

# Workplace Investigations

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## 24. What next steps are available to the employer?



### Brazil

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If investigators conclude that a breach has occurred, the company may determine the appropriate response, which may include verbal or written warnings; the suspension of employment without payment (for up to 29 days) or termination of employment without or with cause; a review of policies or operational protocols; and new training modules or the updating of training modules.

If the investigators conclude that a breach has not occurred but determine that the report was made in good faith, the case must be set aside. If the investigators determine that the report was made in bad faith, the employer must determine how to respond to the bad-faith reporter.

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### Spain

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After the conclusion of the enquiry, a company may choose to:

- close the investigation without taking any additional action; or
- adopt disciplinary measures against the employee.

These could range from a verbal or written warning to the suspension of work and pay for a set period. Disciplinary dismissals are also possible, but they are reserved for very serious offences.

Note that any disciplinary measure will have to follow the procedures that might be established in the applicable collective bargaining agreement, such as informing employee representatives or following a grievance procedure before adopting the measure.

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If the investigation uncovers misconduct, the question arises as to what steps should be taken. Of course, the severity of the misconduct and the damage caused play a significant role. Furthermore, it must be noted that the cooperation of the employee concerned may be of decisive importance for the outcome of the investigation. The possibilities are numerous, ranging, for example, from preventive measures to criminal complaints.<sup>[1]</sup>

If individual disciplinary actions are necessary, these may range from warnings to ordinary or immediate termination of employment.

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<sup>[1]</sup> David Rosenthal et al., *Praxishandbuch für interne Untersuchungen und eDiscovery*, Release 1.01, Zürich/Bern 2021, p. 180 et seq.

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