

# Workplace Investigations

## Contributing Editors

*Phil Linnard at Slaughter and May*  
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## 08. Can the employer search employees' possessions or files as part of an investigation?



### Greece

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As a first step, the employer should ask for the employee's permission to access their possessions and files. Employment contracts and internal labour regulations may include provisions regarding an employer's access to employees' documents created and kept for business purposes or related to business activity.

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### Switzerland

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The basic rule is that the employer may not search private data during internal investigations.

If there is a strong suspicion of criminal conduct on the part of the employee and a sufficiently strong justification exists, a search of private data may be justified.<sup>[1]</sup> The factual connection with the employment relationship is given, for example, in the case of a criminal act committed during working hours or using workplace infrastructure.<sup>[2]</sup>

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<sup>[1]</sup> Claudia Fritsche, *Interne Untersuchungen in der Schweiz: Ein Handbuch für regulierte Finanzinstitute und andere Unternehmen*, Zürich/St. Gallen 2013, p. 168.

<sup>[2]</sup> Claudia Fritsche, *Interne Untersuchungen in der Schweiz: Ein Handbuch für regulierte Finanzinstitute und andere Unternehmen*, Zürich/St. Gallen 2013, p. 168 et seq.

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



### Greece

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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<sup>[13]</sup> 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.

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<sup>[13]</sup> Law 4808/2018 art.10

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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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