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PROPOSED INDICATORS TO PREVENT, DETECT, AND REDUCE IMPUNITY RELATED TO RESULTS IN THE PROTECTION OF WHISTLEBLOWERS AND WITNESSES OF ACTS OF CORRUPTION

**EXPLANATORY NOTE**

This document is a guide or a set of non-binding guidelines, which are made available to member states, so that they may make use of it pursuant to their legal framework and at their discretion.

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# INTRODUCTION

**BACKGROUND**

The MESICIC Committee of Experts, at its Thirty-Fifth Meeting in March 2021, approved the *Methodology for Considering the System of Indicators to Prevent, Detect, and Eradicate Impunity for Acts of Corruption*,[[1]](#footnote-1) which establishes the procedure for the consideration and definition of those indicators, in successive phases, in order to comply with the mandate set forth in paragraph 49 of the Lima Commitment, *Democratic Governance against Corruption*, adopted at the Eighth Summit of the Americas.

In compliance with the first phase established in that Methodology, at its Thirty-Seventh Meeting, held in March 2022, the Committee adopted the Indicators to Prevent, Detect, and Eradicate Impunity for Acts of Corruption with Regard to Results of their Investigation, Prosecution, Adjudication, and Sentencing.**[[2]](#footnote-2)**

At that same meeting, in accordance with the aforementioned Methodology and, in particular, pursuant to the second phase provided for therein, the Committee tasked the Technical Secretariat with preparing a proposed set of indicators for the protection of whistleblowers and witnesses.

**SCOPE AND CONTENT OF THIS PROPOSAL**

This proposed set of indicators aims to develop the issues established for the second phase with respect to the protection of whistleblowers and witnesses of acts of corruption. In this respect, the proposed indicators take into account, among others, the provisions of the *Model Law to Facilitate and Encourage the Reporting of Acts of Corruption and to Protect Whistleblowers and Witnesses*.[[3]](#footnote-3)

It should also be noted that they are not binding, but constitute as a guide, and thererfore can be used, modified or complemented by States, in accordance with their particularities, as well as their legal framework and tradition. Consequently, they are for the internal use of each State as a tool for self-analysis and can be particularly useful for those agencies responsible for the protection of whistleblowers and witnesses of acts of corruption.

The indicators are divided into two sections: (a) indicators to determine the results of the protection of whistleblowers of acts of corruption,[[4]](#footnote-4) and (b) indicators to determine the results of the protection of witnesses of acts of corruption.**[[5]](#footnote-5)**

# PROPOSED INDICATORS TO PREVENT, DETECT, AND REDUCE IMPUNITY RELATED TO RESULTS IN THE PROTECTION OF WHISTLEBLOWERS AND WITNESSES OF ACTS OF CORRUPTION[[6]](#footnote-6)

## INDICATORS TO DETERMINE THE RESULTS OF THE PROTECTION OF WHISTLEBLOWERS OF ACTS OF CORRUPTION[[7]](#footnote-7)

1. Does your country have specific legislation on the protection of whistleblowers of acts of corruption? Yes ( ) No ( )
2. Does your country have legislation that only generally regulates the protection of whistleblowers of acts of corruption or is derived from various legal texts? Yes ( ) No ( )
3. Does it have a program[[8]](#footnote-8) for the protection of whistleblowers of acts of corruption?

Yes ( ) No ( )

1. Does it have an authority responsible for receiving complaints from whistleblowers of acts of corruption, for which protective measures may be available? Yes ( ) No ( )
2. Does it have an authority responsible for receiving requests from whistleblowers of acts of corruption, for which protective measures may be available? Yes ( ) No ( )
3. Does it have an authority responsible for granting protective measures that were requested for whistleblowers of acts of corruption? Yes ( ) No ( )
4. Does it have several authorities responsible for granting protective measures that were requested for whistleblowers of acts of corruption? Yes ( ) No ( )
5. Does the responsible authority have the necessary resources to carry out the actions related to the protection of whistleblowers of acts of corruption?[[9]](#footnote-9)

(a) Annual Regular Financial ResourcesYes ( )\_No ( )

(b) Human ResourcesYes ( ) No ( )

(c) Technological ResourcesYes ( ) No ( )

(d)Infrastructural ResourcesYes ( )\_No ( )

1. Total number of measures for the protection of whistleblowers[[10]](#footnote-10) of acts of corruption requested.[[11]](#footnote-11) [[12]](#footnote-12) \_\_\_\_\_\_\_\_\_\_
2. Total number of measures for the protection of whistleblowers of acts of corruption being processed. \_\_\_\_\_\_\_\_\_\_
3. Total number of measures for the protection of whistleblowers of acts of corruption granted. \_\_\_\_\_\_\_\_\_\_

**NOTE BY THE SECRETARIAT # 1:**

* ***Chile*** makes the following suggestion regarding indicator a(11):

"Chile proposes dividing this indicator into two; one, which measures the granting of the protection measure by the authority responsible for receiving the complaint (which may be the Public Prosecutors’ Office *[Ministerio Público]* or an administrative authority) and another indicator, which measures the subsequent granting or renewal of the precautionary protection measure by the judicial authority."

