

Workplace Investigations

Contributing Editors

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05. Can the employee under investigation bring legal action to stop the investigation?

Italy

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In principle, no. However, if the employee believes that, during the workplace investigation, there is a breach of his or her rights, he or she could act to protect them before the court (eg, through precautionary urgency proceedings under Article 700 of the Italian Civil Procedure Code).

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Switzerland

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The accused could theoretically request a court to stop the investigation, for instance, by arguing that there is no reason for the investigation and that the investigation infringes the employee's personality rights. However, if the employer can prove that there were grounds for reasonable suspicion and is conducting the investigation properly, it is unlikely that such a request would be successful.

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13. Can non-disclosure agreements (NDAs) be used to keep the fact and substance of an investigation confidential?

Italy

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Yes, in principle, NDAs can be used to keep the fact and substance of an investigation confidential, even if it is not strictly necessary (and not often done in our experience).

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In addition to the above-mentioned statutory confidentiality obligations, separate non-disclosure agreements can be signed. In an internal investigation, the employee should be expressly instructed to maintain confidentiality.

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