

# Workplace Investigations

## Contributing Editors

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## 19. What if the employee under investigation raises a grievance during the investigation?



### Spain

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Spanish law does not regulate grievance processes and most companies do not have an internal grievance procedure. The only way in which an employee can formally challenge an investigation is by filing a lawsuit or lodging a claim with the Labour Inspectorate (see question 5).

To the extent that the company can show that the investigation is unrelated to the complaint (ie, that the investigation is not retaliation for filing the complaint), the claim should be seen as neutral from the perspective of the enquiry.

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### Switzerland

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In the context of private internal investigations, grievances initially raised by the employee do not usually have an impact on the investigation.

However, if the employer terminates the employment contract due to a justified legal complaint raised by an employee, a court might consider the termination to be abusive and award the employee compensation in an amount to be determined by the court but not exceeding six months' pay for the employee (article 336 paragraph 1 (lit. b) and article 337c paragraph 3, Swiss Code of Obligations). Furthermore, a termination by the employer may be challenged if it takes place without good cause following a complaint of discrimination by the employee to a superior or the initiation of proceedings before a conciliation board or a court by the employee (article 10, Federal Act on Gender Equality).

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