

## **Chapter 9**

### **Trade unions in Estonia: Less than meets the eye**

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After the dissolution of the Soviet Union trade unions in Estonia had to find their role in the new economic system. In response to people's fears of losing social protection in turbulent times most minimum working conditions were regulated by law, depriving the unions of a substantial part of their role. Subsequently, union membership and collective bargaining gradually declined and recently union membership has stabilized at the very low level of around 5–7 per cent of employment (see Table 9.1). Estonia's unions are concentrated in the public sector, among the older workforce and in a few industries. Estonian trade unionism is too fragmented for such a small country with low union membership. As a result, resources are thinly spread, which hinders the effective representation of employees. Most trade unions are too small to afford even one employee of their own. The trade unions that operate at industry level are more successful in concluding collective agreements and representing their members. Striving towards structural changes and movement from company-based trade union organizations to industry unions has had some limited success. In order to bring about change to current trends of trade unionism and collective bargaining, some kind of major structural change must take place, either in the organization of employees or the regulation and role of collective bargaining.

**Table 9.1** Principal characteristics of trade unionism in Estonia

	2000	2019
Total trade union membership	75,000	30,000
Proportion of women in total membership	60 %	57 % <sup>†</sup>
Gross union density	17 %	5 %
Net union density	14 %	4 %
Number of confederations	2	2
Number of affiliated unions (federations)	35	24
Number of independent unions <sup>**</sup>	n.a.	4
Collective bargaining coverage	32 % <sup>***</sup>	6 % <sup>****</sup>
Principal level of collective bargaining	company	company
Days not worked due to industrial action per 1,000 workers	2	2

Notes: <sup>†</sup>Data from 2015; <sup>\*\*</sup>The number of company unions not affiliated to industry trade unions is higher. The four are essential independent unions that have visibility, activity and impact. These are the Estonian Doctors Union (EAL, Eesti Arstide Liit), the Estonian Nurses Union (EÕL, Eesti Õdede Liit), the Estonian Educational Personnel Union (EPU, Eesti Haridustöötajate Liit) and the Federation of the Estonian Universities Universitas (Universitas Eesti Kõrgkoolide, Teadus-Ja Arendusasutuste Ametiliitude Ühendus). No data available for 2000, but EPU and Universitas were at this time members of TALO and the other two were independent; <sup>\*\*\*</sup>Data from 2001; <sup>\*\*\*\*</sup>Data from 2018.

Source: Appendix A1, Kallaste (2004, 2019), web pages of the confederations, and Estonian Statistical Office (Labour Force Survey).

## Historical background and principal features of the industrial relations system

In Estonia, as in the other former Soviet Bloc countries, the history of the current industrial relations system started with the regaining of independence at the beginning of the 1990s. In the market economy, trade unions have a different role from the one they had in the planned economy, where nominally all the means of production were owned by the workers. During the course of the 1990s, the entire legislative basis for industrial relations, as for the other fields of the economy and civic participation, was developed from scratch. Even though the role and functions of trade unions were reinvented for the market economy, industrial relations in practice and the trade union movement and its members have been influenced by their Soviet past in many ways. Although several

trade unions and professional unions claim to be the legal successors of trade union organizations that existed before the Soviet occupation, the structure of trade unionism was inherited from the Soviet era rather than from what preceded it.

The influence of the Soviet era on trade unions in the new economic system was multifaceted. On one hand the trade unions inherited the name (*ametiühing* in Estonian), the organization and the image of the Soviet era trade unions, which impacted negatively on people's attitudes to the trade union movement in the new economic reality. On the other hand, the trade union confederation, the Estonian Trade Union Confederation (EAKL, *Eesti Ametiühingute Keskliit*), inherited large properties accumulated during the Soviet era and administered by the Central Council of Trade Unions of the Estonian Soviet Socialist Republic (*Eesti Nõukogude Sotsialistliku Vabariigi Ametiühingute Kesknõukogu*). This legacy still constitutes the unions' main source of income.

During the transformation of the state, a smaller trade union confederation separated from EAKL in 1993, the Estonian Employees' Unions' Confederation (TALO, *Teenistujate Ametiliitude Keskorganisatsioon*). The Estonian word *teenistuja* signifies a public servant and reflects TALO's recruitment focus on representing white-collar public sector employees, more specifically employees in the fields of culture, education and science. At present, however, there is no clear division of labour or membership between the two confederations. Another split from EAKL occurred in 1997 with the separation of the Food and Rural Workers' Trade Union Confederation (ETMAKL, *Eesti Toiduainete ja Maatöötajate Ametiühingute Keskliit*). This Confederation, however, has never been very active and was officially dissolved in 2021.

In the Soviet era, trade unions were formed in companies and company-level representation was the predominant form that continued into the new economic system at the beginning of the 1990s. Company unions united into industry-level organizations, forming associations of trade unions. Thus, at the beginning of the 2000s, the dominant form for an affiliate of a union confederation was a federation of company trade unions. Another form of trade union comprised professional organizations, such as those for doctors, journalists and actors, which incorporated trade union activities and collective bargaining into their agenda. Professional organizations that acquired trade union and collective bargaining roles were, however, in the minority and in some cases existed side by side with company unions in the same industry. In some

industries – for example, electricity and oil-shale mining – the privatized monopoly companies which continued their activities in the same role covered almost the whole industry and, therefore, a trade union formed in the monopoly company almost coincides with an industry-level trade union.

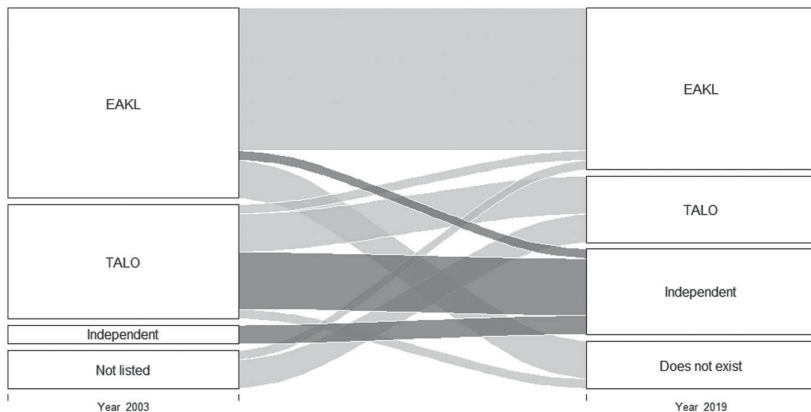
## Structure of trade unions and union democracy

