





Assessing the Democratic Deficit of Regulatory Authorities

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Goals of this paper

Validating • Validating measures for the **formal** and de-facto mechanisms of regulatory bodies: Transparency, Participation, Accountability and Inclusiveness

Exploring

 Exploring how these mechanisms differs in different countries and sectors and between the formal and in practice dimensions

Exploring

Exploring the relationship between political independence and managerial autonomy and the 8 measures

Background

Previous scholarship has been concerned about regulatory bodies' weak democratic deficits that results from their independence **"Unelected Power" "Democratic Deficit"**(Majone 1999; Vibert 2007).

At the same time, scholars identified mechanisms that regulatory bodies have that reflect democratic qualities: **transparency**, **accountability**, **participation**, **inclusiveness** (Jordana et al. 2018; Maman 2022).

The gap: No comparative data to assess these qualities, compare them, and learn about democratic regulatory governance.





New database

A new database on the democratic qualities of **49 regulatory bodies** regulating **the financial sector**, **data protection and food safety** in **Norway**, **Poland**, **Netherland**, **Belgium**, **Denmark**, **Germany**, **Israel**, **Switzerland**, **Spain** and in the **EU** level, Some **regional** level bodies as well.

Initial indicators and codebook (Maman, Jordana, Perez-Duran, Trivino-Salazar & Gomez-Diaz 2021) – from 5 to 24 items per measure

Various data sources:

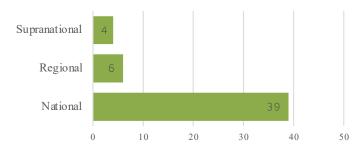
- **Formal dataset**: Desk analysis of legal framework of regulatory bodies both sector-specific and general
- In practice dataset: organizations' official websites + interviews/questionnaires to organizations' head of communications

International Coding team

Distribution of the number of bodies by country, sector, organization classification and governance level N=49

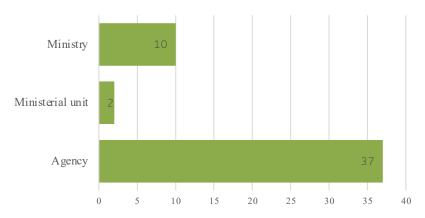


Number of organizations according to their governance level

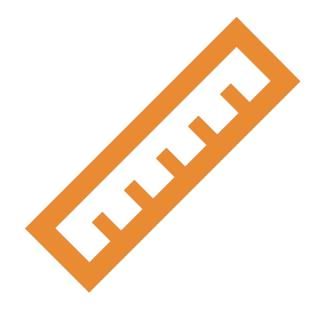




Number of organizations according to their classification



Number of organizations in each country



Aim 1# Validating the measures

Bayesian Factor Analysis

The Bayesian inference process specifies prior distributions for unknown parameters and updates these to become posterior distributions using observed data contained in the standard likelihood function. (Quinn, 2004; Gill and Witko 2013)

Prior distribution * likelihood function = posterior distribution

The posterior distribution represents the most informed set of knowledge about the phenomenon of interest because it is the most updated version available.

Highest posterior density = HPD interval provides a $(1 - \alpha)$ % probability that the true effect is in the interval.

Why use it: Suitable for smaller sample sizes, Corrects mis-ordering of response levels, Informs of items that negatively load for the latent variable, suitable for categorical items and mixed measures (categorical and interval).

Uses: Hanretty & Koop (2012) - Independence of Regulatory Agencies, Iborra et al. (2018) - Complexity of European regulatory networks, Jordana et al. (2018) - Independence and accountability of Regulatory Agencies

Measurement validation - I

Formal
TransparencyTransparency
in practiceFormal
ParticipationParticipation
in practice



Transparency in practice- Discrimination Weight Assigned to Each Item in the Model (a)

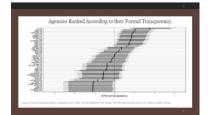
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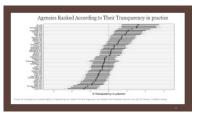
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	Formal Participation Discrimination Weight Assigned to Each Item in the Model (a).	

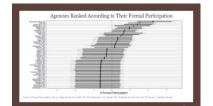
Participation in	practice Discrimination	Weight	Assigned t
Each Item in the	Model (a).		0

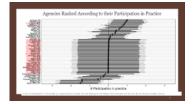
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Formal Transparency - Discrimination Weight Assigned to Each Item in the Model (o). Revised					
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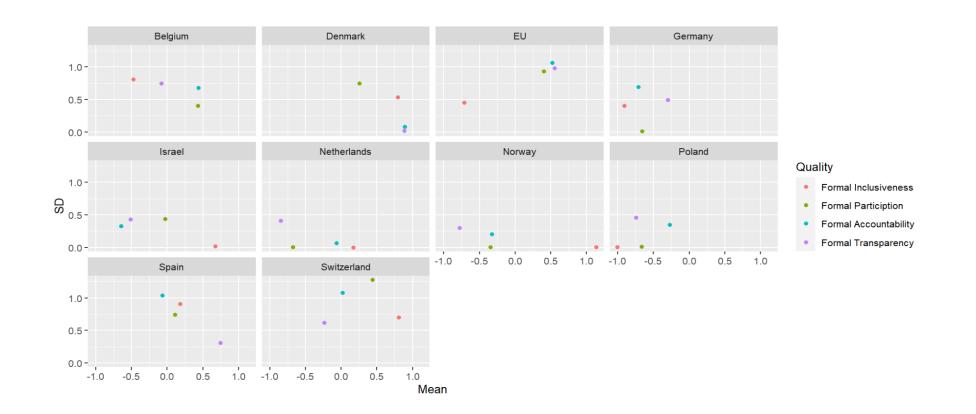
Measurement validation - II



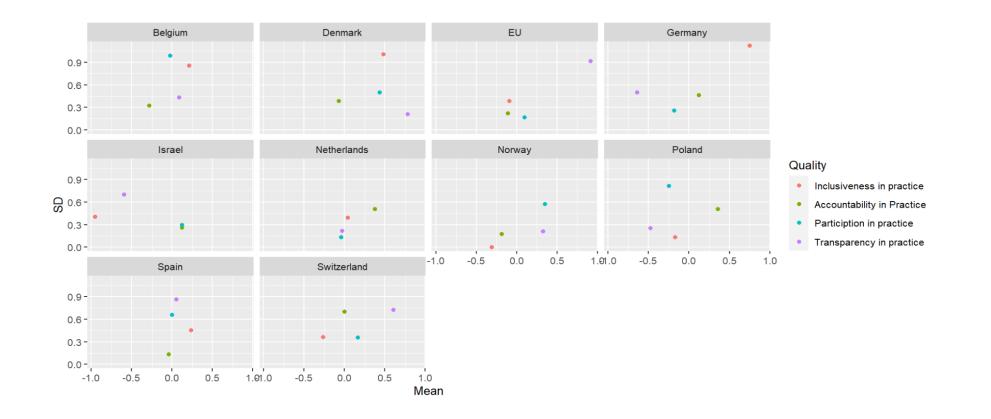


Aim 2# Exploring differences between formal and de-facto dimensions

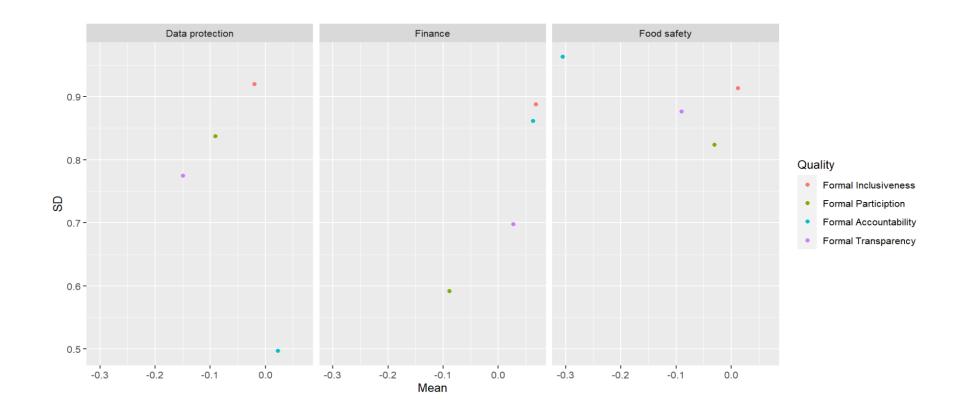
Association between quality means and quality standard deviations of the aggregated scores, by **country, formal measures**



