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Summary record of the 35th meeting

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Chair: Mr. Abdel-Moneim

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The meeting was called to order at 3.05 p.m.

Consideration of reports *(continued)*

(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant *(continued)*

Third periodic report of Bosnia and Herzegovina (E/C.12/BIH/3; E/C.12/BIH/Q/3; E/C.12/BIH/RQ/3)

1. *At the invitation of the Chair, the delegation of Bosnia and Herzegovina took places at the Committee table.*

2. **Ms. Đuderija** (Bosnia and Herzegovina), introducing the third periodic report of Bosnia and Herzegovina (E/C.12/BIH/3), said that a series of measures, more than half of which had already been implemented, had been taken in response to the Committee's recommendations following the consideration of the State party's second periodic report. The International Covenant on Economic, Social and Cultural Rights and the Optional Protocol were directly applicable in Bosnia and Herzegovina, as provided in annex I of the Constitution. The Constitutional Court had repeatedly referred to the Covenant in its rulings, and members of the judiciary and other civil service agencies had received relevant training. A draft programme on combating discrimination, which included a human rights training plan, was currently being prepared, but its implementation would require the consent of the country's two entities – the Federation of Bosnia and Herzegovina and the Republika Srpska – and Brčko District.

3. A framework for reporting on the implementation of international human rights treaties for the period 2020–2025 had been adopted recently, with the aim of harmonizing human rights reporting across institutions and levels of government, facilitating coordination and promoting a joint approach. The process to amend the Law on the Institution of the Human Rights Ombudsman to enhance that institution's independence and establish a national preventive mechanism had yet to be concluded. Efforts had been made to address discrepancies between the entities in the enjoyment of rights guaranteed in the Covenant. Additional resources had been made available to ensure the sustainable return of refugees and displaced persons to their pre-war homes.

4. A series of measures had been taken to promote Roma inclusion. The recently adopted action plan for the social inclusion of Roma for the period 2021–2025 harmonized the strategic goals and measures with relevant European Union documents. The housing situation had been improved, including by way of legalizing informal settlements and providing decent, affordable and inclusive housing where legalization was not possible. Efforts had also been made to enhance the enrolment of Roma children in secondary education and improve their completion rates for both primary and secondary education. In order to combat discrimination, a separate anti-discrimination unit for Roma would be established to process complaints, provide legal support to victims and identify discriminatory patterns, including institutionalized and hidden discrimination. Obstacles to birth registration of Roma had been removed.

5. In order to address gender-based discrimination, additional resources had been made available to gender centres in the entities. Implementation of a European Union project to promote human rights and combat discrimination in Bosnia and Herzegovina had commenced in 2021. Statistics showed that job losses related to the coronavirus disease (COVID-19) pandemic had affected women, minorities and persons with disabilities disproportionately, making it difficult to compare data and identify progress. Labour rights such as equal pay for equal work, freedom of association and trade union membership, protection from unfair dismissal and paid maternity leave were guaranteed by law and efforts had been made in recent years to harmonize minimum wage thresholds and employment security across the entities.

6. **Ms. Saran** (Country Rapporteur) said that the Committee would appreciate more detailed information on the challenges arising from the COVID-19 pandemic and measures taken by the State party to mitigate its impact on the enjoyment of social, economic and cultural rights.

7. In the light of the State party's complex social fabric, it would be helpful to learn more about measures taken to ensure national integration, combat hate speech and counter actions that undermined social cohesion. Additional clarification was needed about the way in which decisions concerning the State party's obligations under the Covenant taken at the local, cantonal or entity levels were coordinated and implemented centrally. It would be useful to know what had been done to address the lack of cohesion in human rights data collection and to guarantee universal access to health care, despite the differences in social protection and health policies between entities. The delegation should provide clarification about the status of economic, social and cultural rights as compared with civil and political rights in State party legislation, and indicate whether the rights protected under the Covenant were enforceable in the courts. The Committee would also welcome information on specific measures taken to incorporate economic, social and cultural rights in domestic legislation, and on their positive effect on the enjoyment of Covenant rights.

