

Executive participation in Finland and the role of “ombudsman” in solving conflicts – New realities through EWCs

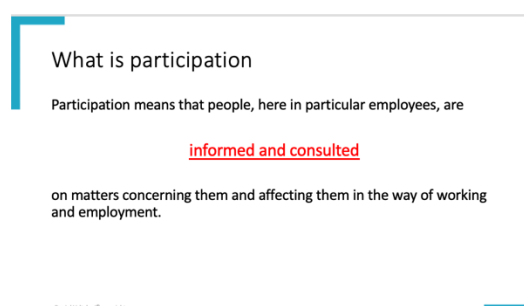
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What is participation

I have chosen to approach the concept of participation through the concept that means that people, here in particular employees, are informed and consulted on matters concerning them and affecting them in the way of working and employment.

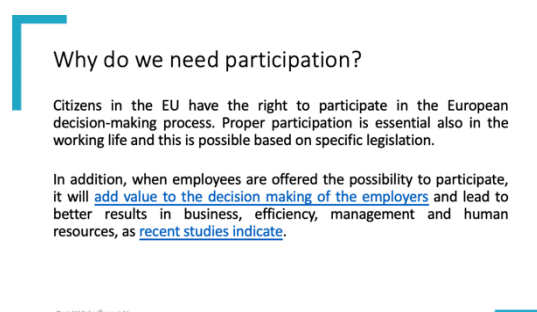


I have based this presentation on how solving conflict or avoiding conflicts in Finnish working life is done. Naturally, different countries have different ways of dealing with different situations even when we have some common legislation in the EU. Traditions are just as important as anything else.

I have included embedded links in the presentation should you like to get more detailed information about the linked topics. To access the links, you need to have the presentation in presentation mode.

Why do we need participation?

In our private lives in the EU we have the right to participate in the European decision-making process. I believe this is essential for every citizen in the EU. At the end of the day, the EU is also about the people living here. Proper participation is similarly essential also in the working life and this is possible based on specific legislation on EU and national level.



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It is also important to note that in addition, when employees are offered the possibility to participate in the decisions making, it will [add value to the decision making of the employers](#) and lead to better results in business, efficiency, management and human resources, as [recent studies indicate](#).

Executive participation – Finland

A step towards true information and consultation is the executive participation. This can be achieved on company boards or in the executive management teams. Representation on other levels, below these, can be an asset but cannot replace these in importance.

Executive participation – Finland

A step towards true information and consultation is the executive participation.

Employee representation on board level and in executive management teams should be considered an asset and a source of additional information for the best possible decision making in the company. In cases of potential conflicts the employee representatives can advise the management against action that might complicate the situation further.

In Finland employees can be represented at board level and in the executive management teams. The legal requirement is that the company has at least 150 employees and that the employees request the representation.

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Employee representation on board level and in executive management teams should be considered an asset and a source of additional information for the best possible decision making in the company. This means that the management should recognise the positive potential in the participation at this level. In cases of potential conflicts, the employee representatives can advise the management against action that might complicate the situation further.

In Finland employees can be represented at board level and in the executive management teams. The legal requirement is that the company has at least 150 employees and that the employees request the representation. Different countries have different thresholds.

When Executive participation is missing

When board level representation is missing or the employee numbers don't qualify for such, then the following options should be considered:

- The employees and management should agree on local and or company level how to establish executive participation in order to fully benefit from the mutual dialogue and feedback from the employees.
- The employees and management should also agree to establish a cooperation in the form of for example a group consisting of employer and employee representatives for a continuous and ongoing dialogue.

When Executive participation is missing

When board level representation is missing or the employee numbers don't qualify for such, then the following options should be considered:

- Agree on local/Company level to establish executive participation to fully benefit from the mutual dialogue and feedback from the employees.

- Establish a cooperation (group) consisting of employer and employee representatives for a continuous dialogue.

Both of these can be used in parallel and even when executive participation exists by legal requirements. The legal requirements in Finland ensures the existence of such cooperation (group) in any case when employee numbers exceed 20.

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Both of these can be used in parallel and even when executive participation exists by legal requirements. The legal requirements in Finland ensures the existence of such cooperation (group) in any case when employee numbers exceed 20. The executive board level or executive management team representation comes in addition to this. The matters dealt with are also somewhat different depending on the participation level. The executive participation is normally not as detailed as it can be on lower levels of participation. On the other hand, executive participation ensures participation in the decision making.

