



A Research Study



BEST PRACTICES OF ESTABLISHMENT OF TRADE UNIONS IN THE EUROPEAN UNION



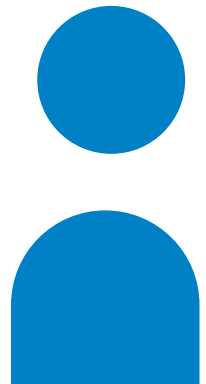
ARMENIAN PROGRESSIVE YOUTH NGO

A Research Study



**BEST PRACTICES OF
ESTABLISHMENT OF
TRADE UNIONS
IN THE EUROPEAN UNION**

YEREVAN 2022





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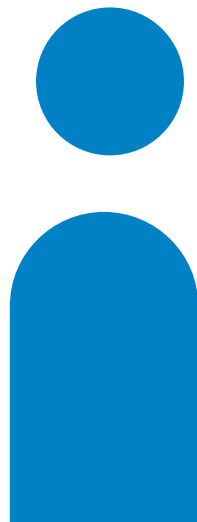
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Introduction

The research study “Best practices of establishment of Trade Unions in the European Union” was conducted by the Armenian Progressive Youth NGO within the framework of the **“EU4LabourRights: Increasing Civic Voice and Action for Labour Rights and Social Protection in Armenia”** project which is implemented by OxYGen Foundation, Socioscope NGO, “Asparez” Journalists’ Club NGO, Armenian Progressive Youth NGO, Media Diversity Institute - Armenia in cooperation with Protection of Rights without Borders NGO, and Eurasia Partnership Foundation and is funded by the European Union.

The research **goal** is to identify and analyze the best models of the establishment and activity of trade unions and to propose approaches to the establishment of trade unions in Armenia on the basis of the experience

of unions in the EU member states and the study of the current state of trade union activity in Armenia.

Statistical, econometric, comparative, analytical graphic methods and models were applied during the research.

Four European countries have been selected for study of international best practice: Sweden, Germany, Poland and Lithuania. The selection of the countries was based on the following logical framework:

- Countries with best models and indicators of trade union activity – Sweden, Germany;
- Countries with a medium level of trade union activity – Poland;
- Post-Soviet countries with trade union activity – Lithuania.

During the research, the current state of establishment and activity of trade unions in **Armenia** was also studied and analyzed, and issues hindering activities of trade unions were identified.

The legal framework of the EU countries and Armenia, statistical data and reports of studies of various international organizations on the subject matter served as sources of information for the research study.

The laws and decrees regulating the activity of trade unions in the selected EU countries and Armenia, studies, models, concepts, reports published by foreign authors on the topic of establishment and activity of trade unions have served as theoretical and informational foundations for meeting the goal and objectives of the research study.



SECTION 1.

Identification and Study of Best
Practice in Establishment of
Trade Unions in the
European Union



A brief overview of employee and employers' associations

In Germany, trade unions have different functions, the main function being the conclusion of collective agreements. In addition, trade union representatives assist employees and/or the works council in any matter (e.g. legal, educational, etc.) by providing consultation, as well as representing employees in court and defending their interests. However, trade union representatives have no authority to participate in the activities of the organization and decision-making processes.

Employers' associations are mainly formed according to economy sectors and territorial features. In general, employers' associations are partners of trade unions in the framework of concluding collective agreements and conducting negotiations.

It is noteworthy that German companies do not have commonplace trade union commissions. Instead, there are union representatives who are members of the works council (German *Betriebsrat*). The main task of the latter is to establish constructive relations between the administration of the organization and the trade unions. In the event of a dispute between employers and employees, trade union representatives have no authority to assist any of the sides or organize labor strikes, as the mission of the works council is to protect the interests of the entire company.¹

Rights and activities of trade unions

In Germany, trade unions can enter into collective agreements with both individual employers and employers' associations. The level of employee involvement in trade unions in Germany is quite low (about 20%), while at the same time there are associations with about 80% employee involvement. If there are several collective agreements in the same organization, the

collective agreement concluded with the trade union with the largest number of members prevails. Small associations in the organization have the right to conclude similar agreements only for their members. As a result, only one collective agreement will be valid in the organization. The Federal Constitutional Court has ruled that such legal principles are largely in line with the German Constitution. Therefore, in 2018, the German legislature adopted a law according to which agreements with small unions shall also be accepted, if the interests of the trade union (which has the maximum number of members) are not taken into account seriously.

However, this new regulation meant for protecting small unions was criticized by employees.

In Germany, the main representations of employees are guaranteed by works councils. The works council is an association that represents the interests of employees within the organization, operates under the auspices of the trade unions and can be established on the initiative of the employees of the organization or the trade union. The works council may include all employees of the organization, except the heads of the organization, who make joint decisions: 1) on **human resources issues** (for example, recruitment, transfer, dismissal), 2) **social issues** (working hours, mode of remuneration, introduction and use of IT technologies, etc.), and 3) **economic issues** (operational changes, etc.). Furthermore, the works council may enter into an agreement with the employer on matters such as working conditions or modes and terms of remuneration. Works council agreements, just like the rules operating in the organization, have a direct and binding effect on the individual employment of the employee.

Other types of employee representation bodies

Joint-stock and limited liability companies with more than five hundred employees have a supervisory board. One third of the latter should consist of employee representatives, who should be selected through direct voting by employees of the same organization.

If the organization has five employees under the age of 18 or trainees

under the age of 25, a **representative body of young employees and trainees** may be established.

In an organization with more than 100 employees, **economic committees** can also be established if there are works councils, and in organizations where there are more than 10 executives, **executive committees** can be established. The latter is similar to the works council, but has limited rights and opportunities.

Organizations with more than 5 persons with disabilities or employees with long-term disability status may set up a representation of persons with disabilities to assist persons with disabilities in integrating in the works of the organization, represent their interests, as well as provide consultations and other assistance.²

In Germany, there is no law on trade unions or secondary legislation as such. The activities of trade unions are regulated by the Act on Collective Agreement Unity (German *Tarifeinheitsgesetz*). The latter stipulates that if there are several unions and collective agreements in one organization, priority shall be given to the collective agreement concluded between the employer and the trade union with the largest number of members.

With this law adopted in 2015, the federal government sought to eliminate the power struggle between different trade unions, as different trade union groups organized labor strikes for another group of employees or union against another group or union.

As a result, small trade unions had gained disproportionate influence. This development is a result of the 2010 rulings of the Federal Labor Court, which put an end to the principles of Unitarian Bargaining (German *Tarifeinheit*), which had been in force for more than 60 years. The court decisions provided for broader rights for small unions to appeal the current system, where there could be only one agreement in the organization. Some German trade unions were concerned that professional unions, which benefited most from labor strikes, might not follow the principles of solidarity. Employers, in turn, feared that organizations would face constant

2. <https://knowledge.leglobal.org/employers-associations-and-trade-unions-in-germany/>

shocks, since individual collective agreements could be terminated after the deadline.

Taking into account the situation, the coalition government proposed a new law, which came into force on July 10, 2015. The law states that if there is a disagreement between two different collective agreements of different unions of the same organization, the collective agreement with the largest number of members will be valid in the organization. After the adoption of this law, several small trade unions appealed the constitutionality of its provisions. However, in its ruling, the Federal Constitutional Court stated that the law was in conformity with the Constitution. In particular, the press release said:

«However, the interpretation and implementation of the law must comply with the collective bargaining autonomy (German *Tarifautonomie*). The latter is protected as an imperative norm (Article 9 (3) of the Basic Law (German Grundgesetz - GG)). Regular trials should determine in detail the provisions that have not yet been resolved by law. The law does not comply with the Constitution only insofar as there are no provisions on precautionary measures that will guarantee that the interests of members of certain professional groups or sectors will not be ignored.»

Thus, in the event of a conflict between collective agreements in the same organization, the agreement between the employer and the trade union with the largest number of members shall prevail. However, according to the court ruling, a collective agreement of a trade union with a small number of members can be rejected only if the trade union with a large number of employees has fully taken into account the interests of the members of the small trade union, established within the framework of the collective agreement. Thus, the larger trade union that has signed the recognized agreement must show that it has credibly taken into account the interests of its colleagues who are members of smaller trade unions.³

German trade unions are one of the strongest in Europe. Trade unions are able not only to protect the interests of employees, but also sometimes to

3. <https://www.etui.org/covid-social-impact/germany/germany-act-on-collective-agreement-unity-is-compatible-with-the-constitution>

change labor legislation.

However, only **one in six employees in Germany is a member of a trade union**, although the decline in the number of trade unions has slowed in recent years.

It is interesting that employees in Armenia join trade unions either through compulsion or as a mere formality, while in Germany every self-respecting employee wants to become a member of a trade union (German *Gewerkschaft*). The German trade unions offer their members not only support and protection in the workplace, but also a number of benefits, including counseling with lawyers or professional development courses. Those who go on labor strikes or are fired are paid from the budgets of trade unions (of course, except for social welfare payments paid by the state). In many large German industrial organizations, even the cafeteria menu is not decided without the involvement of the trade union.

The beginning of the formation of trade unions in Germany is considered to be the year 1865, when the General German Cigar Workers' Association (Allgemeiner Deutscher Cigarrenarbeiter-Verein) was founded in Leipzig. This organization became the prototype of all modern German trade unions.

There are currently several dozen branch unions in the Federal Republic. Moreover, in a broad sense, they are represented by three associations. The largest is the German Trade Union Confederation (Deutscher Gewerkschaftsbund, DGB), which has 5,850,167 members from eight leading sectors: railway workers, police officers, agricultural workers, teachers, builders, health workers, and so on.

Smaller unions are the German Civil Service Association (Beamtenbund und Tarifunion), which has about 1,500,000 members, and the Christian Trade Union Federation (Christlicher Gewerkschaftsbund), which has about 500,000 members.

Despite the fact that German trade unions are considered to be the most established in the world in terms of support and protection of employees, according to statistics provided by the Organization for Economic Co-

operation and Development (OECD), trade union membership in Germany has been declining in recent years. (see Figure 1).⁴

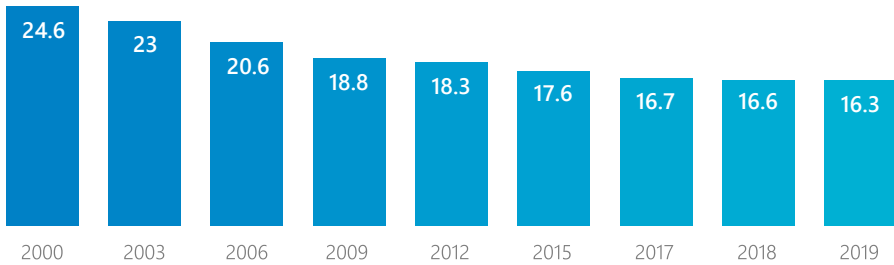


Figure 1

The share of employee involvement in trade unions in Germany in 2000-2019

DGB is a member of the European Trade Union Confederation (ETUC) and the International Trade Union Confederation (ITUC).

Individual unions within the DGB, such as **IG Metall** and **Ver.di**, have considerable autonomy and influence.

IG Metall is the largest union, which had 2,262,571 members as of 2019,⁵ and 2,214,662 members in 2020. Although the vast majority of its members still represent the metallurgical industry, it merged with the Textile Workers' Union in 1997 and the Wood and Plastic Union in 1999. It also has members in the information and communication sectors.

Ver.di was founded in 2001, uniting 5 trade unions and including members from the transport and a range of public services, retail and finance, post and communications, graphic and media sectors and non-profit organizations. It was originally independent of DGB. It was the DGB's largest trade union for some time after the merger, but after the outflow of members it is now the second with 1,941,071 members (2020).⁶ Ver.di seeks to work with both private and public sector employees.

The **third** largest trade union is IG Bergbau, Chemie, Energie (IGBCE), whose members include employees in the chemistry and energy sectors.

4. <https://stats.oecd.org/Index.aspx?DataSetCode=TUD#>

The latter merged with a small leather workers' trade union in 1997.

The **other 5 trade unions** under DGB are much smaller. These are the Education and Science Workers' Union (Gew. Erziehung und Wissenschaft), which has 280,452 members; the Construction, Agriculture and Environment Union (IG Bauen-Agrar-Umwelt), which has 231,663 members, the Food and Hospitality Union (Gew. Nahrung- Genuss- Gaststätten) with 194,145 members, the Police Union (Gew. der Polizei) with 197,736 members, and the Railway and Transport Union (EVG) with 184,090 members (see Table 1).

Table 1.
DGB members 2019-2020⁷

Trade unions	Total / 2019		Total / 2020		Male employees		Female employees	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
IG Bauen-Agrar-Umwelt	240,146	4.0	231,663	4.0	167,305	72.2	64,358	27.8
IG mining, chemistry, energy	618,321	10.4	606,348	10.4	472,611	77.9	133,737	22.1
Weighted education and science	280,343	4.7	280,452	4.8	78,597	28.0	201,855	72.0
IG Metall	2,262,571	38.1	2,214,662	37.9	1,811,012	81.8	403,650	18.2
Weight of food, pleasure and restaurants	197,791	3.3	194,145	3.3	114,260	58.9	79,885	41.1
By the police	194,926	3.3	197,736	3.4	145,074	73.4	52,662	26.6
EVG	185,793	3.1	184,090	3.1	143,952	78.2	40,138	21.8
ver.di	1,955,080	32.9	1,941,071	33.2	922,728	47.5	1,018,343	52.5
Total	5,934,971	100	5,850,167	100.0	3,855,539	65.9	1,994,628	34.1

It is noteworthy that only 1/3 of the DGB members are women.

As mentioned, the members of the DGB are the above-mentioned eight

7. <https://www.dgb.de/uber-uns/dgb-heute/mitgliederzahlen/2020-2029>

unions. These individual unions, especially the larger ones, are very powerful and certainly have more resources than the DGB itself. Mergers changed the balance. As a result, the top three make up 82% of the total DGB members.

The next large trade union, the German Civil Service Association (Beamtenbund und Tarifunion), is made up of 40 trade unions, which include public sector employees such as vocational school instructors or prison staff. The four major unions within the German Civil Service Association are the German Teachers' Union (VBE), which has 164,000 members,⁸ the DPhV Union, which has 90,000 members,⁹ Local Government Workers' Union (KOMBA), which has around 90,000 members,¹⁰ and the German Tax Union (DSTG), which has about 70,000 members.¹¹

Two-thirds of the members of the German Civil Service Association are public service employees with special status (Beamte), whose remuneration and conditions are defined by law and are not subject to discussion.

The Christian Trade Union Federation of Germany (CGB) consists of 14 individual trade unions, the most important of which is the Christian Metalworkers' Union (CGM).

Trade unions under DGB have expressed concern about the outflow of members in recent years and have taken a number of initiatives to prevent it.

Trade union membership is most active in manufacturing and public services, but much more passive in the private sector.¹²

In Germany, the trade union fee is calculated at the rate of 1% of salary. About 50% of the funds raised are spent on salaries of those who perform certain functions in the trade union, 13% is transferred to the union budget, as well as to international trade unions, 3% to the labor strike fund, 2% is allocated for innovative projects, and approximately the same amount

8. <https://www.vbe.de/der-vbe/>

9. <https://www.dphv.de/2018/01/30/dphv-begruesst-leistung-muss-wieder-schule-machen/>

10. <https://www.komba.de/unser-leitbild-komba.html>

11. <http://www.dstg.de>

12. <https://www.worker-participation.eu/National-Industrial-Relations/Countries/Germany/Trade-Unions>

of money is allocated to educational programs. Another 30% is used for current needs.

German trade unions are not at all focused on the war with employers. Their main objective is to reach a compromise and agreement. Sometimes disputes are resolved peacefully, but sometimes the parties are unable to find common ground. In that case, the trade unions resort to a long-tried method of pressure, namely, the labor strike.

In Germany, labor strikes are commonplace. Employees of various important social sectors regularly go on strikes. The Germans are patient with canceled flights and changes of train schedules due to the labor strikes because "tomorrow" they can be the ones to go on strike.

However, the labor strike is more of a forced measure that is not desirable. The problem is that in Germany there is such a concept as tariff autonomy, when employer unions and trade unions have the right to conclude contracts without state intervention. Although the state, as a legislator, defines the general working conditions, it does not define, for example, how much an employee should earn in any branch of industry. Agreeing on this and many other things (for example, duration of the leave) is the task of tariff agreements between employer unions and trade unions.

It should also be noted that in Germany, trade unions protect not only sectoral but also general labor interests.

The unions are trying to establish an order that once existed in Germany. Those who work all week should get paid for their work, which would be enough to live on this given week.¹³

Labor law

The Basic Law of Germany guarantees freedom of association in the country (Article 9 (3)), as well as occupational freedom and forced labor bans (Article 12). It also sets out the principle of equality before the law and, in particular, obliges the state to support the effective implementation of gender equality (Article 3).

The main sources of labor law are federal legislation, collective agreements, employment contracts and case law. There is no single labor code. The minimum employment standards are defined by individual acts on various labor issues, which are supplemented by government decrees.

Key legislation are as follows:

- The Civil Code, adopted on 18.08.1896 and last amended on 02.11.2000, defines labor relations. Issues such as dismissal, sick leave and annual leave are regulated by below-mentioned laws.
- The Works Constitution Act, adopted on 23.12.1988 and last amended on 19.12.1998, regulates cooperation between employers and employees.
- The Act on Collective Agreements, adopted on 25.08.1969 and last amended on 29.10.1974, regulates collective agreements.
- A number of laws regulating labor relations, including the Federal Paid Leave Act, the Employment Promotion Act, the Employment Protection Act, the Act Regulating the Payment of Wages and Salaries on Public Holidays and in Case of Sickness, the Protection against Dismissal Act, the Act on the Commercial Transfer of Employees.
- Laws providing professional development, including the Occupational Training Act, the Act on Part-Time and Fixed-Term Employment.
- Laws securing and regulating occupational safety and health, working conditions of employees, including the Maternity Protection Act, the Ordinance on Maternity Protection at Workplace, the Young Workers Protection Act, the Working Time Act, the Act on the Payment of Child Raising Benefit and Child Raising Leave, the Insolvency Ordinance.

- Laws governing the settlement of individual disputes, including the Labor Court Act and the Code of Civil Procedure.

Labor legislation is regulated by labor courts. Some issues, especially those related to labor strikes, are partially or even completely resolved through case law.

Collective agreements (Tarifverträge) are legally binding as long as they meet the minimum standards set by law. They are usually concluded at the sectoral level between the relevant trade union and the employers' union, and consequently cover either one sector (or parts of it), or the region, or the country as a whole. However, sometimes collective bargaining also takes place at the level of the organization. In 1999, 8% of employees in West Germany and 11% of employees in East Germany were covered by enterprise-based collective agreements (source: IAB Betriebspanel). Collective agreements are always binding on the members of the respective trade union and the members of the employers' union, between whom the relevant collective agreement has been concluded. Under certain conditions, liability may also apply to all employees in the relevant region or sector. In 1999, 65% of employees in West Germany and 46% of employees in East Germany were covered by a sectoral collective agreement (source: IAB-Betriebspanel).

In practice, the organization (Betrieb), concluding a written employment contract (Betriebsvereinbarung) with the employee in accordance with the above-mentioned laws also plays an important role, setting out certain rules aimed at achieving the goal of the organization. Working conditions at this level, such as those set out in the Works Constitution Act, may or in some cases must be set out in employment contracts.

As Germany is a member of the European Union (EU), EU legislation and case law have a major impact on labor law in Germany, since EU directives and EU law are legally binding.

Regulations on trade unions and employers' associations

Freedom of association for both employees and employers is guaranteed as a fundamental right in the Basic Law (Article 9(3)). This includes the right of individuals to form associations, to join an existing association, to participate actively in the association, to leave the association or not to be member of any association. It also contains provisions to protect the association from any influence of the State or individuals.

According to the Basic Law, an association is a voluntary permanent union, which should not be limited to one company. In addition, any association should consider itself a representative of employees or employers and should clearly work towards concluding collective agreements.