8. More comprehensive data was needed on the ratio of social spending to gross domestic product. It would be useful to find out what the State party intended to do to address disparities in the availability, accessibility and quality of education and health-care services indicated by the reported gap in education and health expenditure between the entities. The delegation should expand on the Reform Agenda for the period 2015–2018, the planned fiscal consolidation and the projected increase in consumption taxes, in particular with regard to their impact on vulnerable segments of society. It would be useful to know whether the impact of the recent austerity measures had been assessed and what had been done to mitigate the negative impact of the reforms and ensure the availability of resources for the enjoyment of Covenant rights, particularly for the most deprived groups.

9. The Committee would be grateful for more detailed information on the training provided to judicial officers and measures taken to strengthen the policy framework for monitoring and coordinating implementation of the Covenant. Clarification was needed on the State party's efforts to strengthen the independence of the Human Rights Ombudsman, including greater clarity on the division of labour between the representatives of the three constituent peoples and their approach to decision-making. It would also be useful to know why the Ombudsman had failed to submit the required annual reports.

10. It was unclear why the State party did not have a national human rights and anti-discrimination strategy and why the Ministry of Human Rights and Refugees had not developed any strategic anti-discrimination documents or policies, despite being mandated to do so. Any additional information regarding the lack of progress would be greatly appreciated. It would be useful to know whether there was a unified system for the collection of discrimination-related data, whether civil society was involved in the implementation of human rights policies and what measures had been taken to bring relevant legislation into line with the Law on the Prohibition of Discrimination. Further information on any measures taken to create public awareness of existing social and legal protection mechanisms would be welcome, as would more detailed information on steps taken to protect returnees, Roma, migrants and other vulnerable populations from discrimination. The delegation might further describe the measures taken to address gender-based discrimination in employment and indicate whether the introduction of a quota system had helped increase the representation of women in legislative, executive and judicial bodies. Furthermore, could the delegation explain how the provision of employment on the basis of ethnicity or political affiliation did not constitute discrimination?

11. While the Committee welcomed the steps taken at the cantonal level to combat corruption, it would be useful to learn about progress made towards the adoption of national legislation in that regard. It would be helpful to find out why it had not been possible to adopt legislation on conflict of interest.

12. **Ms. Duderija** (Bosnia and Herzegovina) said that, regrettably, the proposed amendments to the Law on the Institution of the Human Rights Ombudsman to include a national preventive mechanism, secure the institution's financial independence and strengthen cooperation with civil society organizations had not been approved by the Parliamentary Assembly. The challenges arising in the context of the COVID-19 pandemic had further hampered progress. Over the past two years, the relevant institutions and government representatives at the entity level, in cooperation with international partners, had

drafted a new proposal that provided for the institution's financial independence, making its budget subject to approval by the Parliamentary Assembly, rather than the Ministry of Finance. The three ombudspersons were free to consider cases brought to their attention either individually or as a team, and reported directly to the parliamentary committee for human rights. A recent assessment of the institution's effectiveness and the rate of compliance with its recommendations had revealed that additional efforts were needed to improve compliance, including by raising the profile of its recommendations and identifying ways to enforce their implementation.

13. The lack of progress towards adopting a national strategy to combat discrimination was largely a result of the complex nature of the country's governance architecture, as competencies were spread across entities and levels of government. The adoption of a national strategy was, however, on the Government's agenda for 2021. The large gaps in reporting on discrimination were partly down to a lack of awareness of the importance of data collection among the institutions concerned. The Ministry of Human Rights and Refugees had thus far prepared one consolidated report; a second was currently being drafted, with data provided by the High Judicial and Prosecutorial Council, the Human Rights Ombudsman and the Constitutional Court, among others. Over the past two years, the Ministry, the Gender Equality Agency and the Ombudsman had worked to strengthen partnerships and improve the monitoring and reporting system. A recent framework programme for reporting on international human rights obligations was expected to facilitate progress in that regard.

14. Decisive action taken to address the exclusion of Roma, the single most vulnerable community, included the investment of some €30 million over the past six years in improving housing, infrastructure, employment opportunities and access to education.

15. **Mr. Kličković** (Bosnia and Herzegovina) said that the Republika Srpska had adopted an employment strategy for the period 2021–2027, which focused on women and vulnerable groups, including victims of domestic violence, victims of war and women from rural areas. The government of the Republika Srpska reimbursed employers for the full salary of women on maternity leave, which tended to be of long duration because of the lack of adequate childcare centres.

