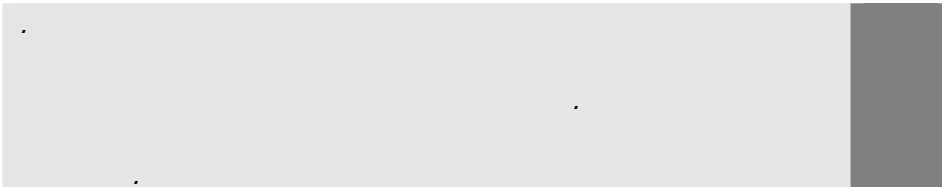
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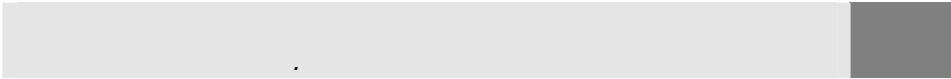
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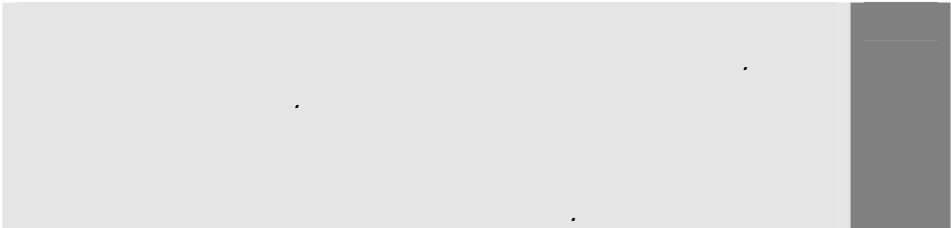
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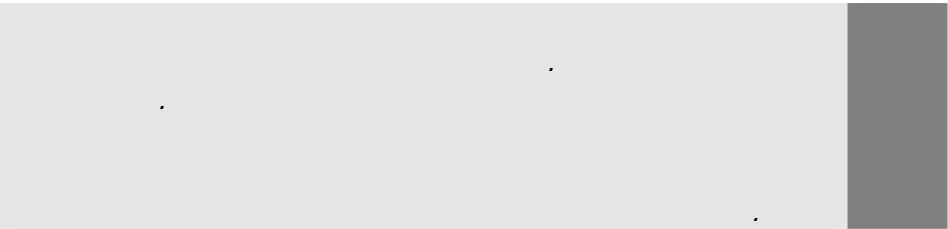
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I-A Court HR, *Case of Villagrán Morales et al., judgment of November 19, 1999, Series C,* 14 224 A/38/40
No. 63, pp. 179-180, paras. 176-177; *Enr. Court HR, Case of Kurt v. Turkey, judgment of 25 May 1998, Reports 1998-III,* pp. 1187-1188,
.paras. 130-134.

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ACHPR, Avocats Sans Frontières (on behalf of Gaëtan Bwampamye) v. Burundi, Communication No.231/99 decision adopted during 73
the 28th Ordinary session, 23 October – 6 November 2000, para. 31 of the decision as published at:
<http://www1.umn.edu/humanrts/africa/comcases/231-99.html>

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I-A Court HR, Velásquez Rodríguez Case, judgment of July 29, 1988, Series C, No. 4, pp. 151-152, para. 165. 74

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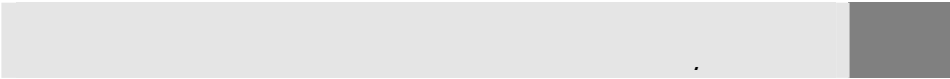
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Eur. Court HR, Case of Mahmut Kaya v. Turkey, judgment of 28 March 2000, para. 85 of the text of the judgment as 78

published at: <http://echr.coe.int/>.

