

Workplace Investigations

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07. What data protection or other regulations apply when gathering physical evidence?

Finland

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Generally, the basic principles set out by the GDPR and the Finnish Data Protection Act apply to data processing in connection with investigations, including evidence gathering: there must be a legal basis for processing, personal data may only be processed and stored when and for as long as necessary considering the purposes of processing, etc.

Additionally, if physical evidence concerns the electronic communications (such as emails and online chats) of an employee, gathering evidence is subject to certain restrictions based on Finnish ePrivacy and employee privacy laws. As a general rule, an employee's electronic communications accounts, including those provided by the employer for work purposes, may not be accessed and electronic communications may not be searched or reviewed by the employer. In practice, the employer may access such electronic correspondence only in limited situations stipulated in the Act on Protection of Privacy in Working Life (759/2004), or by obtaining case-specific consent from the employee, which is typically not possible in internal investigations, particularly concerning the employee suspected of wrongdoing.

However, monitoring data flow strictly between the employee and the employer's information systems (eg, the employee saving data to USB sticks, using printers) is allowed under Finnish legislation, provided that employee emails, chats, etc, are not accessed and monitored. If documentation is unrelated to electronic communications, it also may be reviewed by the employer. Laptops, paper archives and other similar company documentation considered "physical evidence" may be investigated while gathering evidence on the condition that any private documentation, communications, pictures or other content of an employee are not accessed.

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Greece

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GDPR and the provisions of L. 4624/2019 regulate the gathering of physical evidence from a data protection perspective, providing, among other things, that personal data should be processed with transparency and to the extent necessary for the investigation.

L.4990/2022 on the protection of persons who report breaches of Union law regulates data protection issues in the context of whistleblowing investigations, mainly to safeguard confidentiality throughout the investigations.

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