

Workplace Investigations

Contributing Editors

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

24. What next steps are available to the employer?

Portugal

Author: *André Pestana Nascimento*
at Uría Menéndez - Proença de Carvalho

Once the preliminary investigation ends, the employer must decide whether or not, in its view, there are grounds to bring an accusation against the employee and enforce disciplinary action or if it should be dismissed due to a lack of evidence.

When the employer decides to enforce disciplinary action, the following sanctions may be applied:

- verbal warning;
- written warning;
- financial penalty;
- loss of holiday;
- suspension with loss of pay and length of service;
- dismissal with cause and without compensation.

The first five penalties are usually called conservatory sanctions, enabling the continuity of the employment relationship, as opposed to dismissal, which is deemed a measure of last resort.

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Switzerland

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

If the investigation uncovers misconduct, the question arises as to what steps should be taken. Of course, the severity of the misconduct and the damage caused play a significant role. Furthermore, it must be noted that the cooperation of the employee concerned may be of decisive importance for the outcome of the investigation. The possibilities are numerous, ranging, for example, from preventive measures to criminal complaints.^[1]

If individual disciplinary actions are necessary, these may range from warnings to ordinary or immediate termination of employment.

[1] David Rosenthal et al., Praxishandbuch für interne Untersuchungen und eDiscovery, Release 1.01, Zürich/Bern 2021, p. 180 et seq.

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Vietnam

Author: *Stephen Le, Trang Le*
at Le & Tran Law Corporation

After the completion of the investigation, the employer may:

- take the appropriate labour disciplinary action against the employee;
- proceed with legal action against the employee (eg, reporting the criminal violations of the employee to the proper authority or filing a civil lawsuit against the employee before the court); or
- adopting preventive or remedial measures on how to avoid these violations and to mitigate the damage to the company (eg, reviewing internal policies and conducting employee training).

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Contributors



Portugal

André Pestana Nascimento
Uría Menéndez - Proença de Carvalho



Switzerland

Laura Widmer
Sandra Schaffner
Bär & Karrer



Vietnam

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