The two Estonian trade union confederations are EAKL and TALO. In addition, there are some important independent trade unions, such as: the Estonian Doctors Union (EAL, *Eesti Arstide Liit*), the Estonian Educational Personnel Union (EPU, *Eesti Haridustöötajate Liit*), the Estonian Nurses Union (EÕL, *Eesti Õdede Liit*), and the Federation of the Estonian Universities (*Eesti Kõrgkoolide, Teadus- ja Arendusasutuste Ametiliitude Ühendus*, UNIVERSITAS). TALO is much smaller than EAKL, both in number of members and in organizational resources. Both EAKL and TALO have lost some industry unions, but the loss has been greater in TALO. EAKL included seventeen industry unions or federations of unions in 2020 and TALO 7, whereas in 2003, the reported numbers of members were, respectively, eighteen and twelve (Kallaste 2004). Trade unions affiliated to EAKL had around 20,000 members in 2019 and TALO around 3,000, as reported by confederations, whereas in 2003 the respective estimates had been 43,000 and 35,000 members (Kallaste 2004). Thus, trade union members represented by EAKL declined around half and those represented by TALO by 90 per cent in the period 2003–2019. ETMAKL was reported to represent 4,000 members in 2006 (Carley 2009), but this confederation has never been an active social partner at state level. EAKL and TALO have discussed some years ago a possible merger in the form of TALO becoming an affiliate of the EAKL, but the discussions have not borne fruit.

There have been different movements among confederation affiliates (Figure 9.1): mergers, dissolutions, a change of confederation, and splits from confederations. Some of the trade unions that affiliated to TALO and EAKL at the beginning of the 2000s were independent by 2019. Most notable of these are EPU, with over 10,000 members, and Universitas, with around 1,200 members, which split from TALO in 2009. With this move, there were no trade unions in education left in TALO. The nurses' union EÕL split from EAKL in 2016. The Estonian Association of Journalists (EAJ, *Eesti Ajakirjanike Liit*) that initially

affiliated to TALO joined EAKL in 2012. Affiliates that had previously been members of the confederations have either just dissolved or merged into some existing union. Those affiliates that were not listed in 2003 are, in the case of EAKL, the Chemical Workers' Union (*Keemikute Ametiühing*) that split from the Industry and Metal Workers' Union (IMTAL, *Industriaal- ja Metallitöötajate Ametiühingute Liit*) and in the case of TALO one union that has a double affiliation: one in TALO and the other in the Federation of the Trade Unions of State and Municipal Agencies Employees (ROTAL, *Riigi- ja Omaavalitsusasutuste Töötajate Ametiühingute Liit*), which, in turn, affiliated to EAKL. Two new unions in TALO were previously members of an association of trade unions, but the association was terminated.

**Figure 9.1** Number of affiliates of EAKL and TALO and main independent trade unions in 2019 and their affiliation in 2003



Note: Size of the boxes indicates the number of unions and not their membership.

Source: EAKL and TALO web page, Kallaste (2004).

Trade union membership has declined proportionately more than the number of affiliates of confederations, indicating shrinking trade union size. The only trade unions for which data are available and which have grown compared with the beginning of the 2000s are the Estonian Seamen's Independent Union (EMSA, *Eesti Meremeeste Sõltumatu Ametiühing*) and EÕL. All other trade unions have lost members.

EAKL is trying to persuade affiliates to merge and unite forces in order to increase the capacity and viability of trade unions and reduce

bureaucracy. Trade unions in Estonia operate in a decentralized manner and there are no substantial levers available to the confederation to promote mergers. Thus, while there have been some mergers, there have also been splits.

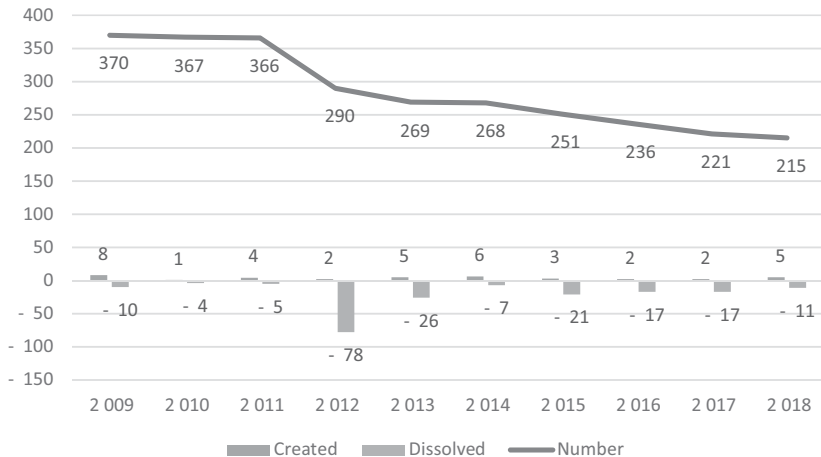
In some cases, several affiliates of one confederation operate in the same industry at company level, but do not cooperate to develop a united industry policy. For example, there are two trade unions in retail and services: the Estonian Association of Communications and Service Workers' Trade Unions (ESTAL, *Eesti Side- ja Teenindustöötajate Ametiühingute Liit*) and the Estonian Trade Union of Commercial and Servicing Employees (ETKA, *Teenindus- ja Kaubandustöötajate Ametiühing*). ETKA conducts collective bargaining with hotels in Tallinn. In addition, EMSA, entered into an agreement in the hotel industry with Tallin, whose main activity is the operation of passenger ships on the Baltic Sea. Even though industry-level union structures have clearly taken shape in some industries, several industries are divided between trade unions that do not cooperate in the formulation of common industry policy.

In addition to the creation of larger trade unions through mergers, the aim is to move from associations of company unions to industry unions, which have proved to be more efficient and persistent in representing employees in collective bargaining. This move was made in road transport during the 1990s and several other EAKL affiliates are moving towards this. For example, ESTAL and the Association of Industrial and Metal Workers' Trade Unions (IMTAL, *Industriaal- ja Metallitöötajate Ametiühingute Liit*) are in the process of transformation from a federation of trade unions into an industry trade union, resulting in one legal entity that individuals may join as trade union members, while company unions are still associated. In medicine, the only trade union, the Association of Healthcare Professionals Trade Unions (*Tervishoiualatöötajate Ametiühingute Liit*), was dissolved and now only three industry-wide professional unions operate in the field (EÖL, EAL and the Union of Estonian Healthcare Professionals [*Eesti Tervishoiutöötajate Kutseliit*]).