Trade Unions

There is no law on trade unions in Germany. Although trade unions are usually defined as associations that do not have legal capacity, they are legally entitled to conduct collective bargaining, as well as to take legal actions or go to court (Article 2 (1) of the Act on Collective Agreements and Section 10 of the Labor Court Act). The rights and responsibilities of the union members are enshrined in the constitution of the relevant trade union. Although constitutions may differ from one trade union to another, they traditionally define similar core rights and responsibilities. Members are required to pay trade union fees, the amount of which is based on the amount of individual salary. At the same time, they have the right to assistance in labor disputes, as well as the right to legal advice. Membership ends only upon termination on the initiative of the employee or expulsion based on a decision of the trade union, which must comply with the constitution of the latter.

Collective bargaining and agreements

Collective bargaining is regulated by the Act on Collective Agreements.

Trade unions, on the one hand, and employers' associations, as well as individual employers, on the other hand, have the legal capacity to conduct collective bargaining (Section 2, Par. 1). In fact, collective bargaining mainly takes place at the sectoral / branch level, although in some cases trade unions may also negotiate with an individual employer if their constitution provides for it. The ban on the employer membership in the individual collective agreement of its members does not affect the validity of the collective agreement, but leads to the employer's obligation to compensate the damages.

Collective agreements have three main functions:

- Protective function (definition of minimum employment standards);
- Rationalization function (to bring working life to order and conformity);
- Solidarity function (as long as the collective agreement is in force, new claims and labor disputes over them are strictly prohibited (industrial solidarity)).

Any collective agreement is a contract that consists of two parts (Section 1, Paragraph 1). Under contract law, the first part deals with the rights and responsibilities of contractual partners. The two main responsibilities of the partners are industrial solidarity and the responsibility to use all available means to ensure that their members abide by the agreement. The second part of the collective agreement establishes rules on employment contracts, operational issues and the labor constitution in terms of the labour law. This distinction is important for the term of the collective agreement. In general, a collective agreement ends when the period for which the agreement was concluded expires. It may be terminated earlier by a legal initiative of one of the parties to the agreement or by mutual agreement.

A collective agreement is generally mandatory for those who are members of the relevant trade union and employers' association at the moment when it enters into force. Its rules therefore apply to individual employment relationships if the employee as well as the employer have certain obligations (Section 3, Paragraph 1). Nevertheless, the employer's

commitment is sufficient to enforce legal issues related to operational matters or the employment charter (Section 3, Paragraph 2).

The modern world is moving at an unprecedented pace, the digitalization and automation of various sectors of the economy is the imperative of time, and is global in nature. The formation of an information society, on the one hand, leads to the reduction of corruption risks, increase of efficiency and productivity, acceleration of processes, saving time and financial resources and a number of other positive results, and, on the other hand, it creates risks in the field of employment protection, which implies a scope of direct functions of trade unions.

The German public and private sector workers' union ver.di has developed a model agreement on e-governance, which will serve as a guide to deal with problems arising from digitalization.

The main provisions of the agreement are as follows:¹⁴

- The employees of the organization shall be informed about the introduction of any new technology in time and be involved in the process of introducing new technological systems.
- If necessary, staff shall be offered training so that they can work effectively with new technology.
- The introduction of new technologies shall comply with existing legislation and collective agreements. Any changes shall be accompanied by consultations with performance appraisal specialists.
- Overall efficiency shall be taken into account when acquiring, developing and using software systems.
- All new job positions that have changed significantly shall be subject to risk assessment, which includes the physical and psychological aspects of the job. Psychosocial risks shall be assessed every two years.
- Employees have the right to receive regular instructions on how to minimize health and safety risks at work.

Sweden is one of the countries with a relatively high level of prosperity and, consequently, good prospects for long-term growth.

There are **three trade unions** in Sweden: the Swedish Confederation of Trade Unions (LO), the Swedish Confederation of Professional Employees (TCO) and the Swedish Confederation of Professional Associations (Saco).

LO includes blue-collar workers, white-collar workers (TCO) and skilled professionals (Saco).

LO (founded in 1898) has historically been by far the largest and most important union, but in the last twenty years its importance has diminished as TCO (formed in 1944) and Saco (formed in 1947) have grown, while the importance of LO has decreased due to the reconstruction of the economy, the increase in white and blue-collar workers / scientists in the economy, as well as the decrease in the number of associations. The share of members of LO trade union decreased from 81% in 1950 to 63% in 1980 and to 48% in 2008. LO is still the largest union, but not as dominant as previously.

LO and TCO are co-founding members of the ETUC, while Saco did not join the ETUC until 1996. Prior to that, its membership was blocked by the rival TCO union (TCO and Saco both involve groups of employees, such as teachers). Instead, Saco cooperated with the European Confederation of Independent Trade Unions (CESI), which was formed in 1990. As long as it could not join the ETUC, Saco believed that they could find international cooperation and influence at CESI instead. However, since joining the ETUC in 1996, resistance to Saco's membership within the TCO has waned, and Saco has quickly integrated. According to some analysts,¹⁵ Saco trade unions today are more positive and proactive than their partners, especially LO.

LO traditionally has more skeptics of European integration than other unions. Prior to the 1994 referendum, only six of the 21 LO unions supported Sweden's EU membership. 37% of LO members voted "yes",

15. Bieler and Lindberg 2008: 209

while 61% voted “no”.¹⁶ The members of TCO and Saco have been and are more inclined towards the EU.

Sweden was not a member of the European Union until 1995, and the Swedish labor movement was rather skeptical of European integration. This skepticism was particularly based on two factors: 1) the policy of neutrality in international relations and 2) the focus on the national welfare state. The classic expression of this attitude towards European integration comes from the famous speech of the then Social Democrat Prime Minister Tage Erlander at the 1961 Congress of the Metalworkers’ Union. He was negative about Sweden’s membership in the EEC because of Sweden’s policy of neutrality, free trade and economic policy.

In the post-war period, Swedes, who were not the last in the labor movement, often thought that their social model was superior to that of other Europeans.¹⁷ The position of the Swedish trade unions in European cooperation is clearly shaped by the unique model of the Scandinavian labor market, as well as the fact that the country did not join the EU until 1995. We should also emphasize the special interest with which the Swedish trade unions advocate the labor market model / industrial relations system, the establishment of the minimum wage and the optional incentives for membership. As Vandaele and Glassner observe, “the specific characteristics of European industrial relations regimes influence unionists’ interests and strategies”. This is true in the case of Sweden, where their high opinion of their own labor market model clearly shapes their involvement in trade union cooperation and policy at European level. Although the Swedish interest in transnational cooperation deepened in the 1970s and 1980s, they never became friends with the idea of deep transnational integration. Instead, Swedes often want to maintain decision-making on important issues at the national level and defend their well-known labor market model. The Nordic unionists, says one study, prefer «exporting their own [Nordic] approach to industrial relations rather than learning from others».¹⁸ Another article

16. Lundgren Rydén. 255–56

17. Misgeld 1997: 344; Larsson 2008: 175–76)

18. Larsson et al. 2012: 46; cf. Vandaele and Glassner 2012: 21

by Lovén (2012) states that since the ETUC was formed in 1973, the overarching goal for the Nordic trade union movement's engagement in the organisation has, typically enough, been to safeguard the Nordic social partners and collective agreement model.¹⁹

It should be noted, however, that there are sectoral peculiarities in Sweden. Metalworkers active in the international industry are usually more involved in trade unions (see Blomqvist and Murhem 2003: 163f; Andersen 2006; Furåker and Bengtsson 2013). Moreover, the model of the Swedish labor market has been more similar to the model of European partners over the last two or three decades (Baccaro and Howell 2011). Between 2000 and 2010, the number of trade unions decreased from 81% to 71%, as has the political influence of the unions, although it used to be at a very high level (Lindvall 2012). If the position of Swedish unions is weakened at home, it is likely that their interest in European cooperation will grow (see Bieler and Lindberg 2008).

Before the founding conference of the ETUC in 1973, the Nordic participants had already founded the Council of Nordic Trade Unions (CNTU), in Oslo in March 1972, the purpose being to bring the Nordic unions closer together. The union leaders saw that international cooperation was becoming more important and that together they would have a stronger voice (see Isakson 2012 for a history of the CNTU). The Scandinavian unions coordinate their operations at European level, increasing their influence.

It is typical for the Nordic labour market regimes to have little state intervention but strong social partners and high collective bargaining coverage (Dølvik 2008; Eldring and Alsos 2012). **Typically the Nordic unions are not interested in policies that imply greater state intervention in the labor market, such as statutory minimum wages.**

Swedish unions' attitudes and commitment to European integration and European trade union cooperation have traditionally been minimalist in terms of transfers of policy competence to the European level. In the 1950s and 1960s LO was an active member of the European Region within the

19. Cf. Svensson and Jacobsson 2009: 16; Andersen 2006

OECD trade union cooperation.

The Nordic countries also obviously had a special interest in welcoming as many unions from EFTA countries as possible into the ETUC, so that the organisation would not become exclusively focused on the EC (Misgeld 1997: 133, 152).

The Swedish unions' position within the ETUC was not very strong. Coming from an EFTA country, their position was weak in two ways: 1) it was difficult for EFTA unions to make themselves heard within the ETUC, and 2) it was difficult for the ETUC to have an influence on EFTA (Misgeld 1997: 145, 170–74). The Swedish unions were annoyed that the EFTA countries were forgotten within the ETUC.

The typical Swedish attitude to the ETUC in this time was pragmatic, characterised by a reluctance to embrace grandiose goals and an emphasis on 'realism'. As Dølvik (this volume) points out, the Swedish LO was more skeptical about European integration during this time than their Nordic colleagues. LO and TCO mostly wanted the ETUC to act as a distributor of information, assisting national unions, and not so much as an actor in its own right (Misgeld 1997: 174). LO, the largest Swedish trade union confederation at the time, disagreed with the OECD's approach in the 1970s and 1980s: European Days of Action, reduced working hours as an employment policy, European social policy and wages, and containment strategies. Nevertheless, in 1978 the Swedes were unimpressed by this idea, which did not fit their idea of being 'constructive', and did not take part in the 1978 referendum (Misgeld 1997: 203). When Swedish trade unions had a very strong position in both the labor market and politics, they were reluctant to go on strikes (other than on 1 May). The second point of disagreement was on LO's most important issue within the ETUC at that time, employment policy. LO disagreed with the ETUC's position that working time reduction could be a reform that would enhance employment (Misgeld 1997: 214; Svensson and Jacobsson 2009: 69–70).

The next issue on which the Swedish LO disagreed with many unions in the ETUC in the late 1970s and 1980s was the development towards a European transnational social policy, which LO did not want (Misgeld 1997:

227). Integration and harmonisation were seen as factors contributing to a lowering of standards. The salary policy was also an important issue.

During the so-called 'Delors revival' in the second half of the 1980s, Swedish unions showed a warm attitude towards European integration and became more involved in the ETUC (interview GK). An expression of the increasing weight attached to European issues by Swedish trade unions was the foundation of their Brussels office in 1989. The founding of the Brussels office met with some skepticism from the ETUC secretariat, who were unhappy that the Swedes were more willing to spend money on having their own office in Brussels than on uniting resources to expand the ETUC offices (Svensson and Jacobsson 2009; Dølvik 1997: 438). Nevertheless, among the Swedish unions the Brussels office is very much appreciated as a source of information from Brussels, as well as a coordinator.

The turnaround on European issues was motivated not only by positive factors like good experiences of European trade union cooperation but also by negative factors in the shape of increased internal weakness. In fact, trade unions become more interested in international cooperation when they become weaker at home.²⁰

An important factor in moving Sweden towards membership of the European Community was the deep economic crisis in the country in the early 1990s, with negative GDP growth in 1991, 1992 and 1993. Sweden held its membership referendum in 1994. The trade unions were active in the negotiations on EC/EU membership, with one predominant policy aim, namely, getting a guarantee that the 'Swedish model' (in which the social partners negotiate collective agreements without state intervention) would continue to function. It was especially important to guarantee that Swedish collective agreements would be applied to all foreign and posted workers in Sweden.²¹

Sweden joined the EU in 1995. An interesting development in Swedish unions' work within the ETUC was the launch of Eurocadres, an initiative of

20. Ross and Martin 1999; Magnusson and Murhem 2009; Vandaele and Glassner 2012; *utbu luulu*. Bailey 2005 p.

21. Nyberg 2011: 19–24

the Swedish manufacturing white-collar union SIF (affiliated to TCO) and the French CFDT. Eurocadres is an organisation for unions (and departments of unions) of professionals and managers to allow them to raise such issues within the ETUC. Other issues that Swedish trade unions advance through Eurocadres are professional qualifications and recognition, as well as issues related to education.

Overall, in the early twenty-first century the most important issue for Swedish unions within the ETUC and the EU has been protecting their collective bargaining model against social dumping. This was already a key issue for the unions when negotiating Sweden's membership agreement. Sweden was provided a guarantee that the Swedish collective bargaining model would not be affected by EU membership.

The traditional 'Swedish model' entails little explicit political involvement in the labor market, leaving its regulation to the social partners (Kjellberg 1999), and regulations such as legal extension of collective agreements are still very controversial in the Swedish labor movement. Nevertheless, we see in LO that some member unions, especially the transport workers, have spoken out for legal extension of collective agreements in sectors affected by social dumping.

One issue on which Swedish unions have indeed played a proactive role is the integration of unions from post-communist countries into the ETUC. This is in parallel with the position of the Swedish government that the EU should be expanded to central and eastern Europe in a 'big bang', rather than gradually.²² The Swedish unions have been especially active with regard to the Baltic countries, with which Sweden has historical connections and of course geographical proximity.

Thus, at certain times Swedish unions have shown an enthusiasm for European cooperation (especially the late 1980s and 1990s), but traditionally the Swedes have been rather sceptical about deeper European integration. On a number of European union issues, such as working time reduction as employment policy, European collective bargaining, statutory minimum

22. SACO 2004: 7-8

wages, the Swedish unions treat the Europeanizing political proposals with the same contempt as they did in the 1970s or 1980s. The salience of European issues increased drastically with EU membership in 1995, and became perhaps even more important with the social dumping debate, which has been very lively since 2004. Second, the Swedish unions have been weakened in the country. Swedish unions have become more positive towards European integration and cooperation since the 1990s. The current situation can be summarized then as active cooperation with a positive outlook, but it is still unclear on the policy level.

The **Swedish model** of trade unions emerged from the trade union struggle of the early 20th century and has not lost its relevance to this day.

The model rests on 4 pillars:

- Strong trade unions,
- Flexible labor laws,
- Proactive policies for the labor market and families,
- Universal welfare.

The Swedish model is based on the following factors: Sweden has a high level of education, a widespread environment of cooperation, high technical maturity, equal opportunities, an efficient public sector with unique transparency, solid infrastructure, excellent welfare, and relatively small social gaps. The model combines flexibility for companies with security and influence for employees. The system has been proved to contribute to stability and growth.

The independence of the parties to the labor market is the axis of this model. **Collective agreements** are the most important instrument. In central and local agreements, employers and trade unions negotiate together on the terms in the Swedish labor market and in individual companies. The employees are involved and take responsibility for the company as well. The government does not get involved, although it may set restrictions through labor legislation, as the trade union and employer federations are responsible. The government does not transform the trade union and

employer federations' agreements into legislation (which is done in many other countries) as the Swedish collective agreements are civil contracts and operate independently. There is no state labor market inspectorate that would oversee compliance with the agreements. It is up to the trade union and employer federations to fulfil the agreements. The Swedish collective agreement system gives room for flexibility as it avoids the bureaucracy and political deadlock often found in legislative processes.

The employment security system provides a foundation for necessary adjustments and change. With such systems, in the form of transition agreements, unemployment insurance, and systems alike, employees can often accept structural change and are often involved themselves in decision-making through their trade union organisations.

There are threats to the Swedish collective agreement model. Employment security systems are undermined when unemployment benefits are cut. Employers have less desire to sign agreements when membership numbers decline. If the government or the EU intervene and regulate conditions with laws and directives, it will weaken the right to freely negotiate and sign agreements.

The proportion of workers in unions has declined in recent years. To be able to recruit new members and to keep existing ones, trade unions should make the value of union membership more concrete for more people. This means that unions should have a greater presence in the workplace and should support individuals, take part in discussions on the future of occupations and businesses, make demands on employers, and ensure that laws and agreements are followed.

Voluntary agreements between trade union organisations and employers, collective agreements, create stability in the labor market. They provide clear rules and predictability. Employers are guaranteed practical peace, employees gain influence through negotiations.

The Swedish model is based on mutual understanding between employers and employees. Instead of turning to labor conflict, the trade union and employer federations negotiate. The employee is entitled to request negotiations on any issue in the workplace.

The basis for trade union legitimacy is a high degree of organization. About 75 percent of all employees are members to a trade union. Employers in turn belong to employer federations. This system of trade union and employer federations has created a spirit of consensus in which the sides negotiate to reach solutions that are acceptable to everyone.

The first trade union in Sweden was formed in 1902.

The right to form trade unions was enshrined through introducing rules in the collective agreement.

Legislation on collective agreements was adopted in 1928, and in 1938 the employers and employees signed an agreement, called the Saltsjöbaden Agreement, that regulates employment conditions.

The various trade unions in Sweden belong to the organisations LO, TCO, or Saco. The Swedish Trade Union Confederation (LO) organizes workers' unions, the Swedish Confederation for Professional Employees (TCO) and the Swedish Confederation of Professional Associations (Saco) organize those of salaried employees and academics. TCO and Saco currently have **1.8 million members** together, while LO has somewhat fewer than this total. The TCO has **1.2 million members**, more than 60% of whom are women. And half of the members work in the private sector.

Almost 90 percent of employees are covered by a collective agreement.

TCO and Saco are politically independent, while LO is closely associated with the Social Democratic Party.

The aim of trade unions is to improve working conditions and ensure that employees get a reasonable share of the value created in companies. Collective agreements regulate the fundamental terms for individuals' employment, influence, and the like during the employment period. An employer is prohibited from employing someone on terms or at pay less than those specified in the agreement. Some collective agreements may contain provisions on minimum wages. When the collective agreement takes effect, strikes and conflicts are not allowed.

The strength of trade unions is based on the trust and commitment of their members. If the trust disappears, the trade union loses its legitimacy.

The collective agreements are the most important instruments for joint influence on employees' employment conditions.

In addition to wages, the collective agreements give the individual basic protection in working life.

Trade unions work with security or unemployment, pensions and job security, influence over the organisation of work and the work environment, scheduling of working hours, and opportunities for professional development and in-service training courses.

In Sweden, almost all labour legislation can be replaced by collective agreements. In other words, trade unions and employers can adapt the legislative regulations to the terms and circumstances of different sectors. This makes labor law extremely flexible. When a collective agreement is signed at a company, it applies to all employees, regardless of whether or not they are members of a union. All employees benefit from the improvements negotiated by the unions.

Agreements can be concluded at different levels, locally or centrally. A model for solving disputes applies to issues regulated by the agreements. If one of the parties breaks the agreement, the other party can request negotiations on the disputable issue, which can be held locally and centrally. As a last resort, the dispute can be taken to the Swedish Labour Court, where both trade union and employer federations are represented.

In 1974, the Security of Employment Act (LAS) was adopted after many years of efforts by the trade unions. With this law, the employer's right to freely dismiss employees was abolished. The law applies to all employees and is based on two basic principles:

- A person normally should be employed until further notice;
- An employment contract can be cancelled only on objective grounds.

The purpose of the law was to grant legal rights and security to employees. According to this law, there are two ways of notifying the employee:

- Notice of termination: for notice of termination, an employee receives their usual pay for at least one month;

- Notice of dismissal: In the case of dismissal, an employee must leave directly with no pay. The reason may be that the employee has stolen something or acted violently in the workplace.

Priority rules determine that the person employed last must go first. An employer with 10 or fewer employees may exempt two people.

The Codetermination in the Workplace Act (MBL) entered into force in 1977, and gives employees greater possibilities to participate in the management of the organization and make joint decisions on important issues. The employer should provide ongoing information about the development of the organization and their human resources policy and is obligated to negotiate with trade unions before decisions are made about major changes in the operations or in the conditions of work or employment for the employees. The trade union has the right to negotiate and can also request negotiations on other issues. It is possible to deviate from the law using collective agreements.

