

Antitrust Compliance in Latin America

Compliance and Ethics Committee of the American Bar Association Antitrust Law Section (ABA)

Competition Center of the Adolfo Ibáñez University in Chile (CeCo)



AMERICAN BAR ASSOCIATION

Antitrust Law Section



What to do?

To this day it is still unclear how developed Latin American countries are in promoting and recognizing compliance programs and what is the level of complexity of antitrust compliance programs implemented by companies in the region.

- Key for prevention and detection.
- Measure the level of enforcement and importance of competition law.
- Detect room for improvements.

Quantitative survey

- 32 multiple-choice questions to practitioners.
- Selected practitioners from the Chambers & Partners' ranking.

Qualitative interview

- Comments on results and implications.
- One local authority and one practitioner of each country.



Warnings?



1. Attorneys and enforcers from **Argentina, Brazil, Chile, Colombia, Ecuador, Mexico, and Peru.**
2. Shows the **perception** and experience of a select and **small group** of practitioners.
3. There are **no similar studies** and therefore we cannot compare with other regions



<https://centrocompetencia.com/aba-ceco-antitrust-compliance-latin-america/>



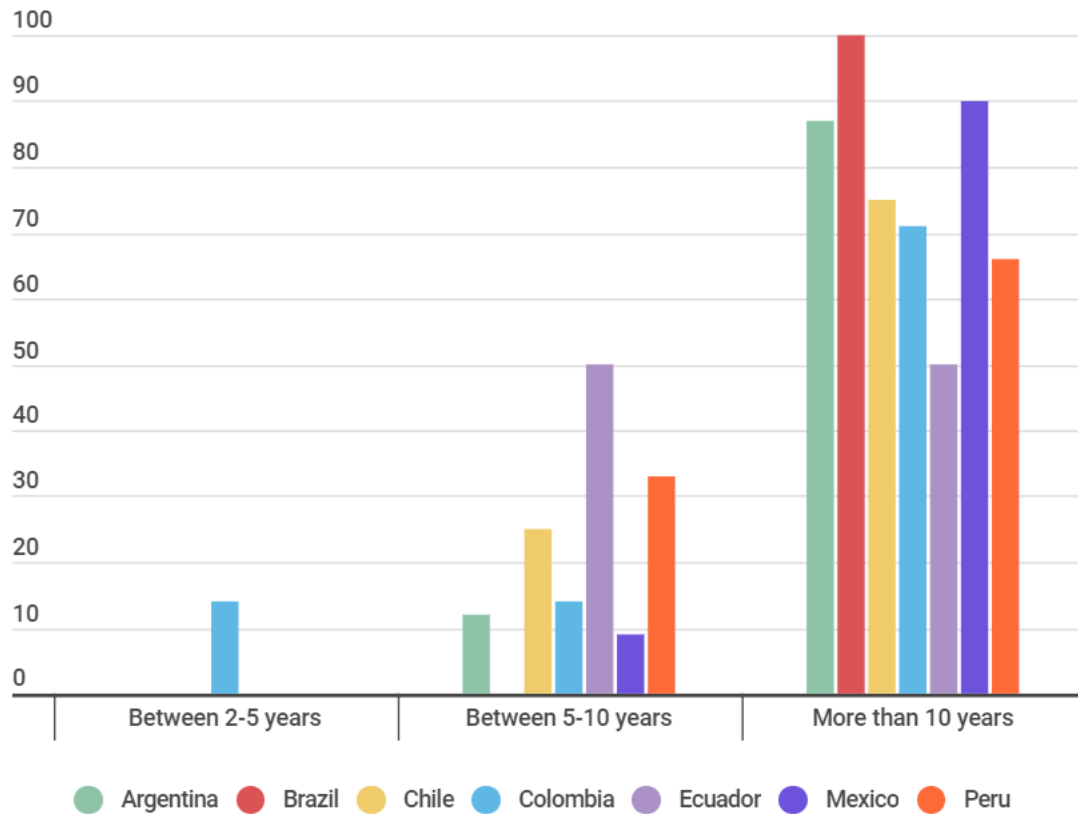
TABLE OF CONTENTS	
4	I. INTRODUCTION
5	II. METHODOLOGY
6	III. OVERALL RESULTS
9	IV. GENERAL INFORMATION
14	V. COMPLIANCE PROGRAMS REGULATION AND RECOGNITION
14	V.1 Antitrust regulation and judicial precedents on compliance programs
18	V.2. Benefits antitrust agencies could grant in relation to compliance programs
23	V.3. Attorney-client privilege protection of antitrust compliance reports
26	VI. CHARACTERISTICS AND LEVEL OF COMPLEXITY OF THE ANTITRUST COMPLIANCE PROGRAMS
26	VI.1 Interest of companies on implementing antitrust compliance programs
29	VI.2 Compliance programs as obligations or remedies
31	VI.3 Perception of the level of complexity of compliance programs in each country
35	VI.4 Elements that companies usually incorporate into compliance programs and the frequency on which they are implemented
42	VI.5 Use of forensic software, algorithms and artificial intelligence in antitrust compliance
45	VI.6 Influence of foreign regulation and implementation of antitrust compliance programs.
48	VII. CURRENT AND FUTURE DEVELOPMENTS
52	VIII. CONCLUSIONS
55	IX. REFERENCES
57	X. ANNEX
57	a. Elements usually included by country.
57	b. Characteristics compliance officers by country
58	c. Summary table by country
62	e. Complete questionnaire



