

***First item of the agenda of the General Council session of the FITUR
(April 22, 2009):***

«90 years of the International Labour Organization: Impact of ILO Conventions and Recommendations on the development of social and labour relations in Russia»

Report by Shmakov M.V., Chairman of the FITUR

Dear comrades and guests,

The International Labour Organization was born in 1919, in the time of civil war raging in Russia. Its creation was a response of the western liberal civilization to the menace of revolutionary ideas spreading to other countries of the world, ideas that resulted in the downfall of the bourgeois social, economic and political regime of the Russian Empire.

Western policy makers and heads of state, particularly those of the “Entente” alliance, realized that further escalation of exploitation of wage workers, many of whom had experienced the horrors of the First world war and were ready to protect their rights by any means, could lead to a social and political upheaval in their countries, as evidenced by the attempted revolutions in Germany and Hungary and the surging mood of protest among the proletariat in many countries of Europe, Northern America and Asia.

That was a brilliant idea – to create a body to regulate labour relations worldwide, becoming a platform for coordination of interests of States, represented by governments, employers and organizations of wage workers, or trade unions, which by that time had gained power.

The further propagation of ideas of social democracy and social justice in the society contributed in many respects to the implementation of this project, which meant a major breakthrough in meeting the need to change the overall direction of social development.

The global mandate of the ILO is incorporated in its Constitution. One of its provisions declares: “The failure of any nation to adopt humane conditions of labour is an obstacle in the way of other nations which desire to improve the conditions in their own countries”. These words make it evident that achievement of social justice on the global scale is a basic principle of all activities of this Organization.

This position was confirmed by Juan Somavia, ILO Director-General, in his address to the Russian Federation on the occasion of the 90th anniversary of the International Labour Organization:

«This year the International Labour Organization will mark its 90th anniversary, one of the oldest institutions in the UN system. This anniversary is a milestone of global

importance but has also deep national significance. Russia is a longstanding member of the ILO and we have been honoured to work together with you through the years to expand opportunities for decent work in your country.

The ILO is based on the method of dialogue to confront crises. We are the “Real Economy Institution” of the UN system representing not only governments, but also workers and employers. At a time of profound global economic turbulence, the social justice message and mandate of the ILO is as relevant today as it was at its founding.

The ongoing economic crisis provides added significance and the anniversary event could prove useful in offering a platform to focus on protecting people, sustaining enterprises during these difficult times and profiling your country’s role on these important subjects.

I look forward very much to your support. I am confident that with your leadership we will not just celebrate our history, but maximize this moment to begin writing our next chapter to promote social justice and the dignity of work for the people of Russia».

Speaking about the ILO role, the Chairman of the Nobel prize committee said in 1969, on the occasion of the 50th anniversary of ILO when the Organization was rewarded the Nobel peace prize for its contribution to the improvement of workers’ living conditions: “The ILO is one of the rare institutions the mankind can be proud of creating”.

In the course of 90 years of ILO activities, aimed at harmonization of labour relations between various parties and at coordination of their interests, the ideology of tripartism was formed, the practice of social dialogue became a reality worldwide. Of high importance is also the fact that in the course of those 90 years some 188 Conventions and 199 Recommendations were formulated and adopted, making up a corps of international labour and social legislation, a sort of international Labour Code serving as a basis for development and improvement of labour legislation in many countries.

Today, when the world faces a global financial and economic crisis threatening to lead to major social upheaval, when the trade union movement of Russia is deeply concerned about the insufficient level of observance of international labour standards in our country, it seems appropriate to discuss the ways of making a more efficient use of the opportunities offered by the International Labour Organization for improving the national labour and social legislation.

In recent years the ILO activities were marked by a number of major events heightening the role of the Organization in the XXI century. First, we should note the adoption in 1998 of the ILO *Declaration of basic principles and rights at work*. The Declaration proclaimed that the core Conventions should be applied by all member States, even by those who have not ratified them, due to the obligations imposed on them by the very fact of their membership in the Organization; they must respect, promote the application and put their provisions into practice. Another major document – the ILO *Declaration on Social Justice for a Fair Globalization* - was adopted last June on the eve of the crisis. It witnessed to the capacity of collective thinking to anticipate the need to develop and define the principles of achieving social justice on the global scale by promoting worldwide the concept of decent work. Even the name of the Declaration implies that social justice means changing the world order in the direction of harmonious development of labour relations, coupled with higher level of observance of rights and provisions, introduction of the principle of regulation, more transparent functioning of

economic and financial markets. The subsequent events fully confirmed the correctness of this analysis.