The Working Hours' Act contains rules on how much a person can work each day, week, or year. The act discusses emergency duty hours and preparedness, the right to breaks and pauses. Parts of this act can be overridden by collective agreements.

The employers are responsible for an acceptable working environment.

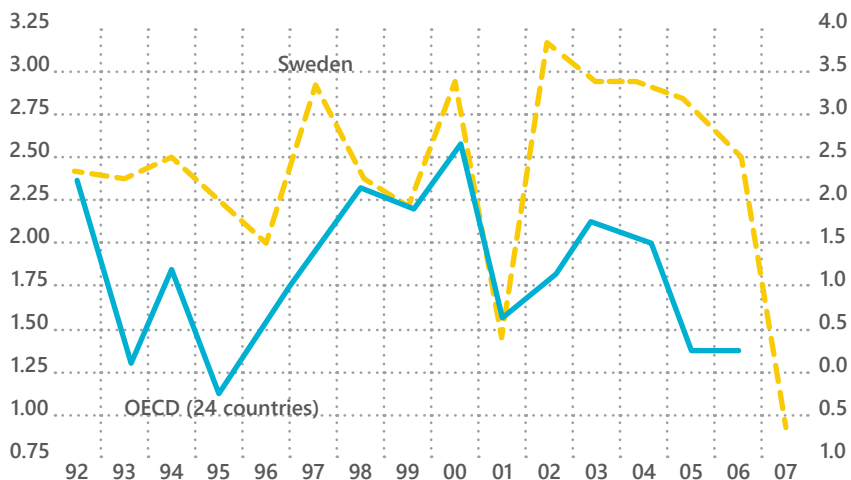
The Work Environment Act contains rules on safety and health related obligations of the employer and the employees in order to prevent illness and accidents on the job. There are also rules on cooperation between employers and employees, for instance, in terms of health and safety.

The Workplace Union Representatives Act applies for an employee who has been elected trade union representative at a workplace with a collective agreement. The employer should pay the salary of a person who is working for the union in the workplace in a "fair and reasonable" way. If the given person is working for the union outside their own workplace, participates in a conference, or a training, the trade union pays compensation for loss of earnings. The Act grants the representative the right to negotiate and

pursue union issues at the workplace and protects the representative from discrimination.

The majority of people want permanent and secure employment, which will ensure financial and social security for them. It also counteracts a poor work climate, discrimination, and illness. Employment security is the pillar of sustainable working life. Nevertheless, a growing number of permanent positions have been replaced by shorter contracts, by which the number of temporary employees has increased in the past few years (see Figure 2).

Figure 2
The dynamics of the number of permanent employees in Sweden
Source: Statistics Sweden, OECD



As early as the 1970s, TCO achieved legislation for individual taxation, that is, for married men and women to be taxed individually. Currently, Swedish fathers use 20 percent of the parental leave and 30 percent of time off when the child is sick. The trade unions, especially TCO, actively work for fathers to use a larger part of parental leave.

TCO analysis has shown that developed industrialized countries differ in their birth rates. Countries with a high degree of equal opportunity have higher birth rates. Hence, equality provides better potential for increasing

the labor supply in the long term. Population trends in developed industrialized countries will play a decisive role for the preconditions for long-term growth. Sweden is one of those countries whose population trends seem relatively favourable.

Welfare is the responsibility of the state, but trade unions have made efforts to advance welfare. In collective agreements, trade unions have been able to improve conditions for pensions and holidays, as well as health insurance payments. Social insurance programs have mainly been preceded by agreements between the employer and trade union organisations.

Sickness benefits are protected by law, but through collective agreements trade union and employer federations have negotiated a higher level of compensation for up to one year's absence due to sickness. National insurance pays 80 percent of salaries, and the employer pays an additional 10 percent. Compensation in case of work injury, disability, or death is included in the job security package in collective agreements.

The retirement age is 65, but it is possible to retire at 61 or to continue to work until the age of 67. If a person retires earlier or works longer, the pension is affected negatively. The universal welfare system has worked well in Sweden for a long time and is one of the main reasons the country has such a high ranking of living standards.

It took a long time to put in place all the components of the Swedish model. Being able to enter into agreements on conditions for the labor market, through consensus and without the interference of the political system, ensures good working conditions for the people who work, makes their trade union organizations stronger, and promotes industrial peace and predictability for companies and the private sector. The trade union and employer federations exercise substantial control over existing labor legislation.

The role of government in the model is to ensure security. The major emphasis on universal and jointly financed welfare has provided most people with sufficient protection from the ups and downs of life and other changes. The legitimacy for this welfare model is strong. ***This model is a welfare model.***

Based on the model, it has been possible to combine the improved standard of living and improved opportunities in life, for the overwhelming majority of the population, with steadily increasing efficiency and high profitability in the private sector. This model is more respected outside of Sweden because it provides results.

Relevant legislation

There is no legal definition of white and blue collar worker groups in Sweden. These groups are established by the existing **trade unions** of which the workers are members, and consequently different collective agreements apply to these two groups.

In Sweden, public sector employment is regulated by the **Public Employment Act**, the provisions of which **apply mainly to private sector employees and civil servants**, and the Public Employment Act contains only a few specific rules for civil servants.

Sweden has implemented the directive on the obligation of the employer to inform employees about the contract or the conditions applicable to the employment relationship. The employer is obliged to provide the employee with written information on the basic working conditions within one month after the start of employment. Failure to do so may result in liability for damages to the employee concerned.

Working hours

The maximum normal working hours are 40 hours per week. The Working Hours Act sets out provisions for overtime work, as well as for daily and weekly rest of employees. Overtime includes the working hours exceeding the regular working hours and on-duty hours. Overtime hours may not exceed 50 hours over a calendar month, with a maximum of 200 hours over a calendar year.

Deviations from certain regulations in the Working Hours Act can be made by the collective agreement, but not in individual employment contracts.

There are no provisions regarding minimum salary in Swedish legislation. However, provisions regarding such matters are often found in collective agreements.

In Sweden, there is no general government intervention in compensation or wage increases. However, such issues are often regulated by collective agreements. It should be noted that the compensation related to vacation, parental and sick leave is regulated by law.

The entitlement to a normal and minimum vacation is 25 days a year. According to labor law, an employee is paid a regular salary plus a vacation premium of 0.43% of their monthly salary. For variable parts of the salary, the employee is paid 12% of the variable salary, if they are entitled to 25 days of vacation. Employees' vacation pay is 12% of the total salary in the reporting year when the employee is entitled to 25 leave days.

The status and role of trade unions

Almost one out of ten employers in Sweden are members of an employers' association and approximately 70% of the employees in Sweden are members of a trade union. There are about 110 different trade unions and employer's associations. There are more than 650 collective agreements. Currently, union membership is declining.

The collective agreement contains general provisions that regulate the relations between employers and trade unions in areas such as association, information, negotiations, work activities, and labor stability obligations.

Under the Co-Determination Act, an employer has certain consultation and information obligations towards trade unions. For example, prior to any decision to reorganize the business and terminate labor contracts, the employer must call for and conduct consultations with the trade unions under the applicable collective agreements (both at a local and a national level, if applicable). Even if the employer is not bound by any collective agreement, the employer is obliged to consult the planned reorganization and potential reductions with any trade union of which a concerned employee is a member.

The law also contains certain provisions in the interest of the trade unions. The trade union has the right to interpret the collective bargaining agreement until the matter has been finally decided by the court, and, consequently, they play an important role in case of disputes.

Normally, the local trade unions elect one or more representatives to represent the employees at a workplace under the provisions of the Trade Union Representatives Act. Employees who are trade union representatives may not be prevented from carrying out union work during working hours, may not be discriminated against due to their union activities and are entitled to a leave to carry out their union activities. The representative of the local trade union shall manage the issues related to the work in a specific workplace.

The Board Representation Act entitles employees of private companies bound by collective agreements and having at least 25 employees to appoint two ordinary and two deputy employee representatives to the board of directors. Employees of companies that have at least 1,000 employees and are engaged in different industries are entitled to appoint three ordinary and three deputy employee representatives to the board of directors.

Finally, in a workplace where at least five employees are regularly employed, one or more safety representatives should be appointed in accordance with the Working Environment Act. If the employer is bound by a collective agreement, the union appoints the safety representatives. Otherwise, they are appointed by the employees.

The Swedish system is based on the principle that the law along with the collective agreements must provide a comprehensive framework.

By joining the employers' association, the employer undertakes to apply collective agreements to that organization. The employer is obliged to apply the terms and conditions of the collective agreement also to employees that are not members of a trade union. The employer can enter into a collective agreement directly with one or more trade unions.

A dismissal must be based on objective grounds. Objective grounds are

not defined by statute or case law but can be either for objective reasons or subjective personal reasons. Objective reasons are dismissals based on redundancy, reorganization or the economic situation of the employer, while subjective personal reasons are all dismissals that relate to the employee personally, such as the employee's conduct or performance.

The employer shall notify the employee and, if applicable, the relevant trade union two weeks in advance if they wish to terminate the labor contract for personal subjective reasons. If the employer wishes to dismiss the employee without notice, the information must be provided one week before the actual dismissal. An employee or trade union may request a dismissal consultation from the employer within one week of receiving the notification.

In Sweden, there is no fundamental difference between dismissing one employee or 150 employees for objective reasons (such as redundancy). Unlike many other European countries, where the obligation to consult collectively is applied only in the case of a few redundancies, the provisions of the obligations to consult under the Co-Determination Act apply even if the reduction applies to only one employee (see the outline of termination for objective reasons described above). If more than five employees are subject to redundancy and their employment is terminated, the employer must notify the Swedish Employment Agency in advance. This also applies if, within 90 days, the total number of termination notices is expected to be 20 or more. Failure to comply with the obligation of this notice may result in an obligation to pay a special duty to the State.

If the dismissed employee is a member of a trade union, he/she is given priority in employment.

Court procedures

According to the Collective Agreement or the Consent Law, the Labor Court is the first and only instance for labor disputes, or if there is a collective agreement between the parties. A trade union organization has the right to file a complaint at the court, for example, over a collective agreement dispute.

The employee does not bear the costs of his/her representation in court, as the costs are borne by the trade union.

Trends in current reform of Swedish labor law

Swedish labor law is currently being reformed. In 2018, the government proposed amendments to the **Employment Protection Act (EPA)**, which is one of the main regulations of Swedish labor law. The reform aims at adapting employment protection to the changes and developments in the labor market. In December 2020, the Confederation of Swedish Enterprises (Svenskt Näringsliv), joint organizations of private sector salaried employees, PTK, and the major trade unions of the **Swedish Trade Union Confederation (LO)**, agreed on the amendments to the **Employment Protection Act (EPA)**. The changes proposed by the social partners were included in the second proposal submitted by the government in June 2021.

According to the reform package, amendments are proposed concerning the order of priority for dismissal by the employer due to redundancy. Employers will be able to make additional exceptions in the order of priority in the event of a redundancy, regardless of the number of employees in the company. Under Swedish legislation, a dismissed employee is not automatically dismissed. According to the proposed amendments, all employers, regardless of the number of employees, will have the right to exclude additional employees (three instead of two) before determining the order of priority, thus such an amendment will give the employer more

freedom to choose which employees to keep in business.

A new form of employment is proposed - special temporary employment, which will replace the current general fixed-term employment. Employers can hire for 12 months instead of 24 months under fixed-term labor contracts. In this case, the labor contract will automatically become for an indefinite period, when the employee works for more than 12 months, instead of 24 months under the current legislation.

In the event of a court dispute over wrongful dismissal, the procedural provisions will be changed so that the employer does not have to hire the employee during the dispute. The proposed amendments include measures to reduce employer's costs related to the termination of contracts, as well as to make costs more predictable. Contrary to current regulations, the work will not continue during the dispute when the employee has challenged the termination and requested that the termination be declared invalid.

The amendments aim to create further flexibility, adaptability, and security in the labor market. The proposed reform envisages changes in the field of employment protection, the provision of new parallel public research support, as well as new public placement support for employees not covered by the collective agreement.

These changes will take effect on June 30, 2022, and be applied for the first time since October 1, 2022.

Development of trade unions

In Lithuania, union membership is low, accounting for about 7% of all employees.²³ The unions are divided into three main confederations: LPSK, LPSF "Sandrauga" and LPS "Solidarumas» which are divided, at least historically, on ideological grounds, but the unions can work together.

Unions in Lithuania are divided into three main confederations, which are all represented in the national tripartite social dialogue committee. The LPSK is the largest, with around 50,000 members.²⁴ It is followed by Solidarumas with some 14,000 members and Sandrauga with around 10,000 members.²⁵ There are also two smaller confederations, the RJPS and the LDF, and some unions not affiliated with the confederations. For example, the NPPSS, which brings together professional unions representing parts of the public sector such as the police, firefighters, and the prison service had 1,400 members in 2019.²⁶

According to the data of the Lithuanian statistics service, total union membership was 86,600 at the end of 2018, down from around 92,000 in the previous three years.²⁷ According to official figures, there were 1,214,350 employees in Lithuania in 2018 out of whom 7,1 % are union members (assuming all trade union members are employees).

Each of the two largest confederations has a different history and development. The LPSK emerged from a merger of two existing trade union confederations in 2002 which both developed from the trade union organizations which existed at the time when Lithuania was part of the Soviet Union. Solidarumas developed from the movement for Lithuanian independence, Sajudis, although it took its current name only in 2002.

The confederations are organized along 25 industrial lines, although they also have important regional structures. The LPSK has 25 industry federations, Solidarumas has 15, and Sandrauga states it operates in 18 sectors. In general, the largest federations are in the public sector,

particularly health and education. The LPSK's largest affiliate with 10,000 members is the education union LŠMPS, which was created through a merger of two education unions in 2019.²⁸

The individual industry federations are made up of a minimum of five local employer-level unions, in companies, government institutions, and other organizations, which come together in the federations. It is possible to establish a trade union with just 20 founding members or, in companies/organizations with fewer than 200 employees, just 10% of the workforce, provided it is at least three. For example, LŽŪDPSF, the union for agricultural workers in LPSK and one of the strongest in the private sector, states on its website that it has 8,035 members in 148 local unions, and the LPSK service workers' union has 4,250 members in 31 local unions including athletes and hairdressers.²⁹

Politically LPSK is closer to the Social Democratic Party, while Solidarumas, which was formerly closer to the conservatives, now takes a more neutral position.

Despite these potential political differences, the confederations have cooperated in the past, notably in their opposition in 2015 and 2016 to major changes to the Labor Code being proposed by the government.

Union membership has declined substantially- by 22.5% compared to 1990. 58% of the members of Lithuanian trade unions are women.³⁰

Legal basis

Trade unions are free, independent, and autonomous organizations that represent and defend the occupational, economic and social interests of their members. Their activities are governed by the Constitution, the laws

28. Lithuania: Latest developments in working life Q2 2019 by Inga Blaziene, Eurofound, August 2019 <https://www.eurofound.europa.eu/publications/article/2019/lithuania-latest-developments-in-working-life-q2-2019> (Accessed 03.04.2020)

29. http://www.lzud.lt/index.php?s_id=1&lang=lt and <http://www.lpsdps.com/?ac=about> (Accessed 03.04.2020)

30. ETUC Annual Gender Equality Survey 2019 – 12th edition, by Lionel Fulton and Cinzia Sechi, ETUC, April 2019 https://www.etuc.org/sites/default/files/circular/file/201905/ETUC_Annual_Equality_Survey%202019_FINAL_EN.pdf

of the Republic, ILO Conventions and Law on Trade Unions. Trade unions have the right to take legislative initiatives.

The activity of trade unions in Lithuania is regulated by the Law on Trade Unions, which was adopted on November 21, 1991 (last amended on June 4, 2010 - No. XI-882).³¹

Persons who are legally employed under a labor contract or on other statutory grounds in the territory of the Republic of Lithuania shall have the right to establish trade unions and join them to protect their interests.

The **Law on Trade Unions** defines the bases of trade union activities, their rights and responsibilities in relations with employers, public administration and government bodies when trade unions protect the interests of their members.

Joining or withdrawing from the unions is regulated by the union charter.

Persons who are legally employed under an employment contract or on other statutory grounds in the territory of the Republic of Lithuania have the right to freely join trade unions and participate in their activities.

An employer or their authorized representative may not be a member of trade unions functioning in their enterprise, establishment, or organization.

In the Republic of Lithuania, trade unions function freely and independently. All trade unions shall enjoy equal rights. They have the right to prepare the charter and rules of their activities, to freely choose their representatives, to organize their apparatus and activities, and to shape the program of their activities.

State bodies, employers and their authorized representatives, managing bodies of enterprises, establishments, organizations, the administration, officials, political parties and other public organizations are prohibited from interfering with the internal affairs of trade unions. Activities of trade unions cannot be terminated or temporarily suspended administratively.

Trade unions shall have the right to maintain relations with trade unions of other states, international and other organizations, and to be members

31. http://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=29913&p_country=LTU&p_count=488

of international trade union organizations as well as to take part in their activities.

In Lithuania, trade unions may be established based on professional, office, production, territorial, or other principles determined by the trade unions. A trade union may be established if it has:

1. no less than 20 founders, or founders in the enterprise, establishment or organization would comprise not less than one-tenth of all the employees (and one-tenth of all the employees would make up not less than three employees), and the charter is approved and the governing bodies are elected at the meeting of the trade union; at least 20 founders, or if the founders in the enterprise, institution or organization make up not less than one-tenth of all employees;
2. a charter approved at the meeting;
3. elected governing bodies;
4. an adopted decision on the location.

According to the Law on Trade Unions, trade unions must submit to the Register of Legal Entities a charter of a trade union and other confirming documents provided by law.

The charter of a trade union must indicate:

- the name of the trade union;
- the legal form of the trade union;
- the goals of activities of the trade union, stating the fields and types of activities;
- the rights and duties of members of the trade union;
- the procedure and conditions of admission of new members, withdrawal and expulsion of the members from the trade union;
- the competence of a general meeting (conference) of the members, the procedure of convocation, the procedure of adoption of decisions;

- the governing bodies, their competence, the procedure of their formation, the procedure for appointing (electing) and recalling members of a collegial governing body (should it be formed) and its chairman;
- other collegial bodies (should they be formed), their competence, the procedure of their formation, the procedure for appointing (electing) and recalling their members and chairman;
- the procedure for submitting documents and other information about activities of the trade union to the members, if the articles of association (statute) do not specify that this procedure will be approved by a separate document;
- the procedure for announcing public information or notifying about it;
- the procedure for forming branches and representative offices of the trade union and for terminating their activities;
- the procedure for amending the articles of association (statute) of the trade union;
- the period of activities of the trade union if it is limited;
- the procedure for managing, using and disposing of the property of the trade union as well as the procedure for exercising control over activities of the trade union;
- the procedure for changing the registered office of the trade union;
- the procedure for terminating activities of the trade union.

The activities of a trade union or association of trade unions may be suspended or terminated: 1) according to the procedure established in their charter, and 2) by a court decision.

Trade unions are independent of the employer or their authorized representative.

The employer or their authorized representative is prohibited from:

- making employment or retention of job conditional upon the

employee's consent to refrain from joining or to withdraw from a trade union;

- organizing and financing organizations seeking to hinder, terminate or control the activities of trade unions.

Trade unions represent the members of a trade union in relations with the employer or their authorized representative. Trade unions defend the labor and social-economic rights and interests of their members. While defending the rights and legitimate interests of their members, trade unions may conclude agreements with state administration bodies. Trade unions represent their members (or may also be representatives of a collective of employees) when concluding a collective and other agreements with the employer.

The employer may transfer the amount stipulated in the collective agreement to the trade union. At the request of a trade union member, the employer must deduct an established amount of membership fee from the union member's salary each month and transfer it to the union's account.

Trade unions have the right to negotiate and conclude agreements with the employers, their organizations or associations regarding the employment, change of qualification, arrangement of work and remuneration, improvement of working and living conditions of employees, and other issues.

The employer shall create conditions for the education of members of a trade union. For this purpose, the collective agreement may provide for a certain percentage of funds from the wage bill. At the request of an employee and the trade union, the employer shall grant an employee unpaid leave of up to three days for education and training.

