

Workplace Investigations

Contributing Editors

Phil Linnard at Slaughter and May
Clare Fletcher at Slaughter and May

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

France

Author: *Pascale Lagesse, Valentino Armillei*
at Bredin Prat

Neither the works council nor the trade unions have any right to be informed or involved in the investigation. It is the employer who is responsible for carrying out the investigation. However, when the investigation is triggered due to a works council issuing an alert relating in particular to a “serious and imminent danger”, one member of the works council must be involved in the investigation process.

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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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United States

Author: *Rachel G. Skaistis, Eric W. Hilfers, Jenny X. Zhang*
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Employers generally have no obligation to inform employees of their right to union representation or to ask if they would like a union representative present during the interview. Union employees may insist,

however, that a union representative attend any investigatory interview that could lead to the employee's punishment, although the union representative may not interfere with the interview.

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