With the decline of trade union membership, there has been a decline in the overall number of trade unions (legal entities), although this decline has been slower than in the case of membership. There have been some trade union mergers, but dissolutions have been more common. Because of the larger proportional decrease in membership compared to the decrease in the number of organizations, the remaining organizations are smaller and weaker. It should be noted that, despite the general

trend of decline, there have also been some new trade unions formed (see Figure 9.2).

**Figure 9.2** Number of registered, dissolved and created trade unions in the non-profit associations and foundations register, 2009–2018



Source: Järve (2019).

The total number of trade unions registered in the non-profit associations and foundations register was 215 in 2018 (Figure 9.2). This has declined by 155 during the past ten years. The total number of organizations functioning as trade unions – that is, that represent employees and bargain collectively – is higher than the number of registered trade unions. Some professional unions operate as trade unions but are registered as general non-profit organizations and not specifically as trade unions. There is no information on how many other non-profit associations operate as trade unions.<sup>1</sup> Registered trade unions are divided roughly equally between company-level unions and trade unions that may be formed on the basis of profession, industry or region or a combination of these. The

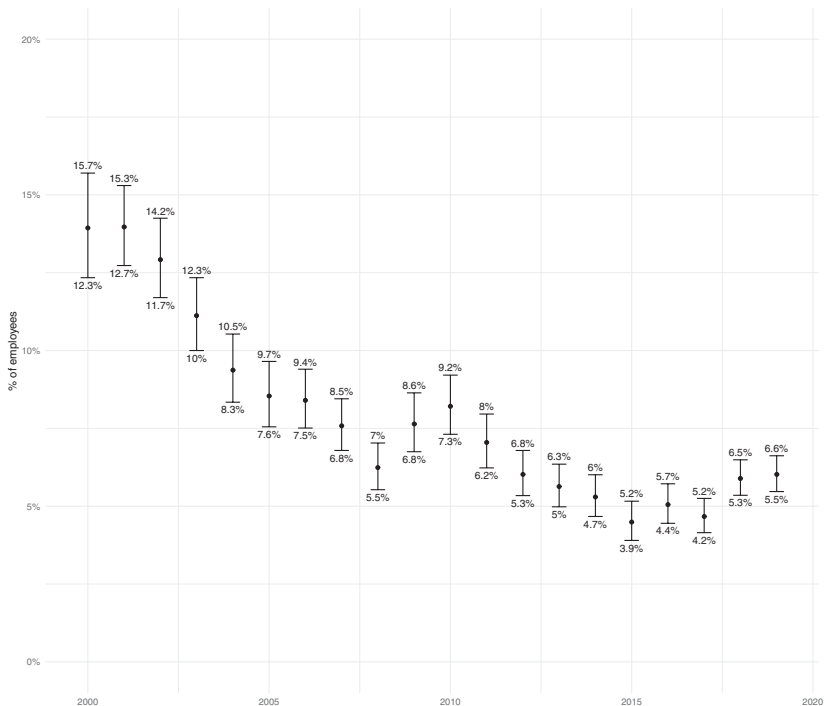
<sup>1</sup> The number of non-profit associations in the activities of business, employers and professional organizations was 1,667 in 2008 (Hallemaa and Servinski 2009: 78), which is 4.5 times higher than the number of trade unions. This includes, however, all kinds of professional organizations – which also do not engage at all in employees' representation and bargaining with employers – and also employers' organizations. It is hard to tell how many of these organizations act as trade unions.

trade unions that are not company unions may have individuals or company unions or associations of trade unions as their members.

## Unionization

Trade union membership has declined overall. Total membership is between 33,000 and 39,000 members, making up 5–6 per cent (previously between 5 and 7 per cent) of employees, as reported in the Labour Force Survey (LFS) (Figure 9.3).

**Figure 9.3** Union members as a percentage of employees, 2000–2019



Note: 95 per cent confidence intervals.

Source: Estonian Labour Force Survey, Statistics Estonia, author's calculations.

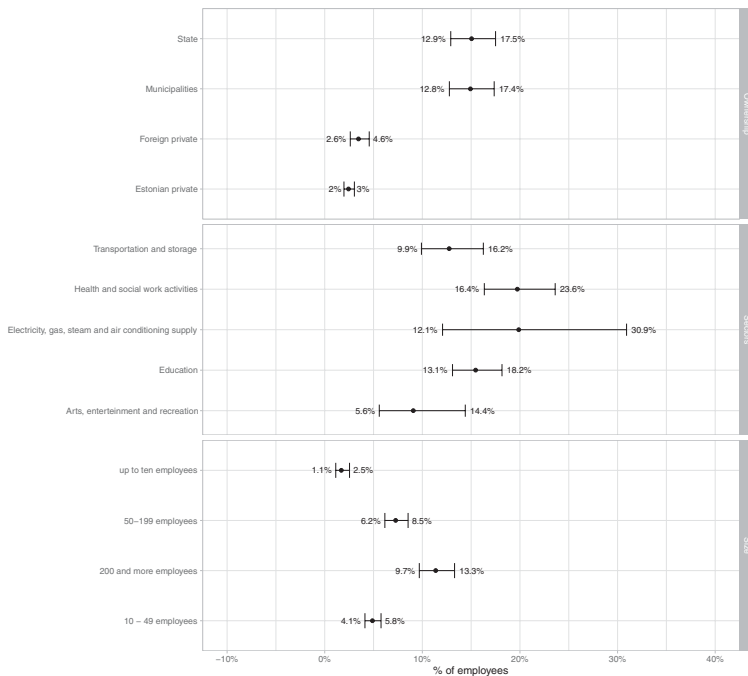
In Estonia, official membership statistics are not collected from trade unions. The only data sources are the unions themselves and the Estonian



Labour Force Survey, but trade unions do not publish their membership figures. Therefore, there is no overview of specific groups of trade union members, such as the retired or unemployed. It must be admitted that some trade unions do not even have adequate up-to-date information on their members. Even though the situation has improved markedly since the beginning of the 2000s, there are still cases in which union dues are withheld from wages by the employer and only the employer is aware of union members' identity.

Based on the LFS, it is apparent that unionization is more common in the public sector and in state- or municipality-owned establishments (Figure 9.4). As is usual elsewhere, union membership is more common in larger enterprises. Union membership is concentrated in the public sector or public services that are privately operated but publicly financed, for example public transport.

**Figure 9.4** Trade union membership by type of establishment, 2019



Note: Percentage of employees.

Source: Estonian Labour Force Survey, Statistics Estonia, author's calculations.