Benefits from executive participation

In Finland the executive participation can be based either on legal requirements or on a mutual agreement. The purpose is in all cases to have a fruitful dialogue that benefits employers as well as employees with the purpose of increased success.

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- Employers will have a direct feedback with the best arguments from the employees.
- Employees will be able to participate in decisions concerning them.
- The cooperation does/will not restrict the ability and rights of the employer to make decisions.

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- Employers will have a direct feedback with the best arguments from the employees as employees in many cases have such knowledge that may be harder to spot for the management.
- Employees will be able to participate in the decisions concerning them. This will provide important insight in how and why certain decisions have been made, especially in hard times. This will also provide a feedback channel towards the employees that will benefit everyone.
- The cooperation does/will not restrict the ability and rights of the employer to make decisions. The employees that are part of the participation process are bound by confidentiality rules and at the end the management has the prerogative to make the decisions they deem to be right for the future of the company and for successful business.

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The Cooperation Ombudsman – Finland

The [Cooperation Ombudsman](#) is a government institution headed by an ombudsman (government official and office) in Finland. The head of the office, the Ombudsman, is nominated for 5 years at the time and the labour market partners can express their opinion before the nomination.

The Cooperation Ombudsman - Finland

The [Cooperation Ombudsman](#) is a government institution headed by an ombudsman (government official and office) in Finland.

It is an institution based on the same principle as the [European Ombudsman](#) on European level and the concept of ombudsman comes from Finland.

The purpose is to offer an independent authority mainly for advisory purposes. However, the ombudsman can in some cases also use executive powers and even order fines if necessary.

The ombudsman is not a mediator, that is the role of another institution – [The National Conciliator](#).

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The Cooperation ombudsman is an institution based on the same principle as the [European Ombudsman](#) on European level and the concept of ombudsman comes originally from Finland.

The purpose of this concept is to offer an independent authority mainly for advisory purposes. However, the ombudsman can in some cases also use executive powers and even order fines if necessary. This can happen in cases where a company has not fulfilled its obligations despite advice from the Ombudsman.

It is also important to note that the Ombudsman is not a mediator, that is the role of another institution – [The National Conciliator](#). The National Conciliator mainly works with collective bargaining related conflict situations.

I have embedded links here for further reading on the topics.

Advantage having a cooperation ombudsman

The advantage of having an institution with an Ombudsman is that the Ombudsman and his office offers legal advice in order to find solutions for conflicts especially when a conflict in reality has no clear legal basis, like:

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The ombudsman offers legal advice in order to find solutions for conflicts especially when a conflict in reality has no clear legal basis, like:

- What the legislation commands (when it falls under the scope of the ombudsman).
- What rights and obligations the employees and employer have.
- If the cases are such that they fall under the scope of the *information and consultation procedure*.
- If some details are such that they cannot be handled by the EWC because of the stock exchange market legislation.

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- What the legislation commands (when it falls under the scope of the ombudsman). This can concern for example cooperation negotiations that are mandatory in Finland when significant changes happen at the workplace, like layoffs and changes in production processes.
- What rights and obligations the employees and employer have when negotiation on company level.

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- If the cases are such that they fall under the scope of the *information and consultation procedure*, for example matters related to EWCs.
- If some details are such that they cannot be handled by the EWC because of the stock exchange market legislation. Then the Cooperation Ombudsman will look at the material and make a ruling if the case is such that the EWC should or should not have access to that piece of information.

The European Works Council – EWC

The [EWC](#) is the European level representation of the employees in the EU and ETA countries as defined in the [European legislation](#). It is also an upper level partner on the European level for the employers. It is also an invaluable tool for the employees in the dialogue on the European level.

The European Works Council – EWC

The [EWC](#) is the European level representation of the employees in the EU and ETA countries as defined in the [European legislation](#). It is also an upper level partner on the European level for the employers.

The EWC is also a partner in a process of cooperation and for finding solutions to decisions concerning and affecting the employees.

The EWC can be compared to the Executive participation on national level, but now transferred to the transnational EU/ETA area.

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The EWC is also a partner in a process of cooperation and for finding solutions to decisions concerning and affecting the employees. A strong incentive is to contribute in such a manner as to ensure the rights and wellbeing of the employees as well as contribute with feedback for a proper and good decisions making by the management. This requires also an open information and consultation process.

