

# Workplace Investigations

## Contributing Editors

*Phil Linnard at Slaughter and May*  
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### **06. Can co-workers be compelled to act as witnesses? What legal protections do employees have when acting as witnesses in an investigation?**

#### Belgium

Author: *Nicolas Simon*  
at Van Olmen & Wynant

Employees cannot be forced by their employer to act as a witness. If they decide to nonetheless testify as a witness, they do not, in principle, have particular rights. If the employee puts himself in a difficult or even dangerous position to act as a witness, it is up to the employer to offer the necessary protection or take measures to prevent any harm (eg, by keeping the identity of the witness confidential or by planning the hearing at a place or time when the employees involved are not aware of it).

However, this is not the case for whistleblowing reports, where a witness might be seen as a “facilitator” who can receive protection against any retaliation by the employer.

Also, workers who were direct witnesses to official allegations of sexual harassment, violence or bullying at work are protected against retaliation by the employer. This also applies to witnesses in court.

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### **14. When does privilege attach to investigation materials?**

#### Belgium

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If the investigation is conducted by a prevention advisor, the investigation and the prevention advisor are bound and protected by a professional duty of confidentiality.

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