TiGRE policy brief

Trust in regulatory regimes and agencies: stakeholder interactions

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/// INTRODUCTION

Trust between regulatory actors is crucial. It not only serves as a substitute of control in the relationship between regulatory agencies and the regulatees, but it also may have positive effects on the functioning of the regulatory regime. In other words, the more optimal trust levels are among regulatory actors (such as regulatory agencies, executive bodies, legislative politicians, regulatory intermediaries, regulatees and their interest groups and consumer organizations) the better the regulatory regime would perform. Hence, the TiGRE (Trust in Governance and Regulation in Europe) project sets out to understand what drives trust relations between various actors in regulatory regimes as well as to understand how this affects the performance of the regimes. In TiGRE, we studied, among others, two main drivers of trust: interactions between regulatory actors and institutional design. First, interactions between actors in the form of having (frequent) contacts, information exchanges or having convergent views on the strictness of regulation are all expected to positively affect trust relations between regulatory actors. Second, institutional design that fosters democratic qualities such as accountability, inclusiveness and participation also is expected to increase trust and the performance of regulatory regimes.

In this policy brief, we discuss these two drivers and critically review how interactions on the one hand and institutional design on the other hand impact the levels of trust and regime's performance. Specifically, this policy brief will answer the following questions:

- How can we understand trust and distrust relations towards regulatory agencies, and how do these differ across different government levels?
- To what extent do interactions between regulatory actors affect trust relations?
- To what extent do trust and distrust affect the performance and legitimacy of regulatory regimes?
- Does the regulatory bodies' formal institutional design affect stakeholders and regulatees' trust?
- To what extent do regulatory bodies implement institutional mechanisms and what is the impact on stakeholders' trust?

The answers presented in this brief are the results of extensive analyses using data from policy documents, interviews and surveys. The TiGRE project focused its analyses on the areas of data protection, finance, and food safety in six countries.

/// HOW CAN WE UNDERSTAND TRUST AND DISTRUST RELATIONS TOWARDS REGULATORY AGENCIES, AND HOW DO THESE DIFFER ACROSS DIFFERENT GOVERNMENT LEVELS?

One main innovation of the TiGRE project is to argue that trust and distrust - in terms of watchfulness as behavioral expression of distrust - coexist. This means that actors within regulatory regimes can simultaneously trust and distrust, or be watchful towards, other actors in the regime. In the TiGRE project, we have studied whether such relations are common within the three regulatory regimes under study.

Indeed, there are few regulatory actors who report to have both a low trust and a low distrust towards regulatory agencies (as indicated in the lower left corner in Figure 1). A more significant number of actors have a low trust but are highly watchful towards agencies (upper left corner Figure 1). Instead, a bigger group of actors reports high trust but low watchfulness towards the agency (lower right corner Figure 1), while the largest group of actors reports high trust and high watchfulness towards agencies (upper right corner Figure 1). We analyzed the data across countries and sectors to check if these patterns are robust, and we find that the general patterns remain similar across different countries and sectors. We also find that these patterns apply to both public actors (such as legislative politicians, ministries or agencies) and private actors (such as interest groups or regulatees) as trustors and trustees.

Concretely, this means that most actors both trust agencies and are watchful towards them. We call this relational combination of trust and distrust 'trust but verify', meaning that actors have a high level of trust towards regulatory agencies on some aspects (e.g. their policy decisions), but simultaneously prefer to verify and check the behavior of these agencies on other aspects (e.g. their daily controls of regulatees).

Focusing on the question how trust and distrust levels differ between various levels of government, we find that trust in a regulatory agency on the national level influences the trust levels in regulatory bodies on the European level, and vice versa. In other words, when actors trust their national regulatory agency, they also tend to trust European regulatory agencies. Actors' trust levels tend to co-evolve across government levels to a higher extent, in case of more mature and institutionalized regulatory regimes like food safety and finance, but less so in data protection which is a sector which is still in flux and where actors know each other less in terms of roles, capacities and positions.