***Chile*** proposes an alternative wording on indicator a(11) that only affects the Spanish.

1. Total number of measures for the protection of whistleblowers of acts of corruption denied. \_\_\_\_\_\_\_\_\_\_

**NOTE BY THE SECRETARIAT # 2:**

* ***Chile*** makes the following suggestion regarding indicator a(12):

"As in the previous case, Chile suggests dividing the proposal so as to specify who denies the measure."

1. Total number of appeals or applications for review, where appropriate, filed against the refusal of the competent authority to grant protective measures to whistleblowers of acts of corruption.[[13]](#footnote-13) \_\_\_\_\_\_\_\_\_\_

**NOTE BY THE SECRETARIAT # 3:**

* ***Chile*** makes the following suggestion regarding indicator a(13):

"Chile suggests dividing this proposal in order to specify the competent authority, since sometimes there are appeals before the administrative authority and in other cases before the courts of justice."

1. Total number of decisions overturning the competent authority’s decision to deny protective measures to whistleblowers of acts of corruption. \_\_\_\_\_\_\_\_\_\_

**NOTE BY THE SECRETARIAT # 4:**

***Chile and Costa Rica*** make the following suggestions regarding indicator a(14):

* **Chile:** "Consistent with the previous comment, distinguish between a revocation that occurs in the administrative venue and one carried out by a higher court."
* **Costa Rica**: "As a stylistic matter, given that decisions and decision are used in the same sentence, Costa Rica suggests putting resolutions in a generic sense. However, it can be replaced by another term such as: cases or provisions."

1. Total number of decisions affirming the competent authority’s decision to deny protective measures to whistleblowers of acts of corruption. \_\_\_\_\_\_\_\_\_\_

**NOTE BY THE SECRETARIAT # 5:**

***Chile and Costa Rica*** make the following suggestions regarding indicator a(15):

* **Chile:** "Consistent with the previous comment, distinguishing between a revocation that takes place in the administrative venue and that carried out by a higher court."
* **Costa Rica**: "As a stylistic matter, given that decisions and decision are used in the same sentence, Costa Rica suggests putting resolutions in a generic sense. However, it can be replaced by another term such as: cases or provisions."

1. Total number of protective measures granted to whistleblowers in force. \_\_\_\_\_\_\_\_\_\_
2. Total number of protective measures granted to whistleblowers of acts of corruption in which extensions of the protective measures have been granted, if relevant. \_\_\_\_\_\_\_\_\_\_

**NOTE BY THE SECRETARIAT # 6:**

* ***Chile*** proposes the following alternative wording on indicator a(17):

a(17) "Total number of protection measures granted to whistleblowers ***whose term of protection has been extended***

17.a) "Total number of protection measures granted to whistleblowers of acts of ***criminal*** corruption***, whose term has been extended***"

17.b) "Total number of protection measures granted to whistleblowers of acts of ***administrative*** corruption***, whose term has been extended***"

* ***Mexico*** makes the following suggestion regarding indicator a(17):

"It would be considered appropriate to indicate whether the extension mentioned refers to the period of application of the measures. If so, a proposed addition is included for clarification."

"a(14) Total number of protective measures granted to whistleblowers of acts of corruption in which extensions of ***the period of application of*** the protection measures have been granted, if applicable".

1. Total number of protective measures granted to whistleblowers of acts of corruption that have concluded. \_\_\_\_\_\_\_\_\_\_

**NOTE BY THE SECRETARIAT # 7:**

* ***Chile*** makes the following suggestion regarding indicator a(18):

"Chile proposes dividing this indicator, in order to specify the reason for the termination: a) – Because the term for its validity expired; b) – Because of termination by the authority that granted it."

1. Number of whistleblowers[[14]](#footnote-14) of acts of corruption who have been granted the following protective measures, if available under the whistleblower protection measures:

**NOTE BY THE SECRETARIAT # 8:**

* ***Chile*** proposes the following alternative text for indicator a(19):

"Number of whistleblowers of acts of corruption who have been granted the following protective measures, ***in the event that they are contemplated in the regulations governing whistleblower protection measures***"

1. Total number of whistleblowers granted legal advice for matters related to the complaint of acts of corruption. \_\_\_\_\_\_\_\_\_\_

**NOTE BY THE SECRETARIAT #9:**

* ***Chile*** proposes the following alternative text for indicator a(19a):

"Total number of whistleblowers granted legal advice to ***assist them on the facts related to the complaint of to acts of corruption****"*

1. Total number of whistleblowers whose identity was made confidential during and/or following the proceedings into acts of corruption. \_\_\_\_\_\_\_\_\_\_

**NOTE BY THE SECRETARIAT # 10:**

* ***Chile*** proposes the following alternative text for indicator a(19b):

"Total number of whistleblowers whose identity was made confidential ***or who have been granted a change of identity*** during and/or after the process related to acts of corruption"

1. Total number of whistleblowers granted police protection. \_\_\_\_\_\_\_\_\_\_
2. Total number of whistleblowers granted a change of residence or concealment of their whereabouts. \_\_\_\_\_\_\_\_\_\_
3. Total number of whistleblowers granted medical assistance. \_\_\_\_\_\_\_\_\_\_

**NOTE BY THE SECRETARIAT # 11:**

* ***Guatemala*** proposes an alternative text for indicator a(19e) that only affects the Spanish version.