In 1999 the ILO Director-General put forward and advocated a concept of decent work, based on the realization of four main strategic objectives: to promote and realize fundamental principles and rights at work; to create greater opportunities for workers to secure decent employment and income; to improve the systems of social protection; to strengthen social dialogue. The ILO pursues these objectives in an integrated approach, which has at its heart the concept of decent work as a tool of poverty alleviation, fair distribution of the results of labour, better working conditions, social integration in the conditions of global economy.

In the 2000th the Program of decent work was further developed and put to practice; a major research on globalization and its impact on social and labour relations was carried out; international labour standards were established, aimed at improving working and living conditions, protection of human rights. It should be also noted that the ideology of decent work underlies the policy documents of our Federation, it is also reflected in the Program of the party «Edinaya Rossia».

According to the Constitution of the Russian Federation, such international instruments as ILO Conventions and Recommendations can be a source of labour law; they possess particular legal power and have priority over the national legislation. The ILO standards, established on the basis of positive international practices in the labour sphere, are highly efficient instruments, capable of reinforcing the process of legal regulation of social and labour relations, formulation and improvement of labour legislation. This powerful tool of legislative development and human rights protection has been made use of by our trade unions, as was mentioned in the resolution of the FITUR Executive Committee of April 18, 2000, «On increasing the role of international labour standards in trade union activities in the sphere of law-making and protection of human rights».

The Resolution also contained an assignment to address the Supreme Court of the Russian Federation requesting it to draw the attention of local courts to the need for a more active application of international labour standards. As a result, the plenary session of the Supreme Court adopted on October 10, 2003, a decree № 5 "On application by the courts of general jurisdiction of the universally recognized principles and standards of international law and international agreements of the Russian Federation". It was a first decree specifically concerning international law, and thus it is of vital significance. It settles a number of urgent issues; its concept is based on the domestic theory of interaction between international and Russian law, which was the subject of comparatively long-standing analysis and debate; this ruling of the highest national judicial body has at last translated this theoretical concept into a practical result. The debates and research of the past years have brought a practical result.

The FITUR in its practical work often turns to international labour standards with a view to increase their ideological sway over the Russian labour law. The provisions of ILO standards on the status, powers and rights of trade unions were taken into account at the FITUR initiative in the process of development of the federal laws «On collective agreements and contracts», «On trade unions, their rights and guarantees of activity». These laws provide now a legal basis for union representation and activities.

It should be also noted that the updating of many norms and institutes of labour law involved reference to international labour standards; this was the case when the

Labour code of the Russian Federation and the subsequent amendments were adopted. Without going into small details, I would only mention that the Labour code had been examined by ILO experts, who attested to its conformity with the international standards laid down in ILO Conventions. In any case, the experts had fewer remarks on the draft, than in the event of Labour codes of New Zealand or Georgia. One example of inconsistency with the principles of Conventions 87 and 98 is the overcomplicated procedure of declaring a strike action, as the Committee of experts indicated in a number of its reports; this issue was also on the agenda of the plenary session of the Committee on the Application of Conventions and Recommendations discussing the case of Russia at the 93-rd session of the International Labour Conference in 2005.

The recent practice of application of international labour standards by the judiciary has demonstrated the recognition of their priority. In a number of cases involving labour relations the Constitutional Court of the Russian Federation took into account the provisions of ILO conventions and recommendations, other international acts. The Constitutional Court of the Russian Federation emphasized in its ruling of January 24, 2002, that the provisions of ILO Conventions №№ 87, 98 and 135 imply direct responsibility of the State for ensuring freedom of union activities in respect of the proper representation and protection of citizens' social and labour rights. This ruling is particularly important for ensuring social and legal protection of workers – members of trade union bodies who exercise their union functions and continue at the same time to carry out their main work duties.