16. The authorities at all levels were actively involved in mitigating the effects of the COVID-19 pandemic on the economy. During the pandemic, the Government had provided 37 million marka (KM) to refund workers' salaries to employers. Taxes and employer contributions had been reduced to ease the pressure on them. Approximately 20,000 workers who had lost their jobs as a result of the pandemic between March 2020 and June 2021 had received compensation, which was conditional upon a minimum number of years of employment.

17. **Ms. Šahinpašić** (Bosnia and Herzegovina) said that the government of the Federation of Bosnia and Herzegovina had held an emergency meeting in January 2020 to discuss the introduction of measures to prevent the spread of COVID-19, in accordance with the law on protection against contagious diseases, and crisis boards had been set up at government and cantonal levels to coordinate those efforts. The decisions and orders of the Federal Ministry of Health were binding on all cantonal health authorities and institutions; it regularly published its decisions and data on its website, on social media and in press releases and had submitted three extensive reports related to COVID-19 to the national Parliamentary Assembly.

18. **Ms. Tanović** (Bosnia and Herzegovina) said that a law to mitigate the negative economic consequences of the pandemic had been adopted by the Federation of Bosnia and Herzegovina in May 2020. An economic stability and recovery programme for the years 2020–2021 had been launched, covering areas such as tax, employment, the financial sector and business, with measures to boost competitiveness, enhance economic stability and promote investment. In October 2020, a decree had been passed to support the most vulnerable business sectors in the Federation in the wake of the pandemic. The government of the Federation had conducted an analysis of all the measures that had been introduced to reduce the negative economic impact of COVID-19.

19. **Mr. Windfuhr** said that he wished to know how much progress had been made with the proposed amendments to the law on the human rights ombudsman and whether they were likely to be approved. It would be interesting to hear whether the budgeting problems impeding the establishment of the national preventive mechanism were due to political resistance or other factors.

20. **Ms. Đuderija** (Bosnia and Herzegovina) said that there was no political resistance to the establishment of the mechanism: the governments of the entities and of Brčko District had agreed on all the proposed amendments to the law, including the financial aspects. The Council of Ministers needed to adopt the amendments in the form of a draft law, which would then be debated by the Parliamentary Assembly.

21. **Mr. Adilov** (Country Task Force) said that he would appreciate disaggregated data on labour market participation, employment, unemployment and underemployment. He would like to know what concrete measures the State party had taken to address the high incidence of unemployment among young people, graduates, skilled workers and workers with secondary education, and what progress had been made in that regard. He would like to know what had been done to expand the quota system for persons with disabilities in the Republika Srpska beyond public institutions and State-owned enterprises. Noting that, in case of non-compliance with the quota, employers were required to pay a special contribution to a fund for the professional rehabilitation and employment of persons with disabilities, he would be interested to hear what measures the State party had adopted to address the issue of government institutions failing to comply with the quota and employers choosing to pay the contribution rather than employ persons with disabilities. He wondered whether the State party had taken steps to establish a mechanism for the mandatory collection of the special contributions and to gather data on implementation of the quota. He wished to know what efforts the State party had made to foster transition from the informal to the formal economy and what measures had been taken to protect the labour and social rights of workers in the informal economy, particularly during the pandemic. He asked what measures the Government had taken to encourage young and qualified workers to remain in the country, in view of the very high emigration rates among that sector of the population.

22. Given that the entities and Brčko District applied different minimum wages, he wondered what specific steps the Government had taken to establish a national minimum wage applicable throughout the country and whether it would be set at a level that provided workers and their families with a decent standard of living. It would be useful to have an indication of the efforts made to ensure that all employers complied with minimum wage regulations. He asked what the State party was doing to improve the very low rate of compliance with labour legislation and whether the penalties were high enough to prevent recurring violations.

23. He would appreciate responses to the questions raised in the Committee's list of issues ([E/C.12/BIH/Q/3](#)) regarding sanctions for violations of legal provisions prohibiting interference in trade union affairs and the enjoyment of trade union rights of civil servants, and measures taken to increase the amount and coverage of, and ensure access to, social assistance and social security benefits, including health insurance, as well as the progress made in reforming the social security system. Noting that the amount of disability benefits varied depending on the cause of disability, he asked what progress had been made towards the introduction of a universal disability benefit.

