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September 17, 1999

President William Jefferson Clinton
The White House
1600 Pennsylvania Avenue, N. W.
Washington, D.C. 20502

By Fax: (202) 456-2883

Dear President Clinton,

We are writing to urge you to emphasize the acute need for comprehensive reform of the Ministry of Internal Affairs during your meeting next week with Georgian President Eduard Shevardnadze. Comprehensive reform of the police is a politically difficult task in Georgia—one that we believe requires further emphasis at very senior levels of the U.S. and Georgian governments before it will commence. Recent developments lead us to believe that the failure to address reform of the Ministry of Internal Affairs is currently impeding the reform process in a broad range of areas, and if left unaddressed, will eventually lead to a sharp deterioration in Georgia's already poor human rights practices. Under separate cover, we are sending documents describe these practices.

We also ask you to express your personal support during the meeting for the success of a recently launched initiative to reform the Georgian procuracy. The procuracy is an office equivalent in certain functions to the U.S. Attorneys' office, and in Georgia plays a direct oversight role over some police functions. The new procuracy reform initiative is being carried out in conjunction with the U.S. Department of Justice and the U.S. State Department.

We urge you to emphasize the need for the Georgian government to initiate reforms of the Ministry of Internal Affairs that include:

Efforts to combat corruption within the Ministry of Internal Affairs. We believe that human rights concerns and corruption are linked in Georgia, and are deeply concerned by reports that police physically abuse and later extort money from those under criminal investigation or from their family members (see attachment).

Changes in legislation that allow the court system to effectively perform its function as a check on abusive actions by the police and other security forces. We were greatly alarmed in May and July when the Georgian parliament repealed legal reforms intended to allow the court system to act as a check on the security forces, as well as numerous other legal provisions intended to protect detainees while in police custody and to guarantee due process during criminal investigations and trials. Government officials have told us privately that the repeal of these important legal reforms, which had been slated to go into effect in mid-May, were carried out at the initiative of the Ministry of Internal Affairs.

Police corruption is an intolerable **part** of everyday life in Georgia and severely undermines public trust in law enforcement. We are in particular disturbed by frequent reports that police cite delays in the payment of their wages as a rationale for soliciting bribes from motorists and other citizens. The sheer size of the Georgian police force suggests the pervasiveness of such corruption. Official statistics on the size of the Ministry of Internal Affairs staff have not been made publicly available, but credible estimates have placed the size of the force at 60,000 to 80,000, a very large force for Georgia's estimated population of five million.

Developments over the past several months indicate that long overdue reform of the Ministry is impeding attempts at implementing legal reform by reform-minded government officials and by nongovernmental organizations. These developments include:

- **Continued rampant mistreatment and physical abuse of detainees.** For instance, on March 22, **Ivane Kolbaya** fell to his death from a fifth-floor window of the Tbilisi Central Police Department during questioning by police **officials** regarding his alleged involvement in a theft. In April, Human Rights Watch wrote to the Georgian government regarding Mr. Kolbaya's death and four others who had fallen to their deaths from windows under suspicious circumstances while in police custody throughout the past four years (see attachment). A subsequent investigation in May reportedly confirmed initial Ministry of Internal Affairs findings that all five had died as a result of suicide.

We are concerned about police abuse not only in police facilities, but also in remand prisons and post-conviction prisons. Hope that a transfer of the latter two **from** the Ministry of Internal Affairs to the Ministry of Justice would yield improvements in poor prison practices were quashed in July, when legislation was adopted to effect the transfer. The facilities will continue to be staffed overwhelmingly by current Ministry of Internal **Affairs** personnel. Moreover, in separate legislation, the Ministry demanded that it be allowed to conduct "operative investigative" measures, or investigations, among inmates in the penitentiary system to gather evidence for trial.

Although the issue of such Ministry activity remained unresolved in the law as adopted in May, the abusive nature of such "operative investigative" measures in detention facilities under Ministry of Internal **Affairs** control was illustrated by the case of **Giga Shukashvili**. Shukashvili, a twenty-seven-year-old Tbilisi resident, was detained on January 25, 1998, and taken to the Guldani District Police Station, where, he reported, police severely beat him and coerced him into signing false testimony regarding a theft. On January 26, he was taken to the Tbilisi City Main Police Department, where, he reported, he was placed in a room with six, and at times more, inmates whom he identified as police informers, who subjected him to severe and brutal beatings intermittently over a period of about eighteen days to force him to sign a confession that he had participated in a series of car thefts. In July 1999, more than a year and half after the incident, the procuracy claimed that it was continuing to investigate. Mr. **Shukashvili's** family reported in May that he had been detained briefly in order to intimidate him to withdraw his complaint against the police and to coerce him to

work as a police informer, and that he **was** subject to harassing visits by individuals he identified as connected with the police **officers** who had abused him.