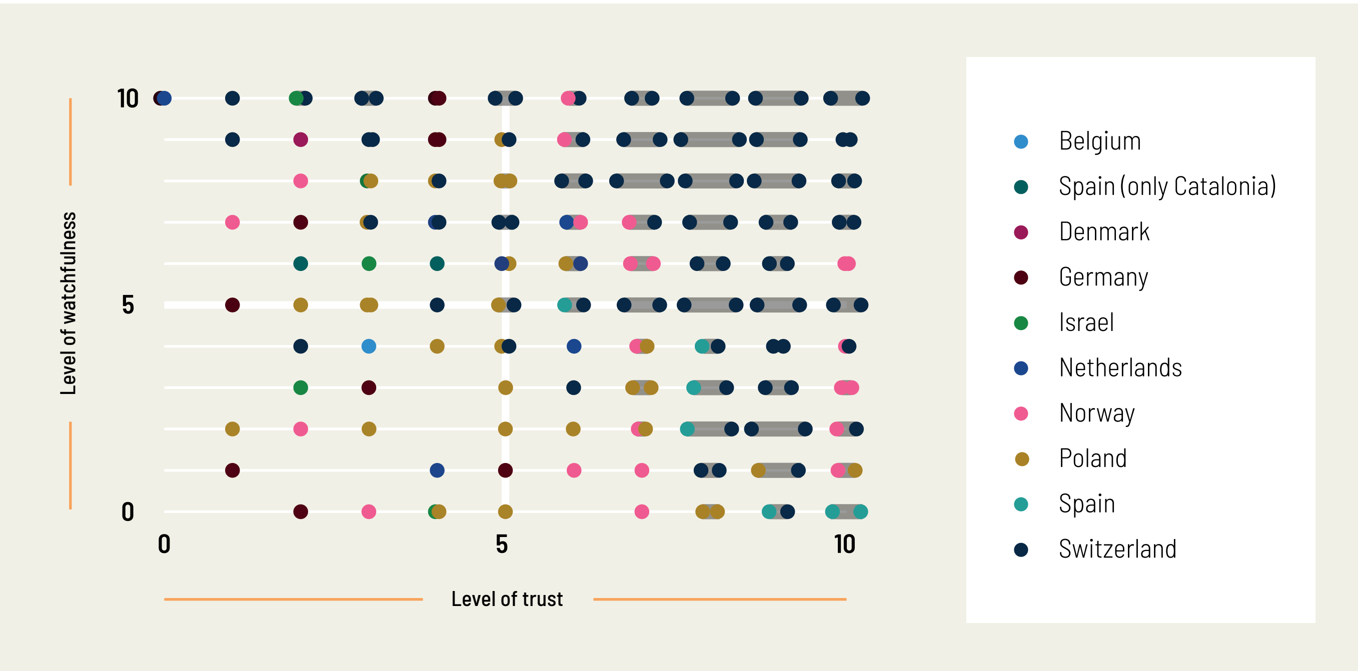

Figure 1: Scatter plot of Trust and Watchfulness in National Regulatory Agencies (all three sectors)

/// TO WHAT EXTENT DO INTERACTIONS BETWEEN REGULATORY ACTORS AFFECT TRUST RELATIONS?

Next, the TiGRE project studied to what extent interactions between actors in regulatory regimes foster high trust levels between these actors. Using statistical analyses and social network questionnaires, we find that interactions indeed positively affect the levels of trust actors have towards one another. In the analyses, we distinguish various kinds of interactions.

First, the analyses focused on how the frequency of contacts affected trust levels between actors. In other words, we studied whether trust between actors would be higher if these actors had monthly or weekly contacts with one another, compared to the actors having less frequent or no contact with each other. The findings show that the more contacts actors have with one another, the more they tend to trust each other. This particularly applies to high frequency contacts (having contact more than once per month) and that is especially so for private actors interacting with other actors (including the regulatory agency).

Second, we looked at the effect of information exchanges between actors on trust levels. We find some evidence that receiving information from regime actors increases actors' trust in these actors, but not necessarily between all kinds of actors. This positive relation particularly applies to public actors receiving information from other actors. We do not find strong evidence that sending information, either voluntarily or by obligation, affects trust levels for all partners in a univocal way, although there are indications that for private partners sending information seems to relate to higher trust.

