

Workplace Investigations

Contributing Editors

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

25. Who can (or must) the investigation findings be disclosed to? Does that include regulators/police? Can the interview records be kept private, or are they at risk of disclosure?

Greece

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In principle, there is no specific obligation for investigating persons to disclose their findings. For proceedings before a court that have been initiated or investigated by the police or competent regulatory bodies, the relevant findings may be communicated under strict conditions and provided that the personal data of the parties involved are not publicly disclosed.

More specifically, under L. 4490/2022, in the context of whistleblowing procedures, personal data and any information that leads, directly or indirectly, to the identification of the complainant are not disclosed to anyone other than employees involved in the investigation, unless the complainant consents. The identity of the complainant and any other information may only be disclosed in the context of investigations by competent authorities or judicial proceedings, to the extent necessary for the protection of the employee under investigation's rights of defence. Confidentiality obligations govern the procedure for revealing trade secrets to police and regulatory bodies, especially in the framework of L.4990/2022.

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Japan

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If it is information related to a crime, and if it is necessary to report it to the supervisory authority, it is necessary and possible to report it even if the content relates to personal information. There is no obligation to report to the police even if one is aware of a criminal fact. However, it is possible to use the results of an investigation to file a complaint or charge with the police. It is also possible to use the results of the investigation to realise the company's rights (eg, to claim damages based on tortious behaviour).

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Switzerland

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The employer is generally not required to disclose the final report, or the data obtained in connection with the investigation. In particular, the employer is not obliged to file a criminal complaint with the police or the public prosecutor's office.

Exceptions may arise, for example, from data protection law (see question 22) or a duty to release records may arise in a subsequent state proceeding.

Data voluntarily submitted in a proceeding in connection with the internal investigation shall be considered private opinion or party assertion.^[1] If the company refuses to hand over the documents upon request, coercive measures may be used under certain circumstances.^[2]

^[1] Oliver Thormann, Sicht der Strafverfolger – Chancen und Risiken, in: Flavio Romero/Claudio Bazzani (Hrsg.), *Interne und regulatorische Untersuchungen*, Zürich/Basel/Genf 2016, p. 123.

^[2] Oliver Thormann, Sicht der Strafverfolger – Chancen und Risiken, in: Flavio Romero/Claudio Bazzani (Hrsg.), *Interne und regulatorische Untersuchungen*, Zürich/Basel/Genf 2016, p. 102 et seq.

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