Trade unions and their associations submit proposals to state administration bodies concerning the adoption, amendment, or repeal of regulations on labor, economic, and social issues.

Trade unions and their associations shall have the right to receive information from state bodies and organizations on labor, economic and social issues

necessary for their activities. State bodies or organizations may provide assistance to trade unions in carrying out social or other investigations.

Trade unions have the right to supervise the employer's adherence to and implementation of the labor, economic, and social laws, collective agreements and collective labor agreements relating to the rights and interests of the employees represented by them. For this purpose, trade unions may have inspectorates, legal advice services and other institutions. While performing the functions of supervision, persons authorized by a trade union shall have the right to freely enter enterprises, establishments and organizations in which the employees represented by that trade union work, and to be granted access to the documents concerning working, economic, and social conditions.

Trade unions shall have the right to hold meetings, as well as to organize rallies, demonstrations and other mass events, as well as while defending the rights of their members, trade unions have the right to stage strikes according to the procedure established by the law.

Trade unions have the right to engage in publishing, business and economic activities, to establish charitable or other foundations.

Trade unions have the right to demand that the employer annul their decisions which violate the labor, economic, and social rights of their members. Trade unions have the right to propose that legal actions be taken against officials who violate labor laws, who do not ensure safety at work, or who do not execute the collective agreement or other mutual agreements.

The employer cannot dismiss from work an employee, who is a member of the elective body of the trade union functioning in the enterprise, without the prior consent of the elective body of the said trade union.

Disputes arising between trade unions and the employer concerning failure to perform duties and obligations provided by the law or agreements are considered by the court.

Trade unions may own buildings, equipment, vehicles, as well as other property not restricted by law. The property of trade unions includes

membership fees, investments of enterprises, institutions, organizations, public donations, as well as any other legally acquired income and property. The unions manage their funds and property independently.

Collective agreements

The Labor Code, which came into effect in 2017, has had a significant impact on collective bargaining, which is now exclusively reserved to unions and may, in some cases, only benefit union members. Bargaining is much more prevalent in the public than the private sector and covers some 15% of the total workforce.

The **new Labor Code** introduced important changes to the structure of collective bargaining in Lithuania.³² From that date, it has been possible to reach collective agreements at five separate levels: national (cross-industry); territorial; industry (production, service, or professional); employer (company or organization); and workplace level (where this is specified in a collective agreement at national, industry or employer level). Where there is a potential clash between agreements at the industry level or territorial level and agreements at the employer level, the higher-level agreement (industry or territorial) applies.

It is also possible for the government to extend all or part of the terms of a higher-level agreement (whether signed at the national, industry or territorial level) to all employees concerned rather than those employed by the employers who have signed the agreement. However, although this possibility exists in the new Labor Code, as it did in the previous version, it has never been used.

Of greater practical importance is the fact that the 2017 Labor Code changes which employees are covered by the agreements. Previously, collective agreements applied automatically to all the employees of the organization who had signed the agreement. Under the new arrangements they initially

32. Lithuania: will new legislation increase the role of social dialogue and collective bargaining? By Inga Blažienė, Nerijus Kasiliauskas and Ramunė Guobaitė-Kiršlienė, in *Collective bargaining in Europe: towards an endgame*, edited by Torsten Müller, Kurt Vandaele and Jeremy Waddington, ETUI, 2019

only apply to members of the signatory union or unions. Agreements signed at the employer or workplace level can be extended to all the employees of that employer or in that workplace, but only if the unions and employer signing the agreement agree that it should be extended in this way, and this is agreed upon at the meeting of all the employee representatives. If a union has signed an agreement with an employer but there are no union members, the agreement applies to all employees provided that the employee representatives have agreed to this at a meeting.

The new Labor Code also requires that all collective agreements should be registered with the Ministry of Social Security and Labor.³³ This register shows that on 8 April 2020 there were 297 valid collective agreements.³⁴ The analysis by the ministry shows that the vast majority of these agreements (95%) were at the employer level – 282 out of 297, but there were also 12 industry-level agreements, two territorial agreements, and one at the national level. There were no workplace-level agreements.

The national-level agreement was signed by four national confederations (LPSK, Solidarumas, Sandrauga and RJPS), on one side, and the Lithuanian government and the public sector federation NPPSS, on the other. It covered almost 200,000 public sector employees. The agreements at this level improved wage levels for all employees, additional benefits were provided that only trade union members receive: two extra days' leave and up to 10 days of paid study leave.³⁵ The 12 industry-level agreements signed cover workers in education and science, health, social services, culture, environmental protection, social insurance, border protection, prison service and justice, as well as the railways, furniture and wood making and road haulage.

In total, the Ministry of Social Security and Labor estimates that 70% of the agreements on the registry are concluded in the public sector. Although no comparable estimates were made in the past, it seems likely that the

33. Register of collective agreements <https://socmin.lrv.lt/lt/paslaugos/administracines-paslaugos/kolektyviniu-sutarciu-registras-ir-kolektyviniu-sutarciu-registravimo-tvarka> (Accessed 08.04.2020)

34. Email to Labour Research Department from the Ministry of Social Security and Labour of the Republic of Lithuania (2020-04-08 Nr. (33.5 E-52) SD-1937)) 8 April 2020

35. <https://www.lpsk.lt/naujienos/2020-metu-nacionaline-kolektyvine-sutartis/> (Accessed 08.04.2020)

coverage of collective agreements has increased. This is certainly the view of the labor inspectorate (VDI), which commented in its annual report in 2018 that the number of collective agreements had more than doubled between 2017 and 2018.³⁶ It is unclear how many agreements have used the possibility of limiting negotiated improvements to union members. However, some, like the national agreement in the public sector, have included preferential treatment for union members. An example is the agreement in the social services sector in September 2019, where unionized employees received higher remuneration.³⁷

Above the framework for collective bargaining, there is also a highly structured system of consultation between unions, employers and government - the *Tripartite Commission of the Republic of Lithuania (LRTT)*, and several professional commissions, covering issues like health, safety training, etc. The three main union confederations are represented in these councils, and in the LRTT, they, like the employers and the government, have seven seats – three for LPSK, and two each for Sandrauga and Solidarumas. The Tripartite Council has played a key role in developing the country's system of industrial relations and makes proposals to the government on the minimum wage.

At the national, industry and territorial levels, bargaining takes place between one or more union organizations and one or more employers' associations. At the employer or workplace level, bargaining is between the employer and the union operating with that employer or at the workplace, or with a joint union representation if there are several unions. Where there is no union presence with an employer, the employees may, at a general meeting, authorize a union to bargain on their behalf.

The union monopoly on bargaining at the employer and workplace level is a change introduced by the new Labor Code. Previously works councils

36. VDI Annual Report 2018, May 2019 https://www.vdi.lt/PdfUploads/DSS_tendencijos_2013-2018.pdf (Accessed 08.04.2020)

37. Lithuania: Latest developments in working life Q3 2019 by Inga Blaziene, Eurofound, November 2019 <https://www.eurofound.europa.eu/publications/article/2019/lithuania-latest-developments-in-working-life-q3-2019> (Accessed 08.04.2020)

were able to bargain if there was no union.

The new Labor Code provides that agreements will be valid for a maximum period of four years unless something else is agreed upon.

The Labor Code allows collective agreements to cover a wide range of issues, with employer or workplace-level agreements covering more topics than higher-level agreements. Agreements at **the national, industry, or territorial level** cover pay-related issues, health and safety, employment training and retraining and procedural issues, as well as what is described as other working, social and economic issues important to the parties.

At the employer and workplace level, agreements can cover the details of employment contracts, pay, working and leisure time, health and safety, the mutual provision of information, information and consultation procedures, although without reducing the rights of the works council (see separate section), important working, social and economic issues and procedural issues linked to the signing, validity and length of the agreement.

Collective agreements can always improve on the legal minimum standards, but, with some exceptions. Agreements at the national, industry or territorial level can also set inferior conditions, as the agreement, according to the Labor Code, balances the interests of the employer and the employees. The exceptions, where collective agreements cannot worsen the legal standards, cover maximum working time and minimum rest periods, minimum wages, the conclusion or termination of a labor contract, health and safety, gender equality and non-discrimination. Lithuania has a national minimum wage which is set by the government following recommendations from the Tripartite Commission (LRTT), and after taking the development of the national economy into account. The recommendations from the Tripartite Commission are presented annually, normally by 15 June.

Terms of trade union formation

The Labor Code has also changed employee representation in the workplace. Employers with 20 or more workers are now required to initiate

the establishment of a works council, and a large number of **works councils** have been established. However, where an employer-level **union** has more than a third of the company's employees in membership, it bypasses the **requirement of establishing a works council** and **all the powers and functions of the works council are transferred to the union** or a joint union body if there is more than one union operating with the employer.

An employer-level union can be set up provided that it has at least 20 employees as members, or its members account for at least 10% of the total workforce, provided there are at least three.

The replacement of works councils by the union was also a result of these legislative changes due to the current situation. The employer is not obliged to initiate the establishment of the council if one-third and more of the employees are members of the existing union. Under the previous Labor Code, works councils could only be set up where there were no unions – either an employer-level union at the workplace or an appropriate industry union to which the workforce had transferred its representation rights.

Figures from the labor inspectorate covering 2018, suggest that the new Labor Code has produced a sharp increase in the number of workplaces with employee representation. Thus between 2017-2018, almost 4,000 employers notified the inspectorate that a new works council had been formed, with around 15,000 works council members being elected. The labor inspectorate reports as of December 31 that there were employee representatives in 39% of the employers surveyed by the inspectorate. It is noteworthy, that according to Eurofound figures, in 2013, more than half (57%) of establishments in Lithuania with at least 10 employees had some form of official employee representation, either through the union, a works council or a single elected employee representative. This figure is substantially above the EU average of 32%. The figures show that 92% of establishments with more than 250 employees had representation and 72% of those with between 50 and 249 employees. But even in smaller workplaces in Lithuania, those with between 10 and 49 employees, over

half (54%) had trade unions.³⁸:

An employer-level union can only be set up if its membership exceeds the established thresholds. The **number of senior figures** in the employer-level union with leave rights, training rights and protection against dismissal **is linked to the number of employees in exactly the same way as the member of works council members** (see table below).

Employers must establish a works council once they have an average of 20 or more employees unless more than one-third of the workforce are members of an employer-level union or unions operating at the workplace. Below the 20-employee threshold a single employee representative can be elected, although the employer is not obliged to initiate this process.

The average number of employees is calculated by the number of employees who are “bound with the employer by valid employment relations” for more than three months. This includes agency staff provided they have worked with the employer for more than three months.

The size of the works council increases with the average number of employees (see Table 2).

Table 2

The number of works council members by the number of employees

Number of employees	Number of works council members
21 – 100	3
101 – 300	5
301-500	7
501-700	9
700+	11

If the workforce of the establishment increases by at least 20% and rises above the next threshold in the table, the extra members required are elected in an additional election.

38. Eurofound (2015), Third European Company Survey – Overview Report: Workplace Practices – Patterns, Performance and Well-being

The chair represents the works council in its relations with employees, the employer-level union and other bodies. He or she also drafts the annual report which the works council must publish.

The new Labor Code makes a clear distinction between the roles of the employer-level union and the works council. The exception is where more than a third of employees are members of the union or unions. When union membership passes this threshold, the employer-level union takes over all the functions and rights that would normally be exercised by the works council. Where both representative bodies exist, the role of the employer-level union is to conduct collective bargaining as well as to promote the union. It also protects the interests of its members and represents them in individual cases related to their employment.

The primary role of the works council is to participate in information and consultation procedures with the employer and influence the employer's decisions on economic, social and labor issues relevant to employees. The tasks and rights of the single employee representative at employers with fewer than 20 workers are the same as those of the works council.

There are a number of specific issues where the employer is required to consult with the works council before making decisions. These are:

- works rules, governing general procedures at the employer;
- job standards;
- the remuneration system, where this is not determined by a collective agreement;
- the introduction of new technological processes;
- using information and communication technologies for employee monitoring and surveillance;
- measures that could violate employees' personal privacy;
- policies for the protection of the employee's personal data;
- the implementation of the equal opportunities policy; and
- measures to reduce stress at work.

The arrangements for the election of trade union representatives depend on the rules of the particular union.

Works councils should be elected by secret ballot at a meeting of all employees. All employees aged over 18 who have been in an employment relationship for at least six months, other than individuals representing the employers, have a right to be nominated. Nominations can be made by individual employees, who can each nominate one candidate, and by employer-level unions, who have the right to nominate at least three candidates.

All employees, including part-time, temporary and agency employees can vote provided they have at least three months of cooperation. The candidates with the most votes are elected. If the number of candidates is not greater than the number of seats, the period for nominations is extended, and, if there are still insufficient candidates, the election is postponed for at least six months. A majority of the employees must participate for the election to be valid.

Works council members are elected for **a period of three years**.

At the employer level, the members of executive bodies and works councils of trade unions, as well as employee representatives, **cannot be dismissed** and the terms of their contracts **cannot be aggravated without the consent of the head of the local labor inspectorate**. This protection, which continues for six months after leaving office, extends to the same number of members of the employer-level trade union executive bodies regardless of their number, taking into account the number of employees. Members of employer-level trade union executive bodies and works councils as well as the employee representatives have the right to up to 60 hours of paid time off a year to undertake their duties.

The employer must provide a room free of charge and allow the use of work equipment for the functions of the representative of the employees, the members of the works council, and at the employer level, the members of the executive bodies of the trade unions. Other support can be arranged through collective agreements or contracts with the works council.

Members of employer-level trade union executive bodies and works councils as well as the employee representatives have the right to at least five working days per year for training, of which two must be paid.³⁹

There is no employee representation at the board level in the private sector in Lithuania, but they are present in some state-owned enterprises.

The new Labor Code states that it is «persons carrying out employee representation at the employer level» who choose the board members representing the employees.⁴⁰ This will normally be the works council unless the employee-level union represents more than a third of the workforce, in which case the employer-level union takes over all the functions assigned to the works council.⁴¹

Employee representatives appointed to management or supervisory boards have the same rights and duties as other members. Board-level employee representatives serve for the period specified in the charter of the company. The legislation provides for a four-year term of office. However, they may be removed from office by a decision of the employee representative body that appointed them, although that body must immediately appoint replacements. In practice, by June 2020 there were six state enterprises with employee representation at board level and a seventh, covering Lithuanian airports where the board was being chosen. The six companies cover air traffic control, a state register center, the body registering vehicles and driving licenses, a centralized state property management company, a state timber and logging company and a company decommissioning a nuclear plant. In most cases, there is a single employee representative on a five-person board, but in the vehicle and driver registration organization, Regitra, which has just over 500 employees⁴², there are two employee members on the ten-person board, and in the timber and logging company,

39. Lietuvos Respublikos valstybės ir savivaldybės įmonių įstatymas article 10 (2) (3) <https://www.e-tar.lt/portal/lt/legalAct/TAR.29FB2C8807FE/asr> (Accessed 23.06.2020)

40. Labour Code article 211 https://eseimas.lrs.lt/rs/legalact/TAD/da9eea30a61211e8aa33fe8f0fea665f/format/ISO_PDF/ (Accessed 23.06.2020)

41. Labour Code article 169 (2)

42. It had 535 in December 2019, see annual report page 33 <https://www.regitra.lt/lt/imone/veikla-2/veiklos-ataskaitos> (Accessed 23.06.2020)

Valstybinių miškų urėdija (VMU), there are two out of seven.

Besides the right in state and municipal enterprises to appoint board-level representatives, employee representatives may participate in the meetings of the executive or supervisory board in the private sector, in certain circumstances. However, this is only when issues relating to employees' terms of employment are being discussed, and this depends on a collective agreement or some other form of an agreement being reached between the employer and employee representatives.⁴³

43. Labour Code article 212



Trade unions and employers' associations in Poland

Polish labor law does not provide for the participation of employees or their representatives in the management of the employer's business, except for state-owned companies, where employees have the right to elect some members of the supervisory board and management board.⁴⁴

Establishing a trade union in Poland is not a complicated process. Given the ambiguous attitude of employers towards trade unions, it is important here to master the legislation regulating their activities, as the slightest violations of the law in this area can lead to disputes over the legitimacy of the trade union.

According to the Polish Trade Union Act, a trade union is "a voluntary, independent and self-governing employee's organization, established to represent them and defend the latter and their occupational, social and other labor interests". It is also independent from the employers, government, state and local self-government bodies, and other organizations.

The right to establish and **join** trade unions is also granted to workers regardless of the basis of the employment relationship, including the members of farming cooperative units and individuals performing work pursuant to an agency agreement and by their mediation if they are not employees of the company. The right to join the trade unions is also granted to people performing outwork wherein they can join the unions functioning in the employer's workplace. Retirement or disability does not deprive individuals of the right to membership and to join trade unions, moreover the unemployed also have the right to join trade unions.

No one can bear the negative impact or consequences of being a member of trade unions. However, it does not mean that such situations do not occur, but the individuals have to be aware that in case of such negative consequences and impacts they can challenge them through the court proceedings.

Establishing a trade union in Poland

To establish a trade union the initiators have to choose one of the possible forms of action: they can establish a completely new trade union or establish a trade union committee at the already functioning trade union (if the charter of the latter allows for the creation and operation of such committee). Due to the legal and bureaucratic issues, it is much easier to set up a structural department (trade union committee) at the already existing trade union. In such cases a founding meeting is organized, resolutions concerning the establishment of the trade union are adopted, executive bodies are elected and the copies of documents are sent to the appropriate trade union center. More detailed information on the establishment of trade unions may be obtained directly from representatives operating in Poland unions.

Much more complicated is establishing the trade union, which does not pertain to an already existing central union. In this case, drawing up the charter and registration in court is necessary. That takes a lot of time. In addition, in cases of a dispute during court proceedings, basis for refusal to register a union may occur, often in an indirect form. On the other hand, registration of a trade union at the existing central union does not require registering it at the court, and the whole procedure is limited to registration of a new union structure within the central trade union, which usually takes a few days.

To set up a trade union organization (independent or as an associated committee at the already existing union) consensus of at least 10 people is required.

The activities of the trade unions are still regulated by the Trade Unions Act, adopted on May 23, 1991, which aims to regulate the employment relationship of unions, associations, and collectives.⁴⁵

The Polish Trade Unions Act establishes the right of every worker to establish and join trade unions, the equality of all trade unions, the right

45. http://ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=22399

of trade unions to form confederations and cooperate with international organizations of employees, the trade union establishing and registration procedures, rights and other basic provisions.⁴⁶

In Poland, trade union members are mainly employees who work under a labor contract, which ensures the protection of their employees. In the absence of the latter, only the protection provided by trade unions is in place, which is often incomplete, as the employer can easily dismiss the employee, as the cooperation is not based on a labor contract.

It should be noted that there is no barrier for employees to join trade unions without a long-term labor contract if their contracts meet the criteria for a labor contract (for example, 40 hours per week with the requirement to be present at work).

The trade union operating within the organization is not obliged to publish the names of the members, instead, it is obliged to publish information on the total number of trade union members once a quarter. Failure to publish the names of the trade union members may have negative consequences, as the employer cannot discuss the dismissal of the employee with the union. Therefore, the disclosure of the names of the trade union members is related to the atmosphere in the workplace. If the employer values the existence of the trade union in their organization, then the disclosure of the trade union members will not lead to their dismissal but will have a positive effect.

Establishing a trade union structure in the workplace does not imply that the employer should be informed about it immediately. If the situation in the workplace is tense, then the actions of the union are often taken in secret, and disclosure of such actions to the management of the workplace takes place in conflict situations.

It should be noted that in accordance with the amendment of Article 34, section 2 of the Polish Trade Unions Act adopted on November 23, 2004, certain changes were introduced in the activities of trade unions. Until November 23, 2003, the law gave identical rights only to such organizations,

46. http://ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=22399

unions and committees which affiliated at least 10 members (to form a Trade Union Committee the will to join the association of at least 10 employees of the workplace is required). Currently, there is a requirement that states that at least one of the employees employed in the workplace has to be a member of the **multi-enterprise trade union** provided that such organization consists of at least 10 employees, represented by all the member employers of the multi-enterprise trade union. The aforementioned organization has the same rights as the trade union within which it was formed but without the requirement of having at least 10 members from among employees of the workplace. According to Article 34 section 2 of the **Trade Unions Act** of Poland, the possibility of operation and scope of the trade unions increase. However, it should be pointed out that there are separate provisions for enterprise and multi-enterprise trade unions, which specify: the rules of defining the entitlements to benefits ensued from performing the work duties and the rules which protect the employee from the termination or revision of labor contract, therefore it is worth to study all the legal aspects and provisions before establishing the multi-enterprise trade union because the specifics of latter are different than those of the trade union committee.