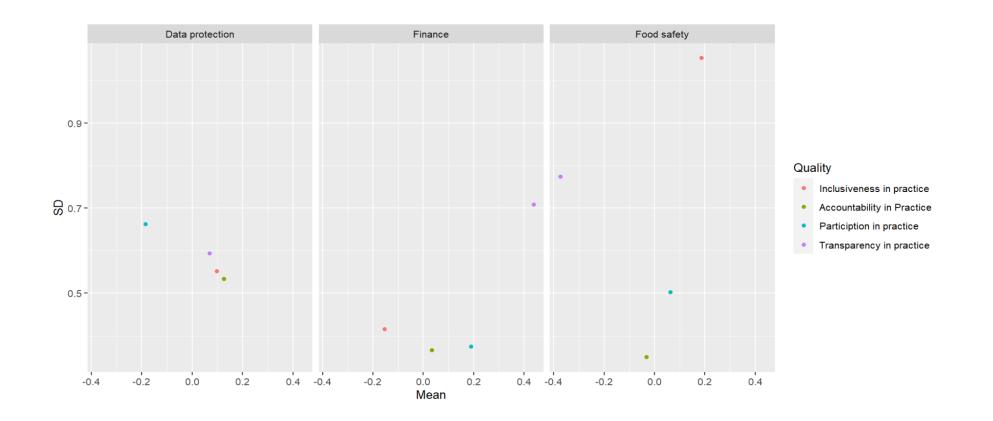
Association between quality means and quality standard deviations of the aggregated scores, by **country, de-facto measures**



Association between quality means and quality standard deviations of the aggregated scores, by **sector, formal measures**



Association between quality means and quality standard deviations of the aggregated scores, by **sector, de-facto measures**



Correlation between formal and de-facto measures

	Inclusiveness de- facto	Accountability de- facto	Participation de- facto	Transparency de- facto	Formal Inclusiveness	Forma accontability	Formal participation	Formal transaparency
Inclusiveness de-facto	1							
Accountability de-facto	-0.0276159569138224	1						
Participation de-facto	-0.114755134193747	-0.0723006463613751	1					
Transparency de-facto	-0.0801448544530486	-0.2290132208411	0.0902621132677023	1				
Formal Inclusiveness	-0.173527889268946	-0.121712859418234	0.242217550315211	0.306483946995074	1			
Forma accontability	-0.112061441318017	-0.142100446255094	-0.024260096044596	0.510451755697446	-0.0118475448710243	1		
Formal participation	-0.0500517452048777	-0.523555241165125	0.0737000116512419	0.331304606351662	0.0563623706286972	0.516575145645601	1	
Formal transaparency	0.0545643076324322	-0.334128173982384	-0.0466539252904139	0.452484971845637	0.118916457856985	0.227300526632671	0.353650957540966	1

Aim #2: Findings (might change...)

Country differences:

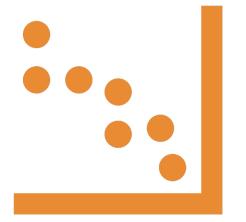
- · Israel, Norway, Poland, Netherland and Germany have lower formal democratic qualities
- EU and Denmark have the highest formal democratic qualities.
- Israel scores the lowest in terms of inclusiveness, and Germany the highest.
- The EU scores the highest in terms of transparency de-facto, though Denmark and Switzerland both are very close.
- Poland is the least transparent country in terms of transparency de facto.

<u>Sectorial differences:</u>

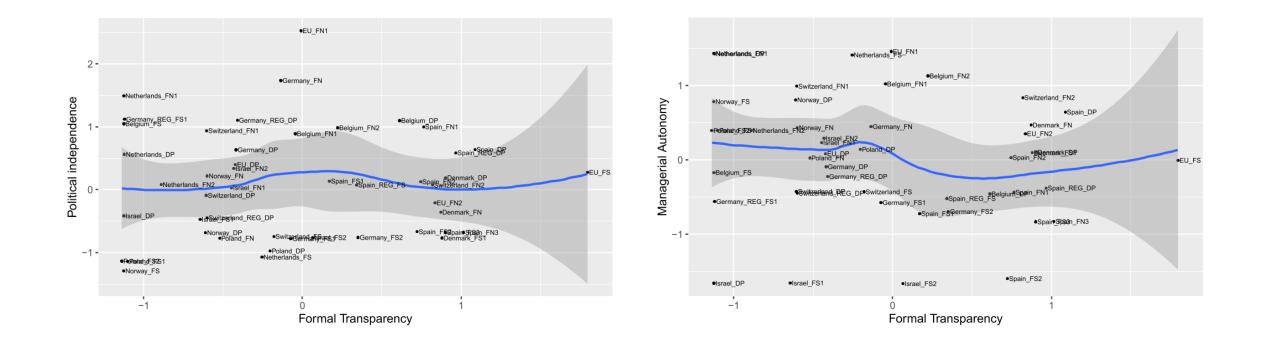
- Food safety sector has lower formal accountability and transparency in practice levels comparing to the data protection and financial sector.
- The highest level of transparency in practice is found in the financial sector which also is high on formal transparency, participation and accountability.

Formal/Practice decoupling

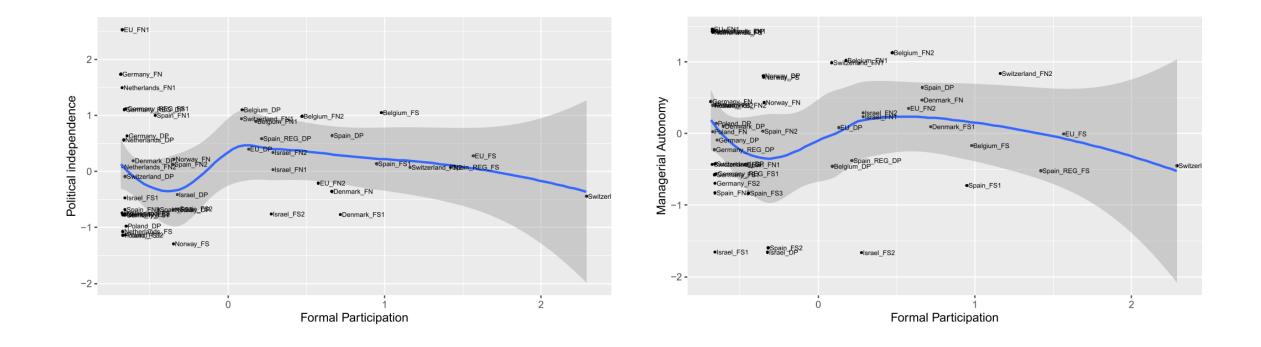
- Positive correlation: transparency and participation
- Negative correlation: accountability and inclusiveness
- We also look at the decoupling dynamics in the paper and see that there are 4 different behaviors (positive trade-off, negative trade-off, positive decoupling and negative de-coupling)