The meeting was suspended at 4.20 p.m. and resumed at 4.35 p.m.

24. **Ms. Đuderija** (Bosnia and Herzegovina) said that efforts at all levels to enhance economic development and boost employment, including through tax reform, the reform of labour legislation and action plans to promote the employment of persons with disabilities, had yielded positive results despite the disruption caused by the COVID-19 pandemic. Steps had been taken at all levels of government, in cooperation with the European Commission, to reform the social protection system.

25. **Ms. Pekez** (Bosnia and Herzegovina) said that the number of persons registered as unemployed in Brčko District had decreased from 9,354, including 5,282 women, in December 2018, to 6,608, including 3,833 women, as at September 2021. With regard to the level of education among the unemployed, 2,178 persons had graduated from secondary

school, while 2,007 persons had attended primary school only. The Employment Bureau of Brčko District allocated around KM1 million a year to its employment programme. In 2020, the Employment Bureau had facilitated the employment of 126 persons through its programme. The government of Brčko District and the Employment Bureau had also taken action to mitigate the impact of the COVID-19 pandemic by earmarking a further KM1.6 million for employment assistance in 2020. The payment of unemployment benefits had not stopped during the pandemic. Since the start of the pandemic in early 2020, the government of Brčko District had disbursed just under KM10 million to businesses in order to prevent layoffs, thereby preventing an increase in the unemployment rate.

26. **Ms. Đuderija** (Bosnia and Herzegovina) said that the State party did not collect aggregated data on the unemployment situation in Bosnia and Herzegovina as a whole.

27. **Ms. Šahinpašić** (Bosnia and Herzegovina) said that the parliament of the Federation of Bosnia and Herzegovina was currently considering various bills on social protection, including with regard to child benefits, fostering, civilian victims of war, social services and social work, as part of an initiative to harmonize social security benefits across the cantons of the Federation.

28. **Ms. Đuderija** (Bosnia and Herzegovina) said that, in the context of the potential accession of Bosnia and Herzegovina to the European Union, all new bills in the country were required to meet European standards, which were consonant with the standards established in the Covenant. The governments of the Federation of Bosnia and Herzegovina and Republika Srpska had launched a dialogue with social partners, trade unions and other stakeholders on increasing the minimum wage. The collective bargaining process was under way.

29. **Mr. Kličković** (Bosnia and Herzegovina) said that, in mid-2021, the minimum wage in Republika Srpska had increased to KM540 per month, which was below the taxation threshold, and employers were thus exempted from paying social contributions. Of course, some employers abused the system by refusing to raise their employees' pay above the minimum wage, but those who paid less than the minimum wage were sanctioned.

30. Following an audit of the public sector, the government of Republika Srpska had decided to amend the law governing disability quotas. Under proposed new legislation, all public sector employers would be required to employ 1 worker with a disability for every 16 workers without disabilities on their staff. Employers were required to pay the special contributions, on pain of sanction by the tax authorities.

31. The authorities of Republika Srpska had launched a number of budgeted employment programmes to encourage workers in the informal sector to move to the formal sector. Faced with the large-scale emigration of young workers, the authorities had launched a series of targeted youth employment programmes, under which financial incentives were offered to employers to encourage them to hire young graduates. The authorities had also introduced self-employment incentives for graduates.

32. Employers and public authorities were prohibited by law from interfering in the activities of trade unions, on pain of a fine of up to KM12,000. According to a recent labour inspection report, no employers had attempted to prohibit trade unions in the workplace in Republika Srpska. However, some private companies had not facilitated the establishment of trade unions. Employees in non-unionized workplaces could establish workers' councils, which had a say on working conditions.

33. In accordance with International Labour Organization standards, efforts were under way to ensure that the same minimum social security benefits were available to all persons across Bosnia and Herzegovina. In the agricultural sector, farmers were able to register their businesses and pay social security contributions. During the pandemic, all persons diagnosed with COVID-19, including those without health insurance, had received medical treatment free of charge.

34. The level of disability benefits paid differed between veterans and other persons with disabilities. It was a politically charged issue, as veterans who had acquired their disabilities in the war had expressed an unwillingness to be considered as persons who required social

assistance, but progress had been made in ensuring access to disability benefits for civilians who had acquired their disability as a result of the war.