Unionization is higher among older and more educated workers (Figure 9.5). The small gender difference indicates that women are slightly more unionized. This is partly connected to the more unionized industries of health care and education in which female workers dominate. There is a clear difference between employees who have worked for a long time in one company and those with a short tenure. Trade unions are more successful in retaining members in establishments where their presence has been long-term. When people change jobs, they are easily lost to the union. In order to maintain unionization levels, organizing staff changing jobs must improve and the move away from company unions towards industry unions is an essential step in this direction.

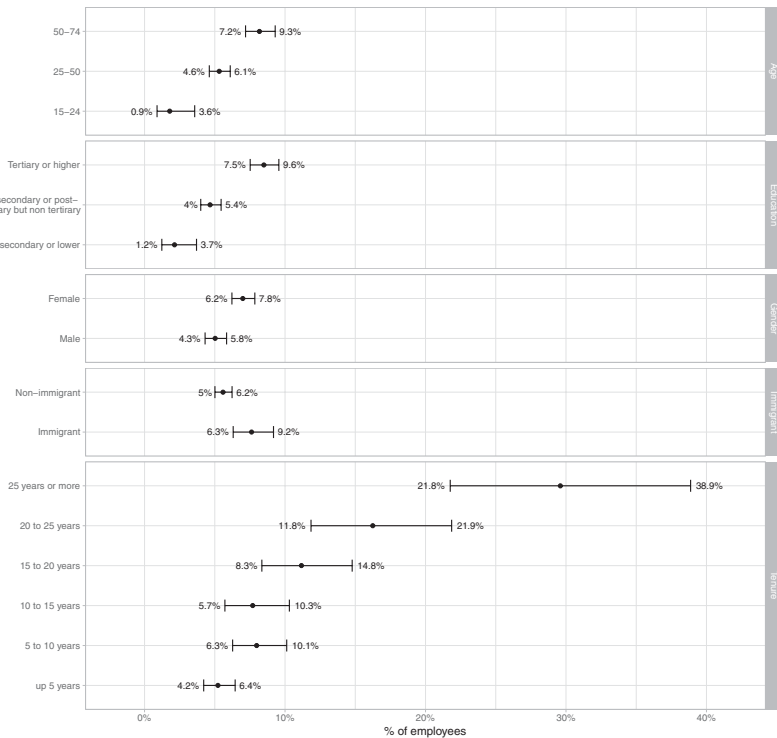
The foreign-born population has a slightly higher unionization rate in Estonia than native people. This is probably related to the workers settled in Estonia in the Soviet era. The new immigrants' profile is somewhat different. EAKL has an immigration policy, but the focus is not on the unionization of new immigrants but rather on labour market regulation, which is not being complied with for many immigrant workers. Estonia has turned from a net emigration country to a net immigration country during the past five years. It is doubtful that emigration and immigration have had an essential impact on unionization in Estonia. Work-related emigration from Estonia is mainly to the Nordic countries, some of it in the form of commuting. This might bring about higher unionization in Estonia if the experience of a highly unionized labour market abroad is transferred to the local labour market, but there are no signs of this yet.

Estonian trade unions represent some industries in which freelancing is the traditional form of working, for example actors and journalists. Thus, depending on the industry, there might be some unionization among freelancers. The LFS has too few observations for an estimation.

At the confederation level and depending again on industry, the unionization of self-employed platform workers, such as taxi drivers and food couriers, is high on the agenda. In 2018 a strike of Bolt taxi drivers, who operate as service providers to the Bolt ridesharing platform and are not salaried employees, took place with no trade union involvement. The strike was against a change in company pricing policy that lowered drivers' incomes. The drivers stopped driving and picketed company headquarters, demanding dialogue with the management. Trade unions, however, have not been able to organize these platform workers. Trade unions have considered the introduction of a service for platform workers by means of which employers' data on orders and pricing is systematized

and presented to the worker. This could be attractive to platform workers. There is insufficient leadership within unions and staff to provide this service, thus restricting the number of such workers who become union members.

**Figure 9.5** Trade union membership by type of member, 2019



Note: Percentage of employees.

Source: Estonian Labour Force Survey, Statistics Estonia, author's calculations.

Organizing new members is high on EAKL's agenda. Each year EAKL runs a recruitment campaign. The campaigns include organizing meetings in public locations and workplaces, together with media promotion on different channels. The campaigns have not generated a significant increase in membership. At the same time, the decline has not continued either and the unionization rate among employees has not declined markedly since 2008. There are not yet signs of organizing people employed in

new forms of work, even though this is on EAKL's agenda. Thus, union membership is in decline and concentrated in traditional segments. Even though there are yearly organizing campaigns there has been no increase in union membership and new forms of work are not organized.

## Union resources and expenditure

Most trade unions depend entirely on membership fees, which are usually 1 per cent of the member's gross wage and paid monthly to unions. In some professional unions an annual fixed amount is collected and different rates apply to retired or unemployed members. Usually, fees are paid by the members directly to the trade union account. There are some exceptions left from the Soviet era, where the employer withholds company union fees from the monthly wage and transfers them to the trade union account. The fees of federations and confederations are calculated from union membership, usually, but each organization decides individually.

Unlike most of the other unions EAKL also has substantial income from the management of real estate. While TALO income in 2019 was €10,463 (TALO 2020), entirely from membership fees, EAKL's income in 2018 was €605,947, of which 93 per cent was from real estate management (EAKL 2019). Some additional income besides membership fees is also secured by some other unions: for example, in 2016 around 35 per cent of the Estonian Theatre Union's (*Eesti Teatriliit*) income (Eesti Teatriliit 2018) and in 2019, 65 per cent of Network of Estonian Nonprofit Organisations' (EMSL) income (EMSL 2020) was from fees. The rest of their income came from real estate management, public project funding, and the sale of publications. European Union (EU) and international projects have sometimes contributed to trade union budgets, with specific spending restrictions, but at confederal level these are currently a minor source of income. The additional income of most unions, if they have any, comes mainly from real estate management or government grants in the case of the Theatre Union, or employers' contributions in the case of EMSA. But most unions have no other sources of income than member contributions. The Estonian Transport and Road Workers Trade Union (ETTA, *Eesti Transordi ja Teetöötajate Ametiühing*), for example, obtains 99 per cent of its income from membership fees (ETTA 2020).

As unions depend almost entirely on union fees, membership decline has had a detrimental impact on union organization. According to the non-profit organizations register, only 38 per cent of trade unions employed at least one employee. In most cases there was only one (Järve 2019). Even the confederation TALO has only one full-time employee (TALO 2020). Only twenty-three trade union organizations had more than one employee. As already explained, there may be some professional organizations that operate as general non-profit organizations that also have employees, and stronger organizations for which there are no data. In general, the capacity of trade unions in Estonia is very limited and so they must concentrate their resources.