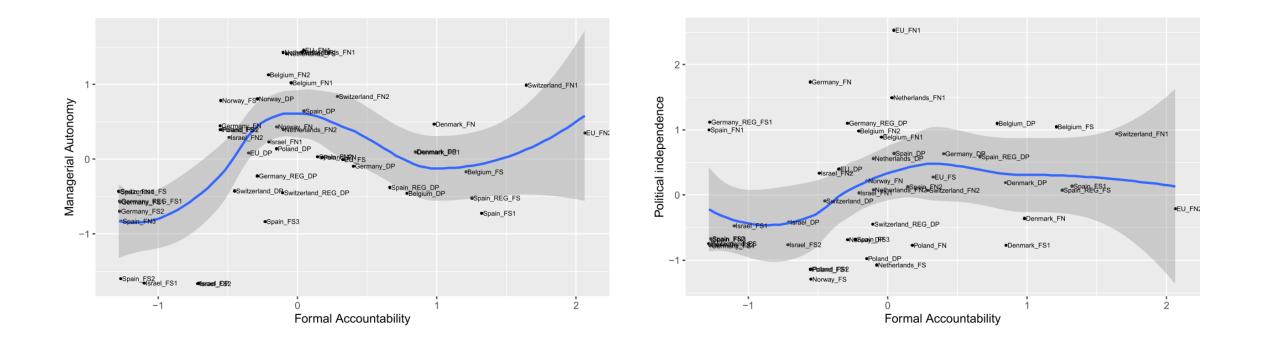
Aim 3# The relationship between political independence and managerial autonomy and our measures