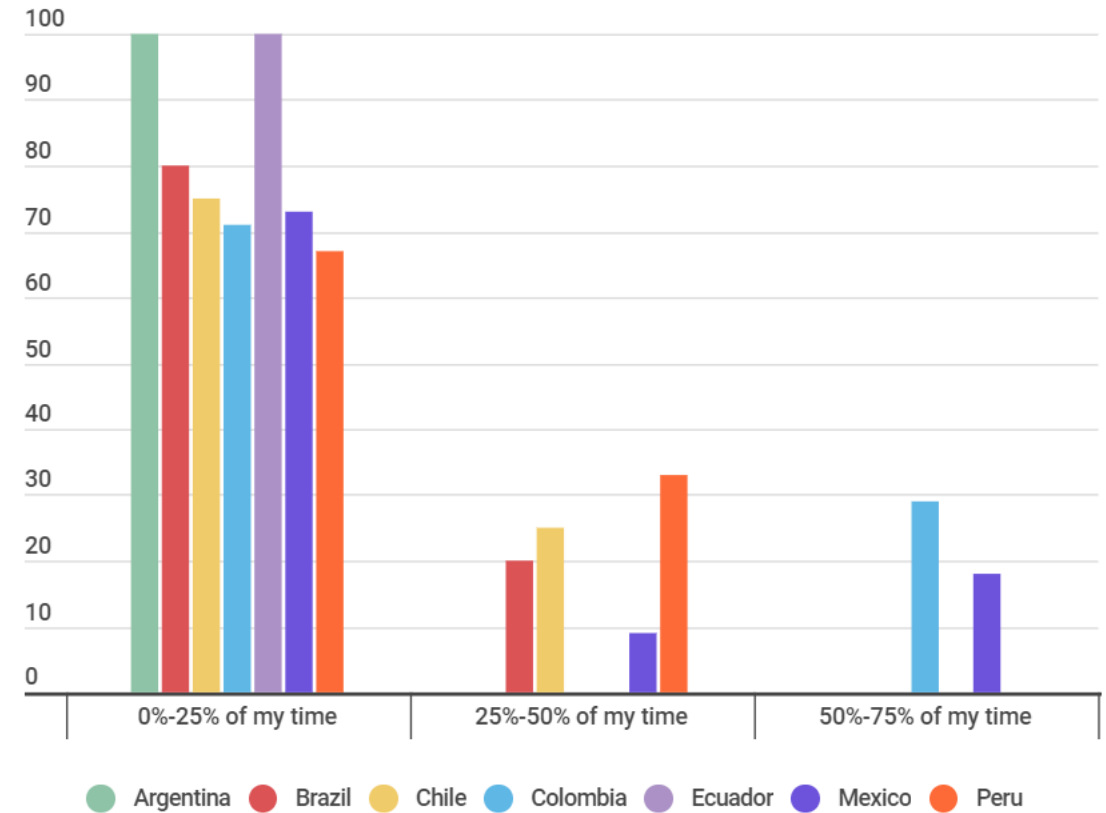
Characterization – Attorneys



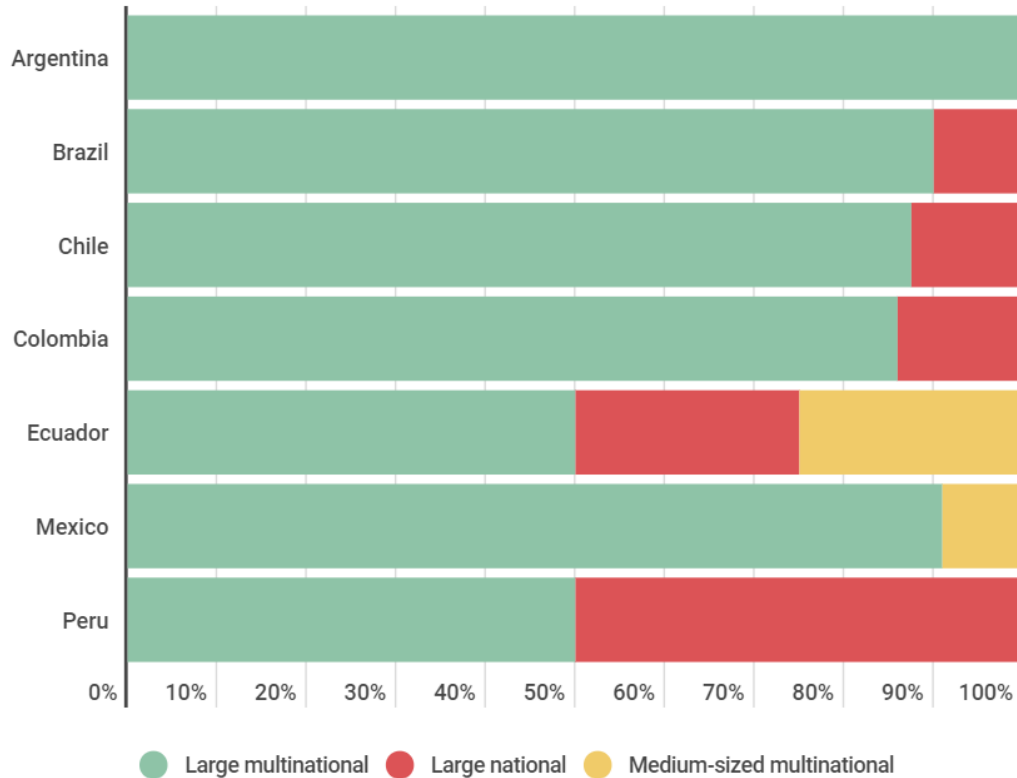
Years of experience by country



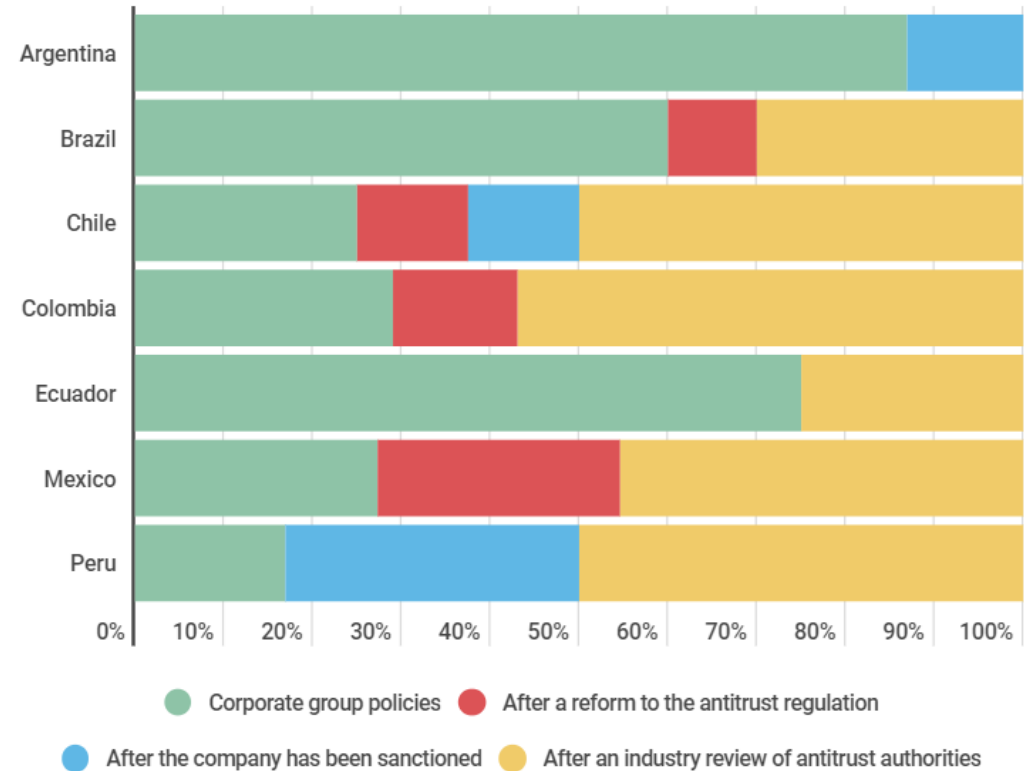
Time used developing antitrust compliance programs



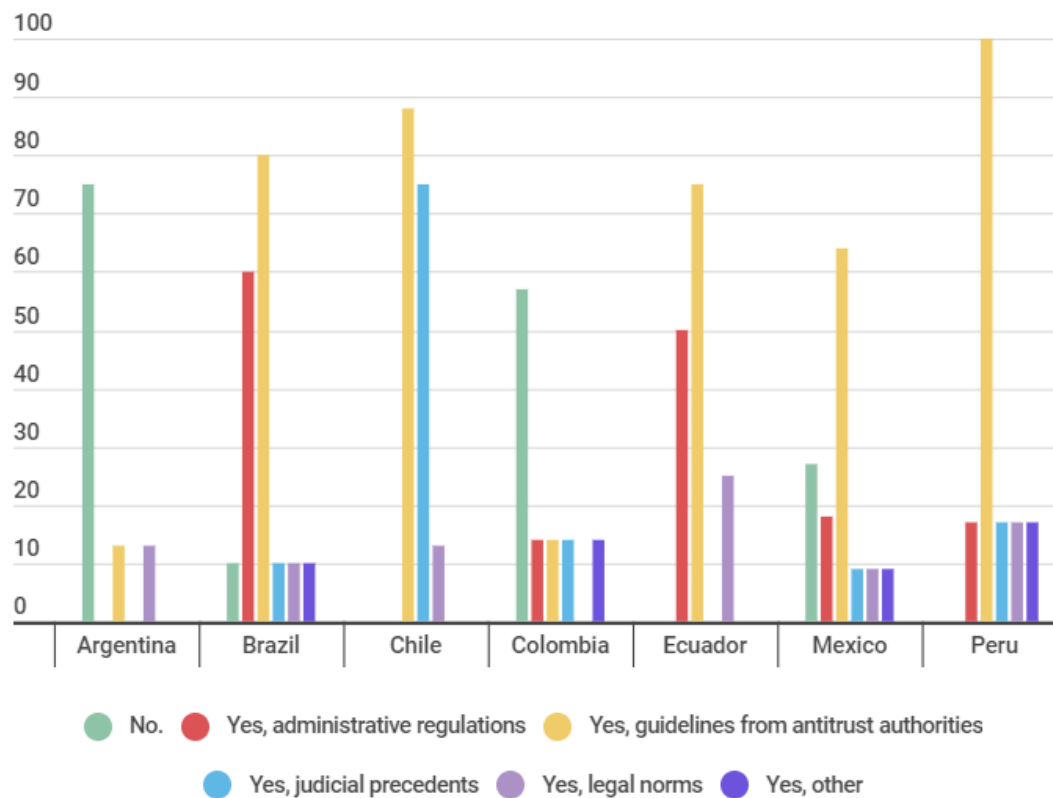
Greater interest in applying compliance programs by country