If the trade union operates within the organization, it can legally protect employees from a dismissal. The latter is possible through a resolution by the management board of the appropriate trade union for a specified period, which is determined in advance, not more than one year. According to the Polish Trade Unions Act, an employee is legally protected from dismissal as the employer may not terminate or revise the labor contract without the permission of the appropriate trade union board.

The number of protected employees depends on two issues.

- the appropriate trade union protecting the employee must meet the requirements of being a trade union representative in the company;
- the number of employees in the workplace and people in managerial positions.

Unions, organizations, or committees have the right to represent or protect the employees' interests as a representative of any trade union or when they are members of a Tripartite Committee or, on the other hand at least 10% of the staff of the appropriate workplace must be affiliated with such organization.

Only three trade unions in Poland meet the first requirement. They are:

- Independent Self-Governing Trade Union «Solidarity» (Niezależny Samorządny Związek Zawodowy «Solidarność» - NSZZ Solidarność);⁴⁷
- All-Poland Alliance of Trade Unions (Ogólnopolskie Porozumienie Związków Zawodowych - OPZZ);⁴⁸
- Trade Unions Forum (Forum Związków Zawodowych).⁴⁹

If the union or association does not meet the requirement of representativeness of the trade union, the employee may be protected from dismissal by a person authorized by the union leadership. In case of lack of such a clause in the charter of the trade union, the entitlement to protection is granted to the Chairman of the trade union by the law.

According to the Trade Union Act, the number of protected employees based on the number of union members is determined as follows:

- if a trade union has 10 members, the Board can indicate 1 protected employee;
- if a trade union has 20 members, the Board can indicate 2 protected employees;
- 1 protected employee per every 10 members in the range of 21-150 members;
- 1 protected employee per every 30 members in the range of 151-300 members;
- 1 protected employee per every 40 members in the range of 301-500 members;

47. <https://www.opzz.org.pl>

48. <https://www.solidarnosc.org.pl>

49. <http://fzz.org.pl/>

- 1 protected employee per every 50 members in the range of 500 and more members.

The Board of representative trade union organizations may also choose another method of determining the number of protected employees. For instance, it may indicate the number of employees protected appropriate to the number of executives in the workplace. In accordance with Trade Union Act, people managing individually the workplace and their deputies or people that form part of a collegial management body, as well as other people designated to carry out the employer activities within the scope of the labor law are considered as executives.

It can be concluded from the above, that establishing a trade union is not so complicated in Poland. However, the operation and running of the trade unions are not so easy. The members of trade unions very often are the victims of breaking the rules of labor law in Poland. The employers use the sluggishness of Polish labor courts and break the law very often especially by terminating the labor contracts with the members of the trade union and also with protected employees. Nowadays in many cases, establishing a trade union is the last resort for the employees who want to improve their situation.

It does not mean that trade unions should not be established. Even when we take into consideration the slow work of the Polish judiciary, still the trade union is one of the few effective tools against inhuman working conditions (trade unions very often win in labor cases).

In Poland, the trade union membership level is low at around 12% of employees although there are a large number of trade union organizations. Around 85% of union members are in organizations linked to the three main union bodies. First is Independent Self-Governing Trade Union «Solidarity» (Niezależny Samorządny Związek Zawodowy «Solidarność» - NSZZ Solidarność),⁵⁰ the second is All-Poland Alliance of Trade Unions (Ogólnopolskie Porozumienie Związków Zawodowych - OPZZ)⁵¹ and the

50. <https://www.opzz.org.pl>

51. <https://www.solidarnosc.org.pl>

third is Trade Unions Forum (Forum Związków Zawodowych-FZZ).⁵²

Annual official figures on union membership are not published, but the national statistics agency GUS published the results of a survey looking at unions and employers' associations in 2019. The focus was on organizational structure and activities, but the results also included some information on union membership.

The survey found that there were around 1.5 million trade union members in September 2018. Only 100,000 union members were retired and just 15,000 were working under a civil contract, a relatively common form of work in Poland.

The GUS survey indicates that most union members, 1.3 million out of 1.5 million or 87%, are in three national union umbrella bodies, which have specific rights and impacts. These are NSZZ Solidarność, OPZZ and FZZ.

The development of each of the three organizations has been different.

Independent Self-Governing Trade Union «Solidarity» (NSZZ Solidarność) grew initially from the strikes of workers and was established based on the Gdansk agreement on August 31, 1980, by Inter-enterprise Strike Committee and Government Commission. It played a major political role in the 2000s and still has ties to politics.

Figures provided to the European Trade Union Confederation show that NSZZ Solidarność had 543,587 members in 2019.⁵³ NSZZ Solidarność now has about 722,000 members, which is 4.35%⁵⁴ of the total workforce in Poland. There are union members in every field and service. Membership includes managers, administration staff, professional staff, as well as scientists, technicians, skilled workers and laborers, full-time employees and those who work part-time, retirees, factory-run vocational educational institution students, who are sub-contract workers for the factories or receive professional training, home workers, unemployed, disabled people, those undergoing alternative military service, etc. There is a verification

52. <http://fzz.org.pl/>

53. <https://www.worker-participation.eu/National-Industrial-Relations/Countries/Poland/Trade-Unions>

54. <https://www.solidarnosc.org.pl/en/>

system in place.

NSZZ Solidarność is organized not on a sectoral basis, but based on territory, i.e. it has territorial subdivisions - branches. The union includes 37 territorial trade union centers. The territorial subdivisions include the 16 largest enterprises in the fields of mechanical engineering, shipbuilding, defense, coal mining, metallurgy and others.

NSZZ Solidarność is a member of the International Trade Union Confederation (ITUC) and the European Trade Union Confederation (ETUC). All-Poland Alliance of Trade Unions (Ogólnopolskie Porozumienie Związków Zawodowych - OPZZ) was founded in 1984 after a period of martial law when all trade unions were banned and Poland was in the process of political and economic transformation.

OPZZ is the largest national «umbrella» confederation of trade unions in Poland, which includes both national joint trade unions and sectoral unions. OPZZ strives to provide decent living and working conditions in democratic Polish society. OPZZ's tasks are in particular:

- protection of rights and dignity, as well as the occupational and social interests of employees, retirees, and unemployed as well as their families;
- protection of trade unions' rights and freedoms;
- influence on the social and economic policy, in line with the interests of society;
- working towards the development and consolidation of democratic rights, social relations, and civil freedoms;
- creating the social activism and shaping professional ethics and culture of interpersonal relations.

OPZZ is independent from any political party. All unions affiliated with the OPZZ are grouped into 7 branches:

- mining and energy,

- industry,
- education,
- public services,
- construction and woodwork,
- transport,
- commerce, services, culture and art.

A 2020 Eurofound study reports that OPZZ had 792,503 members in 2012, but the current figure is much lower. At present, OPZZ has more than 500,000 members and is represented in all 16 regions of the country, as well as in many communities. It defines its policies independently and democratically through its Congress, Council and Presidium.

Congress determines the general policy of OPZZ. It takes place every four years and is attended by delegates from all affiliated unions. It elects the OPZZ President. The last Congress took place in Warsaw in May 2018 and adopted a Programme for four years until 2022.

The OPZZ Council is the supreme executive body between congresses. It is comprised of representatives of the member organizations, proportional to their membership. The Council meets at least three times a year.

The OPZZ Presidium establishes the measures to implement the policies adopted by the Council. It meets at least once every two months.

The elected leadership team (President and Vice-Presidents) manages the OPZZ's day-to-day activities. It is responsible for relations with the public and state institutions, political parties, employers' associations, non-governmental organizations, and media. It manages the OPZZ staff and their activities.

OPZZ is recognized as a representative trade union organization at the national level as well as is a full member in the social dialogue bodies both at the national (Rada Dialogu Społecznego – Council of Social Dialogue) and the regional level. OPZZ has the right to consult with and familiarize itself with draft documents and decisions related to employment, and

social and economic policy. In particular, OPZZ influences the national budget, levels of the minimum wage established by law and social security contributions.

At the international level, OPZZ is a member of the International Trade Union Confederation (ITUC). At the European level, OPZZ is a member of the European Trade Union Confederation (ETUC) and the ITUC's Pan-European Regional Council (PERC). The OPZZ is involved in activities within the International Labor Organization (ILO) in terms of the improvement of the international labor standards. Every year, OPZZ's representatives take part in International Labor Conferences in Geneva. The OPZZ is represented in the European Economic and Social Committee.

OPZZ is also involved in the regional trade union actions participating in the BASTUN (Baltic Sea Trade Union Network) and the Visegrad Trade Union Group (Czech Rep., Hungary, Poland, Slovakia) networks.⁵⁵

FZZ is smaller than the other two confederations and is largely comprised of unions that had earlier left OPZZ. It was formed in 2002 when government, employers and unions gathered at the Tripartite Commission to discuss future legislation which defined that only union confederations with at least 300,000 members would be included. A series of independent trade unions grouped to form FZZ and secure a place in the commission.⁵⁶

The OPZZ and FZZ national trade unions are also largely built upon individual company trade unions, as well as unions operating across several companies. Although the number of participating company trade unions and associations is high – around 8,000 trade unions and 2,000 associations respectively, the number of members in national trade unions is not large. This is due to the fact that the average number of union members in companies is 85-90, in associations -195-200.

NSZZ Solidarność is structured differently. It has both a regional and industrial structure. There are 14 industrial sections plus a retired members section.

55. <https://www.opzz.org.pl/en/about-us/opzz/>

56. <https://www.worker-participation.eu/National-Industrial-Relations/Countries/Poland/Trade-Unions>

NSZZ Solidarność and OPZZ support different political poles, in this context only FZZ operates independently of politics.

These differing political positions especially between NSZZ Solidarność and OPZZ mean that relationships between the national trade unions are sometimes tense. However, this may be obvious at the national rather than at the local or workplace level. For a detailed examination of the role of unions in Poland, see *Coming full circle? Contestation, social dialogue and trade union politics in Poland* by Magdalena Bernaciak, in *Rough waters: European trade unions in a time of crises*, edited by Steffen Lehndorff, Heiner Dribbusch and Thorsten Schulten, ETUI, 2018⁵⁷

Union membership has declined sharply since the 1990s as a result of industrial restructuring and privatization and a growth in employment in smaller companies in private services.

Statistics provided by the Organization for Economic Co-operation and Development (OECD) also show a decline in trade union membership in Poland (see Figure 3).⁵⁸:

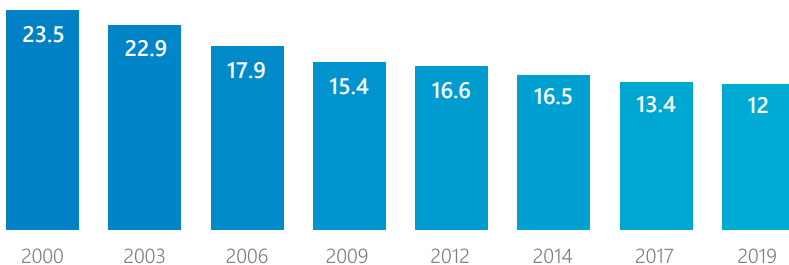


Figure 3
Share of employee involvement in Polish trade unions from 2000 to 2019

58. <https://stats.oecd.org/Index.aspx?DataSetCode=TUD#>

The 2019⁵⁹ CBOS report figures showed that union membership was much higher in public institutions and state-owned companies, where 29% of employees were union members than in the private sector or mixed public-private companies, where the figure is 4%. The 2017 results⁶⁰ showed that union membership was highest in education, science and health (26%) followed by public administration (20%) and transport and communication (20%) sectors. It was lowest in construction (0%).

Unions are making efforts to increase membership. NSZZ Solidarność, for example, has a section of news on its website, called “Union Development” where it reports on successes in increasing membership and is an official responsible for union growth.⁶¹

Both NSZZ Solidarność and OPZZ also made efforts to gain the right for workers employed under civil contracts to form working associations and/or join them, as Polish legislation prohibited it. They eventually succeeded in achieving that change in January 2019 and unions can now recruit workers employed under civil contracts.

It is noteworthy that about 40% of the members of NSZZ Solidarność and about 47% of OPZZ are women.⁶²

The main level of negotiation for Polish trade unions is enterprise. The three major national unions particularly try to influence legislation, for example, in the field of labor law, as well as social policy and state policy related to the labor market, etc.

Currently, the Polish unions are struggling to raise the minimum wage, make some changes to the law on trade unions, as well as to resolve such issues as the reduction of the number of trade union members, attracting young staff and a number of other issues.

59. Członkostwo w związkach zawodowych. Naruszenia praw pracowniczych i „szara strefa” w zatrudnieniu, Centrum Badania Opinii Społecznej, 2009; Związki zawodowe i naruszenia praw pracowniczych, Centrum Badania Opinii Społecznej (CBOS), 2010; and Związki zawodowe w Polsce, Nr 138/2019, Centrum Badania Opinii Społecznej (CBOS), November 2019

60. Działalność związków zawodowych w Polsce Nr 87/2017, Centrum Badania Opinii Społecznej (CBOS), July, 2017

61. <https://www.solidarnosc.org.pl/aktualnosci/wiadomosci/rozwoj>

62. ETUC Annual Gender Equality Survey 2019 – 12th edition, by Lionel Fulton and Cinzia Sechi, ETUC, April 2019 https://www.etuc.org/sites/default/files/circular/file/201905/ETUC_Annual_Equality_Survey%202019_FINAL_EN.pdf (Accessed 03.04.2020)

The Polish trade union system has two levels. At the first level, trade union functions are carried out at the level of the organization on the basis of collective agreements, the second is at the state level, where state institutions cooperate with the three major trade unions.

Here the trade unions try to influence social legislation and social policy by dialogue with both the employers and the government in the Tripartite Commission and via other political channels. At the companies' branch level, the trade unions are weakly represented and significant collective agreements or unions are rare.

In Poland, trade unions are formed at the company level. Only employees of a company can be members of a trade union. Establishing a trade union needs at least ten employees at a company.

Since Poland's economic structure is characterized by small and micro enterprises – the vast majority of all companies have fewer than ten employees and 40% of all employees work at small companies – the majority of employees cannot organize themselves in trade unions. Thus, the representation of employees' interests in small companies remains unresolved.

Negotiations between trade unions and employers at the national level take place in the Tripartite Commission. It was established in the early 1990s to help ease social tensions after the so-called "extraordinary politics" of economic reform in post-Communist Poland.

The Commission was granted consultation rights concerning labor, social and economic policy and the right to recommend wage rises in companies. However, the Commission was not always able to function effectively: from time to time, both OPZZ, OPZZ, Solidarność, and the employers boycotted the activities of the Commission.⁶³

The trade union is formed from the employees of the company and acquires legal status after registration by the court. Usually trade unions formed in companies join large unions functioning in Poland, which saves time and allows benefitting from the experience of trade unions.

63. <https://library.fes.de/pdf-files/id-moe/08949.pdf>

The main obligations of the employer towards the trade union include:

- coordinate internal regulations on employees and their working conditions with the trade union;
- consult with the trade union on staff redundancies,
- inform the trade union about the change of the owners of the enterprise;
- obtain the consent of the trade union on terminating the labor contract or changing the working conditions of the employees of that union;
- obtain the consent of the trade union to terminate the labor contracts with employees under special protection (e.g., pregnant employees and employees on maternity leave) without prior notice;
- consult with the union on terminating the employment contract or changing the working conditions within not established period. It is noteworthy that the company does not need the approval of trade unions.

In certain cases, the trade union organization or association operating within the company has the right and is obliged to represent the interests of the union members and/or non-members who have given their consent to the union to represent them. In other words, the company's trade union represents the interests of all employees defined by law, regardless of their union affiliation.⁶⁴:

The rights and purpose of trade unions

Trade unions are social organizations that unite working people and operate in accordance with the charter. Trade unions represent workers and protect their collective and individual dignity, rights and material and moral interests. They are also entitled to represent the interests of employees on international platforms. Trade unions support the creation of favorable

64. <https://thelawreviews.co.uk/title/the-employment-law-review/poland>

conditions for work, life and rest.

Employers' associations protect the rights of the employer and their business, financial, economic, as well as organizational and operational interests in the working relations. All employers have the right to form an employers' association.

As organizations aimed at representing employees and protecting their interests, trade unions are entitled to act on their behalf, negotiate, and conclude collective agreements, as well as other agreements to ensure appropriate working conditions. They also oversee compliance with labor law as well as operational health and safety rules and regulations. They are entitled to give opinions on the development of labor legislation.

As a result, trade unions can have a significant impact on the national income distribution and the content of labor legislation and legislative decisions on social security. Trade unions ensure that employers comply with and properly implement labor legislation. They also play an important role in shaping working conditions policy.

Polish labor legislation does not provide for the participation of employees or their representatives in the management of the employer's business, except in state-owned organizations where employees retain the right to elect certain members of the supervisory board and management board.

Other types of representative bodies of employees

When there is no union in the workplace, the employer should consult with representatives of the employees. The principles for selecting representatives of the employees are defined individually for each employer. Employers with at least 50 employees can form a works council. All that remains is for the employees to demand the establishment of a works council after the employer has been informed that the threshold of 50 employees has been crossed. The rights of the works council are mainly advisory.⁶⁵

65. <https://knowledge.leglobal.org/employers-associations-and-trade-unions-in-poland/>

Current developments indicate an interesting period for Polish trade unions. Poland is making significant economic progress. Moreover, Polish workers are in demand in all EU countries. This allows unions to demand higher wages, with the long-term goal of achieving a Western European average wage. However, Poles are disappointed with the quality of democracy; they complain about the inefficiency of the government, the lack of their influence on the government and the lack of its transparency. Dissatisfaction with the general standard of living and unstable employment is also growing.

Based on the above, the current challenges of Polish trade unions can be identified as follows:

- become efficient structures that can address employee dissatisfaction;
- become trusted representatives to protect the interests of employees;
- contribute to raising the minimum wage;
- become a «bridge of peace» between social services, employers, employees, etc.



SECTION 2.

Analysis of Legal And Political Frameworks, Mechanisms, and Procedures for Establishing Trade Unions in Armenia and The European Union

Legal basis for the formation and operation of trade unions in Armenia

The operation of trade unions in the Republic of Armenia is regulated by the Law of the Republic of Armenia on Trade Unions, which was adopted on December 5, 2000. This law defines the procedure for establishing trade unions, the principles of their activity and relations with state institutions, local self-government bodies, legal and natural persons, as well as regulates the relations linked to the protection of rights and interests of trade unions and their members.

A trade union/ union/ is a social association, that, in accordance with the law and by the expression of free will, associates the employees in employment relationship with the given employer to represent their labor and related occupational, economic, social rights and interests and to protect them in employment relationship /Article 2 of the Law/.

The following forms of association of trade unions/unions are identified: Territorial Union of Trade Union Organizations, Branch Union of Trade Union Organizations, Republican Union of Trade Unions.

A Territorial Union of Trade Union Organizations is an association of legal entities, which affiliates more than half of the trade unions/unions operating in a certain area (region or city or a specifically separated area based on a certain peculiarity), which affiliate the maximum number of employees in the area in order to represent the labor and related occupational, economic, social rights and interests of the employees in the relations with the local employers' association, local self-government and territorial state administration bodies, and to protect them in the employment relationship.

Republican Branch Union of Trade Union Organizations is an association of legal entities, which unites more than half of the trade unions operating in the respective branch (related branches) of

the economy (production, service, occupation), which affiliate the maximum number of employees in that branch in order to represent the labor and related occupational, economic, social rights and interests of the employees of the given branch of economy in the relevant employers' branch associations, local self-government and state administration bodies and to protect them in the employment relationship.