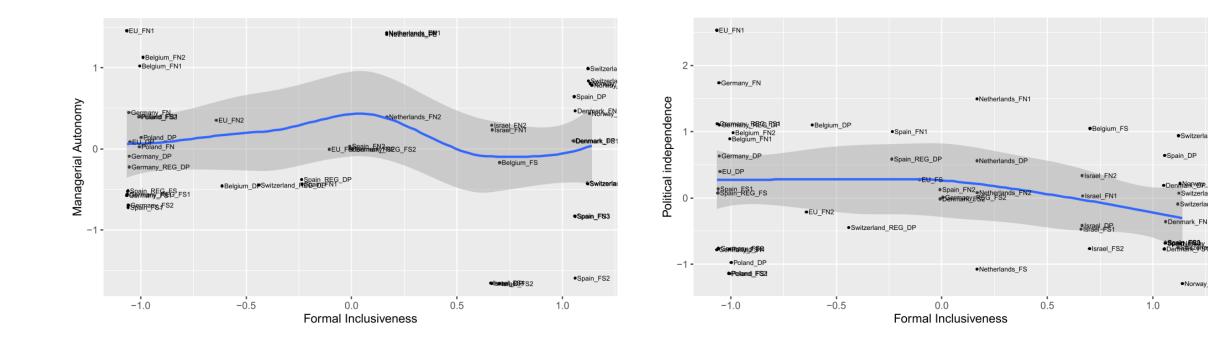
Formal transparency



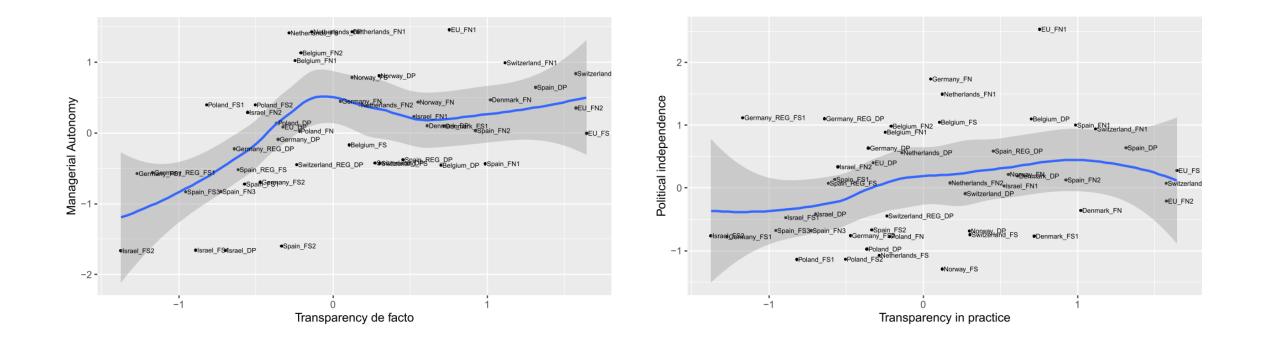
Formal participation



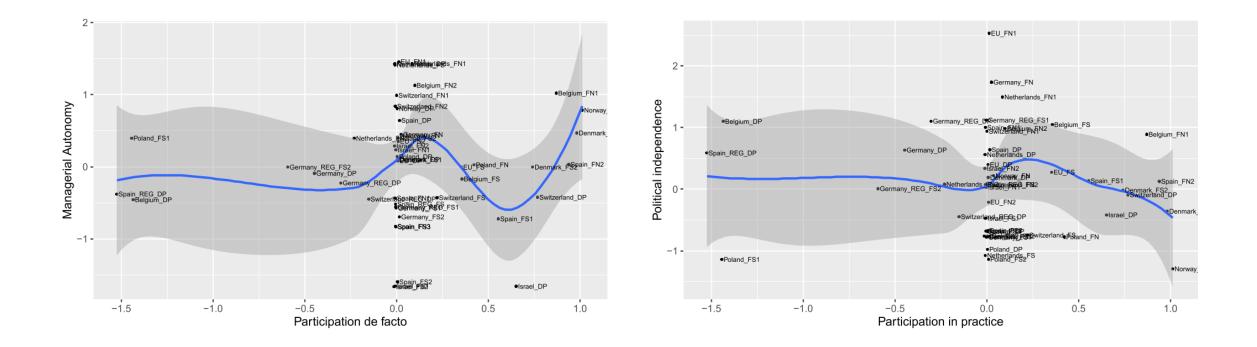
Formal accountability



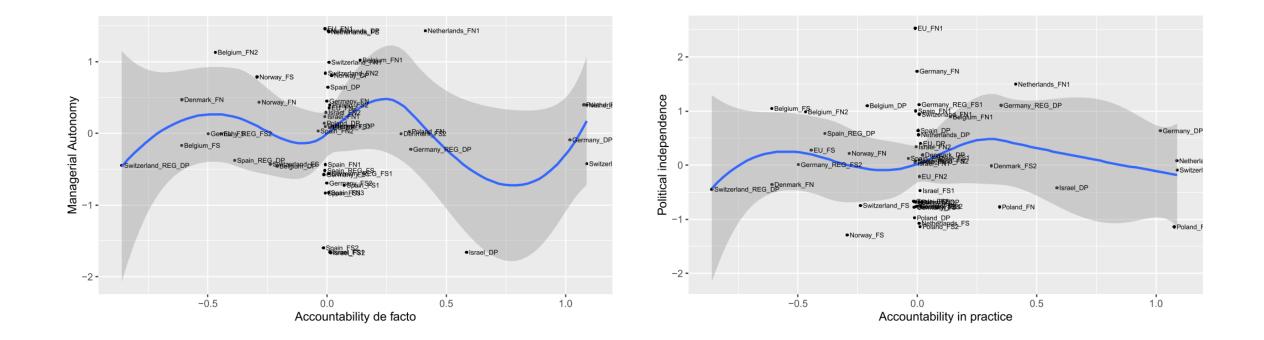
Formal inclusiveness



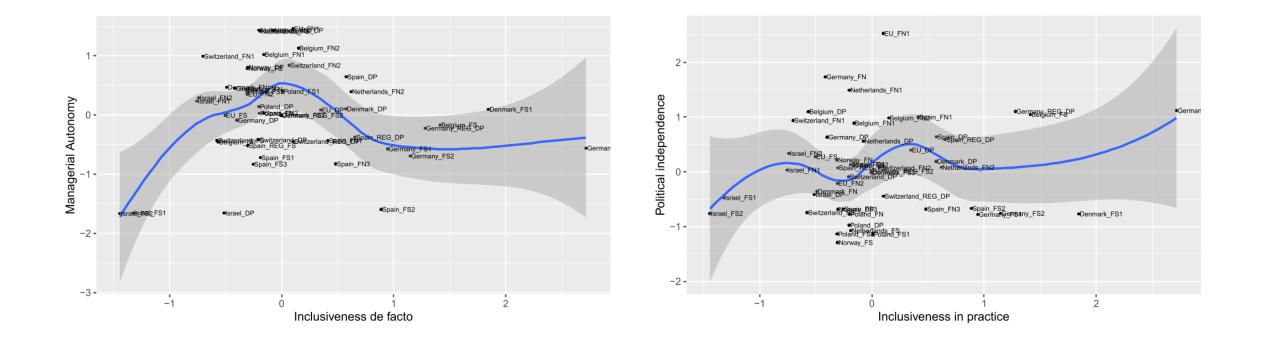
Transparency de-facto



Participation de-facto



Accountability de-facto



Inclusiveness de-facto

Aim #3: Findings (might change...)

<u>Relationship with political independence and managerial autonomy</u>

- Managerial autonomy seems positively correlated with the de-facto measures but only with formal accountability (not with formal transparency, inclusiveness and participation)
- Political independence only positively correlated with inclusiveness de-facto and formal transparency
 - Planning to run Bayesian regression to explore the relationship

Limitations

Some more data is about to come in for de-facto accountability and participation that will change the results slightly.

We still need to develop hypotheses on the expected relationship between independence, autonomy and these qualities based on the theory

We also should formalize expectations on relationship between formal and de-facto dimensions.

Conclusions and contributions

- This paper presents an original database on the democratic qualities of 49 regulatory bodies in 9 countries and 3 sectors
- An IRT analysis based on Bayesian statistics led to a refined and validated measure of formal and de-facto transparency, accountability, inclusiveness and participation of regulatory bodies
- This yielded a relative score of each regulatory body in our database for each of the 8 latent variables.
- This enables to compare the extent of which regulatory bodies are obligated for different qualities and the extent to which they perform them in practice.

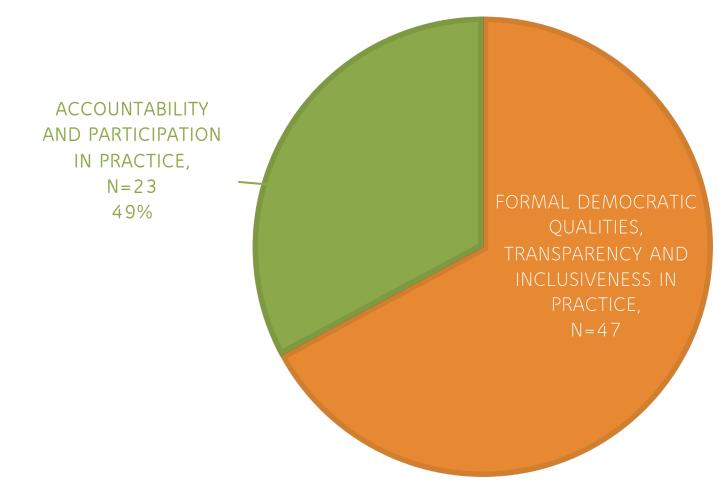
Conclusions and contributions

- We see early evidence that managerial autonomy is positively correlated with the qualities and not so political independence, but we are waiting for additional data and additional and more robust analyses.
- We see which countries and sectors are more transparent, inclusive, accountable and participatory.

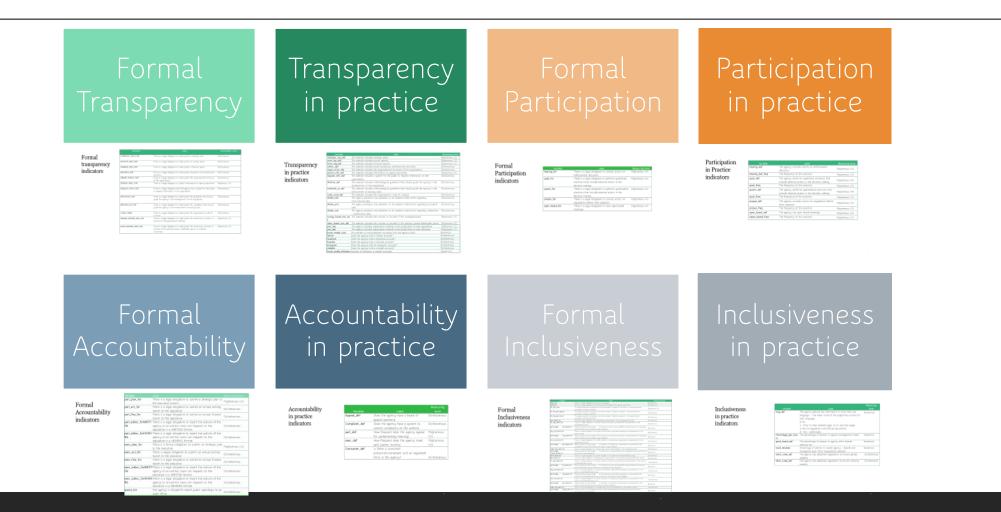
Thank you!

Additional Information

NUMBER OF REGULATORY BODIES IN DATABASE



Measurement development



Formal transparency indicators

VARIABLE	LABEL	MEASURING LEVEL
STRATEGIC_REP_FOR	There is a legal obligation to make public a strategic plan	Dichotomous
ACTIVITY_REP_FOR	There is a legal obligation to make public an activity report	Dichotomous
FINANCE_REP_FOR	There is a legal obligation to make public a financial report	Dichotomous
ENFORCE_FOR	There is a legal obligation to make public resolutions and enforcement decisions	Dichotomous
ORGAN_STRUC_FOR	There is a legal obligation to make public the organizational structure of the organization	Dichotomous
PERSON_INFO_FOR	There is a legal obligation to publish information on agency personnel	Polytomous (5)
REQUEST_INFO_FOR	There is a legal obligation that the agency has a system for the public to request information on the organization	Dichotomous
METHODO_FOR	There is a legal obligation to make public the guidelines that should guide the agency in the development of new regulations	Dichotomous
METHOD_EX_FOR	There is a legal obligation to make public the guidelines that should guide the agency in the enforcement of existing rules	Dichotomous
CODE_COND	There is a legal obligation to make public the organization's code of conduct	Dichotomous
MANAG_BOARD_MIN_FOR	There is a legal obligation to make public the resolutions, minutes, or records of managing board meetings	Polytomous (3)
ADVIS_BOARD_MIN_FOR	There is a legal obligation to make public the resolutions, minutes or records of the advisory board, stakeholder group or scientifc committee	Polytomous (3)