The EWC can be compared to the Executive participation on national level, but now transferred to the transnational EU/ETA area. Despite technical differences the principal idea of cooperation and dialogue remains the same.

New realities through the EWCs

- Restructuring has become a continuous process and state of play
 - **The EWC can offer a continuous dialog**

This includes a permanent process of information and consultation and a trustworthy relationship between the partners.

- Working life is changing, including digitalisation and new ways to work

New realities through the EWCs

Examples

- Restructuring has become a continuous process and state of play
 - **The EWC can offer a continuous dialog**
- Working life is changing, including digitalisation and new ways to work
 - **The EWC can be a partner to discuss challenges and how to make the best**
- Productivity and efficiency are taken to the extreme
 - **The EWC can give feedback on challenges before they become too big**
- Employees skills and skill levels
 - **The EWC is in a position to advice where re- and up-skilling can best be focused**

The EWC has a strong interest in the success of the employer that ensures the best available working environment for the employees and that possible conflicts are avoided.

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- **The EWC can be a partner to discuss challenges and how to make the best**

The management and the employees share the same workplace, but they look at it, sometimes, through different windows. To get the best overall picture good and open cooperation is needed. When this works well then both the employees and the business will benefit.

- Productivity and efficiency are taken to the extreme

- **The EWC can give feedback on challenges before they become too big**

Employees, through their national and European level representatives, can act like an early warning system in order to spot and recognize challenges down to floor level before these become a true challenge for the company and its business.

- Employees skills and skill levels

- **The EWC is in a position to advice where re- and up-skilling can best be focused**

A well-functioning EWC has a good insight on what happens with the employees in different countries and on different levels. When it comes to re- and up-skilling this will support a timely and well directed process.

The EWC has a strong interest in the success of the employer that ensures the best available working environment for the employees and that possible conflicts are avoided. The idea of the EWC as an obstacle is outdated and not true in any way.

Bringing everything together

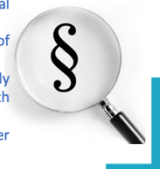
A successful solution on everyday challenges and problems requires the different parties and bodies to be brought together for an openminded dialog. The path towards the solution includes:

- Cooperation on all national and transnational levels. The legal framework is a support, but cooperation should be developed well beyond the legal requirements.
- The EWC as an instrument for the introduction of new realities. Employee knowledge and awareness should not be underestimated.

Bringing everything together

A successful solution requires the different parties and bodies to be brought together for an openminded dialog. The path towards the solution includes:

- Cooperation on all national and transnational levels. The legal framework is a support.
- The EWC as an instrument for the introduction of new realities.
- The legal way (to argue) is never the first and only option for achieving a better solution for both business and employees.
- Instead of a negotiator or mitigator a persuader may open a new path for finding the solution.



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- The legal way (to argue) is never the first and only option for achieving a better solution for both business and employees. When difficulties cannot be avoided then it both the employees and the management can approach the Cooperation Ombudsman for further advice and proposals for solutions.
- Instead of a negotiator or mitigator a persuader may open a new path for finding the solution. In a number of cases, at the end of the day, the issue may just be to have the parties talk the same “*language*”. Maybe just having somebody with no personal stake to participate can enable finding a solution that before that eluded the parties.

The Company, the EWC & the Ombudsman

In a cooperation between these parties we may together broker a solution in a conflict situation or a conflict that is about to arise. Challenges must be conquered and not just temporarily swept under the carpet or we may certainly stumble on the again the future.

The Company, the EWC & the Ombudsman

In a cooperation between these parties we may together broker a solution in a conflict situation or a conflict that is about to arise.

- The Company evaluates the available options for action.
- The EWC is informed and consulted on the options and may add additional options.
- The Ombudsman is facilitating the process with the legal guidance and by acting as an independent authority.

The objective of everyone is a well functioning working place and employer with a strong business !

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- The Company evaluates the available options for action based on business and strategy.
- The EWC is informed and consulted on the options and may add additional options. The dialogue with the management strengthens the decision making and provides a solid foundation for the future.
- The Cooperation Ombudsman is facilitating the process with the legal guidance and by acting as an independent authority. The availability of the Ombudsman should be a benefit must not be ignored.

The objective of everyone is a well-functioning working place and an employer with a strong business!