The Republican Union of Trade Union Organizations is an association of legal entities, that affiliates more than half of the Republican Branch Unions of trade union organizations, which include the maximum number of members of trade unions operating in the country, and member organizations that affiliate the maximum number of employees in order to represent the labor and related occupational, economic and social rights and interests of the employees in the relations with the Government of the Republic of Armenia and employers' republican association and to protect them in the employment relationship.

The key principles of the trade union operation are:

- independence from state institutions, local self-government bodies, employers, political, non-governmental and other organizations;
- voluntary participation (joining) in trade unions;
- legal equality of trade unions: prevention of restriction of the rights of employees due to the fact that they are members (participants) of the trade union.

According to Article 4 of the Law of the Republic of Armenia on Trade Unions, a **trade union** organization/ trade union is established by the decision of the founding meeting (conference, congress) convened on the initiative of its founders (at least three employees). The founding meeting approves the charter of the organization and elects the executive and supervisory bodies.

Two and more trade unions and (or) trade union organizations may, by the

decision of their meeting (conference, congress), establish one trade union of trade union organizations by approving its charter and electing executive and supervisory bodies. The Republican and Republican Branch Unions of trade union organizations have the right to use the name «Republic of Armenia» or its abbreviation in their name.

To establish a trade union, two parties are required: an employer and an employee, a member of a trade union. An **employer** is a legal entity having the legal capacity and competence to use the work of citizens on the basis of a labor contract and/or in the manner prescribed by law, regardless of the organizational and legal form and form of ownership, nature and type of activity, as well as other entity entitled to conclude a labor contract in cases provided by law (state or local self-government body, institution, a separate department, etc.). Any citizen can be an employer as well. An employee is a natural person entitled to work by law, who works for an employer on the basis of an employment contract.

A member (employee) of a trade union is a person who has voluntarily joined (became a member) a trade union in accordance with its charter. Members of a trade union may be employees in or outside the territory of the Republic of Armenia who have concluded an employment contract with the given employer, including foreign citizens and stateless persons. Participants (members) of a trade union may be employees who have concluded employment contracts with various employers in the relevant sector (related sector) of the economy (production, service, occupation). An employee may be a member of more than one organization, provided that this does not conflict with their regulations. The procedure for membership in a trade union is defined by the charter of that organization.

Employees of the RA Armed Forces, police, national security, prosecutor's office, as well as judges and members of the Constitutional Court may not be members of a trade union. The employer may not be elected to the executive bodies of the trade union in which the employee of the given employer participates (is a member).

Trade union organizations and/or associations of trade union organizations may be members of an association of trade union organizations. A Trade

union organization and an association of trade union organizations may be a member of one association of trade union organizations. Being a member of a trade union is regulated by its charter.

The trade union operates in accordance with the legislation of the Republic of Armenia and its charter. The charter of the trade union must contain:

- name of the trade union;
- subject and objectives of activity;
- the organizational setup of the trade union, the procedure for formation and operation of executive and supervisory bodies, their functions;
- the procedure for joining a trade union and resigning the membership;
- members' rights and responsibilities;
- location (address);
- procedure for reorganization and liquidation;
- procedure for making addenda and amendments to the charter;
- the amount and payment procedure of joining fees, membership fees, and other sources of property acquisition.

A trade union is independent from state and local self-government bodies, employers, other organizations, and parties: it is not accountable to them and is not subject to their control. State and local self-government bodies, employers, other organizations and natural persons are prohibited from obstructing or interfering with the exercise of the rights defined by the charter of the trade union, except in cases provided by law.

The highest body of the trade union is its meeting (conference, congress), which is convened in accordance with the procedure and terms defined by its charter, but not less than once every 5 years. The highest body of the trade union has the right to the final resolution of any issue related to its activity.

The highest body of the trade union carries out the following:

- approval and amendment of the charter of the trade union;

- the election of the executive and supervisory bodies of the trade union;
- making decisions on reorganization and liquidation of the trade union.

State registration, re-registration of a trade union, as well as registration of amendments to the charter or a new edition of the charter, state registration of liquidation, are carried out in accordance with the Law on Trade Unions and the Law on State Registration of Legal Entities.

For state registration of a trade union, the following are submitted to the state registration body:

- application of a person authorized by the meeting of founders of the trade union;
- excerpt from the minutes of the meeting of founders of the trade union, which must contain notes on the place, year, month, date, number of founding members (meeting participants), as well as notes on the establishment of a trade union by the meeting of founders, approval of the union charter, decisions on the election of officials in the executive and supervisory bodies of the union, on the election of an authorized person to apply to the registration body for the state registration of the trade union;
- passport details of the authorized person and founders elected to the executive bodies of the trade union.

For the registration of an association of trade union organizations, it is required to submit a copy of the state registration certificate of each of the founding organizations and the decision of the competent body to establish an association, and to elect the authorized persons (delegates) to participate in the meeting of the founders of the association; at least two copies of the charter of the trade union, approved by the meeting of the founders, bound in accordance with the established procedure and signed by the authorized person or the head of the organization; receipt of state

duty payment.

The state registration body shall consider the application to register the trade union or refuse its registration with appropriate justification within 30 days after making the entry in the registration log about the receipt of the application for registration of a trade union and the required documents.

The activity of a trade union may be suspended or prohibited only by a judicial procedure in cases provided by law.

The activity of a trade union cannot be terminated at the request of the employer.

A trade union may cooperate with international trade unions and other non-governmental organizations in accordance with the legislation of the Republic of Armenia and the charter of the trade union, as well as join international trade unions and those of other countries.

The objectives of a trade union are as follows:

- to represent and protect the labor and related social and other interests and rights of employees before the employer and (or) a third party;
- to ensure harmonization of the interests of employees and employers in collective labor relations at different levels of social partnership;
- to participate in the development of production programs and their implementation upon the invitation of the employer;
- to submit proposals to the employer on the improvement of the working and leisure conditions of the employees, introduction of new equipment, simplification of manual work, revision of production standards, the amount and procedure of remuneration;
- to cooperate with the employer on issues of rewarding and encouragement of a trade union member;
- to discuss the issue of a member of a trade union who breached the work discipline upon the employer's presentation.

Representatives of the executive body of the trade union have the right to visit the workplaces of the members of the trade union in order to examine the working conditions. In the event of a situation threatening the employee's life or health in connection with the working conditions, the trade union has the right to request the employer to take measures to eliminate the risk or to stop the work in that workplace. In response to the petition, the employer shall inform the trade union about the measures taken within the period defined by the RA legislation.

In order to carry out the statutory objectives, the trade union has the right to receive information from state and local self-government bodies, and employers that is not considered an official, commercial or bank secret. The trade union has the right to cover its activities through the mass media or to own media outlets for that purpose.

The trade union, in order to protect the rights and interests of the trade union member, has the right to petition the state bodies, local self-government bodies, the employer or other persons, as well as to appeal their actions (inaction) in the manner prescribed by law.

The trade union may submit a proposal to the Government and the National Assembly of the Republic of Armenia to adopt normative legal acts aimed at the protection of labor and social rights of the members of the trade union, to make amendments or addenda to those acts.

The trade union has the right to organize, and hold rallies, strikes, and public events in accordance with the law, to negotiate with state bodies, local self-government bodies, employers, other organizations, and their officials. The trade union shall be liable for the non-fulfillment of collective or other obligations, as well as the organization of illegal strikes and other events in accordance with the RA legislation.

State bodies, local self-government bodies, employers and other organizations, their officials, as well as other persons shall not violate the rights of the trade union and its members. Violation of the rights of the trade union, its representatives or obstruction of the statutory activities of the organization, persecution of the leaders and representatives of the trade union shall give rise to liability in the manner prescribed by the

legislation of the Republic of Armenia. Trade union participation in case of termination of labor contract with the employee at the initiative of the employer, including due to reduction of positions, as well as in relations related to the transfer of the employee to another job, imposition of a disciplinary sanction, collective and individual disputes, is regulated by RA labor legislation.

The trade union owns, uses and manages its property in accordance with the RA legislation and the charter of the trade union. The property of the trade union is formed from joining fees, membership fees, voluntary investments, donations, and other sources not prohibited by the RA legislation. In case of an application of a trade union member, the employer organizes the collection and allocation of the trade union membership fee in accordance with the procedure and term defined by the charter of the trade union and collective contract (agreement).

The employer, in accordance with the collective contract (agreement), provides the trade union with funds and other property to improve the working and leisure conditions of the employees, as well as to organize measures aimed at maintaining their health. The state guarantees the inviolability and protection of the property rights of trade unions.

The trade union publishes an annual report on the use of its property within three months after the end of each calendar year.

According to Article 16 of the RA Law on Trade Unions, a trade union, in the person of its executive body or representative, has the right to conclude (renew) a collective agreement with the employers' association of the employer. The employer shall ensure collective bargaining with the trade union affiliating its employees no later than within seven days. The collective agreement is concluded in accordance with the RA legislation. In a collective employment relationship with the employer, the trade union can act as an employee representative if **more than half** of the employees who have a labor contract with the employer are members of the trade union. The provisions of the collective agreement concluded with the employer by the trade union endowed with such representative powers shall apply to all employees who have concluded an employment contract with the

employer and are not members of the trade union. If less than half of the employees who have concluded employment contracts with the employer are members of the trade union organization, the trade union represents and protects only the interests of its members in the collective employment relationship. In case there is no trade union with the employer, the employee protection functions may be transferred to the relevant territorial or branch trade union. If the participants (members) of the trade union are the employees who have signed labor contracts with different employers in the relevant branch (related branches) of the industry (production, service, occupation), the trade union can represent and protect the interests of the employees in the collective employment relationship with each employer if more than half of the employees who have signed labor contracts with the given employer participate in (are members of) a trade union organization. Otherwise, the trade union organization may represent and protect the interests only of its members before the given employer. The Republican Union of Trade Union Organizations may negotiate and conclude an agreement with the Government of the Republic of Armenia, and the Republican Branch Unions of Trade Union Organizations may negotiate with other government bodies.

The employer, in accordance with the collective contract (agreement), provides the trade union with the necessary conditions for the organization and execution of the activities envisaged by the charter of the trade union.

The issues of absence from work of the members of elected bodies of trade unions during the period of fulfillment of public duties, participation in trade union events and their remuneration during that period, are regulated by the legislation of the Republic of Armenia and collective contracts (agreements) concluded with the employer. Employees who are members of the elected bodies of the trade union may not be dismissed on the initiative of the employer without the prior consent of the state labor inspector, except in cases provided by law. Other guarantees may be provided by the collective contract (agreement) to the persons elected to the bodies of the trade union.

On October 5, 2020, the Government of the Republic of Armenia, the

Confederation of Trade Unions of Armenia and the Republican Union of Employers of Armenia signed a new republican collective agreement for a period of three years. This agreement establishes additional guarantees for the regulation of social and labor relations and joint actions of the parties for their implementation. Within the framework of social partnership, the parties shall ensure the sustainable development of the social and labor relations of the Republic of Armenia, which shall be accompanied by an increase in the level of employment and the strengthening of social peace. Cooperation between the social partners under the republican collective agreement will contribute to having comprehensively discussed and mutually agreed on solutions to the extent possible in the legal regulations of social and labor and related socio-economic relations.

The parties agree:

- that social partnership is the main means of balancing interests, ensuring social peace and determining effective ways to solve problems;
- on the main goals of the social partnership and priority issues, as well as the main directions of their resolution, which are enshrined in this agreement;
- to take into account the objectives set out in the International Labor Organization Conventions and the revised European Social Charter when defining the schemes of implementation of additional social and labor guarantees;
- that draft normative legal acts containing labor legislation and labor law regulations, and that those that are essential in terms of protection of employers' and employees' labor rights and interests shall be submitted to the opinion of the Republican Tripartite Commission before their adoption by the relevant body.

In order to comprehensively develop the social partnership, the parties will support the establishment of branch and territorial associations of employers and trade unions in the organizations.

In order to ensure the safety and health of employees during their work, the Parties undertake to:

- develop proposals for making changes in RA legislation in order to increase the role of the trade union in the processes of ensuring the safety and health of employees, as well as the economic interest and liability of employers;
- support the development of standards, normative documents, and rules defining occupational health and safety conditions, ensure incorporation thereof;
- support the introduction of modern working conditions monitoring systems and ensure their efficient operation;
- annually discuss the process of implementation of and control over standards, normative documents and rules of occupational health and safety conditions and submit relevant proposals;
- support institutions and organizations to set up departments and commissions on ensuring the health and safety of employees.

According to the republican collective agreement, in order to ensure decent work, the Parties undertake to:

- support the raising of qualification of employees in accordance with the requirements of the labor market and sustainable economic development;
- support the reduction of illegal work in order to effectively protect the interests of employees and to ensure equal competition;
- support the introduction of the practice of concluding collective agreements;
- support the introduction of an extrajudicial settlement system for individual labor disputes;
- support the establishment of the minimum wage in accordance with international principles and standards;
- support bringing the purchasing power of actual wages into line with

internationally accepted standards of decent work;

- support the development of modern and effective remuneration systems and ensure incorporation thereof;
- support gender equality in employment and wages;
- support the development and introduction of mechanisms for the protection of the right to remuneration in case of insolvency of the employer;
- submit proposals on defining the composition and structure of the minimum living budget in the territory of the Republic of Armenia.

In order to promote the employment of the population, ensure the balance of the labor market, and develop labor resources, the Parties undertake to support:

- ensuring the introduction and further development of a complete, accurate information system on the state and dynamics of the labor market development;
- ensuring sufficient conditions for promoting self-employment;
- development and introduction of a national qualification framework;
- formation of a labor force supply that meets the requirements of the labor market and sustainable economic development;
- promoting effective employment of young people, women, rural population and persons uncompetitive in the labor market;
- introduction and development of an effective system of professional orientation;
- expanding the involvement of employers and trade unions in vocational education and organizing internships in the workplace;
- development and implementation of annual employment programs;
- creating the conditions required for the effective and transparent operation of non-public organizations providing employment services;
- development and introduction of effective mechanisms for

implementation of internal and external labor migration and protection of the interests of migrant workers.

In order to increase the level of social protection of employees, the Parties undertake the following:

- taking into account the interests of the Parties, take measures to introduce and develop a compulsory and voluntary pension insurance system, to ensure the highest possible level of compensation for lost income and apply schemes to promote participation in voluntary pension insurance for employers and employees;
- take measures to introduce an effective system of compulsory social insurance against accidents in production and occupational diseases, with the aim of ensuring the social protection of persons suffering from accidents in production and occupational diseases.

The Parties shall form a Commission within 20 days after the Agreement enters into force to conduct collective bargaining at the national level, ensure the fulfillment of contractual obligations, develop an action plan to ensure the implementation of the Agreement, to discuss issues arising during the implementation of the Agreement, to submit relevant proposals to the Parties.

The commission is formed by the representatives of the Government of the Republic of Armenia, the Confederation of Trade Unions of Armenia and the Republican Union of Employers of Armenia. Each of the parties must have an equal number of members (5) in the Commission, each of whom has the right to one vote.

Within two months after the Agreement enters into force, the Parties shall approve the action plan submitted to the Parties to ensure the implementation of the Agreement or, in the event of disagreement, return it to the consideration of the Commission for further elaboration with appropriate objections or recommendations.

In case of repeated non-approval of the plan, the Parties shall change the

composition of the Commission within 5 days, designating new members. The Parties agree to transfer the necessary information and documents on the implementation of the Agreement to the Commission. To cover the implementation of the Agreement, the Commission regularly publishes information on the development of social partnership, and social and labor relations in the Republic of Armenia through the mass media.

The objectives of trade union activity in Armenia

According to the Law of the Republic of Armenia on Trade Unions, the following forms of trade unions/ unions/ are identified in the Republic of Armenia: Territorial Union of Trade Union Organizations, Branch Union of Trade Union Organizations, Republican Union of Trade Union Organizations.

- ***The Republican Union of Trade Union Organizations*** is an association of legal entities, which affiliates more than half of the Republican Branch Unions of trade union organizations, which include the maximum number of members of trade unions operating in the country, and member organizations which affiliate the maximum number of employees. The aim of the Republican Union of Trade Union Organizations is to represent the labor and related occupational, economic and social rights and interests of the employees in the relations with the Government of the Republic of Armenia and employers' republican association and to protect them in the employment relationship.
- ***A Territorial Union of Trade Union Organizations*** is an association of legal entities, which affiliates more than half of the trade unions/ unions operating in a certain area (region or city or a specifically separated area based on a certain peculiarity), which affiliate the maximum number of employees in the area. The aim of the Territorial Union of Trade Union Organizations is to represent the labor and related occupational, economic, social rights and interests of the employees in the relations with the local employers' association, local

self-government bodies, territorial bodies of state administration, and to protect them in the employment relationship.

- **Republican Branch Union of Trade Union Organizations** is an association of legal entities, which unites more than half of the trade unions operating in the respective branch (related branches) of the economy (production, service, occupation), which affiliate the maximum number of employees in that branch. The aim of the Republican Branch Union of Trade Union Organizations is to represent the labor and related occupational, economic, social rights and interests of the employees of the given branch of economy in the relevant employers' branch associations, local self-government and state administration bodies and to protect them in the employment relationship.

Within the CTUA, the branch trade unions maintain their independence and the status of a legal entity, have equal rights and responsibilities, while they are obliged to take an active part in the implementation of the goals and objectives of the CTUA, maintain trade union peace, strengthen trade union harmony. The Branch Unions have the full right to be directly involved in the drafting of the agreements to be signed between the CTUA, the RA Government, the Employer's Republican Association, in the implementation thereof, and the development of CTUA programs.

The operation of Branch Unions is regulated by the RA Law on Trade Unions and the charter of the Branch Union.

The Republican Branch Unions coordinate the activities of the trade unions operating within them.

According to the reports submitted by the Republican Branch Unions, as of January 1, 2021, there are 19 Republican Branch Unions in the country and 602 trade union organizations with 188,259 members.

The following Republican Branch Unions operate in the Republic of Armenia:

- Republican Branch Union of Trade Union Organizations of Agroindustrial Workers,
- Republican Branch Union of Trade Union Organizations of Health Workers,
- Republican Branch Union of Trade Union Organizations of Commerce, Catering, Consumer Co-operatives and Enterprise Workers,
- Republican Branch Union of Trade Union Organizations of Agricultural Machine-Building and Forest-Paper-Wood-Manufacturing Industry Workers,
- Republican Branch Union of Trade Union Organizations of Industry Workers,
- Republican Branch Union of Trade Union Organizations of Banks, Financial Institution Workers,
- Republican Branch Union of Trade Union Organizations of Higher Education Institutions,
- Republican Branch Union "Electrotradeunion" of the Trade Union Organizations,
- Republican Branch Union of Trade Union Organizations "Trade Union of Armenian Electronic Sphere Workers,"
- Republican Branch Union of Trade Union Organizations of Light Industry Workers,
- Republican Branch Union of Trade Union Organizations of Miners, Metallurgists and Jewellers,
- Republican Branch Union of Trade Union Organizations of Employees of Municipal management and Public Utilities,
- Republican Branch Union of Trade Union Organizations of Education and Science Workers,
- Branch Republican Trade Union of Trade Union Organizations of Culture Workers,

- Republican Branch Union of Trade Union Organizations of Construction and Building Materials Industry Workers,
- Republican Branch Trade Union of Trade Union Organizations of the Workers of State Institutions, Local Self-Government Bodies and Public Services of Armenia,
- Republican Branch Union of Trade Union Organizations of Service Sector, Food and Fishing Industry Workers,
- Republican Branch Union "Miabanutyun" of Trade Union Organizations of Information Technologies, Aviation and Means of Communication Workers,
- Republican Branch Union of Trade Union Organizations of Transport and Communication Workers.

The trade union budget is made up exclusively of membership fees.



SECTION 3.

