

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?



India

Author: *Atul Gupta, Kanishka Maggon, Kopal Kumar*
at Trilegal

An employee has very limited ability to bring legal action to stop the investigation, as no disciplinary measure is taken against an individual during the investigation stage. The risk of claims or disputes generally arises after the employer has taken disciplinary measures against the individual.

An employee could, however, bring claims in some circumstances – for example, if the individual has been suspended without pay, or if the individual's assets have been seized as part of the investigation without following due process. Therefore, it is critical that robust internal guidelines are framed that lay out the framework to follow in investigations to mitigate the risk of legal claims or disputes.

Last updated on 15/09/2022



Poland

Author: *Wioleta Polak, Aleksandra Stępniewska, Julia Jewgraf*
at WKB Lawyers

This is unlikely. Theoretically, an employee can file a claim against an employer concerning the infringement of personal rights in the course of an investigation and a motion to secure his or her claims, which would consist of an employer being forced to suspend the proceedings, but in practice we have not encountered such a situation.

Last updated on 20/04/2023



Switzerland

Author: *Laura Widmer, Sandra Schaffner*
at Bär & Karrer

The accused could theoretically request a court to stop the investigation, for instance, by arguing that there is no reason for the investigation and that the investigation infringes the employee's personality rights. However, if the employer can prove that there were grounds for reasonable suspicion and is conducting the investigation properly, it is unlikely that such a request would be successful.

Last updated on 15/09/2022

Contributors



India

Atul Gupta
Kanishka Maggon
Kopal Kumar
Trilegal



Poland

Wioleta Polak
Aleksandra Stępniewska
Julia Jewgraf
WKB Lawyers



Switzerland

Laura Widmer
Sandra Schaffner
Bär & Karrer