iel **International Employment Lawyer**

## Workplace Investigations

## Contributing Editors

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

## 08. Can the employer search employees' possessions or files as part of an investigation?

### ✚ Switzerland

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

The basic rule is that the employer may not search private data during internal investigations.

If there is a strong suspicion of criminal conduct on the part of the employee and a sufficiently strong justification exists, a search of private data may be justified.[1] The factual connection with the employment relationship is given, for example, in the case of a criminal act committed during working hours or using workplace infrastructure.[2]

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[1] Claudia Fritsche, Interne Untersuchungen in der Schweiz: Ein Handbuch für regulierte Finanzinstitute und andere Unternehmen, Zürich/St. Gallen 2013, p. 168.

[2] Claudia Fritsche, Interne Untersuchungen in der Schweiz: Ein Handbuch für regulierte Finanzinstitute und andere Unternehmen, Zürich/St. Gallen 2013, p. 168 et seq.

Last updated on 15/09/2022

### ★ Vietnam

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

As part of an investigation, an employer may search the objects or files that are part of the company's property (eg, company or employers' laptops or phones for business purposes and emails or messages stored on the company's servers) without prior notice and without the need of the consent of the employee. However, the employer has no right to search an employee's personal possessions without consent.

To further avoid arguments or conflicts as to the right of ownership of a particular object or property, employers may specify in their internal policies, labour contracts, and handover documents what is to be

regarded as the company's assets and subject to a search in a workplace investigation.

Last updated on 25/09/2023

## Contributors

🇨🇭 **Switzerland**

Laura Widmer
Sandra Schaffner
*Bär & Karrer*

🇻🇳 **Vietnam**

Stephen Le
Trang Le
*Le & Tran Law Corporation*