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## **CoRMSA Submission to the Minister of Provincial and Local Government regarding the Crisis in Musina**

23<sup>rd</sup> April 2009

This submission is based on extracts from the forthcoming second CoRMSA report on the humanitarian crisis in Musina. It deals with a number of key concerns from local and international organisations regarding the insufficient humanitarian assistance being provided to Zimbabwean nationals in the greater Musina area. Below is a list of key issues that CoRMSA believes need to be prioritized by the National Coordination Task Team convened by the Department of Provincial and Local Government (DPLG).

### **Shelter**

Currently there remains a major shelter challenge for Zimbabwean nationals in the greater Musina area. At the initial National Coordination Task Team meeting held in Polokwane on 10<sup>th</sup> March 2009, a proposal was made for the use of a portion of the Soutpansberg Military Ground (SMG) site for accommodation and services to Zimbabwean nationals. Civil society was asked to provide a list of services that it could provide at such a site. However, immediately after the meeting, CoRMSA received information indicating strong opposition to the use of the SMG site from key government departments that were likely to render the proposal null. As a result an alternative proposal is being explored.

#### *Temporary Transit Shelter*

There is a clear need for some form of temporary shelter to be available to newly arrived Zimbabwean nationals where they will have access to food and information regarding other services. The South African Police Service (SAPS) has also stated an interest in ensuring that people have access to some shelter as it is concerned with the potential crime implications of too many people on the streets. Whilst these interests must be recognized and taken into consideration, no site of accommodation can be allowed to serve as a *de facto* detention facility where freedom of movement for those at the site is not allowed as this would contravene domestic law and violate the human rights of those at the site.

The Musina Municipality has currently authorized the use of two church buildings for services in this regard. Food, shelter and mobile toilets are currently being provided by non-governmental sources, and maximum duration of stay for those at the shelters is three nights. This is a welcome start to addressing the problem however the current

shelters fall far below minimum international humanitarian standards and are not sustainable.

As an alternative, the International Organisation for Migration (IOM) has presented a proposal to the Musina Municipality to open a support and referral centre in Musina and this proposal has been accepted by the Municipality and land has been allocated for this project. Building on this proposal, a group of local and international humanitarian organizations have had informal discussions with the Municipality regarding the possible provision of temporary shelter for a number of newly-arrived Zimbabweans at the site for the time period whilst they wait to be issued with documentation from the Department of Home Affairs (DHA). This site would be run and managed by non-governmental actors thus posing no additional financial burden on the municipality's resources. Initial informal discussions with the Municipality have been positive but a formal proposal in the form of an annexure to the IOM proposal will shortly be presented to the Municipality by a collective of the humanitarian organizations working in Musina.

The establishment of such a transit shelter facility will go a long way to meeting initial needs of newly-arrived Zimbabweans. However, the realization of the transit center is dependent on local government allowing the allocated land to be used for temporary accommodation.

Additional shelter interventions will also be needed for other vulnerable individuals including survivors of sexual violence, the elderly and others who may not be able to rapidly move out of Musina. CoRMSA has requested a group of non-governmental actors to conduct a shelter needs assessment to assist with designing shelter interventions.

A suggested way forward would be the following:

1. The National DPLG engages with the Musina Municipality for the provision of a piece of land for temporary accommodation for newly-arrived non-nationals.
2. Once a piece of land is approved for accommodation, the non-governmental actors in Musina are ready to take responsibility for the management of the site and the majority of the service provision at this site. The National DPLG can oversee this process of formalizing the necessary agreements.
3. The National DPLG could hold a further meeting of the National coordination Task Team to facilitate agreements with other government departments such as the DHA and the Department of Social Development regarding the provision of services such as documentation and assistance to unaccompanied minors at the site. This will ensure all services at the site are streamlined and will assist in meeting the interests of the majority of government and non-governmental stakeholders.

## **Inter-departmental Communication**

On 2<sup>nd</sup> April 2009, the Minister of Home Affairs announced a new dispensation for Zimbabwean nationals in South Africa. This will be in the form of a new permit that will provide legal status for many Zimbabwean nationals in South Africa. At the same time,

the DHA agreed to halt the deportations of Zimbabwean nationals whilst the permit was being introduced. Unfortunately the SAPS has suggested that SAPS had not received official notification of the halting of deportations of Zimbabwean nationals and, as a result, a number of attempts have been made to deport Zimbabweans since the announcement of the new dispensation.

On Friday 17<sup>th</sup> April 2009, CoRMSA was informed of attempts by the SAPS to deport hundreds of Zimbabwean nationals from the detention facility at SMG in Musina. When DHA border officials refused to allow the deportation, SAPS trucks continued across the border but were refused entry to Zimbabwe by Zimbabwean immigration officials. The Zimbabwean nationals were then returned to the detention facility for the weekend thus triggering a major health crisis.

CoRMSA contacted the SAPS Limpopo Provincial office and was informed that at the time they were waiting for instructions from the National Police Commissioner's office. CoRMSA then contacted the DHA Deputy Director-General who agreed to send the necessary communication from the DHA Director-General's office to the National Police Commissioner's office to address this and ensure that both departments understand the new dispensation. Whilst a number of women and children as well as unaccompanied children were released from the SMG facility over the weekend, the majority were only released on 21<sup>st</sup> April 2009 following an intervention in the North Gauteng High Court by Lawyers for Human Rights.

To avoid a repeat of such incidents, it is essential that there is clear communication between departments as, in the absence of such communication, rights abuses of vulnerable individuals will continue. The National Coordination Task Team can play a key role in ensuring this clear communication between departments.

### **Access to Health Care for Rape Survivors**

Sexual or gender-based violence remains a major risk for women and men on their journey to South Africa as well as once they are in South Africa. MSF clinics have received a number of patients reporting cases of rape and seeking treatment for this. These patients have informed non-governmental actors that when they seek health care at the Musina hospital following rape, they are pressurized to make a statement to the SAPS before receiving treatment. As many have yet to receive their legal documentation from the DHA, they fear reporting to the SAPS as they feel they may be arrested and deported. As a result, they are not accessing the essential post-rape health care they need at the Musina hospital. Whilst staff at the hospital no doubt are well-intentioned in trying to ensure that rape perpetrators are held accountable and brought to justice, their actions are having the effect of denying access to essential treatment for many. There is no requirement in national policy for a rape survivor to report to the SAPS before receiving treatment.

The three issues listed above are the three current major concerns. CoRMSA and its partners will appreciate the assistance of the office of the Minister of Provincial and Local Government in addressing these issues. CoRMSA believes the National

Coordination Task Team provides a useful forum for cooperative action between government departments and non-governmental actors. CoRMSA would encourage this forum to meet more regularly.