1. Total number of whistleblowers granted psychological assistance. \_\_\_\_\_\_\_\_\_\_

**NOTE BY THE SECRETARIAT # 12:**

* ***Guatemala*** proposes an alternative text for indicator a(19f) that only affects the Spanish version.

1. Total number of whistleblowers granted transfers of administrative unit within the agency, without diminishing their working conditions. \_\_\_\_\_\_\_\_\_\_
2. Total number of whistleblowers granted changes of workplace, without diminishing their working conditions. \_\_\_\_\_\_\_\_\_\_
3. Total number of whistleblowers granted paid leaves of absence. \_\_\_\_\_\_\_\_\_\_

**NOTE BY THE SECRETARIAT #13:**

***Chile*** proposes a new indicator following indicator a(19i):

"Total number of whistleblowers who have been granted an exemption from being subject to official qualification, during the period in which the case initiated as a result of their complaint remains in force"

1. Total number of whistleblowers granted protective measures other than the above. \_\_\_\_\_\_\_\_\_\_
2. Total number of whistleblowers[[15]](#footnote-15) who, with protective measures in place, suffered physical injury as a result of reporting acts of corruption. \_\_\_\_\_\_\_\_\_\_

1. Total number of whistleblowers who, with protective measures in place, lost their lives as a result of reporting acts of corruption. \_\_\_\_\_\_\_\_\_\_
2. Total number of whistleblowers who, with protective measures in place, were victims of harassment or workplace retaliation as a result of reporting acts of corruption. \_\_\_\_\_\_\_\_\_\_
3. Total number of individuals or authorities sanctioned for noncompliance with their duties and/or negligence in connection with the protection of whistleblowers of acts of corruption. \_\_\_\_\_\_\_\_\_\_

**NOTE BY THE SECRETARIAT # 14:**

* ***Chile*** makes the following suggestion regarding indicator a(23):

"Chile proposes dividing indicator 23 into three, since the proposed indicator only emphasizes the penalty imposed on the authority that did not comply with a protection measure. However, the focus of attention should be on áctica.uede incentivar una buena prncias de manera queender ambas. proteccia denunciacia. enunciantes de actos de corrupcithe whistleblower, which makes it necessary to add indicators that provide information on whether he/she was compensated or indemnified for that failure to comply."

a(23)"If the whistleblower suffered harm as a result of the complaint; or due to the failure to grant a timely measure of protection or failure to comply with the same:

a) - Is any type of redress in their favor contemplated in the regulations governing whistleblower protection measures? Yes No

b) Number of whistleblowers for whom some type of redress or compensation was granted.

c) Total number of persons or authorities penalized for non-compliance with their duties and/or negligence in actions related to the protection of whistleblowers of acts of corruption"

1. Total number of requests for mutual legal assistance[[16]](#footnote-16) received from other States in connection with the protection of whistleblowers of acts of corruption. \_\_\_\_\_\_\_\_\_\_

**NOTE BY THE SECRETARIAT # 15:**

* ***Chile*** makes the following suggestion regarding indicator a(24):

"Chile proposes underlining the term "received", in order to emphasize it, as those required by the reporting State are contemplated below."

1. Total number of requests for mutual legal assistance received from other States in connection with the protection of whistleblowers of acts of corruption that are still in process. \_\_\_\_\_\_\_\_\_\_
2. Number of countries that have not responded to requests for mutual legal assistance in connection with the protection of whistleblowers of acts of corruption. \_\_\_\_\_\_\_\_\_\_

**NOTE BY THE SECRETARIAT # 16:**

* ***Mexico*** makes the following comment regarding indicator a(26):

"Considering the objective of this indicator paper, Mexico notes that counting the number of countries that do not respond to a mutual legal assistance request would not be useful. However, it would be worth hearing what the Secretariat has to say on the matter."

* ***Chile*** makes the following comment andproposes an alternative text for indicator a(26):

"Given that the question first asks about mutual assistance requests received, indicator 26 could focus on that and a new indicator (26) could be created regarding requests filed.

Furthermore, considering that the information requested regards the number of requests received and not the States that have filed them, and given the wording of indicator 23, we could be faced with a State that has not answered multiple requests for mutual assistance, so that the figures would not match. Chile therefore proposes the following alternative texts proposed for the indicator in question."

"(26) Number of States that have not responded to requests for mutual legal assistance in connection with the protection of whistleblowers of acts of corruption."

"(26.a) "Total number of mutual legal assistance requests received in connection with the protection of whistleblowers of acts of criminal corruption, which have not been answered."

26.b) " Total number of mutual legal assistance requests received in connection with the protection of whistleblowers of acts of administrative corruption, which have not been answered."