Transparency in practice indicators

Variable	Label	Measuring level
strategic_rep_def	The website includes strategic plans	Polytomous (3)
activ_rep_def	The website includes annual reports	Polytomous (3)
finan_rep_def	The website includes financial reports	Polytomous (3)
enforc_def	The website includes board resolutions /enforcement decisions	Dichotomous
organ_struc_def	The website includes the organizational structure of the organization	Dichotomous
person_info_def	The website includes information on agency personnel	Polytomous (5)
request_info_def	The website includes a system for the public to request information on the	Dichotomous
	organization	
Method_def	The website includes methodological guidelines that should guide the agency in the	Dichotomous
	development of new regulations	
methodo_ex_def	The website includes methodological guidelines that should guide the agency in the	Dichotomous
	enforcement of existing rules	
code_cond_def	The website includes the organization's code of conduct	Dichotomous
Media_info	The agency produces and publishes on its website media briefs regarding	Dichotomous
	informational data.	
Media_proc	The agency produces and publishes on its website media briefs regarding procedural	Dichotomous
	data.	
Media_sub	The agency produces and publishes on its website media briefs regarding substantive	Dichotomous
	- justification data	
manag_board_min_de	The website includes the minutes or records of the managing board	Polytomous (5)
f		
advis_board_min_def	The website includes the minutes or records of the advisory board/stakeholder group	Polytomous (5)
just_reg	The agency includes explanatory material to the publication of new regulations	Polytomous (3)
just_dec	The agency includes explanatory material to the publication of new decisions	Polytomous (3)
Social_media_total	The number of social platform accounts that the agency holds	Numerical
Twitter	Does the agency hold a Twitter account?	Dichotomous
Facebook	Does the agency hold a Facebook account?	Dichotomous
Youtube	Does the agency hold a Youtube account?	Dichotomous
Instagram	Does the agency hold an Instagram account?	Dichotomous
Linkedin	Does the agency hold a LinkedIn account?	Dichotomous
Social_media_followers	Number of followers in overall accounts	Numerical
		36

Formal Participation indicators

Variable	Label	Measuring level
hearing_for	There is a legal obligation to consult actors on	Polytomous (4)
	enforcement decisions	
quali_for	There is a legal obligation to perform qualitative	Polytomous (4)
	practices that include external actors in the	
	decision making	
quanti_for	There is a legal obligation to perform quantitative	Polytomous (4)
	practices that include external actors in the	
	decision making	
propos_for	There is a legal obligation to consult actors on	Polytomous (4)
	regulations before their adoption	
open_board_for	There is a legal obligation to have open board	Polytomous (4)
	meetings	

Participation in Practice indicators

Variable	Label	Measuring level
hearing_def	The agency consults actors on enforcement decisions	Polytomous (4)
hearing_def_freq	The frequency of this practice	Polytomous (3)
quali_def	The agency performs qualitative practices that include external actors in the decision making	Polytomous (4)
quali_freq	The frequency of this practice	Polytomous (3)
quanti_def	The agency performs quantitative practices that include external actors in the decision making	Polytomous (4)
quali_freq	The frequency of this practice	Polytomous (3)
propos_def	The agency consults actors on regulations before their adoption	Polytomous (4)
propos_freq	The frequency of this practice	Polytomous (3)
open_board_def	The agency has open board meetings	Polytomous (4)
Open_board_frew	The frequency of this practice	Polytomous (3)

Formal Accountability indicators

Variable	Label	Measuring level
parl_plan_for	There is a legal obligation to submit a strategic plan to the executive branch	Polytomous (3)
parl_act_for	There is a legal obligation to submit an annual activity report to the legislative	Dichotomous
parl_fina_for	There is a legal obligation to submit an annual finance report to the legislative	Dichotomous
parl_adhoc_forWRITT EN	There is a legal obligation to report the actions of the agency on an ad-hoc basis (on request) to the legislative in a WRITTEN format	Dichotomous
parl_adhoc_forHEARI NG	There is a legal obligation to report the actions of the agency on an ad-hoc basis (on request) to the legislative in a HEARING format	Dichotomous
exec_plan_for	There is a formal obligation to submit an strategic plan to the executive	Polytomous (3)
exec_act_for	There is alegal obligation to submit an annual activity report to the executive	Dichotomous
exec_fina_for	There is a legal obligation to submit an annual finance report to the executive	Dichotomous
exec_adhoc_forWRIT1 EN	There is a legal obligation to report the actions of the agency on an ad-hoc basis (on request) to the executive in a WRITTEN format	Dichotomous
exec_adhoc_forHEAR NG	There is a legal obligation to report the actions of the agency on an ad-hoc basis (on request) to the executive in a HEARING format	Dichotomous
spend_for	The agency is obliged to report public spending's to an audit office	Dichotomous

Accountability in practice indicators

Variable	Label	Measuring level
Appeal_def	Does the agency have a board of appeal operative	Dichotomous
Complaint_def	Does the agency have a system to submit complaints on the website	Dichotomous
parl_def	How frequent does the agency appear for parliamentary hearings	Polytomous (5)
exec_def	How frequent does the agency meet with parent ministry	Polytomous (5)
Consumer_def	Is there a consumer protection/complaint unit on regulated firms in the agency?	Dichotomous