Analysis of Opportunities of
Introducing Best Practices of the
Observed Countries in Armenia

● Germany

Following the studies and analyses of the legal basis for establishing German trade unions, existing national and international surveys, relevant statistics, official information, we have identified the following features:

- There is no trade union law or legislation;
- The legal basis for trade unions is Federal legislation, collective agreements, labor contracts, and case law;
- There is not one consolidated Labor Code; minimum labor standards are laid down in separate Acts on various labor-related issues, which are supplemented by government decisions;
- The activity of trade unions is mainly regulated by the following legal acts:
 - the Civil Code that addresses matters such as dismissal, sick leave and annual leave,
 - The Works Constitution Act that regulates cooperation between employers and employees,
 - The Act on Collective Agreements which governs collective agreements,
 - Federal Paid Leave Act,
 - Employment Promotion Act,
 - Employment Protection Act,
 - Act regulating the Payment of Wages and Salaries on Public Holidays and in case of sickness,
 - Protection against Dismissal Act,
 - Act on the Commercial Transfer of Employees,
 - Occupational Training Act,
 - Act on Part-Time and Fixed-Term,
 - Maternity Protection Act,
 - Ordinance on Maternity Protection at the Workplace,

- Young Workers Protection Act,
 - Working Time Act,
 - Act on the Payment of Child Raising Benefit and Child Raising Leave,
 - Insolvency Ordinance,
 - Individual Dispute settlement regulating acts including Labor Court Act, Code of Civil Procedure,
 - Labor legislation is regulated by labor courts. Some matters, especially strike regulation, are partly or even totally left to case law.
- Collective agreements are concluded at the branch level between the relevant trade union and employers;
 - Even though trade unions are generally defined as associations with no legal capacity, they are legally entitled to collectively bargain as well as to take legal action or go to court (Section 2 Paragraph 1 Act on Collective Agreements and Section 10 Labour Court Act);
 - There are several dozens of branch trade unions, which operate in 3 organizations. The largest organization is the German Trade Union Confederation, which has 5,850,167 members and unites 8 sectors: police, agriculture, teachers, constructors, medical workers, and rail workers;
 - There are works councils affiliated to trade unions, including economic committees and steering committees;
 - There is a representative body for young workers and trainees;
 - In the case of multiple collective agreements, the contract between the employer and the trade union with the most members is binding;
 - Trade unions are also entitled to change labor legislation;
 - Trade unions offer a number of benefits, including counseling (e.g. legal), vocational training;
 - Trade unions participate in the management of organizations (even determining the cafeteria menu of the organization);

- Smaller unions have 1,5 million members/ union of civil servants /, 500,000 members / united federation of Christian trade unions;
- Trade union membership has been gradually declining in recent years: it decreased by 13% in 2019 compared to 2009;
- The largest union /IG Metall/ has 2,262,571 members, and the smallest /EVG/ has 184,090 members;
- Only 1/3 of union members are women;
- Most members of trade unions are from the manufacturing and public services sector, and the fewest members are from the private sector;
- The union fee is 1% of the salary;
- 50% of trade union funds are allocated to union office workers, 13% is transferred to the trade union budget and international trade union organizations, 3% to the strike fund, 2% to innovative projects, 2% to training projects, 30% to current needs;
- The strikers and the dismissed are paid from the budget of the unions;
- The main objective of the unions is to reach a compromise and agreement with the employers. If they do not reach an agreement, the unions go on strike;
- Collective bargaining can be conducted both by trade unions and employers' associations;
- Any collective agreement consists of two parts (sec. 1, para. 1). 1) as per the law of contracts, it deals with the rights and obligations of the contractual partners. The two main obligations of the partners are solidarity and the duty to use all means available to ensure that their members abide by the agreement. 2) rules related to labor contracts, operational issues, and the works constitution are defined within the meaning of the Works Constitution Act. In this part, the collective agreement's period of validity is important;
- Collective agreements have three main functions:
 - the protective function (setting minimum labor standards),

- the rationalizing function (putting working life in order and alignment),
- the peacekeeping function (as long as the collective agreement remains in force new demands and labor disputes are absolutely banned (industrial peace)).
- The German trade union of public and private sector workers ver.di has developed a model agreement on e-management, the main provisions of which are as follows:
 - the employees of the organization must be informed about the introduction of any new technology and be involved in the process of introducing new technological systems in a timely manner;
 - if necessary, training should be provided to staff to allow them effectively work with new technology;
 - the introduction of new technologies must comply with existing legislation and collective agreements. Any changes should be accompanied by a consultation with performance evaluators;
 - the overall efficiency should be taken into account when acquiring, developing and using software systems;
 - all new jobs should be subject to risk assessment, which includes the physical and psychological aspects of the job: psychosocial risks should be assessed every two years;
 - employees have the right to receive regular instructions on how to minimize occupational health and safety risks.

Following the studies and analyses of the legal basis for establishing Swedish trade unions, existing national and international surveys, relevant statistics and official information, we have identified the following features:

- There are three trade unions in Sweden: the Swedish Trade Union Confederation (LO), the Swedish Confederation of Professional Employees (TCO) and the Swedish Confederation of Professional Associations (Saco);
- LO includes «blue-collar» workers, TCO «white collar» workers and Saco professionals,
- Various Swedish trade unions belong to the LO, TCO or Saco confederations. The Swedish Trade Union Confederation (LO) organizes trade unions for workers, the Swedish Confederation of Professional Employees (TCO) and the Swedish Confederation of Professional Associations (Saco) - for salaried employees and academics;
- TCO and Saco currently have 1.8 million members together, while LO has somewhat fewer than that total. Almost 90 percent of employees are covered by a collective agreement;
- LO has been by far the largest and most important union, but in the last twenty years, its importance has diminished since that of TCO and Saco has increased. The importance of LO diminished due to the reconstruction of the economy, the increasing weight of “white and blue-collar» workers/academics in the economy, as well as the decrease in associations;
- The first trade union in Sweden was formed in 1902. The right to form trade unions was stipulated by introducing rules in the collective agreement;
- The **Swedish model** of trade unions has not lost its relevance to date. The model rests on four pillars:

- strong trade unions,
 - flexible labor laws,
 - proactive policies for the labor market and families,
 - and universal welfare.
- **Collective agreements** are the most important instrument in the Swedish model. In central and local agreements, employers and trade unions negotiate together on the terms in the Swedish labor market and individual companies;
 - When a collective agreement is signed at a company, it applies to all employees, regardless of whether or not they are members of a union. All employees benefit from the improvements negotiated by the unions;
 - The basis for trade union legitimacy is a high degree of organization. About 75 percent of all employees belong to a trade union. Employers in turn belong to employer federations. This system of trade union and employer federations has created a spirit of consensus in which the sides negotiate to reach solutions that are acceptable to everyone;
 - The **goals** of the trade unions are to improve working conditions and ensure that employees get a reasonable share of the value created in companies. Collective agreements regulate the fundamental terms for individuals' employment, influence, and the like during work. An employer is prohibited from employing someone on terms or at remuneration less than specified in the agreement. Some collective agreements may contain provisions on minimum wages. In addition, the collective agreements give the individual basic protection in working life;
 - Trade unions deal with security or unemployment, pensions and job security, influence over the organization of employment and the work environment, scheduling of working hours, and opportunities for professional development and in-service training courses;
 - In 1974, the Security of Employment Act (LAS) was passed through

the efforts of trade unions. The law applies to all employees and is based on two main principles:

- a person normally should be employed until further notice;
 - an employment contract can be canceled only on objective grounds.
- According to this law, there are two forms for giving notice:
 - Notice of termination - for notice of termination, an employee receives their usual pay for at least one month;
 - Notice of dismissal - in case of dismissal, an employee must leave directly with no pay. The reason may be that the employee has stolen or acted violently in the workplace.
 - The Codetermination in the Workplace Act (MBL) has been in force since 1977. It grants trade unions participation and codetermination on important matters;
 - Trade unions have the right to negotiate and can also request negotiations on other issues. It is possible to deviate from the law using collective agreements;
 - **The Working Hours Act** contains rules on how much a person can work each day, week, or year. It discusses emergency duty hours and preparedness, and what breaks and pauses one is entitled to. The employers are responsible for an acceptable working environment;
 - The Work Environment Act contains rules on obligations for the employer and other safety and health officers to prevent illness and accidents on the job;
 - For an employee who has been elected union representative at a workplace with a collective agreement, the **Workplace Union Representatives Act** applies. The employer must pay the wages of a person who is working for the union in the workplace to a «fair and reasonable» extent. If the given person is working for the union outside their workplace, participating in a conference, or taking a course, the trade union pays compensation for loss of earnings;

- As early as the 1970s, TCO achieved legislation for individual taxation, that is, for married men and women to be taxed individually;
- Welfare is the responsibility of the state, but trade unions have made efforts to advance welfare. In collective agreements, trade unions have been able to improve terms of pensions and holidays as well as health insurance payments. Basically, social insurance programs have been preceded by agreements between the employer and trade union organizations;
- Sickness benefits are safeguarded by law, but through collective agreements trade unions and employers' federations have negotiated a higher level of compensation for up to one year's absence due to sickness. National insurance pays 80 percent of wages, the employer an additional 10 percent. Compensation in case of work injury, disability, or death is included in the job security package in collective agreements;
- In Sweden, public sector employment is regulated by the **Public Employment Act**, the provisions of which apply mainly to private and public employees, and the Public Employment Act contains only a few specific rules for public employees;
- The maximum normal working hours are 40 hours per week. The Working Hours Act sets out provisions for overtime work, as well as for daily and weekly rest of employees. Overtime includes the working hours exceeding the regular working hours and on-duty hours. Overtime hours may not exceed 50 hours over a calendar month, with a maximum of 200 hours over a calendar year;
- Almost one out of ten employers in Sweden are members of an employers' association and approximately 70% of the employees in Sweden are members of a trade union. There are about 110 different trade unions and employer's associations. There are more than 650 collective agreements. Currently, union membership is declining;
- Under the Co-determination Act, an employer has certain consultation and information obligations towards trade unions. For example,

prior to any decision to reorganize the business and terminate labor contracts, the employer must call for and conduct consultations with the trade unions under the applicable collective agreements (both at a local and a national level, if applicable). Even if the employer is not bound by any collective agreement, the employer is obliged to consult the planned reorganization and potential redundancies with any trade union of which a concerned employee is a member;

- Normally, the local trade unions elect one or more representatives to represent the employees at a workplace under the provisions of the Trade Union Representatives Act. Employees who are trade union representatives may not be prevented from carrying out union work during working hours, may not be discriminated against due to their union activities and are entitled to a leave to carry out their union activities;
- The Board Representation Act entitles employees of private companies bound by collective agreements and having at least 25 employees to appoint two ordinary and two deputy employee representatives to the board of directors. Employees of companies that have at least 1,000 employees and are engaged in different industries are entitled to appoint three ordinary and three deputy employee representatives to the board of directors;
- The employer is obliged to apply the terms and conditions of the collective agreement also to employees that are not members of a trade union. The employer can enter into a collective agreement directly with one or more trade unions;
- The employer shall notify the employee and, if applicable, the relevant trade union two weeks in advance if they wish to terminate the employment contract. An employee or trade union may request a dismissal consultation from the employer within one week of receiving the notification;
- According to the Collective Agreement or the Consent Law, the Labor Court is the first and only instance for labor disputes, or if there is a collective bargaining agreement between the parties. A trade

union organization has the right to file a complaint at the court, for example, over a collective agreement dispute;

- The employee does not bear the costs of his representation in court, as the costs are borne by the trade union;
- Swedish labor law is currently being reformed. The reform aims at adapting employment protection to the changes and developments in the labor market. In December 2020, the Confederation of Swedish Enterprises (Svenskt Näringsliv), joint organizations of private-sector salaried employees, PTK and the major trade unions of the Swedish Trade Union Confederation (LO), agreed on the amendments to the Employment Protection Act (EPA).
- According to the reform package, amendments are proposed concerning the order of priority for dismissal by the employer due to redundancy. Employers will be able to make additional exceptions in the order of priority in the event of a redundancy, regardless of the number of employees in the company. Under Swedish legislation, a dismissed employee is not automatically dismissed. According to the proposed amendments, all employers, regardless of the number of employees, will have the right to exclude additional employees (three instead of two) before determining the order of priority, thus such an amendment will give the employer more freedom to choose which employees to keep in business.
- A new form of employment is proposed - special temporary employment, which will replace the current general fixed-term employment. Employers can hire for 12 months instead of 24 months under fixed-term employment contracts. In this case, the employment contract will automatically become for an indefinite period, when the employee works for more than 12 months, instead of 24 months under the current legislation.
- In the event of a court dispute over wrongful dismissal, the procedural provisions will be changed so that the employer does not have to hire the employee during the dispute. The proposed amendments include measures to reduce employer's costs related to the termination of

contracts, as well as to make costs more predictable. Contrary to current regulations, the work will not continue during the dispute when the employee has challenged the termination and requested that the termination be declared invalid.

● Lithuania

- UTrade unions are free, independent and autonomous organizations that represent and defend the occupational, economic and social interests of their members. Their activities are governed by the Constitution, the laws of the Republic, ILO Conventions and their own rules. The activities of a trade union can only be suspended under procedures provided for under its rules or by judicial decision. Trade unions have the right to take legislative initiatives;
- Persons who are legally employed under an employment contract or on other statutory grounds in the territory of the Republic of Lithuania shall have the right to establish trade unions and join them to protect their interests;
- Persons who are legally employed under an employment contract or on other statutory grounds in the territory of the Republic of Lithuania shall have the right to freely join trade unions and participate in their activities;
- An employer, their authorized representative may not be a member of trade unions functioning in their enterprise, establishment, organization;
- In Lithuania, trade unions may be established based on professional, office, production, territorial, or other principles determined by the trade unions;
- A trade union may be established if it has:
 1. no less than 20 founders or the founders in the enterprise, establishment or organization would comprise not less than one-tenth of all the employees (and one-tenth of all the employees would account for not less than three employees), and the charter is approved and the governing bodies are elected at the meeting of the trade union; at least 20 founders, or if the founders in the enterprise, institution or organization make up not less than one-tenth of all employees;

2. a charter approved at the meeting;
 3. elected governing bodies;
 4. an adopted decision on the location.
- According to the **Law on Trade Unions**, trade unions must submit to the Register of Legal Entities a charter of a trade union and other confirming documents provided by law;
 - The employer may transfer the amount stipulated in the collective agreement to the trade union. At the request of a trade union member, the employer must deduct an established amount of membership fee from the union member's salary each month and transfer it to the union's account;
 - The employer shall create conditions for the education of members of a trade union. For this purpose, the collective agreement may provide for a certain percentage of funds from the wage bill. At the request of an employee and the trade union, the employer shall grant an employee unpaid leave of up to three days for education and training;
 - Trade unions represent the members of a trade union in relations with the employer or his authorized representative. Trade unions defend labor and social-economic rights and interests of their members;
 - Trade unions have the right to supervise the employer's adherence to and implementation of the labor, economic, and social laws, collective agreements and collective labor agreements relating to the rights and interests of the employees represented by them. For this purpose, trade unions may have inspectorates, legal advice services and other institutions. While performing the functions of supervision, persons authorized by a trade union shall have the right to freely enter enterprises, establishments and organizations in which the employees represented by that trade union work and to be granted access to the documents concerning working, economic, and social conditions;
 - Trade unions shall have the right to demand that the employer annul

their decisions that violate the labor, economic, and social rights of their members.

- Trade unions shall have the right to hold meetings, as well as to organize rallies, demonstrations and other mass events, as well as to stage strikes according to the procedure established by the law;
- Trade unions have the right to engage in publishing, business and economic activities, to establish charitable or other foundations;
- Trade unions may own buildings, equipment, vehicles, as well as other property not restricted by law. The property of trade unions includes membership fees, investments of enterprises, institutions, organizations, public donations, as well as any other legally acquired income and property. The unions manage their funds and property independently;
- In Lithuania, union membership is low, accounting for about 7% of all employees. The unions are divided into three main confederations: **LPSK, LPSF "Sandrauga" and LPS "Solidarumas"** which are divided, at least historically, on ideological grounds, but the unions can work together;
- The LPSK is the largest, with around 50,000 members. It is followed by Solidarumas with some 14,000 members and Sandrauga with around 10,000. There are also two smaller confederations, the RJPS and the LDF, and some unions not affiliated with the confederations. For example, the NPPSS, which brings together professional unions representing parts of the public sector such as the police, firefighters and the prison service had 1,400 members in 2019;
- The LPSK has 25 sectoral federations, Solidarumas has 15, and Sandrauga states it operates in 18 sectors. In general, the largest federations are in the public sector, particularly health and education. The LPSK's largest affiliate with 10,000 members is the education union LŠMPS, which was created through a merger of two education unions in 2019;
- Total union membership was 86,600 at the end of 2018, down from

around 92,000 in the previous three years. According to official figures, there were 1,214,350 employees in Lithuania in 2018 out of whom 7,1 % are union members (assuming all trade union members are employees);

- Union membership has declined substantially- by 25% compared to 1990;
- The majority (58%) of Lithuanian trade union members are women;
- The new Labor Code also requires that all collective agreements should be registered with the Ministry of Social Security and Labor. This register shows that on 8 April 2020 there were 297 valid collective agreements. The analysis by the ministry shows that the vast majority of these agreements (95%) were at the employer level – 282 out of 297, but there were also 12 industry-level agreements, two territorial agreements and one at the national level;
- The national-level agreement was signed by four national confederations (LPSK, Solidarumas, Sandrauga and RJPS), on one side, and the Lithuanian government and the public sector federation NPPSS, on the other in 2019. It covered almost 200,000 public sector employees. The agreements at this level improved pay levels for all employees, additional benefits were provided that only trade union members receive: two extra days' leave and up to 10 days of paid study leave;
- The 12 industry-level agreements signed cover workers in education and science, health, social services, culture, environmental protection, social insurance, border protection, prison service and justice, as well as the railways, furniture and wood making and road haulage;
- Above the framework for collective bargaining, there is also a highly structured system of consultation between unions, employers and government - the Tripartite Commission of the Republic of Lithuania (LRTT), and several professional commissions, covering issues like health, safety training, etc;
- The new Labour Code provides that agreements will be valid for a

maximum period of four years unless something else is agreed upon;

- Agreements at the national, industry or territorial level cover pay-related issues, health and safety, employment training and retraining and procedural issues, as well as what is described as «other working, social and economic issues important to the parties»;
- **At the employer and workplace level**, agreements can cover the details of employment contracts, pay, working and leisure time, health and safety, the mutual provision of information, information and consultation procedures, although without reducing the rights of the works council (see separate section), important working, social and economic issues and procedural issues linked to the signing, validity and length of the agreement;
- Collective agreements can always improve on the legal minimum standards, but, with some exceptions. The exceptions, where collective agreements cannot worsen the legal standards, cover maximum working time and minimum rest periods, minimum wages, the conclusion or termination of a labor contract, health and safety, gender equality and non-discrimination;
- At the employer level, the members of executive bodies and works councils of trade unions, as well as employee representatives, **cannot be dismissed** and the terms of their contracts **cannot be aggravated without the consent of the head of the local labor inspectorate**;
- The employer must provide a room free of charge and allow the use of work equipment for the functions of the trustee of the employees, the members of the works council, and at the employer level, the members of the executive bodies of the trade unions. Other support can be arranged through collective agreements or contracts with the works council.