1. Total number of favorable responses to mutual legal assistance requests received from other States in connection with the protection of whistleblowers of acts of corruption. \_\_\_\_\_\_\_\_\_\_
2. Total number of requests for mutual legal assistance received from other States in connection with the protection of whistleblowers of acts of corruption that were executed. \_\_\_\_\_\_\_\_\_\_

**NOTE BY THE SECRETARIAT # 17:**

* ***Mexico*** makes the following suggestion regarding indicators a(27) and a(28):

"With regard to questions 27 and 28, it is considered that it is not entirely clear what is to be understood by "favorable responses to mutual legal assistance requests" and by "requests for mutual legal assistance assistance...that were executed." For this institution, a favorable response or execution of the request for assistance would imply successful execution of a request for legal assistance. Thus, Mexico suggests keeping only one of these two questions, preferably question 28, since it appears to be better worded."

1. Total number of requests for mutual legal assistance received from other States in connection with the protection of whistleblowers of acts of corruption, in which the request was not executed. \_\_\_\_\_\_\_\_\_\_

**NOTE BY THE SECRETARIAT # 18:**

* ***Chile*** proposes the following alternative text for indicator a(29):

"*Total number of requests for mutual legal assistance received from other States in connection with the protection of whistleblowers of acts of corruption,* ***that were denied or not executed****."*

* ***Guatemala*** makes the following comment regarding indicator a(29):

"It should be taken into account that the execution of legal assistance may involve a bureaucratic administrative process, so it could be that mutual legal assistance has been granted but has not yet been fully executed".

* ***Mexico*** makes the following suggestion:

"Similar to the previous comment, it is considered that non-execution and denial of a request for mutual legal assistance are terms that convey the same idea as refusal, so Mexico suggests keeping only one of the questions, preferably question 29, which appears to be easier to understand."

1. Total number of responses denying requests for mutual legal assistance received from other States in connection with the protection of whistleblowers of acts of corruption. \_\_\_\_\_\_\_\_\_\_

**NOTE BY THE SECRETARIAT # 19:**

* ***Chile*** proposes the following alternative text for indicator a(30):

"Total number of ***requests for mutual legal assistance received from other States***, in connection with the protection of whistleblowers of acts of corruption, ***that were denied***."

1. Total number of requests for mutual legal assistance made to other States,[[17]](#footnote-17) in connection with the protection of whistleblowers of acts of corruption. \_\_\_\_\_\_\_\_\_\_

**NOTE BY THE SECRETARIAT # 20:**

* ***Chile*** makes the following comment and proposes the following alternative text for indicator a(31):

"In view of what has already been stated in relation to indicator 23, Chile proposes adding a new indicator after indicator 31:

31.a) "Total number of mutual legal assistance requests filed related to the protection of whistleblowers of acts of criminal corruption, that have not been answered."

31.b) "Total number of mutual legal assistance requests filed related to the protection of whistleblowers of acts of administrative corruption, that have not been answered."”

1. Total number of favorable responses to mutual legal assistance requests made to other States in connection with the protection of whistleblower of acts of corruption. \_\_\_\_\_\_\_\_\_\_
2. Total number of requests for mutual legal assistance made to other States, in connection with the protection of whistleblowers of acts of corruption that were executed. \_\_\_\_\_\_\_\_\_\_

**NOTE BY THE SECRETARIAT # 21:**

* ***Chile*** proposes the following alternative text for indicator a(33):

"Total number of requests for mutual legal assistance made to other States, in connection with the protection of whistleblowers of acts of corruption that were ***granted or*** executed."

* ***Mexico*** makes the following comment regarding indicators a(32) and a(33):

"The comment related to questions 27 and 28 is reiterated."

1. Total number of requests for mutual legal assistance made to other States, in connection with the protection of whistleblowers of acts of corruption that were not executed. \_\_\_\_\_\_\_\_\_\_

**NOTE BY THE SECRETARIAT # 22:**

* ***Chile*** proposes the following alternative text for indicator a(34):

"Total number of requests for mutual legal assistance made to other States, in connection with the protection of whistleblowers of acts of corruption that were ***not*** ***granted or*** executed."

* ***Guatemala*** makes the following comment regarding indicator a(34):

"As stated above, it is deemed necessary to take into account that due to the administrative procedure involved in the execution of legal assistance requested by another State, it may have been granted but not yet executed in its entirety".

* ***Mexico*** makes the following comment:

"The comment related to questions 29 and 30 is reiterated."

1. Total number of responses denying requests for mutual legal assistance made to other States, in connection with the protection of whistleblowers of acts of corruption. \_\_\_\_\_\_\_\_\_\_

**NOTE BY THE SECRETARIAT # 23:**

* ***Chile*** makes a comment and proposes an alternative text for indicator a(35):

"The figure to be measured is the number of denied requests, not responses."