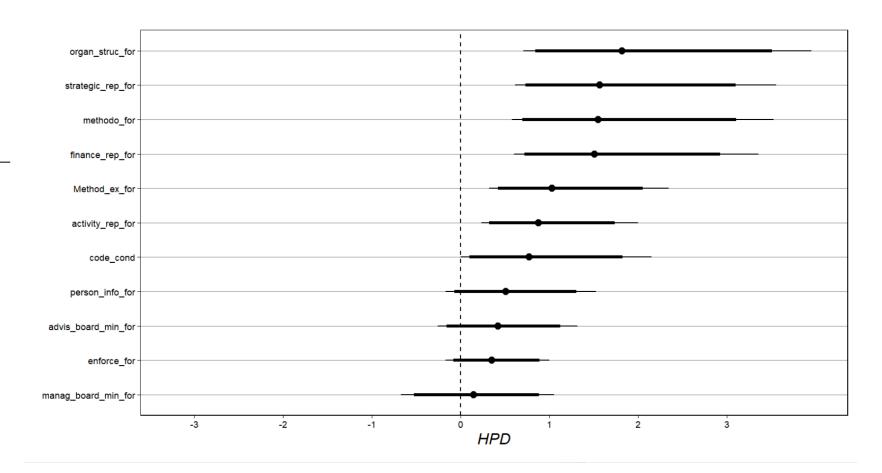
Formal Inclusiveness indicators

Variable	Label	Measuring level
lang_use	There is a legal obligation to use some languages	Dichotomous
Gend_for	There is a legal obligation to promote gender equality in the agency personnel	Dichotomous
No_dis_mino	The legal framework emphasizes non-discrimination (related to minorities) in the appointment procedures of agency officials	Polytomous (3)
No_dis_gen_agency	The legal framework emphasizes non-discrimination (related to gender) in the appointment procedures of agency officials	Dichotomous
No_dis_gen_board	The legal framework emphasizes non-discrimination (related to gender) in the appointment procedures of board members	Dichotomous
geo_board_for	Is there a legal obligation for geographical representation in the management board	Dichotomous
cit_rep_board_for	There is a legal obligation to include citizens/consumers groups/NGOs representatives in the management board	Dichotomous
percentage _cit_board_for	Please specify the percentage of citizens/consumers groups/NGOs representatives the managing board should have according to legal obligation	Numerical
reg_rep_board_for	There is a legal obligation to include firms/business associations/employers representation in the agency board	Dichotomous
percentage _reg_board_for	Please specify the percentage of firms/business associations/employers representatives the managing board should have according to legal obligation	Numerical
pro_rep_board_fo	There is a legal obligation to include scientific or professional organizations representation in the management board	Dichotomous
percentage _pro_board_for	Please specify the percentage of scientific or professional organizations representatives the management board should have according to legal obligation	Numerical
trade_rep_board_fo	There is a legal obligation to include trade unions representation in the managing board	Dichotomous
percentage _trade_board_for	Please specify the percentage of trade unions representatives the management board should have according to legal obligation	Numerical
gend_advis_for	There is a legal obligation for gender equality in the advisory board/stakeholder group	Dichotomous
geo_advis_for	Is there a legal obligation for geographical representation in the advisory board/stakeholder group	Dichotomous
cit_rep_advis_for	There is a legal obligation to include citizens/consumers groups/NGOs representatives in the advisory board/stakeholder group	Dichotomous
percentage _cit_advis_for	Please specify the percentage of citizens/consumers groups/NGOs representatives the advisory board/stakeholder group should have according to legal obligation	Numerical
reg_rep_advis_for	There is a legal obligation to include firms/business associations/employers representation in the advisory board/stakeholder group	Dichotomous
percentage _reg_advis_for	Please specify the percentage of firms/business associations/employers representatives the advisory board/stakeholder group should have according to legal obligation	Numerical
pro_rep_advis_fo	There is a legal obligation to include scientific or professional organizations representation in the advisory board/stakeholder group	Dichotomous
percentage _pro_advis_for	Please specify the percentage of scientific or professional organizations representatives the advisory board should have according to formal obligation	Numerical
rade_rep_advis_fo	There is a formal obligation to include trade unions representation in the advisory board	Dichotomous
percentage _trade_advis_for	Please specify the percentage of trade unions representatives the advisory board should have according to legal obligation	Numerical

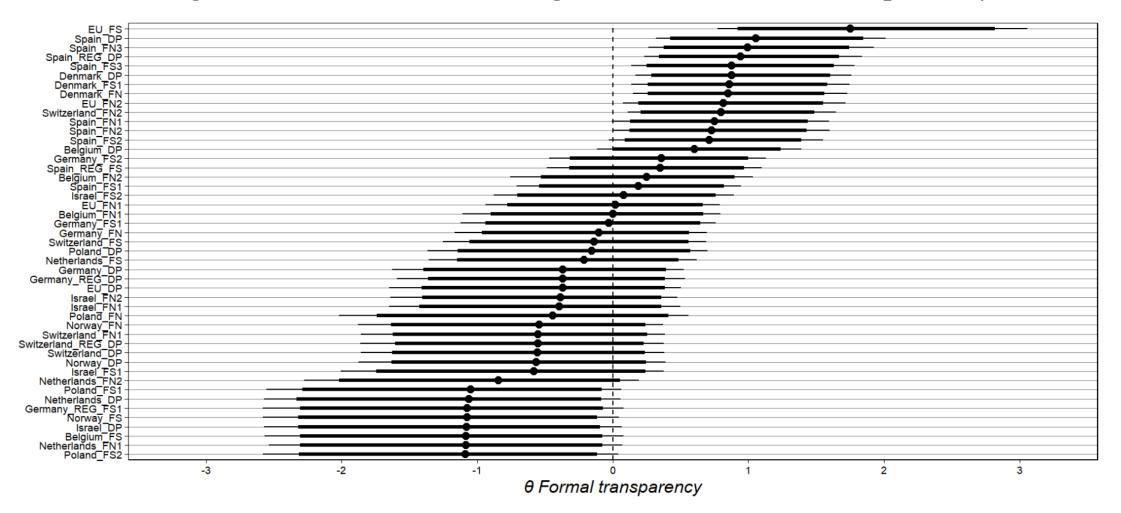
Inclusiveness in practice indicators

Variable	Label	Measuring level
lang_def	The agency website has information in more than one	Numerical
	language - the mean score of the polytomous scores for	
	each language:	
	O-No	
	1 -Only on main website page, or on very few pages	
	2-Yes-on regulations and official documents	
	3- Yes – extensively	
Percentage_gen_boa	The percentage of women in agency management board	Numerical
rd		
gend_board_def	The percentage of women in agency other boards -	Numerical
	advisory etc	
Gend_Biodata	Percentage of women in overall agency - boards and	Numerical
	managerial level (from biographical dataset)	
Gend_code_def	The agency has additional regulations to ensure gender	Dichotomous
	equality	
Mino_code_def	The agency has additional regulations to ensure minority	Dichotomous
	equality	

Formal Transparency -Discrimination Weight Assigned to Each Item in the Model (α). **Revised model**

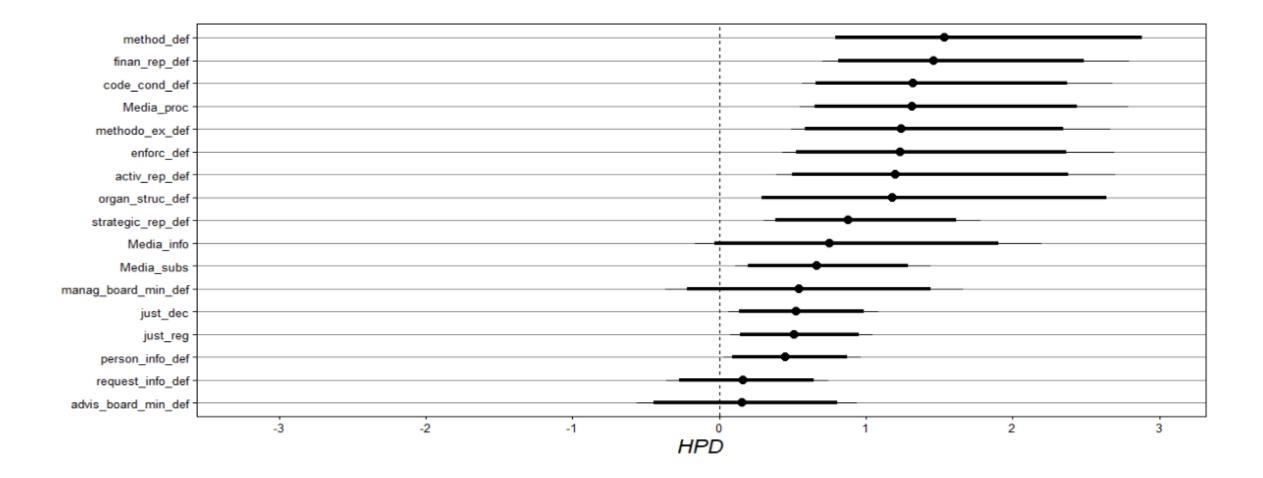


Agencies Ranked According to their Formal Transparency.

