

# Workplace Investigations

## Contributing Editors

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## 18. What if unrelated matters are revealed as a result of the investigation?

### Greece

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If any unrelated matters are revealed as a result of an investigation and are of legal importance, the applicable legal provisions must be implemented and any relevant policies or agreements between the involved parties should be taken into account. For example, if the reporting procedure sheds light on other criminal acts, criminal law procedure may be followed if the matter is reported to the competent authorities.

If these unrelated matters fall under the ambit of another company's policies, the relevant procedures may also be followed separately. However, the employee under investigation must be allowed to defend him or herself, otherwise he or she may raise complaints relating to the procedural guarantees of the investigation.

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### Switzerland

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There are no regulations in this regard in the Swiss employment law framework. However, in criminal proceedings, the rules regarding accidental findings apply (eg, article 243, Swiss Criminal Procedure Code for searches and examinations or article 278, Swiss Criminal Procedure Code for surveillance of post and telecommunications). In principle, accidental findings are usable, with the caveat of general prohibitions on the use of evidence.

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## 22. What must the employee under investigation be

# told about the outcome of an investigation?



## Greece

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The employer has an obligation, towards the alleged victim but also the alleged perpetrator, to carefully investigate the report and any existing evidence before making decisions. The employee under investigation must be informed about the outcome of the procedure and any measures adopted in this regard. The respective decision must have due justification.

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## Switzerland

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Workplace investigations often result in an investigation report that is intended to serve as the basis for any measures to be taken by the company's decisionmakers.

The employee's right to information based on article 8, Swiss Federal Act on Data Protection also covers the investigation report, provided that the report and the data contained therein relate to the employee.<sup>[1]</sup> In principle, the employee concerned is entitled to receive a written copy of the entire investigation report free of charge (article 8 paragraph 5, Swiss Federal Act on Data Protection and article 1 et seq, Ordinance to the Federal Act on Data Protection). Redactions may be made where the interests of the company or third parties so require, but they are the exception and must be kept to a minimum.<sup>[2]</sup>

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[1] Arbeitsgericht Zürich, Entscheide 2013 No. 16; Roger Rudolph, Interne Untersuchungen: Spannungsfelder aus arbeitsrechtlicher Sicht, SJZ 114/2018, p. 393 et seq.

[2] Roger Rudolph, Interne Untersuchungen: Spannungsfelder aus arbeitsrechtlicher Sicht, SJZ 114/2018, p. 394.

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