

# Workplace Investigations

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## 08. Can the employer search employees' possessions or files as part of an investigation?

### Poland

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It depends on whether the employer implemented rules of personal control at the workplace. If yes, such rules are applicable. If not, in our opinion if there is suspicion of a serious violation, it is possible to carry out an ad hoc inspection but its scope should be limited only to necessary activities and should not concern an employee's private files or correspondence, so as not to infringe on personal rights. If there is an ad hoc inspection, an employee should be informed in advance, and it should take place in the presence of the employee or employee's representative, observing the rules of fairness and equity.

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### Spain

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Please see question 7.

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The basic rule is that the employer may not search private data during internal investigations.

If there is a strong suspicion of criminal conduct on the part of the employee and a sufficiently strong justification exists, a search of private data may be justified.<sup>[1]</sup> The factual connection with the employment relationship is given, for example, in the case of a criminal act committed during working

hours or using workplace infrastructure.[\[2\]](#)

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[\[1\]](#) Claudia Fritsche, *Interne Untersuchungen in der Schweiz: Ein Handbuch für regulierte Finanzinstitute und andere Unternehmen*, Zürich/St. Gallen 2013, p. 168.

[\[2\]](#) Claudia Fritsche, *Interne Untersuchungen in der Schweiz: Ein Handbuch für regulierte Finanzinstitute und andere Unternehmen*, Zürich/St. Gallen 2013, p. 168 et seq.

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