

Workplace Investigations

Contributing Editors

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

09. What additional considerations apply when the investigation involves whistleblowing?

Philippines

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Since there is no specific law that governs whistleblowing, matters that involve whistleblowing will be governed by company policy.

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Switzerland

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If an employee complains to his or her superiors about grievances or misconduct in the workplace and is subsequently dismissed, this may constitute an unlawful termination (article 336, Swiss Code of Obligations). However, the prerequisite for this is that the employee behaves in good faith, which is not the case if he or she is (partly) responsible for the grievance.

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18. What if unrelated matters are revealed as a result of the investigation?

Philippines

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If unrelated matters are revealed because of a workplace investigation, the employer may look into the new matter and then determine whether there are sufficient grounds to proceed with an administrative disciplinary process for the new matter.

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Switzerland

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There are no regulations in this regard in the Swiss employment law framework. However, in criminal proceedings, the rules regarding accidental findings apply (eg, article 243, Swiss Criminal Procedure Code for searches and examinations or article 278, Swiss Criminal Procedure Code for surveillance of post and telecommunications). In principle, accidental findings are usable, with the caveat of general prohibitions on the use of evidence.

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