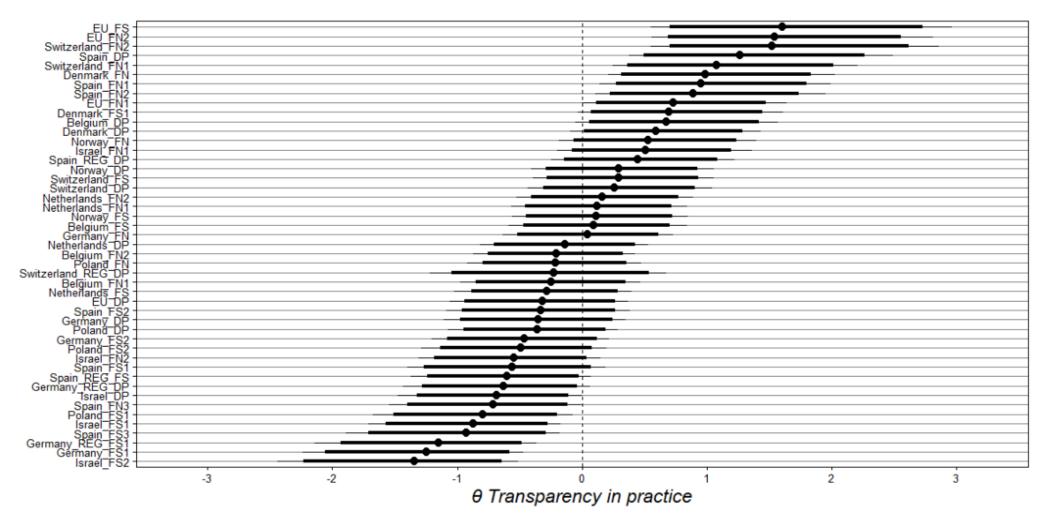


Scores of Formal Transparency($\boldsymbol{\xi}$) as Computed by the Model. The Dot Represents the Median Point Estimate and the Line the 95 Percent Credible Interval.

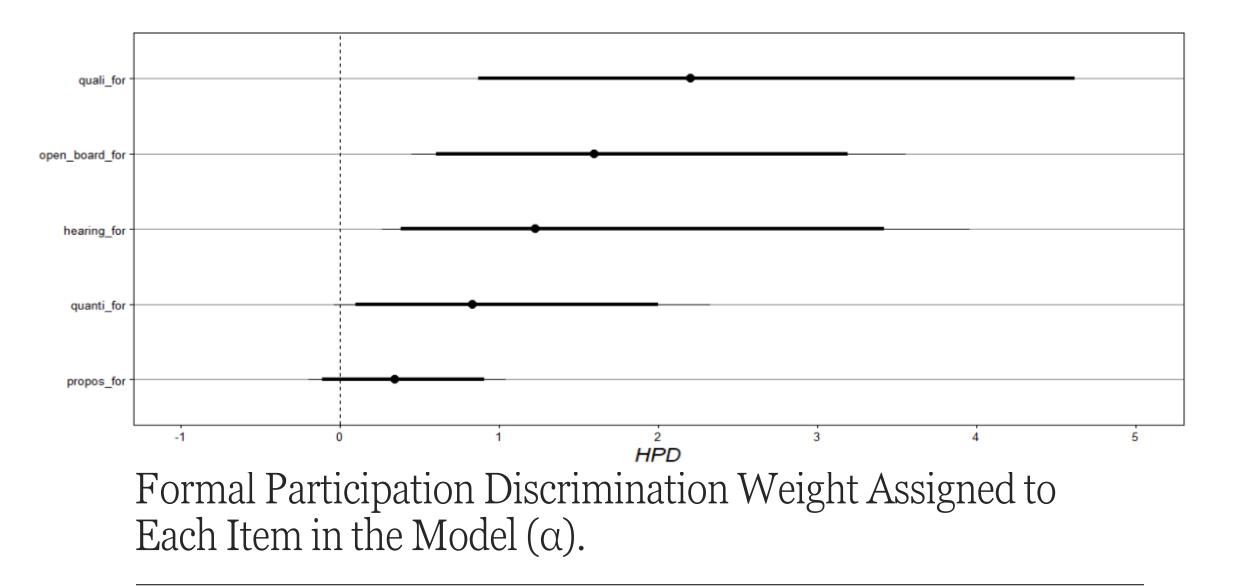
Transparency in practice-Discrimination Weight Assigned to Each Item in the Model (α).



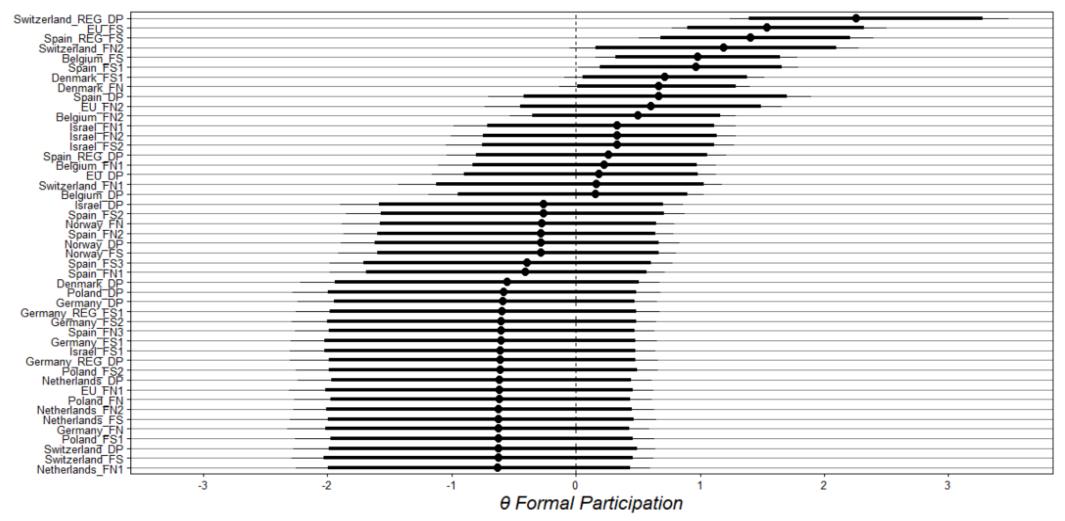
Agencies Ranked According to Their Transparency in practice



Scores of Transparency in practice ($\boldsymbol{\xi}$) as Computed by the Model. The Dot Represents the Median Point Estimate and the Line the 95 Percent Credible Interval.