"Total number of requests for mutual legal assistance made to other States, in connection with the protection of whistleblowers of acts of corruption **that were denied**"

**NOTE BY THE SECRETARIAT # 24:**

* The ***Dominican Republic*** makes the following suggestion regarding sections "A" and "B" of this proposal, as a complement to the indicators related to mutual legal assistance:

"In order to be in line with other international instruments that aim to ensure Comprehensive Protection Mechanisms through appropriate measures to protect Whistleblowers and Witnesses, we suggest incorporating this indicator, if there is still time to do so: ***Does your country have regional and inter-agency agreements to strengthen, promote, and guarantee the protection of whistleblowers and witnesses through the exchange of information and the strengthening of coordination among national whistleblower protection mechanisms?  Yes ( ) or No ( ).****"*

1. Does your country provide specialized training programs to officials with responsibilities on the protection of whistleblowers of acts of corruption? Yes( )\_ No ( )
2. How many officials with responsibilities on the protection of whistleblowers of acts of corruption receive annual specialized training? \_\_\_\_\_\_\_\_\_\_

**TECHNICAL NOTE BY THE SECRETARIAT # 25:**

* ***Chile*** proposes including a new indicator before indicator a(37), to read as follows:

"It has an agency in charge of specialized training on whistleblower protection for officials responsible for corruption matters."

## INDICATORS TO DETERMINE THE RESULTS OF THE PROTECTION OF WITNESSES OF ACTS OF CORRUPTION: [[18]](#footnote-18)

**NOTE BY THE SECRETARIAT # 26:**

* ***Chile*** makes the following comment for section "B":

"We defer to the indications we made regarding whistleblowers."

1. Does your country have specific legislation on the protection of witnesses of acts of corruption? Yes ( ) No ( )
2. Does your country have legislation that only generally regulates the protection of witnesses of acts of corruption or is derived from various legal texts? Yes ( ) No ( )
3. Does it have a competent[[19]](#footnote-19) authority to receive requests or complaints from witnesses of acts of corruption, for which protective measures may be available? Yes ( ) No ( )
4. Does it have an authority responsible for receiving complaints from witnesses of acts of corruption, for which protective measures may be available? Yes ( ) No ( )
5. Does it have an authority responsible for receiving requests from whistleblowers of acts of corruption, for which protective measures may be available? Yes ( ) No ( )
6. Does it have an authority responsible for granting protective measures that were requested for witnesses of acts of corruption? Yes ( ) No ( )
7. Does it have several authorities responsible for granting protective measures that were requested for witnesses of acts of corruption? Yes ( ) No ( )
8. Does the responsible authority have the necessary resources to carry out the actions related to the protection of witnesses of acts of corruption?[[20]](#footnote-20)

(a) Annual Regular Financial ResourcesYes ( )\_No ( )

(b) Human ResourcesYes ( ) No ( )

(c) Technological ResourcesYes ( ) No ( )

(d)Infrastructural ResourcesYes ( )\_No ( )

1. Total number of measures for the protection of witnesses[[21]](#footnote-21) of acts of corruption requested.[[22]](#footnote-22) [[23]](#footnote-23) \_\_\_\_\_\_\_\_\_\_
2. Total number of measures for the protection of witnesses of acts of corruption being processed. \_\_\_\_\_\_\_\_\_\_
3. Total number of measures for the protection of witnesses of acts of corruption granted. \_\_\_\_\_\_\_\_\_\_
4. Total number of measures for the protection of witnesses of acts of corruption denied. \_\_\_\_\_\_\_\_\_\_
5. Total number of appeals or applications for review, where appropriate, filed against the refusal of the competent authority to grant protective measures to witnesses of acts of corruption.[[24]](#footnote-24) **\_\_\_\_\_\_\_\_\_\_**
6. Total number of decisions overturning the competent authority’s decision to deny protective measures to witnesses of acts of corruption. **\_\_\_\_\_\_\_\_\_\_**

**NOTE BY THE SECRETARIAT # 27:**

* ***Costa Rica*** makes the following suggestion regarding indicator b(14):

"Style issue, given that decisions and decision are used in the same sentence. Costa Rica suggests putting resolutions in a generic sense. However, it can be replaced by another term such as: cases or provisions."

1. Total number of decisions affirming the competent authority’s decision to deny protective measures to witnesses of acts of corruption. \_\_\_\_\_\_\_\_\_\_

**NOTE BY THE SECRETARIAT # 28:**

* ***Costa Rica*** makes the following suggestion regarding indicator b(15):

"Style issue, given that decisions and decision are used in the same sentence. Costa Rica suggests putting resolutions in a generic sense. However, it can be replaced by another term such as: cases or provisions."

1. Total number of decisions granting protective measures to witnesses currently in force. \_\_\_\_\_\_\_\_\_\_

**NOTE BY THE SECRETARIAT # 29:**

* ***Costa Rica*** makes the following suggestion regarding indicator b(16):

"Eliminate the indicator because the same idea, better worded, is contained in the following indicator. From here on, if this indicator is removed, the numbering changes."

