

Workplace Investigations

Contributing Editors

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

01. What legislation, guidance and/or policies govern a workplace investigation?

Greece

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In Greece, workplace investigations are not heavily regulated.

However, internal disciplinary procedures are governed by certain general principles, while there is also legislation regulating certain aspects of investigations opened in the context of whistleblowing procedures or concerning complaints for workplace violence or harassment. These include Law 4990/2022, which transposed EU Directive 2019/1937 into Greek Law; and Law 4808/2021, which ratified the ILO's Violence and Harassment Convention, 2019 (No190) and introduced relevant provisions.

As far as disciplinary procedures in private-sector companies are concerned, employers that must have internal labour regulations in place (ie, those with more than 70 employees) or opt to adopt them voluntarily, can regulate the procedures themselves.

In the public sector, internal investigations are governed by disciplinary provisions included in the civil servant code.

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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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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?



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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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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 Romerio/Claudio Bazzani (Hrsg.), Interne und regulatorische Untersuchungen, Zürich/Basel/Genf 2016, p. 123.

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

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