

Workplace Investigations

Contributing Editors

Phil Linnard at Slaughter and May
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01. What legislation, guidance and/or policies govern a workplace investigation?

Germany

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There are no specific legislative requirements for workplace investigations in Germany. In 2020, the Federal Ministry of Justice presented a draft bill with regulations on internal investigations and, in particular, employee interviews. However, this law failed to pass under the previous government. The current government has announced it will take up this matter again and plans to create a precise legal framework for internal investigations. Details, timing and content remain to be seen.

Nevertheless, workplace investigations do not take place in a "lawless space". They must comply with the provisions of employment and data protection law. Further, criminal and corporate law aspects can play a role. Moreover, works council information and co-determination rights may have to be taken into account.

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Switzerland

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There is no specific legal regulation for internal investigations in Switzerland. The legal framework is derived from general rules such as the employer's duty of care, the employee's duty of loyalty and the employee's data protection rights. Depending on the context of the investigation, additional legal provisions may apply; for instance, additional provisions of the Swiss Federal Act on Data Protection or the Swiss Criminal Code.

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Vietnam

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There are no specific legislative requirements for workplace investigations in Vietnam. However, Labor Code No. 45/2019/QH14 dated 20 November 2019 (2019 Labor Code), which is currently the primary legislation governing employment relationships, requires employers that have more than ten employees to provide a mechanism and procedure for handling sexual harassment cases in the workplace. Other than that, an employer may incorporate policies and guidelines on how to deal with workplace investigations into its handbook.

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