

Workplace Investigations

Contributing Editors

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

05. Can the employee under investigation bring legal action to stop the investigation?

Finland

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The employee does not have a legal right to stop the investigation. The employer must fulfil its obligation to investigate the alleged misconduct.

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Portugal

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The employee under investigation can only bring legal action after the investigation is finished and if the employer has applied a disciplinary sanction.

According to article 329(7) of the Portuguese Labour Code, the employee may submit a complaint to the immediate superior officer that applied the sanction or may resort to a dispute resolution procedure as provided for by the applicable collective bargaining agreements or the law (this is uncommon, however).

Furthermore, should a company dismiss an employee in breach of the legal requirements described above, the latter may take legal action against the company within 60 days of the date of termination of his or her employment agreement. The employee may also choose to file a preliminary injunction against the employer seeking immediate (albeit provisional) reinstatement.

Notwithstanding this, if the employee can prove that they suffered damages as a result of being subject to an abusive and illegal investigation, they may file a complaint with the Labour Authorities or bring a claim against the employer and demand the payment of compensation for the damages caused.

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