● Poland

- According to the Polish Trade Union Act, a trade union is a voluntary, independent and self-governing employee's organization, established to represent them and defend the latter and their occupational, social and other labor interests. It is also independent from the employers, government, state and local self-government bodies and other organizations;
- The activities of the trade unions are regulated by **the Trade Unions Act**, adopted on May 23, 1991, which aims to regulate the employment relationship of unions, associations, and collectives;
- The right to establish and **join** trade unions is granted to:
 - workers regardless of the basis of the employment relationship, including the members of farming cooperative units and individuals performing work pursuant to an agency agreement and by their mediation;
 - people performing outwork wherein they can join the unions functioning in the employer's workplace;
 - Retirement or disability does not deprive individuals of the right to membership and to join trade unions;
 - the unemployed.
- In Poland, there are two options for establishing trade unions:
 - **To establish a completely new trade union:** Establishing a new trade union is much more complicated. In this case, drawing up the charter and registration in court is necessary. That takes a lot of time. In addition, in cases of a dispute during court proceedings basis for refusal to register a union may occur, often in an indirect form;
 - or establish a **trade union committee** at the already functioning trade union (if the charter of the latter allows for the creation and operation of such committee): Due to the legal and bureaucratic

issues it is much easier to set up a structural department (trade union committee) at the already existing trade union. In such cases a founding meeting is organized, resolutions concerning the establishment of the trade union are adopted, executive bodies are elected and the copies of documents are sent to the appropriate trade union center;

- Registration of a trade union at the existing central union does not require registering it at the court and the whole procedure is limited to the registration of a new union structure within the central trade union, which usually takes a few days.
- To set up a trade union organization (independent or as an associated committee at the already existing union) consensus of at least 10 people is required;
- In Poland, trade union members are mainly employees who work under a labor contract, which ensures the protection of their employees;
- Establishing a trade union structure in the workplace does not imply that the employer should be informed about it immediately;
- According to the **Polish Trade Unions Act**, the employee is legally protected from layoff as the employer may not terminate or revise the labor contract without the permission of the appropriate trade union board;
- There are three major trade unions in Poland:
 - «Independent Self-Governing Trade Union «Solidarity (Niezależny Samorządny Związek Zawodowy «Solidarność» - NSZZ Solidarność),
 - All-Poland Alliance of Trade Unions (Ogólnopolskie Porozumienie Związków Zawodowych - OPZZ),
 - Trade Unions Forum (Forum Związków Zawodowych):
- If the union or association does not meet the requirement of representativeness of the trade union, the employee may be protected from dismissal by a person authorized by the union leadership. In

case of lack of such a clause in the charter of the trade union, the entitlement to protection is granted to the Chairman of the trade union by the law.

- Establishing a trade union is not so complicated in Poland. However, the operation and running of the trade unions is not so easy. The members of trade unions very often are the victims of breaking the rules of labor law in Poland. The employers use the slow work of Polish labor courts and break the law very often, especially by terminating the employment contracts with the members of the trade union and also with protected employees;
- Nowadays in many cases, establishing a trade union is the last resort for the employees who want to improve their situation. It does not mean that the trade unions should not be established. Even when we take into consideration the slow work of the Polish judiciary, still the trade union is one of the few effective tools against inhuman working conditions (trade unions very often win in labor cases).
- In Poland, the trade union membership level is low at around 12% of employees although there are a large number of trade union organizations. Around 85% of union members are in organizations linked to the three main union bodies (1. Independent Self-Governing Trade Union «Solidarity,» 2. All-Poland Alliance of Trade Unions, 3. Trade Unions Forum);
- There were around **1.5 million trade union members** in September 2018. Only 100,000 union members were retired and just 15,000 were working under a civil contract, a relatively common form of work in Poland;
- NSZZ Solidarność is organized not on a sectoral basis, but based on territory, i.e. it has territorial subdivisions - branches. The union includes 37 territorial trade union centers. The territorial subdivisions include the 16 largest enterprises in the fields of mechanical engineering, shipbuilding, defense, coal mining, metallurgy and others;

- OPZZ is the largest national «umbrella» confederation of trade unions in Poland, which includes both national joint trade unions and sectoral unions. OPZZ strives to provide decent living and working conditions in the democratic Polish society;
- The OPZZ is independent from any political party. All unions affiliated with the OPZZ are grouped into 7 branches:
 - mining and energy
 - industry
 - education
 - public services
 - construction and woodwork
 - transport
 - commerce, services, culture and art.
- Since 2020, OPZZ has had more than 500,000 members and is represented in all 16 regions of the country, as well as in many communities;
- Union membership has declined sharply since the 1990s as a result of industrial restructuring and privatization and a growth in employment in smaller companies in private services;
- In 2019, union membership was much higher in public institutions and state-owned companies, where 29% of employees were union members than in the private sector or mixed public-private companies, where the figure is 4%. The 2017 results showed that union membership was highest in education, science, and health (26%) followed by public administration (20%) and transport and communication (20%) sectors. It was lowest in the field of construction (0%);
- It is noteworthy that about 40% of the members of NSZZ Solidarność and about 47% of OPZZ are women;
- Currently, the Polish unions are struggling to raise the minimum wage, make some changes to the law on trade unions, as well as to

resolve such issues as the reduction of the number of trade union members, attracting young staff and a number of other issues;

- The Polish trade union system has two levels. At the first level, trade union functions are carried out at the level of the organization on the basis of collective agreements, the second is at the state level, where state institutions cooperate with the three major trade unions;
- Establishing a trade union needs **at least ten employees** at a company;
- Poland's economic structure is characterized by small and micro enterprises, the vast majority of which have fewer than ten employees and 40% of all employees work at small companies – the majority of employees cannot organize themselves in trade unions;
- The trade union is formed from the employees of the company and acquires legal status after registration by the court. Usually trade unions formed in companies, join large unions functioning in Poland, which saves time and allows benefiting from the experience of a trade union;
- The main obligations of the employer towards the trade union include:
 - coordinate internal regulations on employees and their working conditions with the trade union;
 - consult with the trade union on staff reductions,
 - inform the trade union about the change of the owners of the enterprise;
 - obtain the consent of the trade union on terminating the labor contract or changing the working conditions of the employees of that union;
 - obtain the consent of the trade union to terminate the employment contracts with employees under special protection (e.g., pregnant employees and employees on maternity leave) without prior notice;

- consult with the union on terminating the employment contract or changing the working conditions within the not established period. It is noteworthy that the company does not need the approval of trade unions.
- In certain cases, the trade union organization or association operating within the company has the right and is obliged to represent the interests of the union members and/or non-members who have given their consent to the union to represent them. In other words, the company's trade union represents the interests of all employees defined by law, regardless of their union affiliation;
- Trade unions are entitled to act on their behalf, negotiate, to conclude collective agreements, as well as other agreements to ensure appropriate working conditions. They also oversee compliance with labor law as well as operational health and safety rules and regulations. They are entitled to give opinions on the development of labor legislation;
- Trade unions can have a significant impact on the national income distribution and the content of labor legislation and legislative decisions on social security. They also play an important role in shaping working conditions policy;
- Polish labor legislation does not provide for the participation of employees or their representatives in the management of the employer's business, except in state-owned organizations where employees retain the right to elect certain members of the supervisory board and management board;
- When there is no union in the workplace, the employer should consult with representatives of the employees. Employers with at least 50 employees can form a works council. The rights of the **works council** are mainly advisory;
- the current challenges of Polish trade unions can be identified as follows:
 - population;

- share of employees involved in trade unions;
- number of trade union memberships;
- legal basis of trade unions;
- collective agreement;
- collective bargaining;
- employee representations;
- financial resources and property;
- conditions for establishing a trade union;
- women's participation.



SECTION 4.

Study of Legal Framework,
Procedures, Mechanisms for
Formation of Trade Unions

In order to localize the key outcomes of our survey and the best practice in Armenia, we carried out a comparative analysis of trade union formation, procedures, and mechanisms of 4 EU countries and Armenia. The following indicators were selected for comparative analysis;

- population;
- share of employees involved in trade unions;
- number of trade union memberships;
- legal basis of trade unions;
- collective agreement;
- collective bargaining;
- employee representations;
- financial resources and property;
- conditions for establishing a trade union;
- women's participation.

Table 3

Comparative analysis of trade union activity in EU and Armenia

Country	Armenia	Germany	Lithuania	Poland	Sweden
Population	2,963,000	81,802,000	3,003,641	38,167,000	9,482,855
The share of employees involved in trade unions	6,4 %	18 %	10 %	15 %	70 %
Trade unions	There are 602 trade unions, 19 republican branch unions	In Germany, only 1/6 of employees are union members, although the decline in union density has slowed in recent years. The vast majority of union members are in the main trade union confederation, the DGB, but within it, there are individual unions, such as IG Metall and Ver.di, with considerable autonomy and influence.	In Lithuania, union membership is low - about 7% of all employees. The trade unions are divided into 3 main confederations: LPSK, LPSF "Sandrauga" and LPS "Solidarumas".	The density of trade unions is low - about 12% of employees, there are a large number of trade union organizations. But the vast majority of union members (about 85%) are in the three major confederations: NSZZ Solidarność, OPZZ, and FZZ.	The level of membership in Sweden is high at 70%, which was 85% in 1993 but has remained relatively stable since 2008. There are three main trade union confederations: LO, TCO and Saco, which are divided into professional and educational sectors.
Legal basis	RA Law on Trade Unions, December 5, 2000	No trade union law	Law on Trade Unions, May 23, 1991	Trade Unions Act, 1990	No trade union law.
Collective agreements	-	62 %	15 %	10-15 %	88 %

<p>Collective bargaining</p>	<p>In a collective employment relationship with the employer, the trade union can act as an employee representative if more than half of the employees who have an employment contract with the employer are members of the trade union. The provisions of the collective agreement concluded with the employer by the trade union endowed with such representative powers shall apply to all employees who have concluded an employment contract with the employer and are not members of the trade union.</p>	<p>Collective bargaining between individual unions and employers' associations at the industry level is still the most important mechanism for setting wages and conditions in Germany. However, the system is under pressure as employers leave or never join employers' associations and agreements themselves provide greater flexibility at the company level.</p>	<p>The Labor Code, which entered into force in 2017, has had a significant impact on collective bargaining, which is now reserved to trade unions, and in some cases can only benefit union members. Bargaining is much more common in the public sector than in the private sector, accounting for about 15% of the total workforce.</p>	<p>In Poland, only a minority of employees are involved in collective bargaining, which mainly takes place at the company or workplace level. This means that where there are no unions to deal with the issue, remuneration and conditions are set unilaterally by employers at the national minimum wage.</p>	<p>In Sweden, the key level of collective bargaining is the sectoral level, although at the sectoral level, about 91% of employees' salaries are determined through local bargaining, and a total salary of 28% is determined on spot.</p>
<p>Employee representations</p>	<p>No such bodies</p>	<p>Works councils represent employees in the workplace. They have substantial powers, extending the effective right to veto certain issues. Although they are not officially union bodies, union members usually play a key role therein.</p>	<p>The new Labor Code has changed the representation of employees in the workplace. Employers with more than 20 employees are now required to initiate the formation of a works council.</p>	<p>Until 2006, trade unions provided employees with the only legal representation in the workplace. However, the legislation implementing the EU Directive on Information and</p>	<p>Job representation for employees in Sweden is provided through a local trade union in the workplace. The law requires the employer to inform and bargain with the unions in the workplace before making major changes.</p>

				Consulting provides for the establishment of works councils, which must be elected by the entire staff following a decision by the Constitutional Court. However, their influence is limited, and most of the works councils that were originally established have ceased to exist.	
Financial resources and property	The trade union owns, uses and manages its property in accordance with the RA legislation and the charter of the trade union. The property of the trade union is formed from joining fees, membership fees, voluntary investments, and donations. In case of an application of a trade union member, the employer organizes the collection and allocation of the trade union membership fee. The membership fee is 1-2 %.	The membership fee is 1% of the salary . 50% of trade union funds are allocated to union office workers, 13% is transferred to the trade union budget and international trade union organizations, 3% to the strike fund, 2% to innovative projects, 2% to training programs, 30 % to the current needs, the strikers and the dismissed are paid from the union budget.	Trade unions may own buildings, equipment, vehicles, as well as other property not restricted by law. The property of trade unions includes membership fees, investments of enterprises, institutions, organizations, public donations, as well as any other legally acquired income and property. The unions manage their funds and property independently. The employer may transfer the amount stipulated in the collective agreement to the trade union. At the request of a trade union	The main obligations of the employer towards the trade union include: <ul style="list-style-type: none"> • coordinate internal regulations on employees and their working conditions with the trade union; • consult with the trade union on staff reductions; • obtain the consent of the trade union on terminating the labor contract or changing the working conditions of the employees of that union. 	

			member, the employer must deduct an established amount of membership fee from the union member's salary each month and transfer it to the union's account.		
Conditions for establishing a trade union	State registration, re-registration of a trade union, as well as registration of amendments to the charter or a new edition of the charter, state registration of liquidation, are carried out in accordance with the Law on Trade Unions and the Law on State Registration of Legal Entities.	According to the charter.		In order to establish a trade union, the company needs to have at least 10 employees.	The right to establish trade unions was stipulated by introducing rules in the collective agreement.
Women's participation	-	Only 1/3 of the union members are women.	58 %	40-47 %	Almost half.

Based on the above comparative analysis, we can state that the German and Swedish practice does not apply to Armenia, as these countries have the best practices of trade unions, where the activities of unions are based on a high level of welfare.

The Polish practice is not applicable either, as 1. under the Polish law, unions can affiliate the unemployed and people performing outwork who use unions to protect their rights. Such an approach in Armenia can contribute to the growth of the unemployed, the trade unions will be further discredited, it cannot support the increase of the need and importance of their role, and consequently to the expansion and development of their activities. 2. According to Polish legislation, trade unions cannot be established in organizations with less than 10 employees, and in Poland, as in Armenia, the majority of employees work in small and medium enterprises, where the number of employees does not reach 10.

Steps to establish a trade union in Armenia

State registration, re-registration of a trade union, as well as registration of amendments to the charter or a new edition of the charter, state registration of liquidation, are carried out in accordance with the laws on Trade Unions and State Registration of Legal Entities.

For state registration of a trade union, the following are submitted to the state registration body:

- application of a person authorized by the meeting of founders of the trade union;
- excerpt from the minutes of the meeting of founders of the trade union, which must contain notes on the place, year, month, date, number of founding members (meeting participants), as well as notes on the establishment of a trade union by the meeting of founders, approval of the union charter, decisions on the election of officials in the executive and supervisory bodies of the union, on the election of an authorized person to apply to the registration body for the state

registration of the trade union;

- passport details of the authorized person and founders elected to the executive bodies of the trade union;
- for the registration of an association of trade union organizations, it is required to submit a copy of the state registration certificate of each of the founding organizations and the decision of the competent body to establish an association, and to elect the authorized persons (delegates) to participate in the meeting of the founders of the association;
- at least two copies of the charter of the trade union, approved by the meeting of the founders, bound in accordance with the established procedure and signed by the authorized person or the head of the organization;
- receipt of state duty payment.

The state registration body shall consider the application to register the trade union or refuse its registration with appropriate justification within 30 days after making the entry in the registration log about the receipt of the application for registration of a trade union and the required documents.

The activity of a trade union may be suspended or prohibited only by the judicial procedure in cases provided by law.

The activity of a trade union cannot be terminated at the request of the employer.

A trade union may cooperate with international trade unions and other non-governmental organizations in accordance with the legislation of the Republic of Armenia and the charter of the trade union, as well as join international trade unions and those of other countries.

Conclusions and Recommendations

Trade unions are one of the few effective instruments in combating working conditions.

Trade unions deal with security or unemployment, pensions and job security, influence over the organization of work and the work environment, scheduling of working hours, and opportunities for professional development and in-service training courses.

The beginning of the formation of trade unions in Germany is considered to be the year 1865 when the General German Cigar Workers' Association (Allgemeiner Deutscher Cigarrenarbeiter-Verein) was founded in Leipzig. This organization became the prototype of all modern German trade unions.

There are currently several dozen branch unions in the Federal Republic. Moreover, in a broad sense, they are represented by three associations. The largest is the German Trade Union Confederation (Deutscher Gewerkschaftsbund, DGB), which has 5,850,167 members from eight leading sectors: railway workers, police officers, agricultural workers, teachers, builders, health workers, and so on. Smaller unions are the German Civil Service Association (Beamtenbund und Tarifunion), which has about 1,5 million members, and the Christian Trade Union Federation (Christlicher Gewerkschaftsbund), which has about 500,000 members.

In Germany, the trade union fee is calculated at the rate of 1% of salary.

The Swedish model emerged in the early 20th century and has not lost its relevance to date.

In Sweden, almost all labor legislation can be replaced by collective agreements. In other words, trade unions and employers can adapt the legislative regulations to the terms and circumstances of different sectors. This makes labor law extremely flexible. When a collective agreement is signed at a company, it applies to all employees, regardless of whether or not they are members of a union.

The Swedish model of trade unions emerged from the trade union struggle of the early 20th century and has not lost its relevance to this day.

In Sweden, almost all labor legislation can be replaced by collective agreements. In other words, trade unions and employers can adapt legislation to the conditions of different sectors and circumstances. This makes labor legislation extremely flexible. When a company enters into a collective agreement, it applies to all employees, whether they are union members or not.

The Swedish model is based on the following factors: Sweden has a high level of education, a widespread environment of cooperation, high technical maturity, equal opportunities, an efficient public sector with unique transparency, solid infrastructure, excellent welfare, and relatively small social gaps. The model combines flexibility for companies with security and influence for employees. The system has been proved to contribute to stability and growth. On the basis of this model, it was possible to combine an improved standard of living and improved living conditions for the vast majority of the population with a steadily increasing efficiency in the private sector and high returns. This model is more respectable outside of Sweden because it ensures results.

In Lithuania, union membership is low, accounting for about 7% of all employees. The unions are divided into three main confederations: LPSK, LPSF «Sandrauga» and LPS «Solidarumas» which are divided, at least historically, on ideological grounds, but the unions can work together.

In Lithuania, trade unions may be established on the basis of professional, office, production, territorial, or other principles determined by the trade unions. A trade union may be established if it has at least 20 founders, or if the founders in the enterprise, institution, or organization comprise not less than one-tenth of all employees.

Trade unions have the right to engage in publishing, business and economic activities, to establish charitable or other foundations. Trade unions **may own** buildings, equipment, vehicles, as well as other property not restricted by law.

According to the **Polish** Trade Union Act, a trade union is “a voluntary, independent and self-governing employee’s organization, established to represent them and defend the latter and their professional, social and other labor interests”. It is also independent from the employers, government, state and local self-government bodies and other organizations.

The right to establish and **join** trade unions is granted to employees regardless of the basis of the employment relationship, including the members of farming cooperative units and individuals performing work pursuant to an agency agreement and by their mediation if they are not employees of the company. **The right** to join the trade unions is also granted to people performing outwork wherein they can join the unions functioning in the employer’s workplace. Retirement or disability does not deprive individuals of the right to membership and to join trade unions, moreover the unemployed also have the right to join trade unions.

Establishing a trade union is not so complicated in Poland. However, the operation and running of the trade unions are not so easy. The members of trade unions very often are the victims of breaking the rules of **labor law in Poland**. Nowadays in many cases, establishing a trade union is the last resort for the employees who want to improve their situation.

The operation of trade unions in the **Republic of Armenia** is regulated by the RA Law on Trade Unions, which was adopted on December 5, 2000. This law defines the procedure for establishing trade unions, the principles of their activity and relations with state institutions, local self-government bodies, legal and natural persons, as well as regulates the relations linked to the protection of rights and interests of trade unions and their members. The following forms of association of trade unions/unions are identified: Territorial Union of Trade Union Organizations, Branch Union of Trade Union Organizations, Republican Union of Trade Union organizations.

According to the reports submitted by the Republican Branch Unions, as of January 1, 2021, there are 19 Republican Branch Unions in the country and 602 trade union organizations with 188,259 members.

As already mentioned, the German, Swedish and Polish models are not

applicable to our country, therefore we recommend using the **Lithuanian model** in Armenia, as

1. It is a post-Soviet country, it has many similarities with Armenia: population, the share of employees involved in trade unions;
2. the activities of trade unions are regulated by the Law on Trade Unions;
3. Lithuanian legislation allows the establishment of trade unions by the employees of non-governmental organizations and charitable organizations, which will enable the establishment of youth trade unions in Armenia;
4. The establishment of youth trade unions is possible under the legislation of Armenia based on the following provision of the RA Law on Trade Unions:

"Members of a trade union may be employees in or outside the territory of the Republic of Armenia who have concluded an employment contract with the given employer, including foreign citizens and stateless persons. Participants (members) of a trade union may be employees who have concluded employment contracts with various employers in the relevant sector (related sectors) of the economy (production, service, profession)."

5. Lithuanian employers are obliged by the collective agreement to transfer the amount stipulated in that agreement to their trade union. In order to apply this provision in Armenia, a legislative amendment is required, either in the *Law on Trade Unions* or by a *Government decision on collective agreements*.
6. The effectiveness of the activity of trade unions operating under collective agreements is based on the Swedish and German practices, which are considered countries with the best trade union practices. In these countries, 88% (Sweden) and 62% (Germany) of trade unions operate under collective agreements.

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