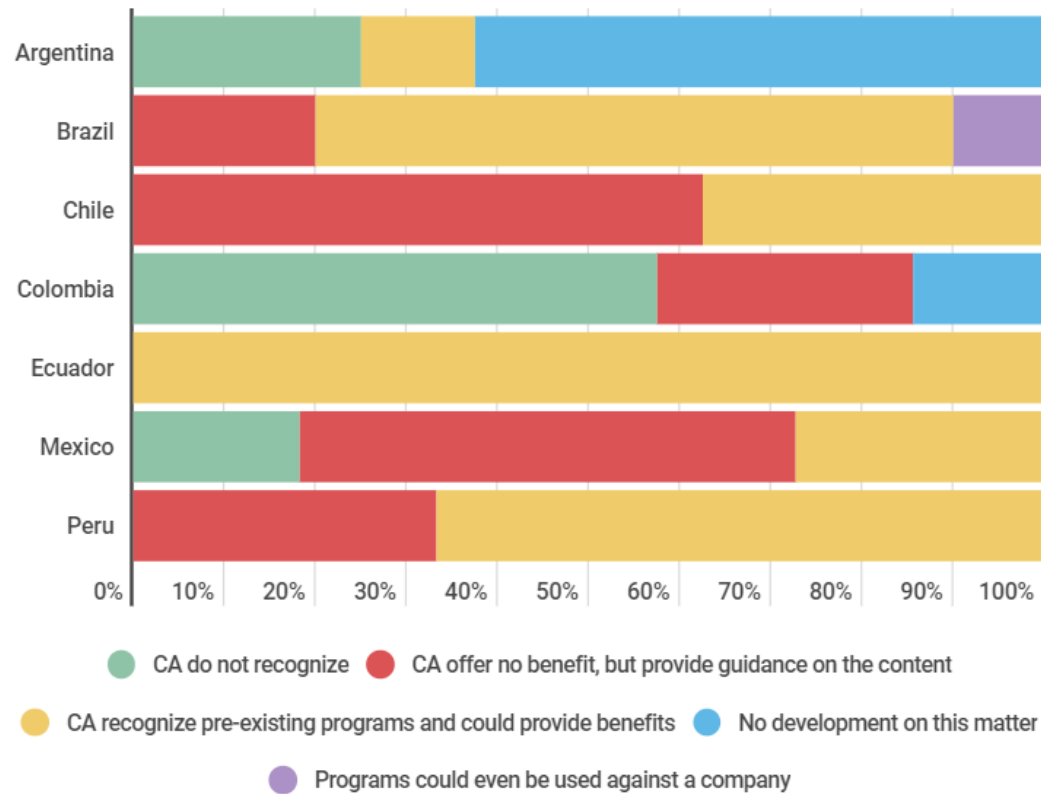
Origin of the efforts on implementing compliance programs by country



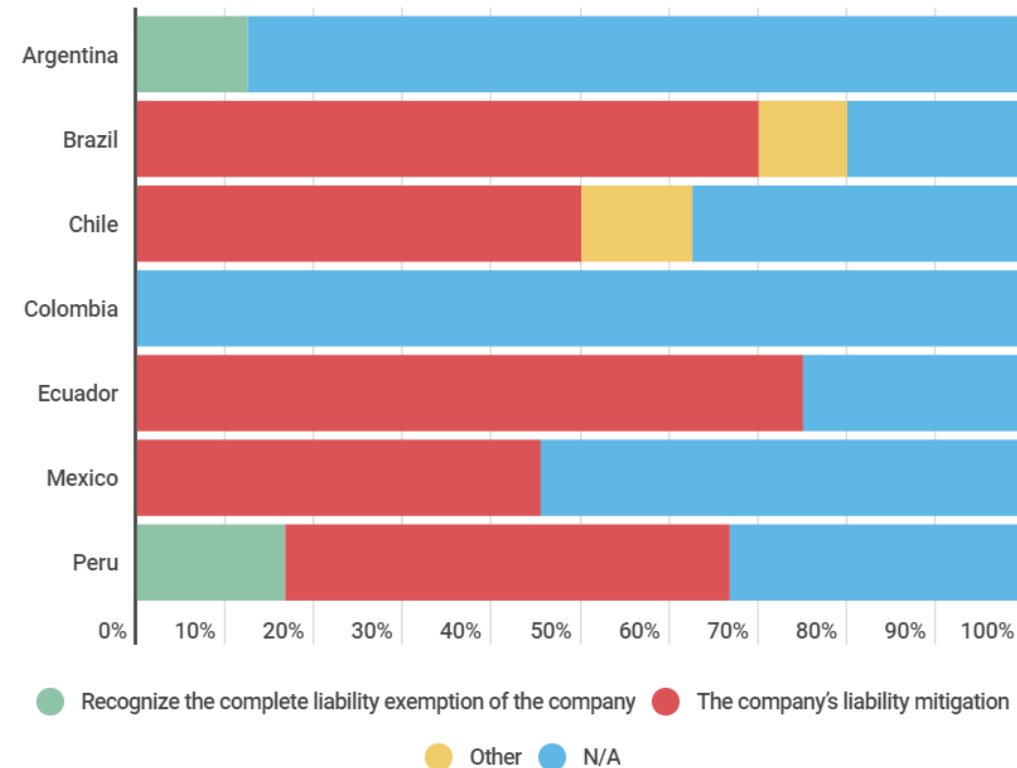
Regulation source of antitrust compliance programs by country



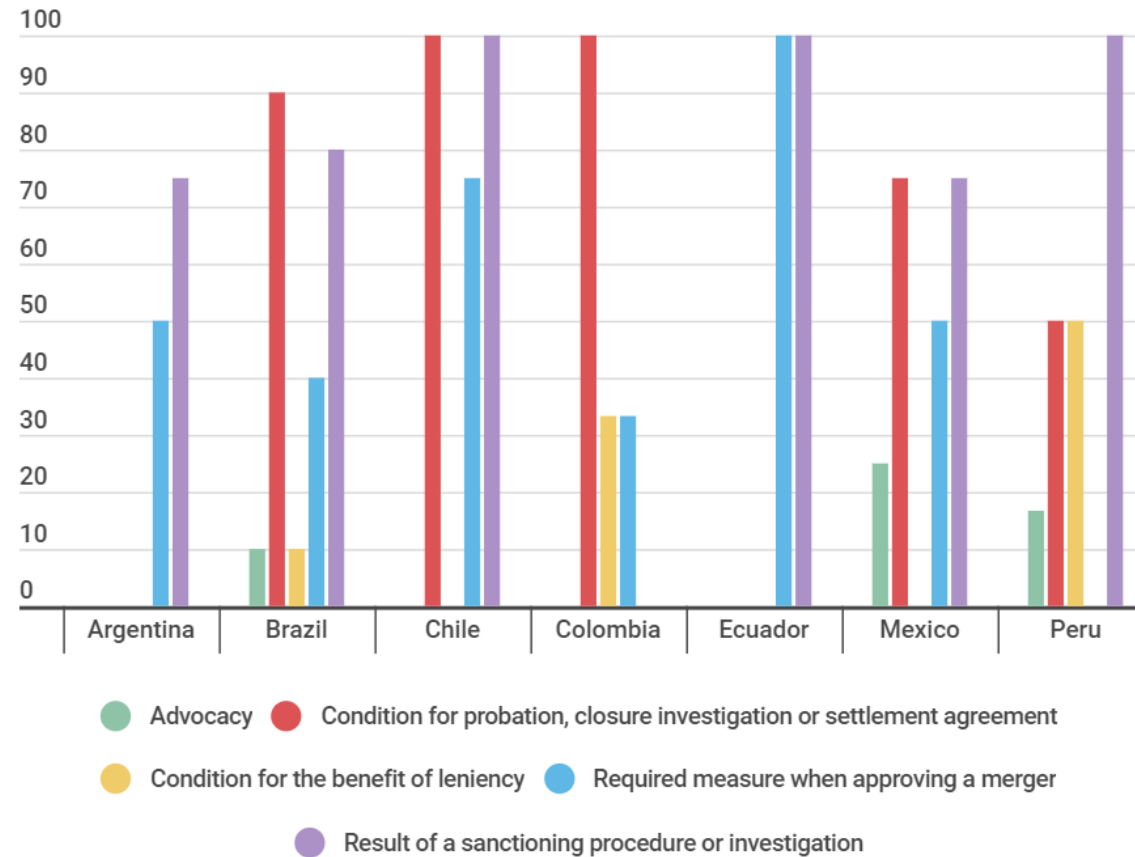
Position of antitrust authorities when dealing with compliance programs



