

Workplace Investigations

Contributing Editors

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

03. Can an employee be suspended during a workplace investigation? Are there any conditions on suspension (eg, pay, duration)?

Switzerland

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

It is possible to suspend an employee during a workplace investigation.^[1] While there are no limits on duration, the employee will remain entitled to full pay during this time.

^[1] David Rosenthal et al., *Praxishandbuch für interne Untersuchungen und eDiscovery*, Release 1.01, Zürich/Bern 2021, p. 181.

Last updated on 15/09/2022

Thailand

Author: *Ratthai Kamolwarin, Norrapat Werajong*
at Chandler MHM

While an employee is being investigated by the employer, the LPA permits the employer to suspend that employee from work for the duration of the investigation, provided that the suspension can only be made when permitted by the work rules or an agreement related to the conditions of employment. Also, a suspension order must be made in writing and specify the offence and period of the suspension, which may not exceed seven days. Note that the employer must give a written suspension order in advance to the employee before the work suspension.

As aforementioned, the LPA only permits the employer to suspend the employee under investigation from work only for seven days. During the interim period of the suspension, the employer must pay the employee at the rate indicated in the work rules or the agreement reached between the employer and the employee, which must not be less than half of the employee's wages for a working day before his or her suspension. If the employer determines that the employee subject to investigation is not guilty following

the outcome, the employer must compensate the employee for outstanding wages from the date of suspension with 15% interest per annum.

In some complicated cases, a workplace investigation does not conclude within seven days, and, in which case the employer should consult with a legal advisor.

Last updated on 15/09/2022

16. If there is a works council or trade union, does it have any right to be informed or involved in the investigation?

Switzerland

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

In general, works councils and trade unions are not very common in Switzerland and there are no statutory rules that would provide a works council or trade union a right to be informed or involved in an ongoing internal investigation. However, respective obligations might be foreseen in an applicable collective bargaining agreement, internal regulations or similar.

Last updated on 15/09/2022

Thailand

Author: *Ratthai Kamolwarin, Norrapat Werajong*
at Chandler MHM

Thai labor laws do not require a workplace investigation to involve participation from trade unions or labour unions. However, it is possible for labour unions established under the Labor Relation Act BE. 2518 (1975) to submit a demand for a collective bargaining agreement (CBA) with employers to get a seat at the table. There was a case where a management union made a CBA with the employer wherein the president of the management union would be involved in any investigation of any manager, who is a union member, under investigation. In that case, the employer must comply with the CBA by informing the president and allowing the president to participate in the investigations.

Last updated on 15/09/2022

Contributors

Switzerland

Laura Widmer
Sandra Schaffner
Bär & Karrer

Thailand

Ratthai Kamolwarin
Norrapat Werajong
Chandler MHM

www.internationalemploymentlawyer.com