According to the chair of EAKL, membership contributions from about 500 union members are needed to hire one full-time staff member. At a lower ratio of members per employee, a union cannot pay a competitive wage and members would not be interested in working as trade union officials. Estonian trade unions are very small and changes in trade union structure are difficult to implement. Even though there are many trade unions with fewer than 500 members they still operate as separate trade unions.

The main expenditure items for unions are office costs and payroll. Some larger trade unions offer additional security or support mechanisms to their members. These may include support, additional unemployment insurance, legal aid or additional insurance for sick days, which are the responsibility of employees in Estonia. EAKL also provides legal aid to some extent. The demand for legal aid at central level has declined somewhat. The reason for this is the change of union membership structure to larger companies and the focus on dialogue with employers. Peep Peterson, the current EAKL Chair, argues that where relations with the employer are strong and discussions take place there is no need for the trade union to provide legal assistance to members. The State Labour Inspectorate (TI, *Tööinspeksioon*) also provides free legal consultation in Estonia, which has also probably lowered demand for similar union services. Legal aid, however, is still an important part of trade union activities, and EMSA, for example, established a separate limited company for providing legal aid and training in 2016.

According to the chair of EAKL most trade unions, including EAKL, now have a strike fund. Strike funds are financed from unions' internal resources and are not publicly disclosed. The unions that have called strikes or issued strike threats have all created a strike fund. There are no

regulations or mutually agreed conditions concerning the size or use of strike funds and there is no overview of the amount of such funds.

To summarize, Estonian trade unions are small and their resources are scattered. Most trade unions do not have even one employee. As most trade unions depend entirely on members' fees, they have been adversely affected by membership decline. Some industry unions and confederations, however, have additional income from real estate management, employers or other activities.

## **Collective bargaining and unions at the workplace**

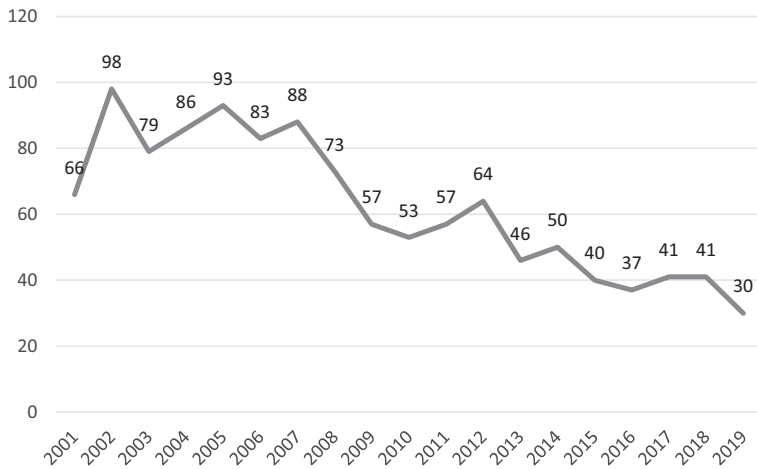
The decline in trade union membership has been accompanied by a decline in the number of collective agreements (Figure 9.6) as well as coverage. Each year fewer agreements are registered in the collective agreements register. Compliance with the obligation of registering signed agreements is likely to be less than complete, however, which might also partly explain the decline in registered agreements.<sup>2</sup>

Looking back over the preceding ten years shows that while union density was the same in 2019 as it was in 2008 (Figure 9.3), the number of concluded and registered collective agreements had declined by 40 or 59 per cent of the 2008 level (Figure 9.6).

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<sup>2</sup> For example, from a query to the Collective Agreements Register it appeared that the last collective agreement of which one signatory party was ETL (Theatre Union) was signed more than 10 years ago. From the ETL web page it appears that at least in 2017 some agreements were concluded in which ETL participated as a representative of the employees' side.

**Figure 9.6** Number of new collective agreements registered in the register of collective agreements, 2001–2019



Source: 2002–2015: Kaldmäe (2017: 76), based on register of collective agreements; 2016–2019: data forwarded to the author from the collective agreements register.

According to the Law on Collective Agreements (*Kollektiivlepingu seadus*) workplace collective agreements shall be entered into by the relevant trade union. If employees are not represented by a trade union an authorized employee representative shall sign the agreement. Usually, the agreement is concluded by the trade union, but there have also been cases in which an authorized representative elected by the general assembly of employees signed it (Kallaste 2019). With changes to trade union structure union representatives are increasingly likely to participate in collective bargaining at the workplace. At the same time, collective bargaining coverage has declined and there are fewer companies with collective agreements (Kallaste 2019).

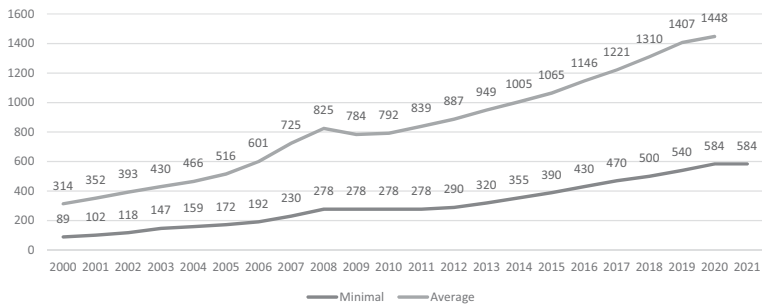
Collective bargaining takes place in Estonia at different levels. The principal level is still the company, where the highest proportion of collective agreements are concluded. Some bargaining takes place at industry level, but in several of these instances the industry comprises only one company. Although Estonia has very loose conditions for extending collective agreements (Kallaste 2019), there are extended agreements in only two industries: bus transport and medicine. Industry-level agreements are accompanied in transport by a second layer of company-level agreements.

During the 1990s, state-level collective agreements were wider than the minimum wage and often the signed agreements were tripartite. Some agreements also stipulated tax-exempt minimum incomes and details on labour policy financing (Taliga et al. 2002). Since the beginning of the 2000s, regular state-level collective bargaining has been bipartite and concentrates on the state minimum wage, which is agreed in a collective agreement and extended throughout the country. Regular bargaining on the minimum wage is conducted by the Estonian Employers' Confederation (ETK, *Eesti Tööandjate Keskliit*) and EAKL. Other issues have moved to the sphere of bipartite or tripartite social dialogue and result occasionally in agreements.