Instead, our findings point toward other types of interactions, such as having similar views. We looked at how having similar or different views on regulatory issues affect trust relations between actors in regulatory regimes. The results show that when actors have similar views, they tend to trust each other more. Yet, we also found that even when some actors have mostly different views, they tend to trust one another more. This is mainly the case for public actors interacting with public actors, and for private actors interacting with private actors. This points to the idea that the more similar in kind and the closer actors are with one another, the better they know one another and thus the higher the trust between these actors is.

We do not find convincing evidence that these interactions affect actors' levels of distrust, or watchfulness in a systematic way. Both frequency of contacts between actors and information exchanges between actors do not influence the watchfulness levels. Instead, having often different views do affect positively watchfulness levels between actors.

/// TO WHAT EXTENT DO TRUST AND DISTRUST AFFECT THE PERFORMANCE AND LEGITIMACY OF REGULATORY REGIMES?

Developing strong trust relationships among various actors within the regulatory regime is crucial for enhancing compliance and protecting citizens from harm. When actors in the regulatory regime have high levels of trust in each other, they perceive the regime as more effective in achieving compliance and safeguarding the public. This trust also contributes to the legitimacy of the regulatory regime, as actors accept the procedures and decision-making processes, even when those decisions conflict with their own interests.

However, when the goal is to improve regulatory regime performance, actors also need to be watchful to a certain extent. This means that while trust between the actors exists, it should be coupled with a verification approach, so-called 'trust but verify' attitude. Yet, when it comes to promoting the acceptance of procedures and decision-making within the regulatory regime (regime legitimacy), excessive watchfulness and hence distrust between actors can undermine legitimacy. It is important to strike a balance and avoid high levels of watchfulness, as this can negatively impact the legitimacy of the regulatory regime.

In other words, fostering high levels of trust among actors in the regulatory regime is essential for improving compliance (i.e. improving the way that regulated businesses comply to current regulations) and safeguarding citizens. However, it is advisable to adopt a 'trust but verify' attitude (hence, watchful trust) to enhance regime performance. Excessive watchfulness and distrust can undermine the legitimacy of the regulatory regime. Therefore, finding a balance between trust and watchfulness is crucial for promoting a well-performing and legitimate regulatory regime, although there may be trade-offs in achieving both objectives simultaneously.

In a second step, we analyzed to what extent various interactions foster higher performance of regulatory regimes. Specifically, we find that when stakeholders (e.g. regulated businesses, consumer groups, but also ministries, politicians and regulatory intermediaries) have frequent contacts with each other, they are more confident the regulatory system is working well. Additionally, compliance of those who need to follow the regulations is higher when stakeholders have more contacts with one another.

Furthermore, we observe that as stakeholders send information to more actors in the network, there tends to be less disagreement with the regulations. Overall, the research's findings highlight the importance of having more contacts and more information sharing among stakeholders in shaping their trust in the regulatory regime and fostering compliance levels.

Lastly, it was observed that in sectors where many actors have high levels of trust in each other, there is greater confidence in the regulatory regime in terms of effectively protecting citizens from harm. Additionally, in these sectors there is a higher compliance among regulatees, as perceived by actors within the sector.

/// DOES THE REGULATORY BODIES' FORMAL INSTITUTIONAL DESIGN AFFECT STAKEHOLDERS AND REGULATEES' TRUST?

Besides interactions, we also investigated the formal institutional design of agencies and its effect on trust. We particularly assessed the agencies' formal institutional mechanisms in terms of transparency, accountability, participation, and inclusiveness dimensions. From here, we established the implications of the agencies' formal institutional design on the regulatees' and stakeholders' trust.

While we defined transparency as the agencies' disclosure of information to external actors about their characteristics, operational processes, and decisions; participation referred to procedures aimed for external actors to become involved within the agencies' decision-making processes. As for inclusiveness, we looked into the representation of various group in the agencies, namely, market-oriented and societal-oriented actors. Finally, accountability refers to agencies' reporting, answering, and justifying their actions to external actors.