35. **Ms. Đuderija** (Bosnia and Herzegovina) said that the law provided for the right to social protection; every unemployed person registered with the competent employment bureau had the right to unemployment benefits. Persons who were unable to work could apply for special benefits and allowances. Social work centres provided assistance to persons who could not afford food, clothing or other necessities. Collective accommodation and subsidized housing was also available for persons with very low incomes. Persons who could prove that they had insufficient financial means were entitled to request medical treatment or essential medicines free of charge; legal aid was available to assist them if necessary. Moreover, parents were entitled to free medical care for their children, and families of persons without identity documents could apply for medical treatment and social protection through social work centres.

36. **Ms. Saran** said that, according to the information received by the Committee, the average salary in Bosnia and Herzegovina was very low, particularly in the health-care and education sectors, in which women were overrepresented. In that regard, she wished to know what measures the State party had taken to ensure that public service workers and their families had a decent standard of living. Further information on any legislative or other measures that the State party had taken to uphold the principle of equal pay for equal work would also be welcome.

37. **Ms. Đuderija** (Bosnia and Herzegovina) said that the average salary in Bosnia and Herzegovina as a whole was the equivalent of around €480. According to recent statistics, the average salary in the public sector was almost as high as the average salary in the private sector. The authorities were working on measures to harmonize and increase the average salary across all parts of Bosnia and Herzegovina.

38. **Mr. Kličković** (Bosnia and Herzegovina) said that the average salary in Republika Srpska was just under KM1,000 in both the private and the public sectors. Various measures and policies had been rolled out to increase the average salary, partly as an attempt to put an end to the excessive emigration of young workers. The principle of equal pay for equal work was observed across Bosnia and Herzegovina; labour inspectors had reported no violations of that principle and any employer not respecting it would be sanctioned.

39. **Mr. Emuze** (Country Task Force) said that information received by the Committee indicated that the burden of unpaid care responsibilities borne by women hampered their participation in the labour market. The proportion of fathers who used parental leave remained very low, at just 11 per cent, and the conditions in which they could do so were very limited. Access for working parents to childcare services and preschool education was low and the services very costly. He would like to know what concrete measures had been taken to address that situation.

40. He wished to know what steps had been taken to expand the reportedly low coverage of maternity leave, increase the maternity allowances paid and standardize them between cantons. He would also welcome information on the measures taken to recognize women's unpaid care work and to expand care services for older persons and persons with disabilities.

41. The Committee was concerned about reports of large numbers of children begging in the streets, many of them reportedly victims of trafficking in persons or Roma children, and would like to hear what had been done to address the situation and to protect the children.

42. He was interested in hearing why the relative poverty line had been lowered and what the current nationally defined poverty line was. Figures provided by other sources indicated that the poverty rate had been around 28 per cent in 2016, which was much higher than the State party's figure of 16.9 per cent for 2015. He would welcome updated information on the level of poverty and the effectiveness of any measures taken to reduce it. He wished to know how the scale of economic inequalities was assessed, what measures were taken to reduce them and the extent to which social transfers and taxes helped to do so.

43. The Committee would welcome updated information on the progress made in adopting a legislative and policy framework on housing and in providing affordable housing, especially social and rental housing. He wished to know what measures had been taken to

regularize the dwellings of Roma people and to improve the infrastructure and living conditions in Roma settlements. With regard to the housing situation of returnees and internally displaced persons, he would appreciate updated information on progress made in closing down collective centres and on the measures taken to reduce the delay in providing those persons with permanent housing.

44. He would be interested to hear about any progress made in regulating the tariff policy of public utility companies, and about measures taken to prevent utilities being disconnected for non-payment of bills, especially in the case of disadvantaged and marginalized individuals and groups.

45. In the light of reports that around 15 per cent of the population lacked health insurance, that only a limited scope of services was covered by the insurance and that the care received by persons covered by public health insurance was of poor quality, he wished to know what had been done to address those issues. He wondered what steps had been taken to oblige the significant number of employers who allegedly failed to fulfil their legal obligation to pay health insurance contributions for their employees to do so and what sanctions had been imposed. He would be interested to hear what measures had been taken to reduce regional disparities in access to quality medical services and to address the chronic underequipment of medical facilities and the out-of-pocket payments borne by patients.