The Supreme Court of the Russian Federation recognized that imposing responsibility to perform work without an appropriate payment for that work must be considered as compulsory labour, which is prohibited by ILO Convention № 105 «On abolition of forced labour». This definition served later as a basis for complementing the labour legislation with a provision (article 142 of the Labour Code) permitting the worker to cease working in case of delayed wage payment. This amendment, enacted by the Federal law of June 30, 2006, settled for good the issue of legitimacy of workers' absence from the workplace during the work stoppage due to delayed wage payment. The day the worker must be back to work was also established: not later than the next working day after receiving from the employer a written notice on readiness to pay the delayed wage.

In the 90-ies, when non-payment of wages became common, the ILO, on the FITUR's initiative, analyzed the current situation and drew the attention of the Government of the Russian Federation to numerous instances of violation of Convention 95 «On protection of wages». It urged the Government of the Russian Federation «to take concrete steps putting an end to infringements of the Convention and adopt a package of measures, including not only legal provisions in the form of decrees etc., but also measures ensuring their effective enforcement in practice, especially by imposing appropriate sanctions in such cases, so as to guarantee payment of regular wages and prompt repayment of accumulated delayed wages».

Today, in view of the current financial and economic crisis, this problem is back on the agenda.

In conformity with the recent major tendency of international regulation of labour, aimed at protection of human rights and better working and living conditions, the ILO is focusing its efforts on ratification by member States of the ILO Conventions and their effective application.

The Russian Federation, when it became legal heir to the former USSR in international organizations, confirmed its recognition of 55 ILO Conventions that had been ratified at that moment by the Soviet Union. Many of them referred to employment of women and young workers, occupational safety, safe and healthy working conditions and industrial sanitation, working hours and annual leaves, maternity protection. Part of them dealt with freedom of trade union activities; prohibition of forced labour, discrimination in employment and occupations, equality of payment to men and women for work of equal value. With the change of economic system in our country the significance of international labour standards as a basis for establishing labour and social legislation, more consistent with the new economic and social setting, has grown tremendously.

You have all received the handout, listing the conventions, ratified by the Russian State. It also contains a list of Conventions that have been mentioned in various documents, signed by high representatives of Russian legislative and executive bodies, and recognized as eligible for ratification, but still not ratified. Moreover, the State Duma had told the Government of the Russian Federation it would be advisable to ratify many of them, but it got no response.

It could be interpreted as indifference on the part of the Government of the Russian Federation, disregard of such important documents as the General Agreements where the above mentioned conventions – 25 in total – were referred to; ratification of these instruments could influence positively the vector of activity of the Government and other public bodies, veering it towards the realization of principles of a Social state, fixed in the Constitution of our country. Moreover, if ratified, the ILO Conventions, being binding international normative acts, would induce the Government to enforce more vigorously their observance by employers, which would considerably improve the situation in the area of labour relations and make certain unscrupulous employers refrain from inconsiderate behavior and violation of the rights of workers and trade unions.

Neither have our Government reacted to the recommendation of the CIS Interparliamentary Assembly to ratify without delay eleven ILO conventions. Two weeks ago this question was discussed at the session of the Council of the General Trade Union Confederation. I regret to say that Russia, together with Turkmenistan, holds the last position among the CIS countries in what concerns the level of ratification of these conventions. Both countries have not ratified any of the recommended conventions. At the same time Moldova and Armenia have each ratified seven conventions, Ukraine - six, Azerbaijan - five, Kyrgyzstan - four, Belarus - three, Kazakhstan and Uzbekistan - two, Georgia and Tadjikistan - one and Russia - none.

Over the last ten years Russia ratified only six Conventions, and only one of these was on the above-mentioned list. The ratification in 2003 of one of the core conventions - № 182 (1999) «On Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour» could be considered as a positive exempla.

In 2007 alone the State Duma of Russia's Federal Assembly twice addressed the Government on the issue of ratification of ILO Conventions; it pointed out that the Government did not fully observe article 19 of the ILO Constitution in what concerned bringing before the country's Parliament the conventions and recommendations, adopted by the International Labour Conference, fully and without delay, and it did not always observe the submission procedure.