Our results are built on two steps: first, for the formal institutional design, we developed a dataset with 35 regulatory bodies collecting indicators about their legal obligations to establish institutional mechanisms aimed to articulate regulators' interactions with stakeholders and regulatees. Such indicators refer to abovementioned dimensions, allowing us to calculate scores for each regulatory bodies -and to aggregate them across sectors and countries to establish comparisons. We also distinguished three main areas to which these institutional mechanisms are introduced: a) governance structures (e.g., involving stakeholders in the agencies' governing boards); b) relationship with stakeholders and political institutions (e.g., creation of advisory boards;), and; c) communication with different audiences (e.g. agencies' reporting on citizens' information requests).

Second, we correlated the results along the four dimensions with the levels of trust in the regulatory regime obtained from a survey with relevant actors in the agencies' regulatory regimes.

Our findings revealed differences in the intensity of transparency, inclusiveness, participation, and accountability mechanisms. For example, we found that among the four studied dimensions, participation had the lowest score in our sample. This indicates that participatory requirements in the design of regulatory agencies are fewer compared to the other studied dimensions. When comparing sectors, we found that the food safety sector had the fewest legal obligations for these dimensions, and the data protection sector had the most. Moreover, when comparing these dimensions across different organizational levels (EU, national, and regional), there was significant variance for accountability, participation, and transparency, which were much higher for the EU than for national and regional bodies.

As for the implications of our findings on trust, our results suggest that legal requirements in the formal institutional design are having a positive impact on the levels of trust in regulatory agencies (Table 1). We examined the impact of each dimension separately with a multilevel model in which we control random country effects, and found statistically significant effects in most cases. Potential explanations for such results might be related to the *de facto* implementation of the formal institutional design through mechanisms that foster the interaction with stakeholders. Only in the case of legal transparency, there were no significant effects on trust levels. On the other side, it appears that inclusiveness mechanisms are having the strongest impact on trust in the regulatory agency by stakeholders.

Table 1: effects of interactive mechanisms on trust in regulatory bodies (positive + and negative −)

Variables	Effect on Trust (of de jure dimensions)	Effect on Trust (of de facto dimensions)
Transparency	+ *	+
Accountability	+	−
Participation	+	+
Inclusiveness	+	+ *
* Not significant		

/// TO WHAT EXTENT DO REGULATORY BODIES IMPLEMENT INSTITUTIONAL MECHANISMS AND WHAT IS THE IMPACT ON STAKEHOLDERS' TRUST?

Next, we also studied how the regulators' institutional mechanisms aimed to foster interactions with stakeholders is *de facto* implemented and what implications implementing such mechanisms has on the stakeholders' trust in agencies. To do so, we extended the aforementioned dataset with additional indicators aiming to measure how the legal obligations were adopted in practice. Accordingly, we elaborated four parallel dimensions on the different interactive mechanisms, that we call *de facto* dimensions. We also calculated their scores for each regulatory body.

When examining statistically the effects of these *de facto* dimensions on trust levels of stakeholder in regulatory bodies, we find some mixed results, as can be seen in table 1. While *de facto* transparency and participation dimensions emerge with a significant positive impact on trust levels, and the transparency dimension having a particularly strong positive effect, the other two *de facto* dimensions are not having the same impact. De facto accountability dimension shows a negative impact, meaning it contributes to reduce trust levels, the inclusiveness dimension is not significant, means that its expected positive effects are not confirmed.

To better interpret the statistical findings we obtained, we further focused our research on the qualitative analysis of the above-mentioned interactive mechanisms along the three areas of interaction between regulatory bodies and stakeholders we indicated before: a) governance structures, b) relationships with stakeholders and political institutions and c) communication with different audiences. In these sense, we also elaborated an interpretative framework to make sense of the reasons why these mechanism may increate stakeholders trust in regulatory bodies, as our statistical results indicated.