1. Total number of protective measures granted to witnesses in force. \_\_\_\_\_\_\_\_\_\_
2. Total number of protective measures granted to witnesses of acts of corruption in which extensions of the protective measures have been granted, if relevant. \_\_\_\_\_\_\_\_\_\_

**NOTE BY THE SECRETARIAT # 30:**

* ***Mexico*** makes the following suggestion regarding indicator b(18):

"With respect to this question, it would be considered appropriate to state whether the extension mentioned refers to the period of application of the measures. If so, a proposed addition is included to make this clearer."

"b(18) Total number of protective measures granted to witnesses of acts of corruption in which extensions of ***the period of application of*** the protection measures have been granted, if applicable."

1. Total number of protective measures granted to witnesses of acts of corruption that have concluded. \_\_\_\_\_\_\_\_\_\_
2. Number of witnesses[[25]](#footnote-25) of acts of corruption who have been granted the following protective measures, where appropriate:
3. Total number of witnesses granted legal advice for matters related to the complaint of acts of corruption. \_\_\_\_\_\_\_\_\_\_
4. Total number of witnesses whose identity was made confidential during and/or following the proceedings into acts of corruption. \_\_\_\_\_\_\_\_\_\_
5. Total number of witnesses in proceedings where methods were used to prevent the visual or aural identification of the witness (voice distorters, face coverings, etc.)

\_\_\_\_\_\_\_\_\_\_

1. Total number of witnesses who have been granted the benefit of the use of mechanical or technological procedures to avoid the physical participation of the witness in the proceedings (videoconferencing, teleconferencing, etc.). \_\_\_\_\_\_\_\_\_\_
2. Total number of witnesses whose identity have been changed through the issuance of new identity documents. \_\_\_\_\_\_\_\_\_\_
3. Total number of witnesses granted police protection. \_\_\_\_\_\_\_\_\_\_
4. Total number of witnesses granted a change of residence or concealment of their whereabouts. \_\_\_\_\_\_\_\_\_\_
5. Total number of whistleblowers granted monetary assistance for subsistence. \_\_\_\_\_\_\_\_\_\_
6. Total number of witnesses granted an alternate address for notifications issued as a part of the investigation proceedings. \_\_\_\_\_\_\_\_\_\_
7. Total number of witnesses that are in prison who have been granted special protection measures, such as separation from the rest of the prison population or confinement in special prisons or areas. \_\_\_\_\_\_\_\_\_\_
8. Total number of witnesses granted medical assistance. \_\_\_\_\_\_\_\_\_\_
9. Total number of witnesses granted psychological assistance. \_\_\_\_\_\_\_\_\_\_
10. Total number of witnesses granted transfers of administrative unit within the agency, without diminishing their working conditions. \_\_\_\_\_\_\_\_\_\_
11. Total number of witnesses granted changes of workplace, without diminishing their working conditions. \_\_\_\_\_\_\_\_\_\_
12. Total number of witnesses granted paid leaves of absence. \_\_\_\_\_\_\_\_\_\_
13. Total number of witnesses granted protective measures other than the above. \_\_\_\_\_\_\_\_\_\_
14. Total number of witnesses[[26]](#footnote-26) who, with protective measures in place, suffered physical injury as a result of reporting acts of corruption. \_\_\_\_\_\_\_\_\_\_
15. Total number of witnesses who, with protective measures in place, lost their lives as a result of reporting acts of corruption. \_\_\_\_\_\_\_\_\_\_
16. Total number of witnesses who, with protective measures in place, were victims of harassment or workplace retaliation as a result of reporting acts of corruption. \_\_\_\_\_\_\_\_\_\_
17. Total number of individuals or authorities sanctioned for noncompliance with their duties and/or negligence in connection with the protection of witnesses of acts of corruption. \_\_\_\_\_\_\_\_\_\_
18. Total number of requests for mutual legal assistance received from other States[[27]](#footnote-27) in connection with the protection of witnesses of acts of corruption. \_\_\_\_\_\_\_\_\_\_
19. Total number of requests for mutual legal assistance received from other States in connection with the protection of witnesses of acts of corruption that are still in process. \_\_\_\_\_\_\_\_\_\_
20. Number of countries that have not responded to requests for mutual legal assistance in connection with the protection of witnesses of acts of corruption. \_\_\_\_\_\_\_\_\_\_

**NOTE BY THE SECRETARIAT # 31:**

* ***Mexico*** makes the following comment regarding indicator b(27):

"Given the objective of this indicator paper, counting the number of countries that do not respond to a mutual legal assistance request would not appear to be useful. However, it would be worth hearing what the Secretariat has to say on the matter."

1. Total number of favorable responses to mutual legal assistance requests received from other States in connection with the protection of witnesses of acts of corruption. \_\_\_\_\_\_\_\_\_\_
2. Total number of requests for mutual legal assistance received from other States in connection with the protection of witnesses of acts of corruption that were executed. \_\_\_\_\_\_\_\_\_\_

**NOTE BY THE SECRETARIAT # 32:**

* ***Mexico*** makes the following suggestion regarding indicators b(28) and b(29):

"In relation to questions 28 and 29, it is considered that it is not entirely clear what is to be understood by "favorable responses to requests for assistance" and "requests for assistance...that were executed". For this institution, a favorable response or execution of the request for assistance would imply successful execution of a request for legal assistance. Mexico would therefore suggest keeping only one of these two questions, preferably question 29, since it is considered to be better worded."