- **Police harassment of worshipers.** On May 29, Guldani police violently broke up a prayer meeting of adherents of the Assembly of God, threatening and beating several participants. The group's pastor and other adherents reported that throughout June, Ministry of Internal Affairs **officials** mounted a harassment campaign against them, calling them at home repeatedly and threatening them.

This incident is related to another case of state curtailment of the right to freedom of conscience. In June, a political party filed suit in Isani Sambori district court to request that the government revoke the registration of the Jehovah's Witness organization on the grounds that the organization was "anti-state," and its teachings contrary to the Georgian Orthodox Church. The judge denied a motion filed by the Jehovah's Witnesses that the suit was spurious and that political parties do not have legal standing in Georgia to request that an organization's registration be revoked. As of this writing, the Jehovah's Witnesses had appealed the decision to the Supreme Court. A lawyer representing the Jehovah's Witnesses stated that the suit was a political stunt to gain publicity in the run-up to the October parliamentary elections. The suit was brought by Georgia Over All, a nationalist political party led by Guram Sharadze, a member of parliament. A colleague of Mr. Sharadze's, Father **Basilia**, was reported to have been present during the earlier May incident when Guldani District police broke up the prayer meeting of Assembly of God worshipers.

- **Impeding better access to legal counsel.** In April, the Ministry of Internal Affairs thwarted a project advanced by nongovernmental organizations to monitor conditions in pre-trial detention in Tbilisi and provide **free** legal service; Ministry of Internal Affairs staff denied monitors access to the facilities. Several journalists and members of nongovernmental organizations, including the Liberty Institute, received harassing visits and threats from individuals they identified as linked with the Ministry of Internal Affairs officials in an attempt to block this monitoring project. Just last month, another effort to promote access to legal counsel to those in police custody reached a stumbling block. The Lawyers' **Collegium**, which formerly was subordinate to the Ministry of Justice but whose status is currently undefined, sued the Tbilisi municipality in early August in an attempt to halt an innovative project that **would** station lawyers in Tbilisi-area police stations to advise detainees of their rights on a pro bono basis. Under the project, which was approved by the city council and supported by a number of nongovernment organizations, the lawyers would be employees of the municipality chosen through competitive examination.

Although we view all of the developments described above with a great deal of concern, we are particularly alarmed about the repeal of reforms in May and July related to due process and protection of detainees during criminal investigations and trials. Georgia's legal system, as do many civil law systems, codifies most due process rights during criminal investigations into a single piece of legislation, the criminal procedure code. In **May** and **July**, almost half of the new code's 680 provisions were replaced or amended. A significant series of amendments requires that, should an

individual have a complaint about an abusive action by a police or procuracy official during a criminal investigation, prior to trial the complaint must be heard by the procuracy rather than by the court system. Significantly, such complaints include, for example, the denial of a forensic medical examination to substantiate a claim of torture.

The recently adopted amendments have a broad impact on human rights conditions, and represent a significant deterioration of the prospect that a strengthened judiciary, which is currently undergoing high-profile reform, will contribute to improvements in human rights practices in the future in Georgia. In addition to the recent incidents detailed above, throughout the past year those detained on suspicion of political and non-political criminal offenses, journalists, peaceful demonstrators, members of ethnic minorities, and adherents of non-traditional religious faiths in Georgia have all been subject to abuses and irregularities during criminal investigations by the police. Abuses documented by Human Rights Watch and other human rights organization include but are not limited to such practices as torture and brutal beatings in police custody, denial of access to lawyers, arbitrary detentions, forced deportations, warrantless searches and harassing visits and threats to the family members of those who have been detained.

The narrowing of access to the courts to complain about such abuses undermines the judiciary's role as a check on abusive actions by the procuracy, police, and other security forces. One of the most significant reforms necessary to achieve a transition to democracy is the creation of a judiciary that enjoys public trust, is truly independent of other branches of government, and serves as an impartial forum for citizens to peacefully redress grievances and abuses. However, the restriction of access to the courts severely limits the possibility that reform of the judiciary will contribute to any substantial improvement in Georgia's poor human rights practices. The government's move to restrict access to the courts was especially dismaying given officials' public promises to support the reform of the court system.

We thank you for your attention to these urgent concerns and welcome your efforts to raise them directly with President Shevardnadze. Please accept our best wishes for a productive meeting.

Sincerely,

Holly Cartner
Executive Director
Europe and Central Asia Division
Human Rights Watch

Encl.

Cc: National Security Advisor Sandy Berger