46. He would welcome information on the action taken to combat reported discrimination that impeded the right to health of persons with disabilities, Roma and other disadvantaged and marginalized individuals and groups.

47. Noting that the State party had recorded the highest mortality rate in Europe due to the coronavirus disease (COVID-19) pandemic, he wished to know what steps had been taken, at all levels, to prevent and control the pandemic and to guarantee the availability and accessibility of vaccinations. A description of the criteria set for prioritizing groups to be vaccinated and the level of vaccination coverage would be welcome. Information would also be appreciated on the steps taken to provide the public with accurate and accessible information about the virus, on whether medical professionals were provided with sufficient personal protective equipment and clothing, on measures taken to address the disproportionately harsh socioeconomic impact of the pandemic on disadvantaged and marginalized individuals and groups, including Roma, migrants, rural populations and those living in poverty, and on any increase observed in socioeconomic inequalities.

48. **Mr. Hadžibegić** (Bosnia and Herzegovina) said that the project aimed at closing 121 collective centres and alternative accommodation was supported by funds from the Council of Europe Development Bank. It was planned to provide housing for 7,200 internally displaced persons and other disadvantaged people through the construction or reconstruction of 2,400 housing units. As at the end of September 2021, a total of 674 housing units had been built and 850 were under construction; a further 600 units would be built in 2022. They were all provided in the form of non-profit social housing. Labour force emigration and the COVID-19 pandemic had caused unforeseeable delays in the project.

49. Regional housing projects were also being implemented under a framework agreement with the Council of Europe Development Bank. Under the six approved projects, 3,200 housing units would be provided for about 10,000 persons in 106 communities, of which 55 were in the Federation of Bosnia and Herzegovina and the others in the Republika Srpska and Brcko District. The 1,292 housing units that had already been constructed included 891 family homes and 23 blocks comprising 401 apartments.

50. The Ministry of Human Rights and Refugees was implementing a project aimed at the integration of persons with refugee status or subsidiary protection status. Legislation linked to the Law on Asylum stipulated that assistance should be provided to such persons on arrival. The Ministry had held meetings in 2021 with relevant stakeholders, the Office of the United Nations High Commissioner for Refugees and non-governmental organizations, and had produced a document containing rules governing the exercise of the right to assistance in integration for such persons. The assistance would include the recognition of diplomas and other qualifications required in order to obtain meaningful employment.

51. **Ms. Vujadin** (Bosnia and Herzegovina) said that 75 per cent of the population had easy access to the public water supply system and 41 per cent to the sewage system. Only 15 per cent were connected to wastewater treatment systems. An auto-management strategy had been adopted to protect drinking water and ensure that everyone, including refugees and returnees, had access thereto. Water supply and sewage services were provided by public utility companies established by local self-government units.

52. Basic tariffs varied according to subscription options; the price per cubic metre covered consumer costs such as meter maintenance, reading and invoicing. However, the tariffs charged for water supply and sewage services were often insufficient to cover the operational costs and capital investments of the public utility companies; water quality was becoming an issue for loss-making systems, which were not being replaced at a satisfactory rate. Very few local self-government units had a clear pricing policy to ensure sustainability of services, most policies being unrealistic because they were frequently politically directed.

53. **Ms. Đjuderija** (Bosnia and Herzegovina) said that, although enormous debts could be incurred if utilities bills went unpaid, there were very few cases in which the water supply had been disconnected. When difficulties arose in Roma settlements, alternative sources for access to water were secured. Communities frequently provided subsidies for low-income or indigent families.

54. **Mr. Rizvo** (Bosnia and Herzegovina) said that his country guaranteed refugees and asylum seekers all the rights enshrined in the Convention relating to the Status of Refugees and its Protocol, including the necessary health care. Health-care provision for migrants depended on the category into which they fell: regular or irregular migrants or those transiting to countries of the European Union.

55. **Ms. Đjuderija** (Bosnia and Herzegovina) said that migrant workers enjoyed the same rights as citizens, automatically acquiring full access to health care and insurance and receiving the same wages and benefits. Refugees had the right to primary health care, the costs of which were covered by social support centres and refunded by the Ministry of Health and Health Insurance. Secondary and tertiary health care had also been provided in some cases.

The meeting rose at 6 p.m.