1. Total number of requests for mutual legal assistance received from other States in connection with the protection of witnesses of acts of corruption that were not executed.

**NOTE BY THE SECRETARIAT # 33:**

* ***Guatemala*** makes the following comment regarding indicator b(30):

“Bear in mind that the execution of legal assistance may involve a bureaucratic administrative process, so it could be that mutual legal assistance has been granted but has not yet been fully executed."

* ***Mexico*** makes the following suggestion:

"As in the previous comment, it is considered that non-execution and denial of a request for legal assistance are terms that convey the same idea as refusal, so Mexico suggests keeping only one of the questions, preferably question 29, as it appears to be easier to understand."

1. Total number of responses denying requests for mutual legal assistance received from other States in connection with the protection of witnesses of acts of corruption. \_\_\_\_\_\_\_\_\_\_
2. Total number of requests for mutual legal assistance made to other States[[28]](#footnote-28) in connection with the protection of witnesses of acts of corruption. \_\_\_\_\_\_\_\_\_\_
3. Total number of favorable responses to mutual legal assistance requests made to other States in connection with the protection of witnesses of acts of corruption. \_\_\_\_\_\_\_\_\_\_
4. Total number of requests for mutual legal assistance made to other States, in connection with the protection of witnesses of acts of corruption that were executed. \_\_\_\_\_\_\_\_\_\_

**NOTE BY THE SECRETARIAT # 34:**

* ***Mexico*** makes the following suggestion regarding indicators b(33) and b(34):

"The comment related to questions 26 and 27 is reiterated."

1. Total number of requests for mutual legal assistance made to other States, in connection with the protection of witnesses of acts of corruption that were not executed.

**NOTE BY THE SECRETARIAT # 35:**

* ***Guatemala*** makes the following comment regarding indicator b(35):

"As stated above, it is considered necessary to bear in mind that due to the administrative procedure involved in the execution of legal assistance requested by another State, it may have been granted but not yet executed in its entirety."

* ***Mexico*** makes the following comment:

"The comment related to questions 28 and 29 is reiterated."

1. Total number of responses denying requests for mutual legal assistance made to other States, in connection with the protection of witnesses of acts of corruption. \_\_\_\_\_\_\_\_\_\_
2. Does your country provide specialized training programs to officials with responsibilities on the protection of witnesses of acts of corruption? Yes( )\_ No ( )
3. How many officials with responsibilities on the protection of witnesses of acts of corruption receive annual specialized training? \_\_\_\_\_\_\_\_\_\_

**NOTE BY THE SECRETARIAT # 36:**

* ***Chile*** makes the following general observation on the proposed indicators:

"As a general proposal, ***applicable to all the indicators in this document***, it would seem appropriate to make a breakdown of each one of them, distinguishing between corruption in the criminal sphere and corruption in the administrative sphere. This is because in countries such as Chile, where there is no single, general system for the protection of whistleblowers and witnesses of acts of corruption, the delivery of answers and/or figures in aggregate terms by the different agencies of the criminal and administrative systems involved could possibly differ considerably, so that a significant distortion could be generated in the results obtained and an erroneous perception of them.

Thus, it is suggested that each of the indicators contained in this document be considered twice: once for criminal corruption and once for administrative corruption.

Later on in these minutes, there are some examples of how this model can be applied."

**NOTE BY THE SECRETARIAT # 38:**

* ***Ecuador*** makes the following general comments on the proposed indicators:

*“*1. It would be important to define the periodicity of the measurement of the indicators (annual, bi-annual or other period). There are some indicators that do mention the periodicity, but most do not.

2. Although the indicators respond to quantitative measurements, it is suggested that each country identify certain qualitative responses to better explain the results obtained and enrich the data analysis. For example, specify the reasons for which protection measures were denied to whistleblowers or witnesses of acts of corruption; specify other protection measures different from those mentioned; specify the specialized training programs".

