

Workplace Investigations

Contributing Editors

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02. How is a workplace investigation usually commenced?

Belgium

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First, the employer should appoint an investigator or investigative team that will be responsible for conducting the investigation. Next, the employer or the investigators might think about communicating with the involved employees. It depends on the situation if this is a good idea or not. In general, it can be recommended that the employer is transparent towards the involved employees and openly communicates about the (start of the) investigation process. This is definitively the case if it is already clear that the involved employees are under scrutiny because of their actions. In this case, the actual investigation can begin with a hearing of the involved employees. However, if there is a risk that employees will hide or destroy evidence or will collude to prevent the employer from finding the truth, the investigation can also start without any communication. In this case, it would be better to start collecting evidence before hearing from the employees involved.

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Greece

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Internal investigations can be initiated either upon a complaint or report by an employee, (or other persons providing services or seeking employment, etc) in the workplace or by the employer as part of their managerial right.

If from an employee, the complaint or report may fall within the scope of an internal disciplinary procedure, if any, or may concern an alleged workplace violence or harassment incident, or fall within the scope of L.4990/2022 on the protection of persons who report breaches of Union law.

Reports by whistleblowers are submitted to the manager with responsibility for receiving and monitoring reports, a person appointed for that purpose under L.4990/2022. Complaints for incidents and harassment in the workplace can also be submitted, according to L.4808/2022, to the person or internal body

specifically assigned to receive such complaints. Both laws require the employer to define the persons competent for receiving and monitoring complaints or reports and notifying the employees *stricto sensu* and any other persons falling within the scope of the respective provisions.

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Switzerland

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Internal investigations are usually initiated after reports about possible violations of the employer's code of conduct, applicable laws or regulations have been submitted by employees to their superiors, the human resources department or designated internal reporting systems such as hotlines (including whistleblowing hotlines).

For an internal investigation to be initiated, there must be a reasonable suspicion (grounds).^[1] If no such grounds exist, the employer must ask the informant for further or more specific information. If no grounds for reasonable suspicion exists, the case must be closed. If grounds for reasonable suspicion exist, the appropriate investigative steps can be initiated by a formal investigation request from the company management.^[2]

^[1] Claudia Fritsche, *Interne Untersuchungen in der Schweiz: Ein Handbuch für regulierte Finanzinstitute und andere Unternehmen*, Zürich/St. Gallen 2013, p. 21.

^[2] Klaus Moosmayer, *Compliance, Praxisleitfaden für Unternehmen*, 2. A. München 2015, N 314.

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