We particularly found that implementing institutional mechanisms exposed agencies to vulnerability spaces as it made potential sanctioning from various audiences a possibility. Such vulnerability spaces take form in, for example, stakeholders' capacity to directly scrutinize the agencies' work, collect relevant information and access to spaces where complaints can be more visible. As a result of creating these vulnerability spaces, interactions can be more valuable for both agencies and audiences. Yet, simultaneously, in this equation relevant audiences will also perceive the agency as more credible, which increases their trust on the agency. In other words, opening the institutional design of the agencies towards stakeholders can foster trust, while at the same time increase the vulnerability of the agency.

Our results indicate that several regulatory agencies exhibit similarities in the mechanisms they feature. They have similar structures and internal regulations as well as similarities in their relationships with different stakeholders. For instance, when looking at those mechanisms related to the area of governance and the area of stakeholders and political institutions, we find a high degree of formalization, meaning that many mechanisms are legally required. However, results also demonstrate differences in the mechanisms. We find that countries have different institutional approaches. For instance, some regulatory bodies deploy institutional mechanisms because they are either mandated by law (e.g., this situation is quite common in the area of governance structures with mechanisms such as the use of the Annual Plan), or because they wish to do it despite not been obliged to (e.g., the latter situation is quite common in the area of communication with different audiences, especially, regarding the use of social media). In these cases, regulators offer information and seek active interaction with stakeholders and audiences. At the same time, we find cases in which agencies are mandated by law to deploy a specific mechanism, but will in practice do the minimum to meet the legal obligation.

Overall, the contents, availability and communication of information to stakeholders and the public are key to interactive mechanisms. This is quite relevant because the sense of providing clear and substantive information may influence trust. Hence, we suggest that trust dynamics emerge only when such actions are perceived as credible, reliable, and predictable. In the eyes of stakeholders and the general public, regulatory bodies can be trusted based on the quality and credibility of the information they provide. When interactions are predictable and reliable, feedback, dialogue, and engagement processes can be a driver for trust in regulators. Not having certain mechanisms implemented or not disclosing enough information about the implemented interactive mechanisms may potentially affect trust negatively, or spark distrust. Yet, the reviewed interactive mechanisms suggest that agencies are aware of this and seek to legitimize their actions in the eyes of stakeholders and citizens by establishing multiple interactive mechanisms.

/// CONCLUSION AND RECOMMENDATIONS

Based on the extensive data collection and analyses in the TiGRE project, we find that regulatory agencies can to a certain extent foster the trust of stakeholders in regulatory regimes. Both interactions between agencies and stakeholders, and institutional design can be important drivers of trust in regulatory agencies. Additionally, we also find evidence that interactions also foster better performance of the regulatory regime as a whole. However, a sound balance of trust and watchfulness in a 'trust but verify' and 'watchful trust' attitude between actors' links with perceptions of a well-performing regulatory regime. But in order to enhance the legitimacy of the regulatory regime in terms of acceptance of regulatory procedures and decisions, high levels of distrust and watchfulness between actors in the regulatory regime should be avoided.

Hence, both interactions and institutional design can be used to increase the trustworthiness of regulatory agencies. We have found evidence that agencies are aware of this, and sometimes even act upon it. In this regard, we present the following recommendations for regulatory agencies to:

- Foster and upkeep regular contacts with all stakeholders. This particularly applies to younger, less consolidated regulatory sectors in which agencies have less intense contacts.
- Allow opportunities for stakeholders to verify the agencies' behavior (trust but verify). And try to avoid too high levels of distrust and watchfulness as they erode the extent to which the regulatory regime is perceived as being legitimate in the eyes of the different actors.
- Enhance openness of the agencies with respect to participation, inclusiveness, accountability and transparency. Agencies could particularly focus on ways to increase stakeholders' participation.
- Seek for ways to innovate in the ways institutional mechanisms are implemented even if there are no legal obligations to do so. For instance, facilitating interactions through social media can contribute to trust in the regulatory regime and its regulatory bodies.
- Education and awareness-raising on the regulators' work focusing on stakeholders but also the public are key in bringing closer these institutions to citizens.

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