<i>Eur. Court HR, McCann and Others v. the United Kingdom, judgment of 27 September 1995, Series A, No. 324, p. 49, para. 161.</i>	80
<i>Eur. Court HR, Case of Oğur Gundem v. Turkey, judgment of 16 March 2000, para. 42 of the text of the judgment as published at: http://echr.coe.int/</i>	81
<i>Eur. Court HR, Case of Assenov and Others v. Bulgaria, judgment of 28 October 1998, Reports 1998-VIII, p. 3290, para. 102.</i>	82
<i>Eur. Court HR, Case of Gaskin v. the United Kingdom, judgment of 7 July 1989, Series A, No. 160, pp. 16-20, paras. 41-49.</i>	83
<i>Eur. Court HR, Case of Oğur Gundem v. Turkey, judgment of 16 March 2000, para. 43, as published at http://echr.coe.int/</i>	84
<i>Eur. Court HR, Case of the Plattform "Ärzte für das Leben" v. Austria, judgment of 21 June 1988, Series A, No. 139, p. 12, para.</i>	85
<i>Eur. Court HR, Case of X and Y v. the Netherlands, judgment of 26 March 1985, Series A, No. 91</i>	86

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I-A Court HR, Velásquez Rodríguez Case, judgment of July 29, 1988, Series C, No. 4, p. 155, para. 174. 94

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I-A Court HR, Villagrán Morales et al. Case (the "Street Children" case), judgment of November 19, 1999, Series C, No. 63, pp. 96

I-A Court HR, Suárez Rosero Case, judgment of November 12, 1997, Series C, No. 35, p. 75, para. 65. 97

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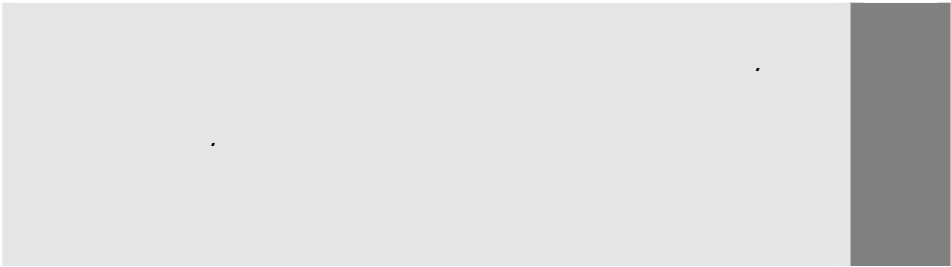
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Eur. Court HR, Case of Mahmut Kaya v. Turkey, judgment of 28 March 2000, paras. 115-116 of the text of the judgment as ⁹⁸
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ACHPR, *Amnesty International (on behalf of W. S. Banda and J. L. Chinula) v. Zambia*, Communication No. 212/98, decision adopted on 5 May 1999, paras. 60-61 of the text of the decision as published at: <http://www1.umn.edu/humanrts/africa/comcases/212-98.html> 114

ACHPR, *Media Rights Agenda and Others v. Nigeria*, Communications Nos. 105/93, 128/94, 130/94 and 152/96, decision adopted on 31 October 1998, paras. 78 and 81 of the text of the decision as published at: 115

116Ibid., para. 82.http://www1.umn.edu/humanrts/africa/comcases/105-93_128-94_130-94_152-96.html

.82 116

I-A Court HR, *Judicial Guarantees in States of Emergency* (arts. 27(2), 25 and 8 of the American Convention on Human Rights), 117

Advisory Opinion OC-9/87, Series A, No. 9, p. 32, para. 24.

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I-A Court HR, Godínez Cruz Case, Preliminary Objections, judgment of June 26, 1987, Series C, No. 3, p. 78, para. 93. ¹¹⁸

I-A Court HR, Judicial Guarantees in States of Emergency (arts. 27(2), 25 and 8 of the American Convention on Human Rights), ¹¹⁹

Advisory Opinion OC-9/87, Series A, No. 9, p. 33, para. 24.

.25 34-33 ¹²⁰

I-A Court HR, Castillo-Páez Case v. Peru, judgment of November 3, 1997, OAS doc. OAS/Ser.L/V/III.39, doc. 5, 1997 ¹²¹

Annual Report I-A Court HR, p. 266, paras. 81-82.