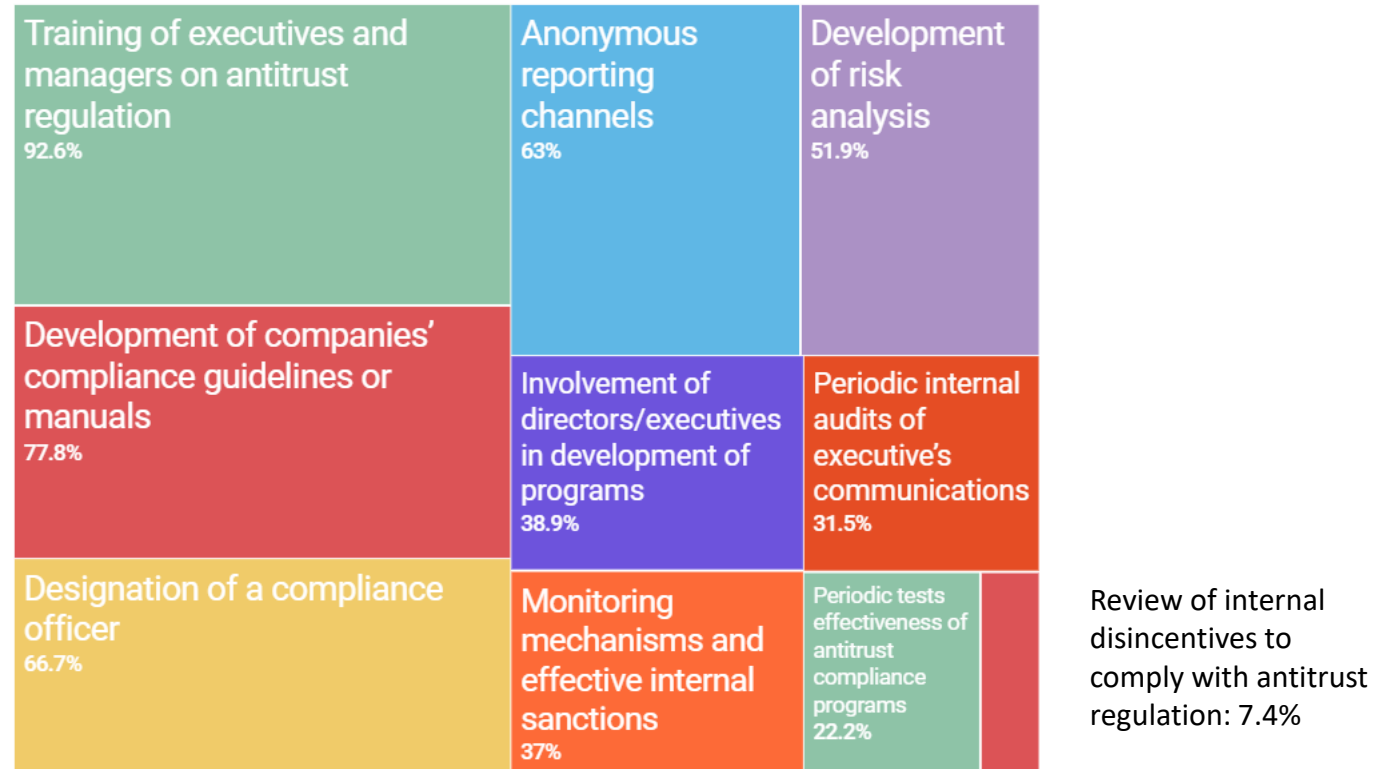
Incentives/Benefits granted to companies by country



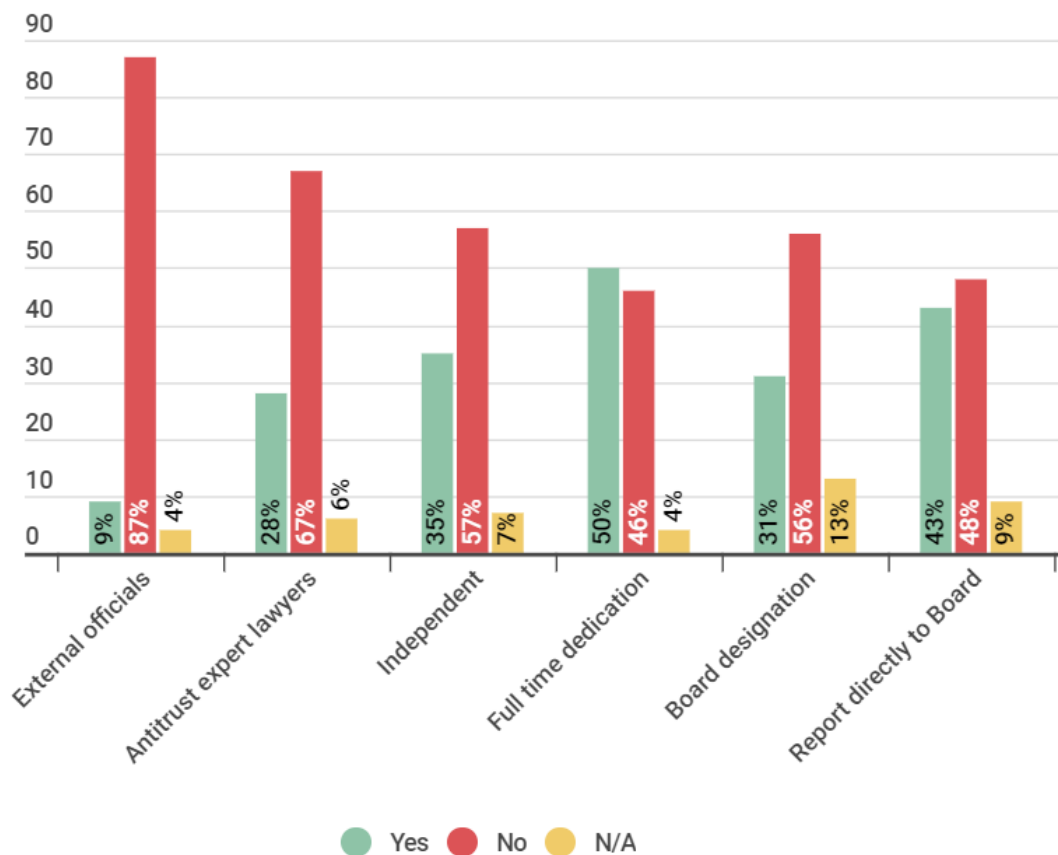
Instances when compliance programs can be imposed by agencies by country



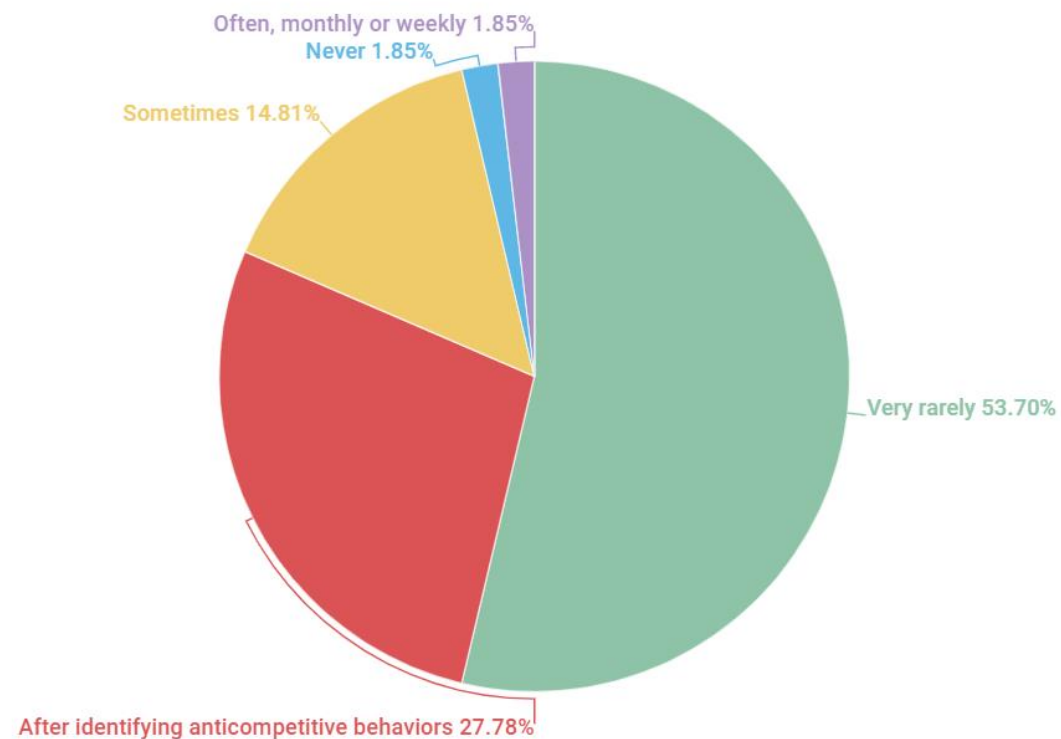
Elements usually included in antitrust compliance programs



