

# Workplace Investigations

## Contributing Editors

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## 19. What if the employee under investigation raises a grievance during the investigation?



### South Korea

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at Kim & Chang

It is not uncommon for an employee under investigation to raise grievances during or after the investigation. Below are some examples of claims an employee may raise:

- that the company reviewed the employee's electronic data without obtaining the requisite consent;
- that witnesses or the company committed defamation in violation of the Criminal Code;
- that the employee was coerced to comply with the investigation in violation of the Criminal Code;
- that the employee was disciplined without just cause; or
- that the employee was harassed by other employees for providing information during the investigation.

The actions the company should take would vary depending on the grievance raised.

Last updated on 15/09/2022



### Sweden

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There are no formal rules or processes for handling grievances in Sweden. Depending on the nature of the grievance, such a complaint may also have to be investigated (unless the grievance is deemed to be trivial). This could, for example, be the case if the grievance concerns new or other work environment issues that the employer is obliged to investigate.

Last updated on 15/09/2022



### Switzerland

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In the context of private internal investigations, grievances initially raised by the employee do not usually have an impact on the investigation.

However, if the employer terminates the employment contract due to a justified legal complaint raised by an employee, a court might consider the termination to be abusive and award the employee compensation in an amount to be determined by the court but not exceeding six months' pay for the employee (article 336 paragraph 1 (lit. b) and article 337c paragraph 3, Swiss Code of Obligations). Furthermore, a termination by the employer may be challenged if it takes place without good cause following a complaint of discrimination by the employee to a superior or the initiation of proceedings before a conciliation board or a court by the employee (article 10, Federal Act on Gender Equality).

Last updated on 15/09/2022

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