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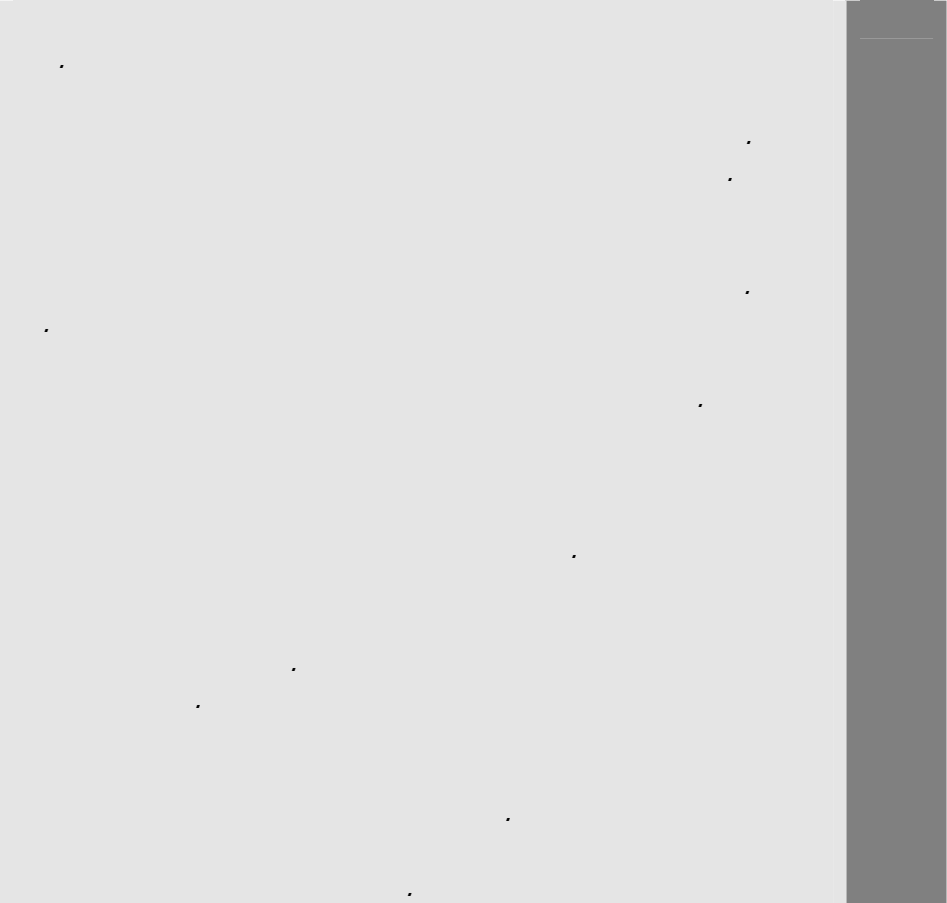
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I-A Court HR, the Case of Blake v. Guatemala, judgment of January 24, 1998, in OAS doc. OAS/Ser.L/V/III.43, doc. 11, 124

1998 Annual Report I-A Court HR, p. 100, para. 104.

Eur. Court HR, Case of Boyle and Rice v. the United Kingdom, judgment of 27 April 1988, Series A, No. 131, p. 23, para. 52. 125

Eur. Court HR, Case of Silver and Others, judgment of 25 March 1983, Series A, No. 61, p. 42, para. 113(a); emphasis added. 126

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Eur. Court HR, Case of Mahmut Kaya v. Turkey, judgment of 28 March 2000, para. 126. 135

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Eur. Court HR, Case of Aksoy v. Turkey, judgment of 18 December 1996, Reports 1996-VI, pp. 2286-2287, paras. 95-100, and Eur. Court HR, Case of Arsar v. Turkey, judgment of 10 July 2001, paras. 421-431; for the text of the decision see <http://echr.coe.int>

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I-A Court HR, Villagrán Morales et al. Case (The “Street Children” Case), judgment of November 19, 1999, Series C, No. 63, pp. 158-194-195, para. 225.

I-A Court HR, Velásquez Rodríguez Case, judgment of July 29, 1988, Series C, No. 4, pp. 155-156, paras. 176-177; emphasis

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.178	156	160
.179	156	161
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I-A Court HR, Villagrán Morales et al. Case (The “Street Children” Case), judgment of November 19, 1999, Series C, No. 63, p. 164
195, para. 228.