The minimum wage agreement is also enacted by Government decree, which always includes the same terms as agreed in the collective agreement. Thus, even though the collective agreement should be applied in its own right, it is enacted and thus reinforced through a decree. The minimum wage agreement has a wide-ranging impact on the labour market and also influences other fields through the benefits or taxes tied to the size of the minimum wage. For example, in many municipalities in Estonia the kindergarten fee for parents is linked to the minimum wage. The latest minimum wage agreement signed in 2019 stipulated the increase of the minimum wage to 40 per cent of the average wage in 2021. This would mean a monthly minimum wage of €571, given the forecast for the average wage of €1,428 in 2021. Taking into account the current economic crisis employers' and employees' confederations have proposed to freeze the minimum wage at the 2020 level (ETK 2020). With the rapid increase in the unemployment rate because of the Covid-19 pandemic the trade unions' focus has shifted from wage increases to job maintenance. Minimum wage increases have thus been halted.

The general principle is that in collective agreements only conditions that improve on those stipulated in the law are agreed (favourability principle). During the transformation from a planned to a market economy a large set of conditions were legally stipulated as mandatory to protect minimum working standards. This included working and rest time pauses, length of vacation, redundancy notice periods and pay. Therefore, the scope for collective bargaining became fairly narrow. In 2008 the new Employment Agreement Act (TLS, *Töölepingu seadus*) was passed, which introduced the possibility of agreeing different conditions from those stipulated in law if this is done in a collective agreement. As a result, some working and rest time conditions, and terms for advance notice of cancellation of individual employment contracts that differ from the



**Figure 9.7** Monthly national minimum gross wage and average gross wage (in euros), 2000–2021

Source: Average wage 2000–2008: Statistics Estonia web database, table PA5311; average wage 2009–2017: Statistics Estonia web database, table PA5211; average wage 2019–2020: Statistics Estonia web database, table PA001; minimum wage 2000–2020: Estonian Tax and Customs Board web page; minimum wage in 2021: ETK (2020).

legislation may be agreed in collective agreements. This has not created any significant additional interest in collective bargaining. The additional scope for conditions that could be agreed on more flexibly in collective agreements is under discussion with the government and employers in the retail trade. The other social partners, however, do not envisage that collective agreements should be the instrument that confer flexibility.

Collective agreements on wages, working and rest time conditions in Estonia usually apply to all employees in the workplace, regardless of their unionization. Free-riding is therefore a worrying problem for trade unions. A few means are available for using collective agreements with employers to promote unionization. The reasons for joining a trade union must usually lie elsewhere, including a sense of solidarity or common interests.

There have been attempts to restrict non-unionized employees benefits from collective agreements and to limit free-riding. In 2008 the Supreme Court ruled in the litigation between Estonian Railway Trade Union (*Eesti Raudteelaste Ametiühing*) and Estonian Railway AS that the employer has an obligation to apply the collective agreement to all employees, whether or not they belong to a trade union.<sup>3</sup> Applying a collective agreement

<sup>3</sup> Riigikohtu tsiviilkolleegiumi otsus 09. jaanuarist 2008 nr 3-2-1-133-07 MTÜ Eesti Raudteelaste Ametiühing kassatsioonkaebus Tallinna Ringkonnakohtu 31.08.2007. a otsusele.

only to employees belonging to a trade union is contrary to the prohibition of unequal treatment of employees. The Estonian Railway Trade Union had concluded a collective agreement with Estonian Railway AS that required the employer to collect a fee of 0.5 per cent of the monthly wage from non-unionized employees who want to be subject to the collective agreement. The employer had to transfer the collected fees into a solidarity fund managed by the trade union. The employer extended the agreement to all employees without collecting such a fee and the court ruled this to be lawful.

EMSA has implemented a number of successful practices to restrict the extension of collective agreement coverage to non-unionized employees. There are three types of practice in use and stipulated in collective agreements. The first is the provision whereby the employer and EMSA extend the collective agreement to non-EMSA employees if the employee has expressed such a wish in writing and to pay a collective agreement fee of 1 per cent of their wages. The second approach involves the employer paying annually into a welfare fund operated by the trade union. This approach does not directly motivate employees to unionize, but gives the union wider possibilities for supporting and organizing members. According to EMSA's annual accounts the support paid through this welfare fund operated by trade unions in 2019 was €79,600. This formed 16 per cent of collected membership dues. The third solution involves the collective agreement covering only union employees with the exception of some specific pay, working and rest time conditions that apply to all employees (Lember 2020). Thus, even though free-riding is hard to beat, trade unions have found ways of restricting collective agreements to union members only or to extend coverage by making non-union members pay for this directly or indirectly through the employer's welfare fund.

To summarize, the number of collective agreements has declined and most are still concluded at company level. There are collective agreements covering different levels: state-level minimum wage agreements, industry-level agreements and company-level agreements. In Estonia the prevalent attitude is that it is better to regulate by law than to leave important terms and conditions of employment to collective bargaining. Even the minimum wage is enacted through government decree. Some trade unions have been able to fight free-riding by restricting the extension of collective agreements to non-unionized employees.

## Industrial conflict

Estonian law regulates three types of strike activity: warning strikes, of up to one hour; support strikes, of up to three days' duration; and strikes proper. A support strike is allowed when a strike is already under way. Warning strikes must be announced three working days before they take place and support strikes by five working days. Strikes may be organized only if there is no industrial peace obligation and must be preceded by conciliation conducted by the Public Conciliator (*Riiklik lepitaja*). Strikes must be announced at least two weeks before they take place.

Strikes are fairly rare in Estonia and most industrial conflicts are resolved by Public Conciliation. All in all, during the whole period 2000–2020 there were only five strikes in Estonia: one strike by train drivers in 2004, two by teachers in 2003 and 2012, one by health care professionals in 2012 and one by Rakvere Lihakombinaat (HKScan) slaughterhouse workers in 2018. In addition, there was one strike organized by EAKL in 2012, which had wider scope and was not preceded by conciliation. This strike aimed to guarantee a balanced budget in unemployment insurance funds to stop the revision of the Employment Agreements Act (*Töölepingu seadus*) and to add amendments to the Collective Agreements Act demanded by the trade union confederation. This raised the question of the legality of strikes and the boundaries of political strikes, to which clear answers have yet to be found.

In addition to strikes, pickets are usually organized in combination with warning strikes or strikes, but sometimes without a strike. For example, in 2018 rescue workers organized a series of small pickets in order to ask for a pay rise from the state budget. On 19 September 2019 around twenty rescue workers gathered in front of the Government building in order to support their demand for higher wages within state budget negotiations and on 9 December 2019 they picketed in front of the Estonian Rescue Board. In 2016 medical workers launched a campaign that involved taking a pillow to their workplace to direct attention to their working and rest time conditions. Even though this was not organized by trade unions, it was an effective campaign.