Such attitude of the Government, a competent body, bound to bring before the Parliament proposals concerning ratification of ILO Conventions, could be regarded as admissible, had Russia occupied top position on the list of ILO member states that have ratified the greater part of ILO conventions. But this is not so: out of the 165 conventions in force today Russia has ratified only 53, or one third, and, as a consequence, finds itself at the lower half of the list.

Certainly, an act of ratification is not an end in itself, of more importance is effective application of conventions and control over their observance. But, as you perfectly well understand, without the first there is no second, there will be no application or observance without ratification.

Now I would like to dwell somewhat longer on the conventions of the so-called «social section», namely Convention № 102 «On minimum standards of social security».

The resolution of the State Duma of Russia's Federal Assembly of July 4, 2007, concerning the results of the third stage of All-Russia trade union protest action, organized by the FITUR, which had taken place on May 24, 2007, under the slogan "For decent living", noted that one of the main demands of the participants were higher retirement benefits and ratification of Convention 102. The Resolution recommended speeding up the submission by the Government to the State Duma of a draft federal law on ratification of Convention 102. Two years have passed, yet there is still no reaction on the part of the Government of the Russian Federation to the Resolution of the State Duma. And yet the need to apply this Convention, providing for a 40 per cent replacement rate of lost earnings, was recently stressed by Russia's President Dmitriy A. Medvedev! Moreover, Russia has announced its readiness to ratify the European Social Charter, where this percentage rate is much higher - 50 per cent or more. One would ask: what prevents it to act? Even if Russia ratifies the European social Charter in the near future - and, for your information, only two countries, one of which is Russia, out of all the member countries of the Council of Europe have not yet ratified it - that would not remove from the agenda the question of ratification of ILO Conventions 102, 117 and 128.

Today, when millions of people lose their jobs and means of living under the impact of the crisis, the recognition and observance of Convention 158 on termination of employment on the employer's initiative, Convention 168 on employment promotion and protection against unemployment, Convention 173 on protection of workers' claims in the event of insolvency of their employer and Convention 175 on part-time work acquire particular importance.

Over the few last years Russia became a country receiving millions of labour migrants; these wage migrants arrive to our country both on legal grounds, according to quotas established at the state level, and illegally. In this context the FITUR repeatedly insisted that Conventions 97 and 143 on migrant workers, Convention 118 on equality of treatment for national citizens, foreigners and persons without citizenship in the sphere of social security, Convention 157 on maintenance of social security rights should be ratified; this would help reduce significantly the existing discrimination in respect of benefits, payment for work, social security of foreign citizens arriving in Russia in search of work, contribute in general to better employment conditions in our country as a result of gradual and progressive elimination of such phenomenon as labour dumping.

All the above mentioned facts suggest that the situation in our country concerning observance of the responsibilities imposed by the very fact of its membership in the International Labour Organization is far from ideal. An active policy, aimed at effective application of international labour standards, would largely contribute to the resolution of this problem.

On this occasion I would like to call once more on the Government of the Russian Federation and the bodies of legislative power to take a more serious stand on the international obligations of our country, to implement actively at the national level the policy of the International Labour Organization, aimed – as was mentioned above – at full realization of the objective of social justice.

Within six days we'll mark the official declaration of creation of the International Labour Organization. Therefore today, on the eve of that date, I would like to express gratitude to the Organization, its Bureau for Workers' Activities, chiefs and officials of the ILO Moscow Office for their willingness and efforts in rendering broad support and expert assistance to Russian trade unions in realization of technical cooperation projects.

I would also like to say that the Federation of Independent Trade Unions of Russia, its member organizations will continue to assist the development of activities of the Organization, will promote the noble principles of decent work, respect for rights and freedoms, convictions and equality of rights for the sake of progress not only in our country, but all over the world; we will base our demands and actions on the international labour legislation. As an organization, formed on the principles of solidarity and mutual aid, the Federation of Independent Trade Unions of Russia once again confirms its adherence to the idea, which is the slogan of the International Labour Organization and which I quoted in the beginning: "The failure of any nation to adopt humane conditions of labour is an obstacle in the way of other nations which desire to improve the conditions in their own countries".

Thank you for your attention.