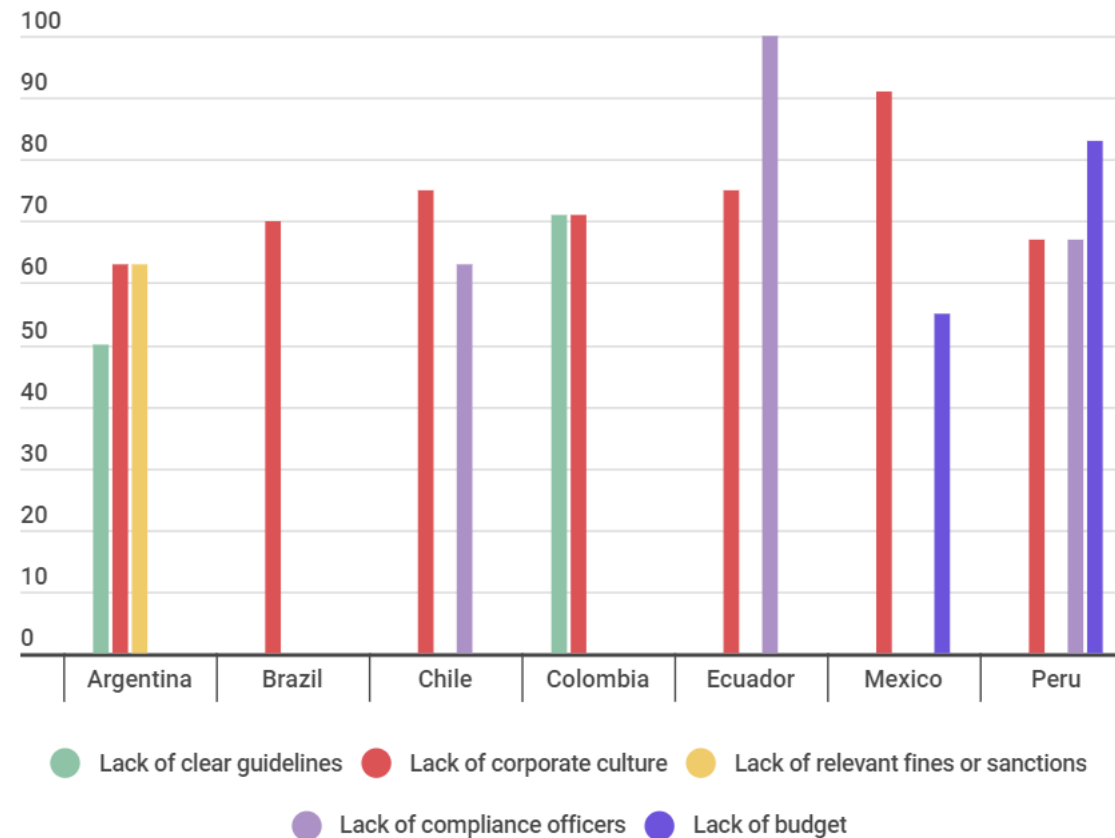
Characteristics compliance officers



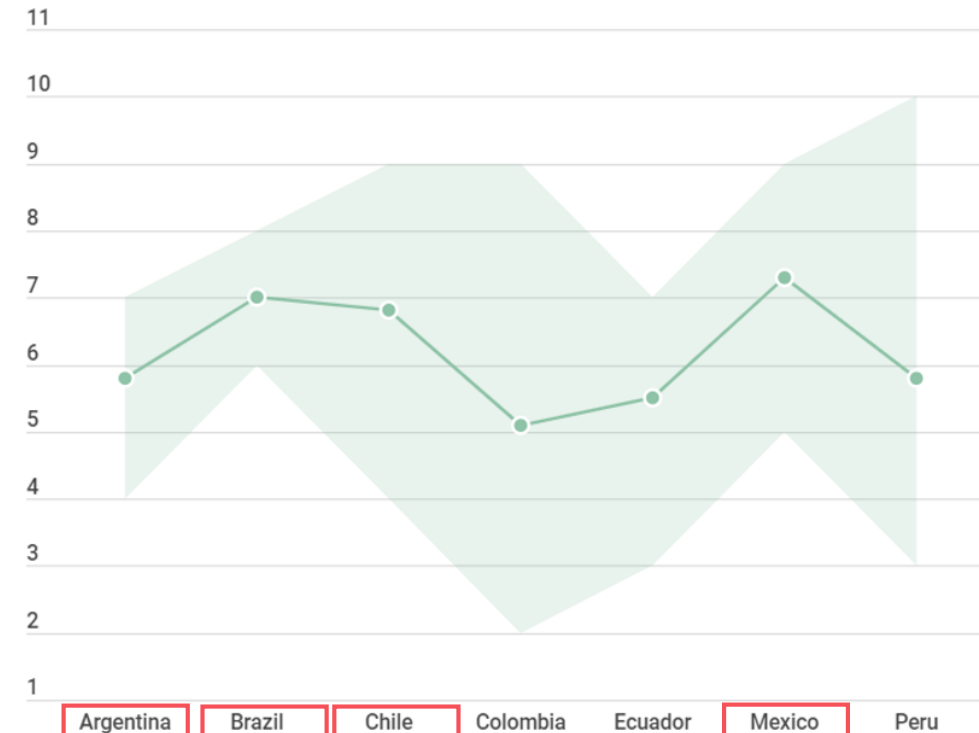
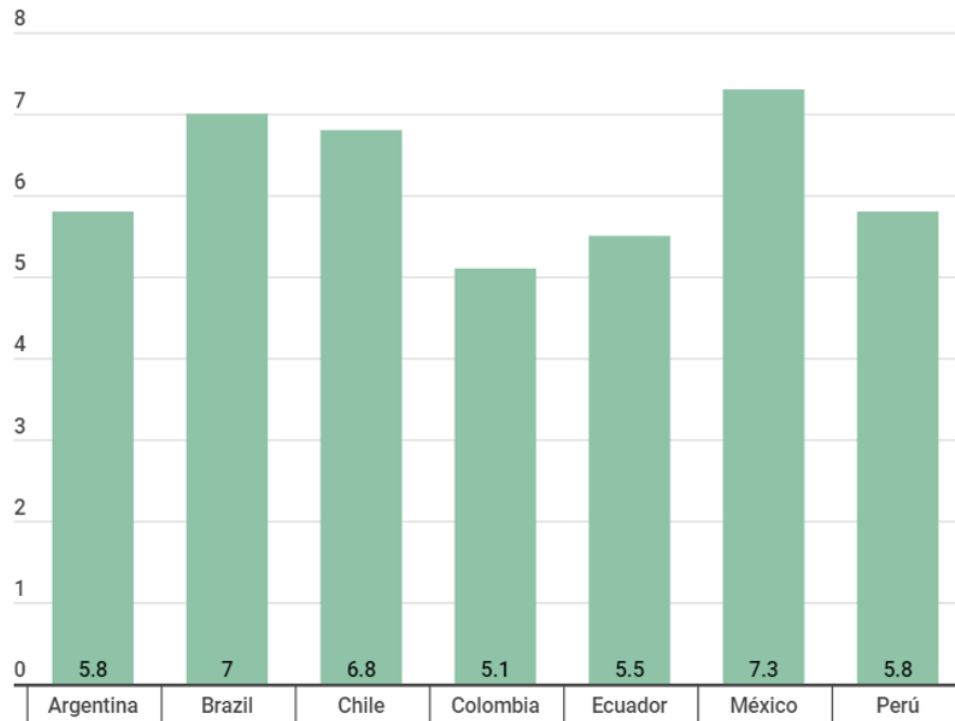
Frequency compliance programs reviews



Main obstacles for companies to implement complete and serious antitrust compliance programs by country