While state-owned and state-financed industries such as education, health care, cultural and rescue workers mainly try to influence the government, in the private sector Nordic corporations are sometimes involved and, in these cases, support is sought from the headquarters

of the Nordic trade unions. In the case of Rakvere Lihakombinaat (HKScan), with the aid of the Finnish Food Workers' Union (SEL, *Suomen Elintarviketyöläisten Liitto*) a picket was organized in front of the headquarters of HKScan in Finland and working meetings held in three factories in Finland that brought about a 1–1.5 hour production stoppage (Herm 2018). This was organized to support the demands of the striking employees in Estonian meat processing plants. Similarly, the Finnish PAM (*Palvelualojen ammattiliitto*) supported workers who were having trouble in collective bargaining with the employer in Sokos Hotel Viru (Pealinn 2015). In the case of Nordea Bank a picket was organized in front of the bank's Swedish headquarters by the Estonian trade union without the help of the Nordic trade unions (Pealinn 2017). The efficiency of local and international pickets is not clear, but they certainly attract attention if done effectively.

## Political relations

Several leaders of trade union confederations joined political parties in the 1990s: Siim Kallas, who was the leader of EAKL in 1989–1991, became leader of the Reform Party (*Reformierakond*) from 1994 to 2004 and Estonian Prime Minister at the beginning of the 2000s. The leaders of EAKL during 1991–2000, Raivo Paavo, and 2000–2003, Kadi Pärnits, and the leader of ETTA in 1989–1992, Eiki Nestor, were members of the Social Democratic Party (*Sotsiaaldemokraadid*) and the two later individuals are still politically active. The current chair of EAKL, Peep Peterson, has been a member of the Social Democratic Party and the leader of their youth organization. Thus, more individual connections exist between the trade union movement and the Social Democratic Party than other political parties.

EAKL, however, has remained politically neutral since 2003. It entered into discussions with all political parties in order to put its own agenda onto their electoral platforms during recent parliamentary elections. In 2019 EAKL managed to negotiate with four parties out of six and concluded an agreement with three parties (Social Democratic Party, Eesti 200 and Central Party). The agreement was designed so that parties included themes from EAKL's proposals in their electoral platforms. For example, both the Social Democratic Party and the Central Party incorporated – with the same wording – the clauses from the agreement with the EAKL in their platform for the extension of unemployment insurance conditions

and the enhancement of the Estonian Unemployment Insurance Fund's capacity to offer career and training services.

Social dialogue involving trade unions is multifaceted in Estonia and includes several historical stages. The first stage ran up to the beginning of the 2000s and included several tripartite agreements on different national issues. At the beginning of the 2000s, the so-called Socio-Economic Council (*Sotsiaalmajandusnõukogu*) was founded to formalize social dialogue between different stakeholders. This, however, was not very effective, the council's role and power were not clear, and it quietly disappeared, being terminated in 2011 (statement by the Secretary of State 2011). At the same time, several tripartite boards were introduced for public bodies such as the Council of the Unemployment Insurance Fund (*Töötukassa*) and the Health Insurance Fund (*Haigekassa*). Also, trade union input was sought on different public policies. Thus, the official role provided by these boards and the government search for input into regulatory and policy design were the main forms of social dialogue. In recent years social dialogue in the form of regular tripartite meetings of EAKL, the Employers' Confederation and the Ministry of Social Affairs, as well as tripartite meetings with the Prime Minister, have been introduced. Meetings with the Minister of Social Affairs prepare the meetings with the Prime Minister and set the agenda for the following months. Meetings with the Minister of Social Affairs take place around one to two months apart and those with the Prime Minister quarterly. The themes are raised by both parties and cover different topical issues. Peep Peterson, the Chair of EAKL, argues that this kind of scheduled set-up ensures that social dialogue is more effective and makes it possible to raise issues spontaneously.

EAKL and the Employers' Confederation have had some bilateral negotiations and agreements in an effort to set policy, but they have not been very successful. An example of this bilateral approach concerns the extension mechanism for collective agreements. This has long been under discussion in Estonia. Some argue that it violates the Constitution as there is no possibility for non-unionized parties to contribute to the debate or acquire information about the conditions included in the agreement prior to its enactment and publication in official announcements (Kallaste 2019). At the beginning of 2018, the employers and union confederations concluded an agreement on how the parties should inform and consult all stakeholders in cases in which the agreement should be extended. In 2020 the Supreme Court ruled that the extension of

collective agreements to employers that are not members of the employers' association that concluded the agreement is not valid, stating in essence that the relevant clause of the act is not valid.<sup>4</sup> The reason is that an employer that is not a member of the employers' association that concluded the agreement had no possibility of finding out about the terms of the agreement or influencing them beforehand. The Supreme Court reviewed the situation and, with one dissenting opinion, did not consider the social partners' agreement on information and consultation conditions of extension. On 29 April 2021 the government introduced a draft amendment to the Collective Agreements Act to restrict the extension terms of collective agreements.

To conclude with trade unions' ties with political parties, these were stronger in the first years of Estonian independence. Currently, trade unions have no direct links to any political party and try to establish good dialogue and find common ground with a range of parties. Regular social dialogue in the form of social partners' tripartite meetings takes place with the current government. In addition, formal participation in tripartite boards, such as the Unemployment Insurance Fund and the Health Insurance Fund, gives the social partners an established role in policy making. Bipartite dialogue between the social partners, however, has a role through minimum wage negotiations. Outside that, however, it is rather formal. Their bipartite resolution on the extension of collective agreements was not even taken up by the Supreme Court when deciding on the conditions of extensions. This confirms the fears of those who demand legal regulation rather than bipartite agreements.

## Societal power

Project-based initiatives are the main form of trade union cooperation with other NGOs. Trade unions participate in a number of social movements with links to the labour market and employee working conditions. EAKL is currently negotiating with a coalition on the gender wage gap. This involves EAKL working with a number of NGOs campaigning for women's rights and work.

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<sup>4</sup> Riigikohtu tsiviilkolleegiumi otsus 15. juunist 2020 nr 2-18-7821 Aktsiaseltsi Temptrans kassatsioonkaebus Tallinna Ringkonnakohtu 30. oktoobri 2019. a otsusele.

