

Workplace Investigations

Contributing Editors

Phil Linnard at Slaughter and May
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09. What additional considerations apply when the investigation involves whistleblowing?



Brazil

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If the investigation involves matters within the scope of a specific whistleblowing policy, the policy rules should prevail against the general investigation rules if there is a conflict.

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Switzerland

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If an employee complains to his or her superiors about grievances or misconduct in the workplace and is subsequently dismissed, this may constitute an unlawful termination (article 336, Swiss Code of Obligations). However, the prerequisite for this is that the employee behaves in good faith, which is not the case if he or she is (partly) responsible for the grievance.

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16. If there is a works council or trade union, does it have any right to be informed or involved in the investigation?



Brazil

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No, there is no such right.

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Switzerland

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In general, works councils and trade unions are not very common in Switzerland and there are no statutory rules that would provide a works council or trade union a right to be informed or involved in an ongoing internal investigation. However, respective obligations might be foreseen in an applicable collective bargaining agreement, internal regulations or similar.

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