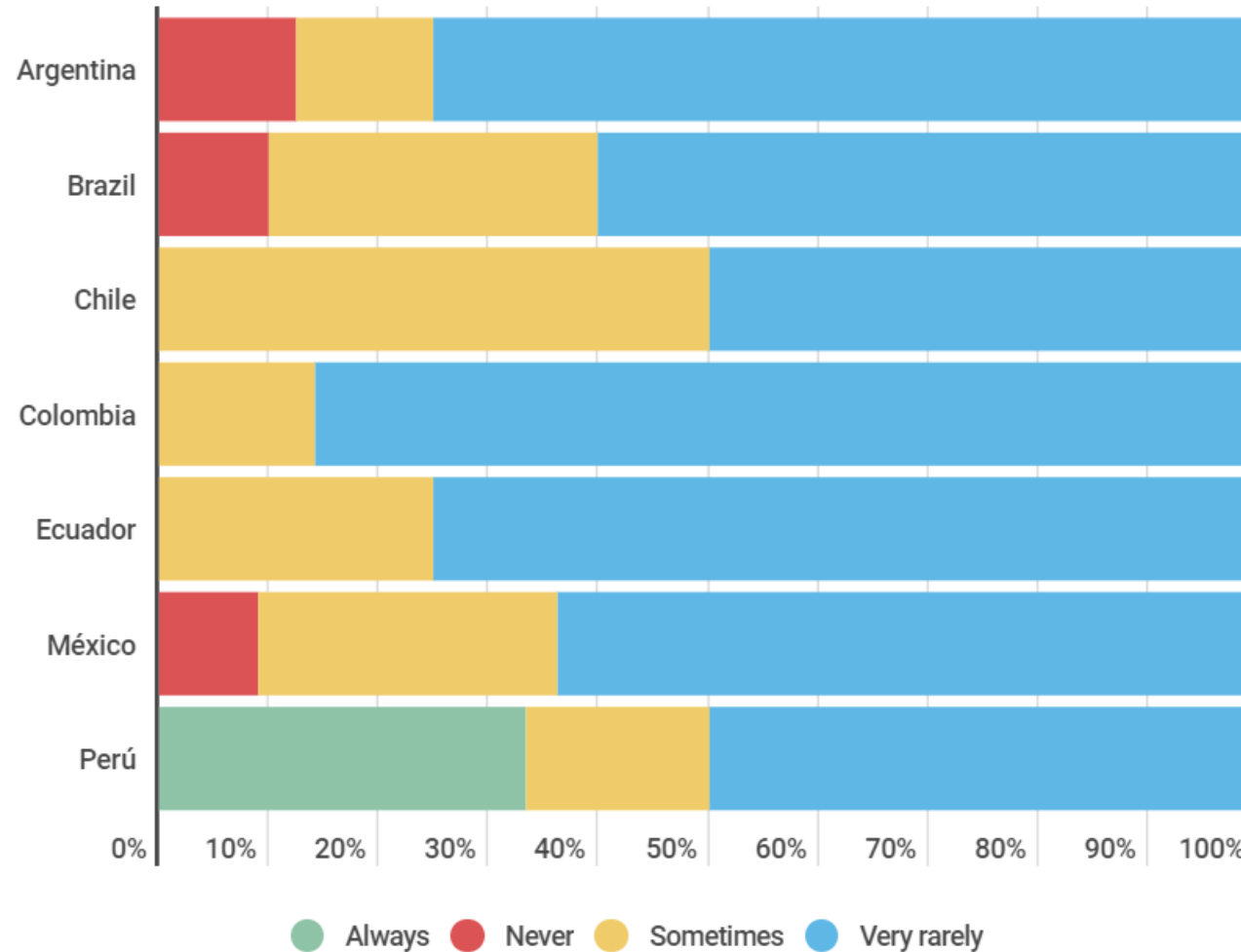


Seriousness and comprehensiveness of antitrust compliance programs – scale 1 to 10.