Trade unions participate and influence employment, social and education policy also through their involvement in numerous commissions, committees and working groups. In addition to the abovementioned councils of the Unemployment Insurance Fund and the Health Insurance Fund, EAKL and TALO have appointed members sitting, for example, on the Estonian Qualifications Authority Council, the Adult Education Council, the Study on Estonian Labour Market, Today and Tomorrow (OSKA) (applied research surveys on sectoral needs for labour and skills) Coordination Council, and also the Monitoring Committee for the Operational Programme for Cohesion Policy.

At the industry level trade unions give their opinions and provide input to national industry regulation and policy projects and participate in the work of international organizations. In Estonia and internationally, demand for trade union information, consultation and participation is higher than trade union resources effectively allow. Thus, their societal power could be greater if trade unions' capacities were able to grow, but by the same token will decline even further if there is not structural change.

## **Trade union policies towards the European Union**

Even though Estonian trade unions are small and have restricted resources, international cooperation has been active in the direction of the EU, Nordic countries and the other Baltic countries. EAKL is a member of seven EU Commission advisory committees (including Safety and Health at Work, Freedom of Movement for Workers, Social Fund, Social Dialogue), the European Economic and Social Committee and the national boards of EU institutions such as Eurofound, the European Agency for Safety and Health at Work and the European Centre for the Development of Vocational Training.

EAKL cooperates closely with Latvian unions (Free Trade Union Confederation of Latvia) and enjoys slightly looser cooperation with Lithuanian unions (Lithuanian Trade Union Confederation). With Latvia, there are efforts to develop joint learning from best practices. It is harder to find common ground with Nordic countries, whose industrial relations systems are very different from those of the Baltic countries. Nordic trade unions also tend to keep international cooperation within narrow confines, for example in the case of discussions on European minimum wage initiatives.

At industry level industrial unions have their own international activities, which, in turn, are dependent on capacity. With small unions and few employees success depends on the specific persons involved and their abilities. Sometimes there are considerable shortcomings in language skills. Despite their small size, however, Estonian trade unions try to take part in international trade union meetings.

EAKL values cooperation and representation within the European Trade Union Cooperation (ETUC) highly. The ETUC's agenda corresponds to large extent to EAKL's interests, and cooperation and discussions with the European Commission are constructive. The ETUC has also sought support and cooperation together with EAKL from the Estonian government, which has also been important to all parties.

## **Conclusions**

Estonia is a very small country with low trade union membership, and this sets essential limits to the capacity of trade unions. As most trade unions depend almost entirely on union membership contributions, the decline of membership has had a detrimental impact. The movement from small company unions and associations of unions to industry-level organization and industry-level trade unions is an essential development if the potential of trade unionism is to be realized. Even though there are some signs of simplification of trade union structure and some revitalized interest in trade unions among academics, there has not yet been a revival in unionization rates. Although the presence of new unorganized groups of workers has been recorded by trade unionists, efforts to organize these groups have been minimal. At the same time, it must be noted that in Estonia most of 'traditional' employment is not organized.

In addition to the structural shift from company unionism to industry unionism, the mergers of the unions have to happen in order to create capacity for unions to act as capable partners to employers. There is no meaningful reason to keep two trade unions confederations, especially with such an unequal membership, financial and human resources. With small unions resources are scattered and union capability is severely limited.

The future of trade unions depends essentially on the changes that they are able and willing to bring about. Without essential changes to the structure of unions the current situation will continue as it has continued for around ten years now. Some industry unions or professional



unions with industry-wide activities have more power and capacity and will continue with their activities as they have done up to now while in the rest of the economy trade unions fade away. Confederal trade unionism in the form of EAKL will continue in its present form because the confederation has an alternative income to union dues and its input is demanded at national and international level. In 2020 there are not yet very clear signs to predict different outcome for trade unions in Estonia than has been the trend for the past ten years. Thus, the gradual phasing out continues or, in terms of Visser's (2019) four possible futures, the marginalization continues.

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All links were checked on 14 June 2021.

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## Abbreviations

<b>EAKL</b>	Estonian Trade Union Confederation ( <i>Eesti Ametiühingute Keskliit</i> )
<b>EAL</b>	Estonian Doctors Union ( <i>Eesti Arstide Liit</i> )
<b>EAJ</b>	Estonian Association of Journalists ( <i>Eesti Ajakirjanike Liit</i> )
<b>EEPU</b>	Estonian Educational Personnel Union ( <i>Eesti Haridustöötajate Liit</i> )
<b>EMSA</b>	Estonian Seamen's Independent Union ( <i>Eesti Meremeeste Sõltumatu Ametiühing</i> )
<b>EÓL</b>	Estonian Nurses Union ( <i>Eesti Ódede Liit</i> )
<b>ESTAL</b>	Estonian Association of Communications and Service Workers' Trade Unions ( <i>Eesti Side- ja Teenindustöötajate Ametiühingute Liit</i> )
<b>ETK</b>	Estonian Employers' Confederation ( <i>Eesti Tööandjate Keskliit</i> )
<b>ETKA</b>	Estonian Trade Union of Commercial and Servicing Employees ( <i>Teenindus- ja Kaubandustöötajate Ametiühing</i> )
<b>ETMAKL</b>	Food and Rural Workers' Trade Union Confederation ( <i>Eesti Toiduainete ja Maatöötajate Ametiühingute Keskliit</i> )
<b>ETTA</b>	Estonian Transport and Road Workers Trade Union ( <i>Eesti Transordi ja Teetöötajate Ametiühing</i> )
<b>ETUC</b>	European Trade Union Cooperation
<b>IMTAL</b>	Association of Industrial and Metal Workers' Trade Unions ( <i>Industriaal- ja Metallitöötajate Ametiühingute Liit</i> )
<b>KLS</b>	Collective Agreements Act ( <i>Kollektiivlepingu seadus</i> )
<b>LFS</b>	Labour Force Survey
<b>ROTAL</b>	Federation of the Trade Unions of State and Municipal Agencies Employees ( <i>Riigi- ja Omaavalitsusasutuste Töötajate Ametiühingute Liit</i> )

<b>TALO</b>	Estonian Employees' Unions' Confederation ( <i>Teenistujate Ametiliitude Keskorganisatsioon</i> )
<b>TI</b>	State Labour Inspectorate ( <i>Tööinspeksioon</i> )
<b>TLS</b>	Employment Contracts Act ( <i>Töölepinguseadus</i> )
<b>UNIVERSITAS</b>	Federation of the Estonian Universities UNIVERSITAS ( <i>UNIVERSITAS Eesti Kõrgkoolide, Teadus- ja Arendusasutuste Ametiliitude Ühendus</i> )