1. See *Methodology for Considering the System of Indicators to Prevent, Detect, and Eradicate Impunity for Acts of Corruption,* available at: <http://www.oas.org/en/sla/dlc/mesicic/docs/mesicic6_35reunion_metodologia_indicadores_ing.pdf>. [↑](#footnote-ref-1)
2. See *Indicators to Prevent, Detect, and Eradicate Impunity for Acts of Corruption with Regard to Results of Their Investigation, Prosecution, Adjudication, and Sentencing,* available at: <http://www.oas.org/en/sla/dlc/mesicic/docs/mesicic37_indicadores_ing.pdf>. [↑](#footnote-ref-2)
3. See *Model Law to Facilitate and Encourage the Reporting of Acts of Corruption and to Protect Whistleblowers and Witnesses* (“Model Law”), available at: <http://www.oas.org/juridico/pdfs/model_law_reporting.pdf>. [↑](#footnote-ref-3)
4. The proposed indicators in this section, in addition to referring to good-faith whistleblowers, could also apply to their family group as provided for in domestic law. [↑](#footnote-ref-4)
5. The proposed indicators in this section, in addition to referring to witnesses of acts of corruption, could also apply their family group as provided for in domestic law. [↑](#footnote-ref-5)
6. It is suggested a period of 5 years as the basis for measuring the indicators, which is the same time frame that the Committee has set in the recommendations made in country reports regarding results of acts of corruption. [↑](#footnote-ref-6)
7. The proposed indicators in this section, in addition to referring to good-faith whistleblowers of acts of corruption, could also apply to their family group as provided for in domestic law. For example, Article 2.c) of the Model Law defines *whistleblower* in the following terms: “Any person who informs the competent authority of the commission of an act which that person considers could be an act of corruption that is liable for administrative and/or criminal investigation.” Similarly, Article 2.e) of the Model Law defines *family group* in the following terms: “Spouse, partner, forebears, children, and siblings of the whistleblower or witness of acts of corruption.” In addition, as the aim is to protect the whistleblower and to prevent unlawful acts of pressure against him/her, exceptionally, if permitted by domestic law of the respective State, it may also include those persons that he/she indicates, because of the existence of personal or emotional ties, even when they are not recognized as a member of his/her family in domestic law. [↑](#footnote-ref-7)
8. For example, article 2.k) of the Model Law defines *program* in the following terms: “Public entity named “Program to Protect Whistleblowers and Witnesses of Acts of Corruption” responsible for enforcing and implementing certain provisions in this law.” [↑](#footnote-ref-8)
9. If a response is “no” to any of these indicators, the specific resource need should be quantified. [↑](#footnote-ref-9)
10. Include, if applicable, the family group benefiting from the protective measure. [↑](#footnote-ref-10)
11. In connection with this indicator and the following ones, set a five-year time frame as the base period for data preparation, which is the same time frame that the Committee has established in its recommendations on the results of acts of corruption formulated in the country reports. [↑](#footnote-ref-11)
12. This indicator is applicable to those States whose systems previously require a request for a protection measure, to subsequently process, grant, or deny the request. [↑](#footnote-ref-12)
13. For this indicator, attention must be paid to the legislation of each country with respect to appeals in this area, whether at the administrative level (appeals for reconsideration, appeal remedies, appeals for review) or at judicial venues. [↑](#footnote-ref-13)
14. Include, if applicable, the family group benefiting from the protective measure. [↑](#footnote-ref-14)
15. Include, if applicable, the family group benefiting from the protective measure. [↑](#footnote-ref-15)
16. For example, see Model Law, Article 50. [↑](#footnote-ref-16)
17. For example, see Model Law, Article 50. [↑](#footnote-ref-17)
18. The proposed indicators in this section, in addition to referring to witnesses of acts of corruption, could also apply to members of their family group as provided for in domestic law. For example, Article 2.g) of the Model Law defines *witness* in the following terms: “Any person with first-hand knowledge of facts relating to the commission of an act of corruption of an administrative and/or criminal nature who is willing to cooperate with the administration of justice.” Similarly, Article 2.e) of the Model Law defines *family group* in the following terms: “Spouse, partner, forebears, children, and siblings of the whistleblower or witness of acts of corruption.”. In addition, as the aim is to protect witnesses and to prevent unlawful acts of pressure against him/her, exceptionally, if permitted by domestic law of the respective State, it may also include those persons that he/she indicates, because of the existence of personal or emotional ties, even when they are not recognized as a member of his/her family in domestic law. [↑](#footnote-ref-18)
19. For example, article 2.b) of the Model Law defines *competent authority* in the following terms: “The public institution or institutions responsible for receiving requests for protective measures from whistleblowers and witnesses of acts of corruption, assessing them, and, where appropriate, granting them.” [↑](#footnote-ref-19)
20. f a response is “no” to any of these indicators, the specific resource need should be quantified. [↑](#footnote-ref-20)
21. Include, if applicable, the family group benefiting from the protective measure. [↑](#footnote-ref-21)
22. In connection with this indicator and the following ones, set a five-year time frame as the base period for data preparation, which is the same time frame that the Committee has established in its recommendations on the results of acts of corruption formulated in the country reports. [↑](#footnote-ref-22)
23. This indicator is applicable to those States whose systems previously require a request for a protection measure, to subsequently process, grant, or deny the request. [↑](#footnote-ref-23)
24. For this indicator, attention must be paid to the legislation of each country with respect to appeals in this area, whether at the administrative level (appeals for reconsideration, appeal remedies, appeals for review) or at judicial venues. [↑](#footnote-ref-24)
25. Include, if applicable, the family group benefiting from the protective measure. [↑](#footnote-ref-25)
26. Include, if applicable, the family group benefiting from the protective measure. [↑](#footnote-ref-26)
27. For example, see Model Law, Article 50. [↑](#footnote-ref-27)
28. For example, see Model Law, Article 50. [↑](#footnote-ref-28)