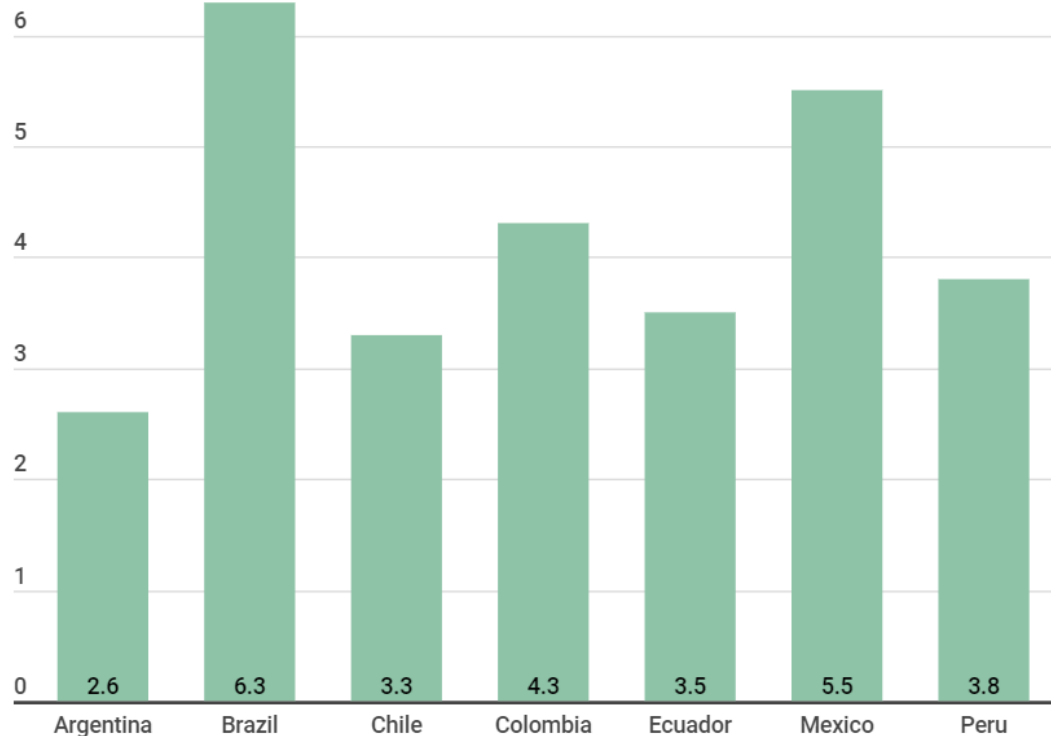


Seriousness and comprehensiveness

Participation of **non-lawyers** by country

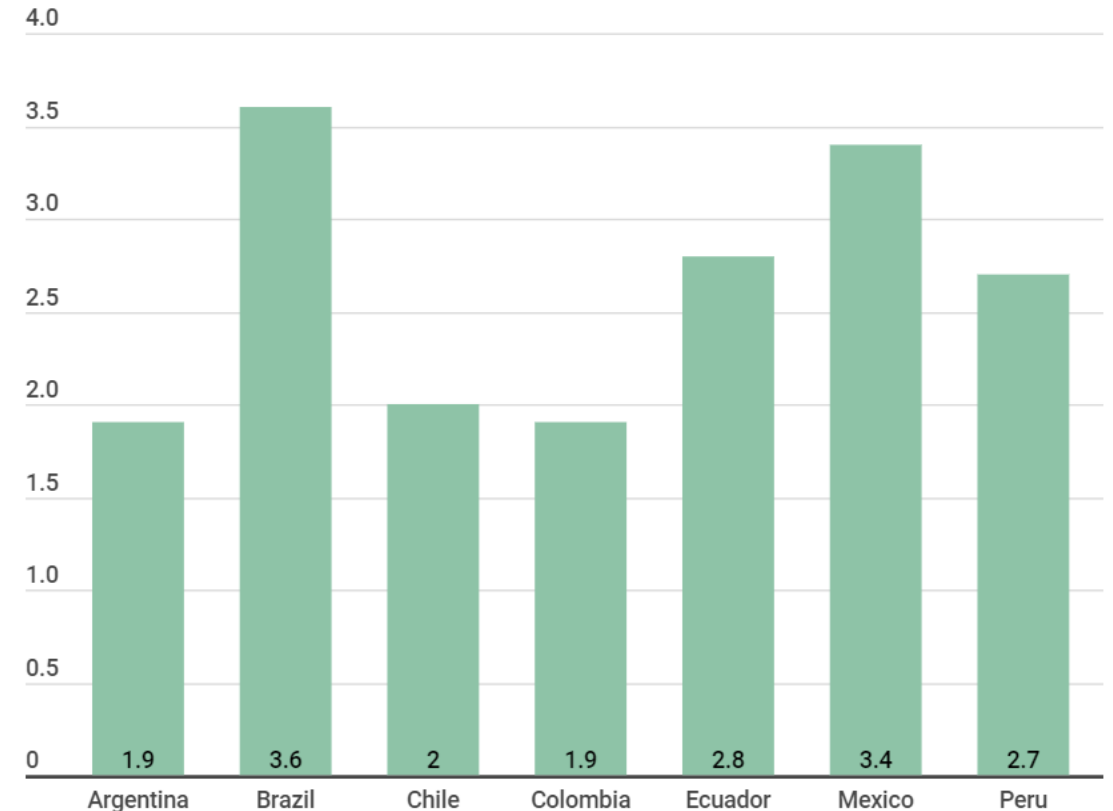


Use of special software, external computer experts or forensic companies



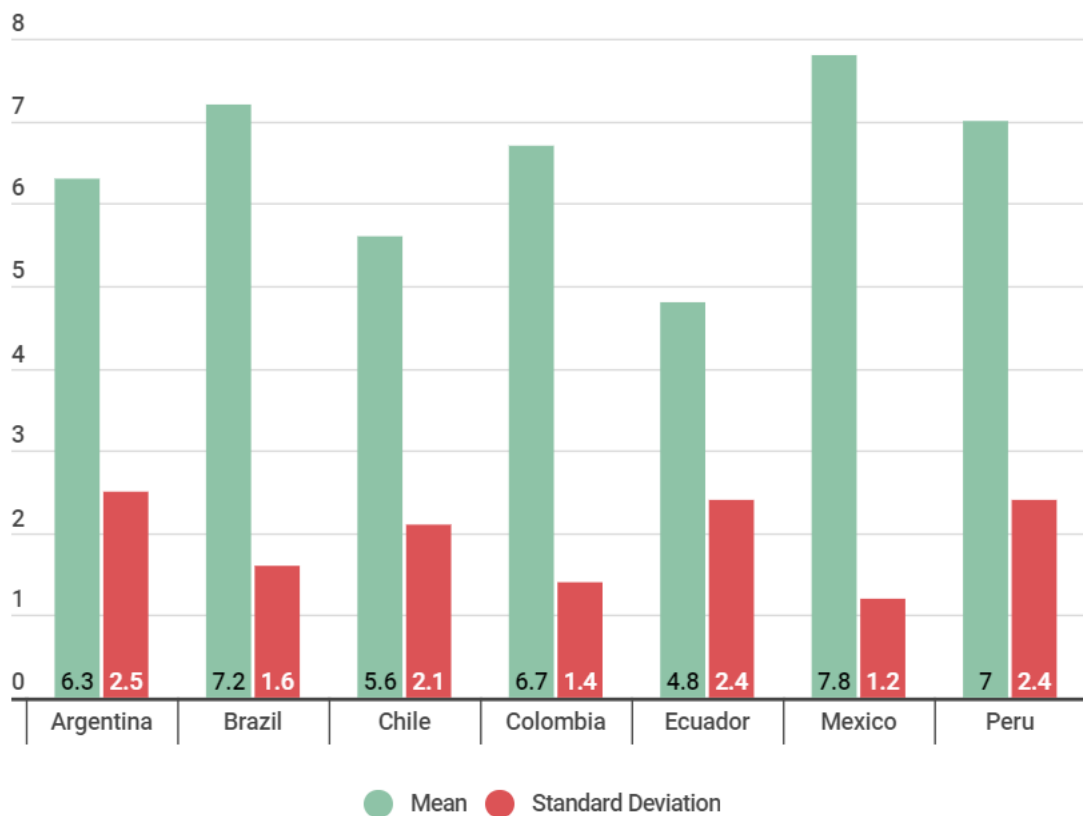
Mean: 4.4

Use of algorithms and artificial intelligence

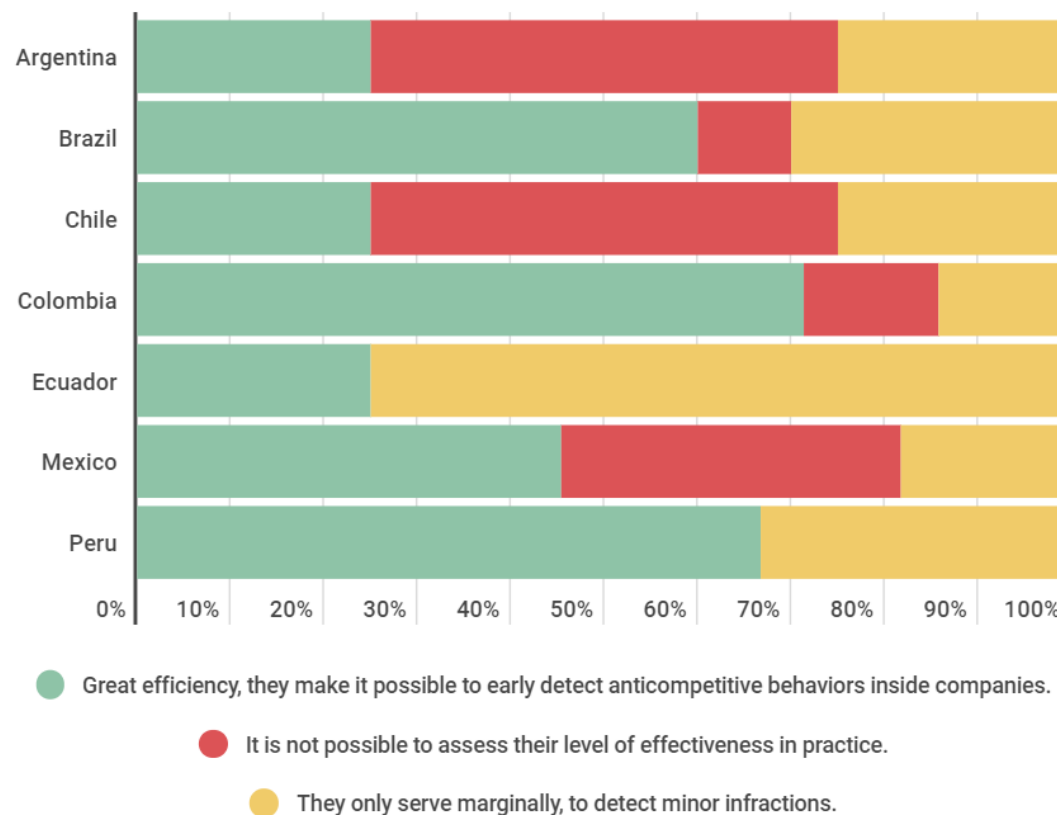


Mean: 2.6

Monitoring and use of foreign guidelines by country



Effectiveness antitrust compliance programs by country

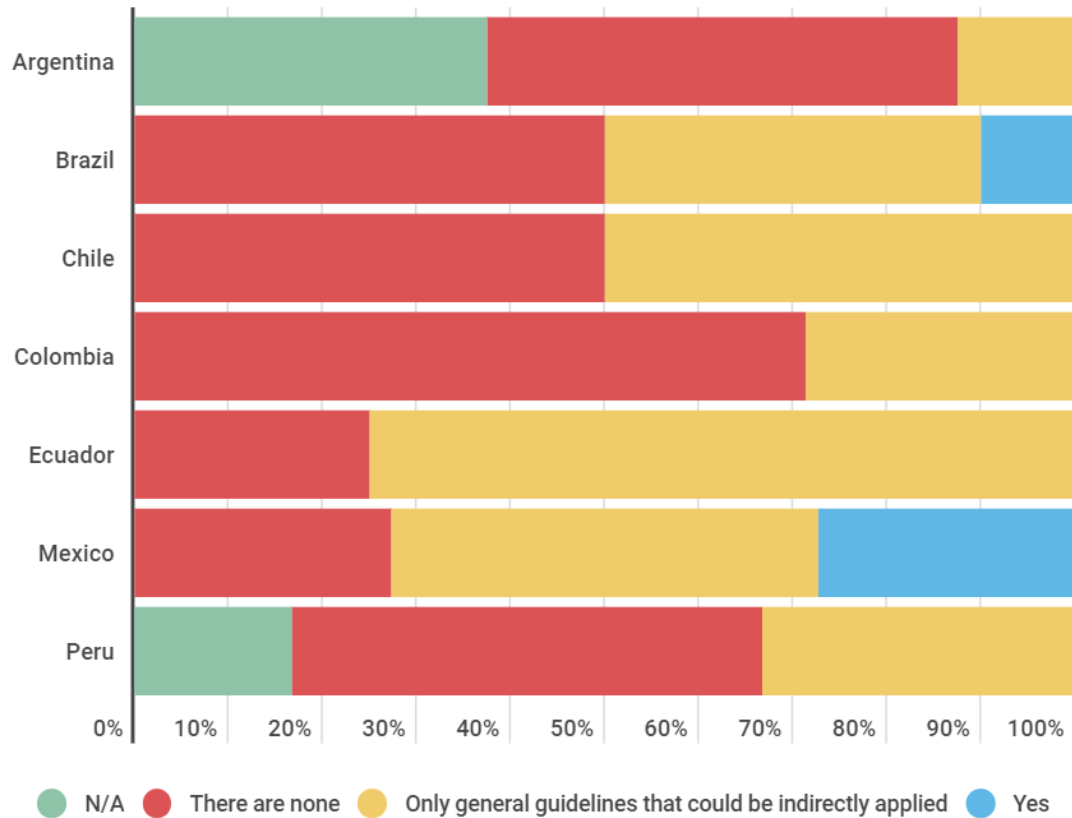




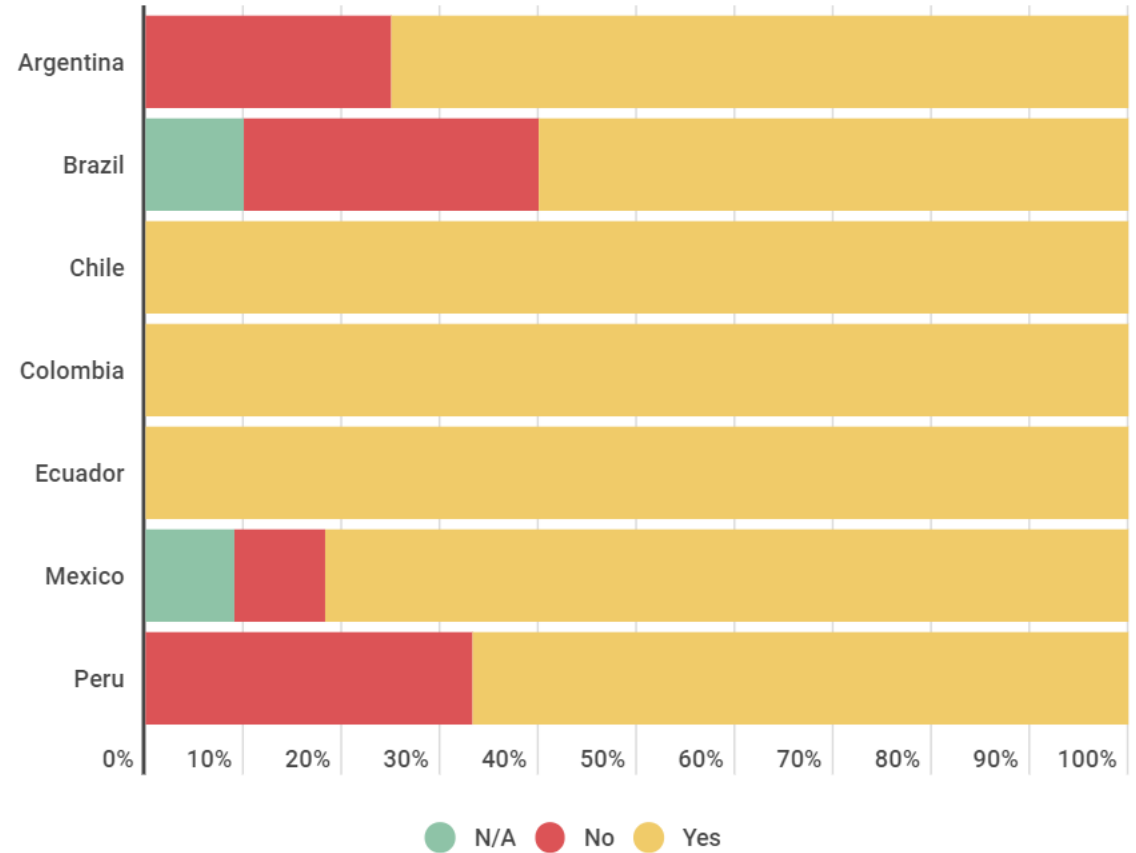
Attorney – Client Privilege



Recognition of attorney-client privilege on antitrust compliance programs

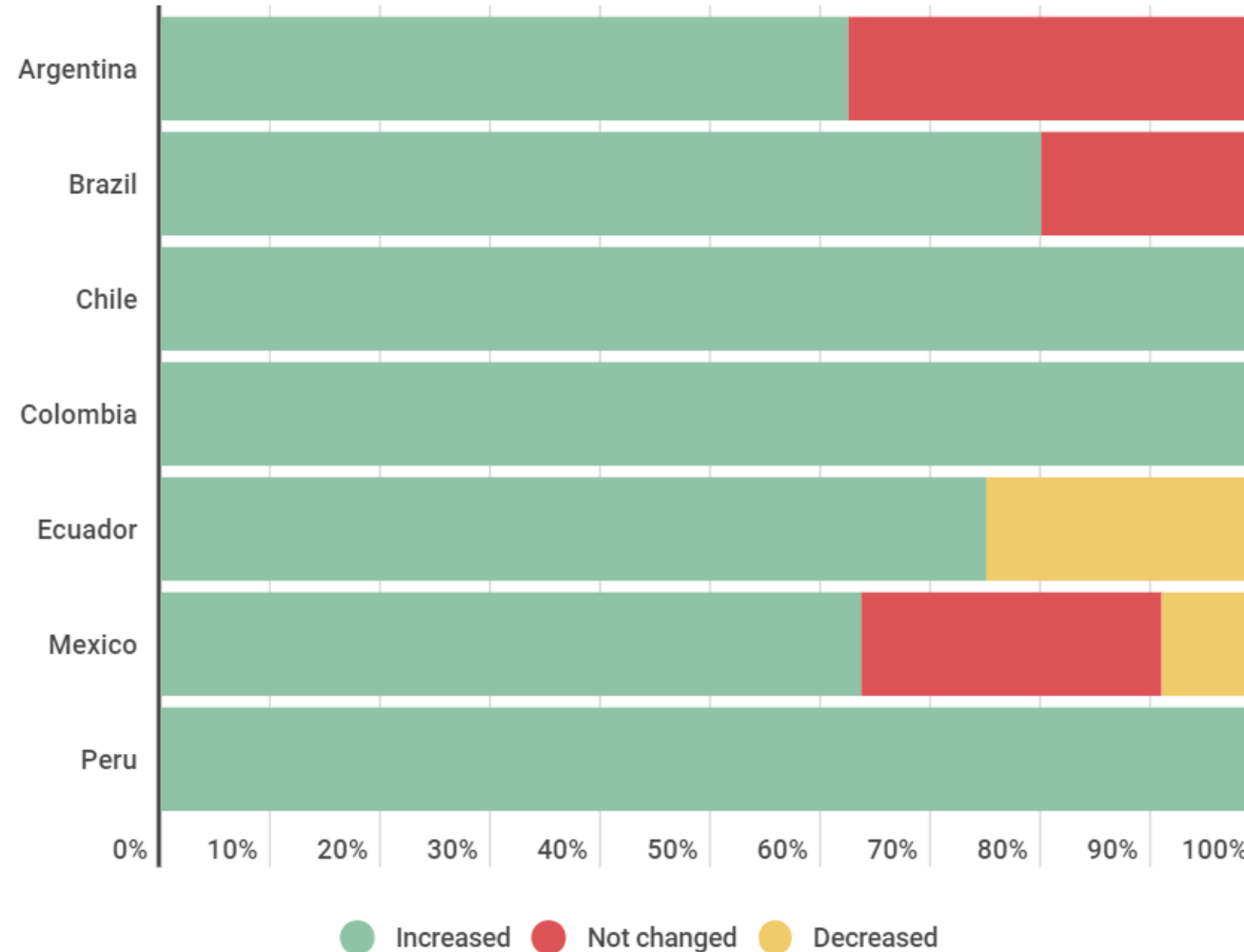


Recognition could incentivize companies to apply more serious and effective programs



Future developments

Adoption rate of antitrust compliance programs in the last 5 years.





Six Takeaways



1. Compliance programs in the region are important for practitioners and international corporations, and this importance has increased over time.
2. The content of the programs are aligned with international standards.
3. Compliance has been encouraged by the authorities in recent years, for example, publishing guidelines.
4. There is an intimate connection between compliance and enforcement.
5. There are different levels of development of compliance programs in the region: (i) Brazil and Mexico; (ii) Chile, Colombia and Peru; (iii) Ecuador; and (iv) Argentina.
6. There is room for improvement, for example, in the depth of the compliance programs (including audits and empowered compliance officers), the expectation that a program can reduce a fine, the involvement of economists, the use of technology, and the explicit recognition of the attorney-client privilege.

Thank you!

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