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Eur. Court HR, Case of Anvar v. Turkey, judgment of 10 July 2001, paras. 393-395 of the decision as published at: ¹⁶⁵
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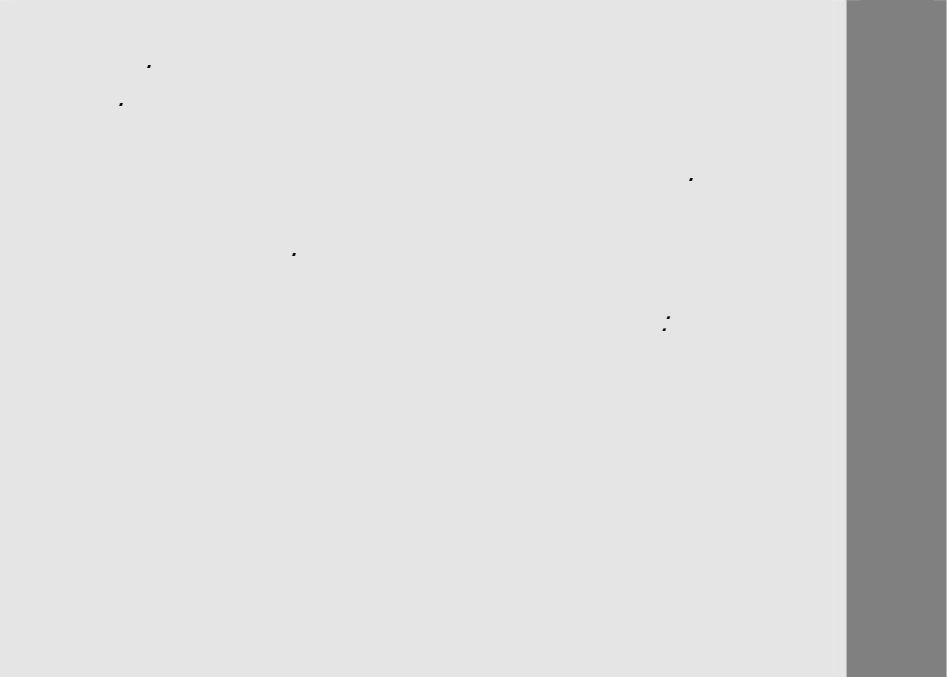
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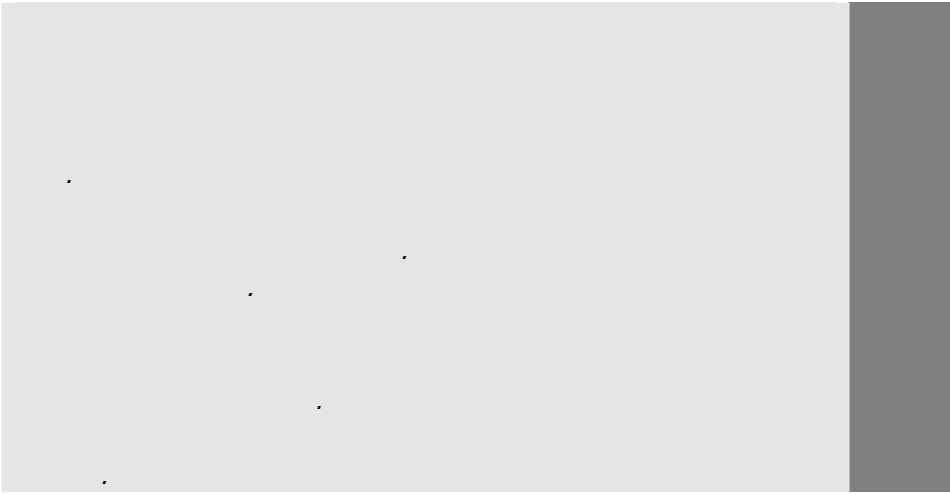
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I-A Court HR, *Villagrán Morales et al. Case (The “Street Children” Case)*, judgment of November 19, 1999, Series C, No. 63, p. 170
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Cf. I-A Court HR, <i>Velásquez Rodríguez Case, Compensatory damages, judgment of July 21, 1989, Series C, No. 7</i> , p.	173
<i>Eur. Court HR, Case of Mahmut Kaya v. Turkey, judgment of 28 March 2000</i> , paras. 133-139 of the text as published as at http://echr.coe.int and <i>Eur. Court HR, Case of Price v. the United Kingdom, judgment of 19 June 2001</i> , para. 34 of the text as published as at http://echr.coe.int	57, para. 54.
<i>Eur. Court HR, Case of Mahmut Kaya v. Turkey, judgment of 28 March 2000</i> , paras. 133-139 of the text as published at http://echr.coe.int	174
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I-A Court HR, Velásquez Rodríguez Case, judgment of July 29, 1989, Series C, No. 4, pp. 155-156, para.

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Eur. Court HR, Case of Mahmut Kaya v. Turkey, judgment of 28 March 2000, para. 91 of the text as

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published at <http://echr.coe.int>

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