

Workplace Investigations

Contributing Editors

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

21. How do you handle a parallel criminal and/or regulatory investigation?

Greece

Author: *Angeliki Tsatsi, Anna Pechlivanidi, Pinelopi Anyfanti, Katerina Basta*
at Karatzas & Partners

Incidents of violence and harassment may be dealt with by certain independent authorities, such as the Labour Inspectorate Body and the Greek Ombudsman. The former is competent to impose sanctions on the employer if there is a breach of the general prohibition of violence and harassment at the workplace and the obligation of employers regarding the prevention of such incidents and the obligation to adopt policies within the business. The Greek Ombudsman is competent to deal with disputes when there is violence or harassment in the workplace coupled with discrimination due to, for example, gender, age, disability, sexual orientation, religious beliefs, or gender identity. Moreover, the applicable legal framework^[13] stipulates that victims of violence and harassment are entitled to lodge a report before the Labour Inspectorate Body and the Greek Ombudsman. This is in addition to the judicial protection he or she may seek and the internal investigation procedure to which he or she may have recourse, without specifying whether internal proceedings may be suspended before the regulatory bodies decide on the matter.

On the other hand, the National Transparency Authority and in certain cases the Hellenic Competition Commission are external reporting channels for employees reporting breaches of Union law. In such cases, L.4990/2022 (article 11 paragraph 5) stipulates that the investigation before the National Transparency Authority is not suspended if reporting procedures before other regulatory authorities have been initiated.

Moreover, criminal investigations can run in parallel with internal probes.

^[13] Law 4808/2018 art.10

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Japan

Author: *Chisako Takaya*
at Mori Hamada & Matsumoto

It is possible to proceed with an investigation of a company even if there are concurrent criminal proceedings. It is up to the company to decide whether or not to proceed. The company may submit collected evidence collected to the police. The police will rarely disclose or provide the company with evidence they have collected. Usually, upon request by the police or regulator, the workplace investigation would be stayed. The police or regulator has to take legally required steps if compelling the employer to share evidence.

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Switzerland

Author: *Laura Widmer, Sandra Schaffner*
at Bär & Karrer

The actions of the employer may carry through to a subsequent state proceeding. First and foremost, any prohibitions on the use of evidence must be considered. Whereas in civil proceedings the interest in establishing the truth must merely prevail for exploitation (article 152 paragraph 2, Swiss Civil Procedure Code), in criminal proceedings, depending on the nature of the unlawful act, there is a risk that the evidence may not be used (see question 27 and article 140 et seq, Swiss Civil Procedure Code).

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Contributors

Greece

Angeliki Tsatsi
Anna Pechlivanidi
Pinelopi Anyfanti
Katerina Basta
Karatzas & Partners

Japan

Chisako Takaya
Mori Hamada & Matsumoto

Switzerland

Laura Widmer
Sandra Schaffner
Bär & Karrer