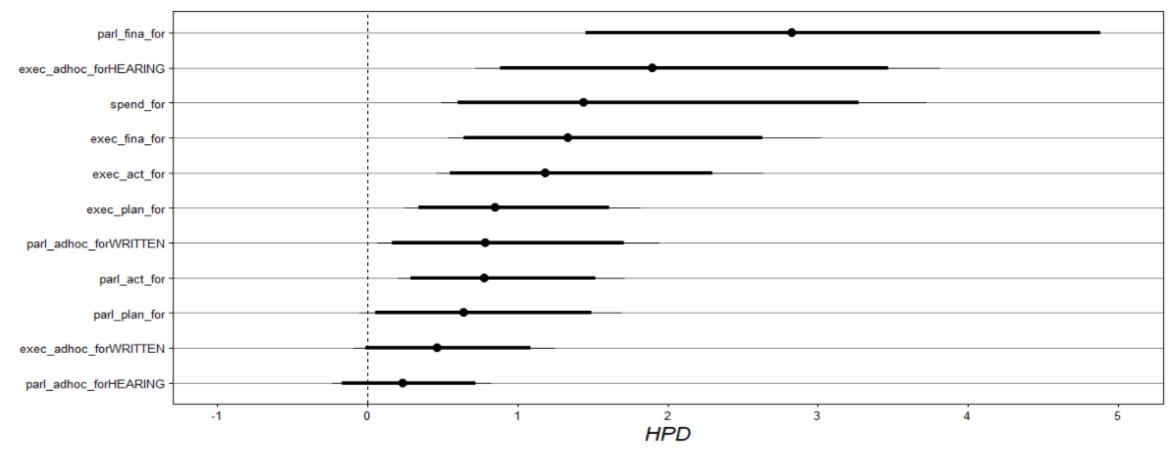


Agencies Ranked According to Their Formal Participation

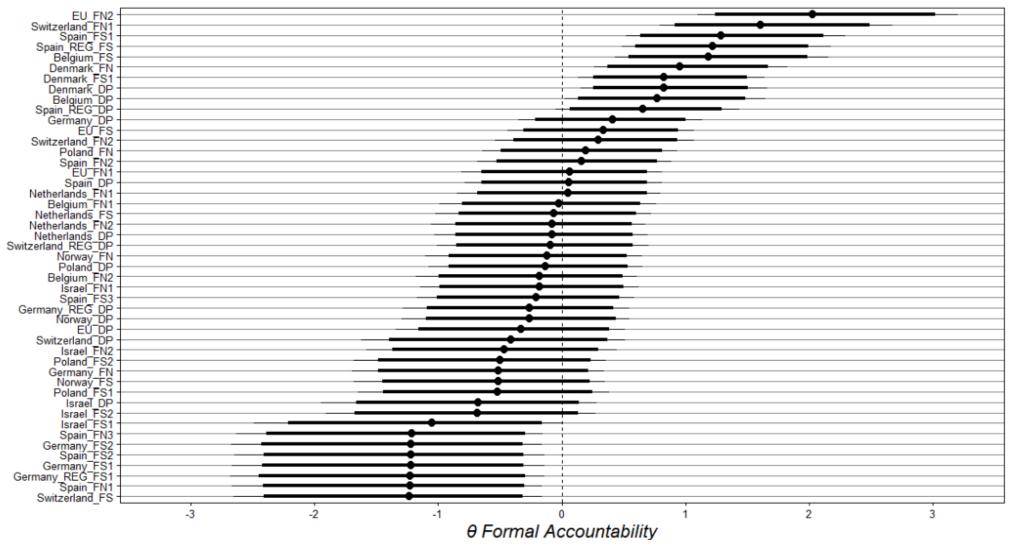


Scores of Formal Participation (ξ) as Computed by the Model. The Dot Represents the Median Point Estimate and the Line the 95 Percent Credible Interval.

Formal Accountability Discrimination Weight Assigned to Each Item in the Model (α).

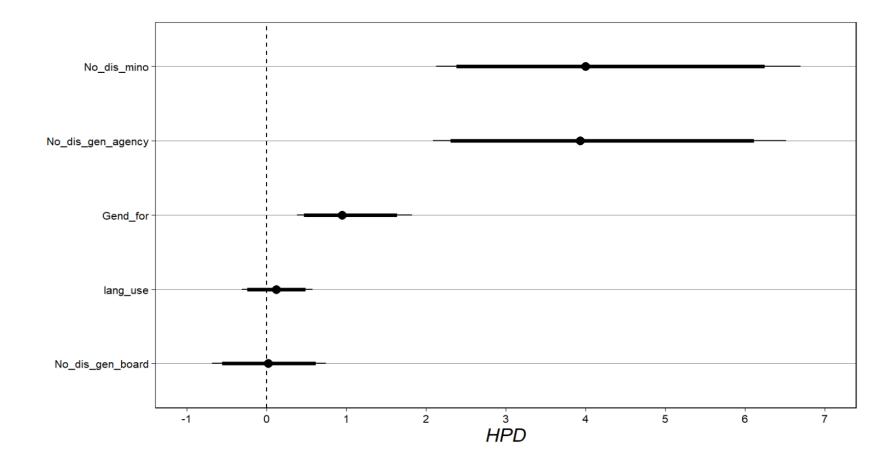


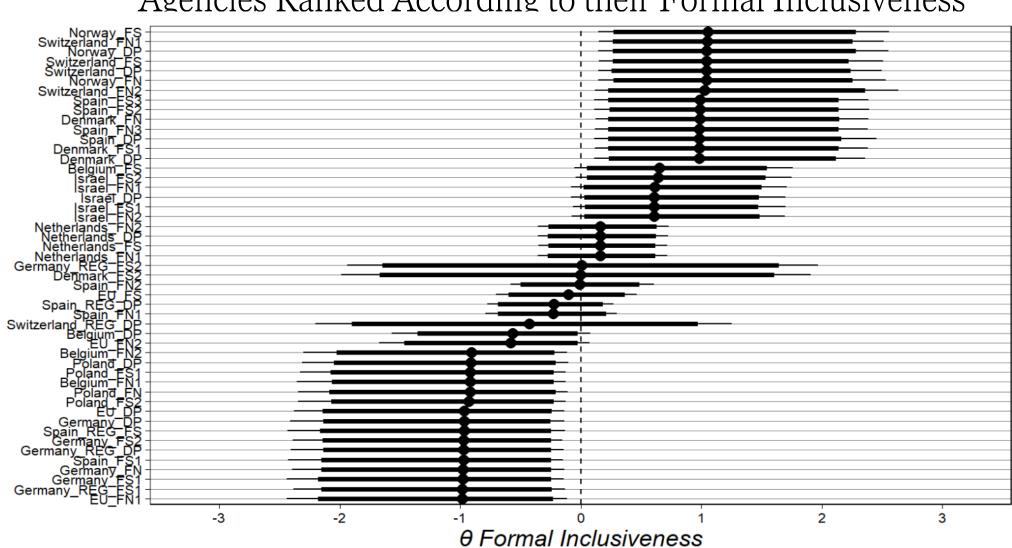
Agencies Ranked According to their Formal Accountability



Scores of Formal Accountability (ξ) as Computed by the Model. The Dot Represents the Median Point Estimate and the Line the 95 Percent Credible Interval.

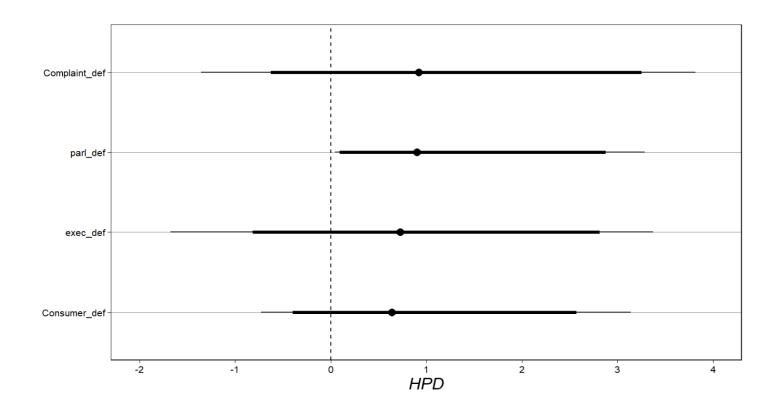
Formal Inclusiveness Discrimination Weight Assigned to Each Item in the Model (α).





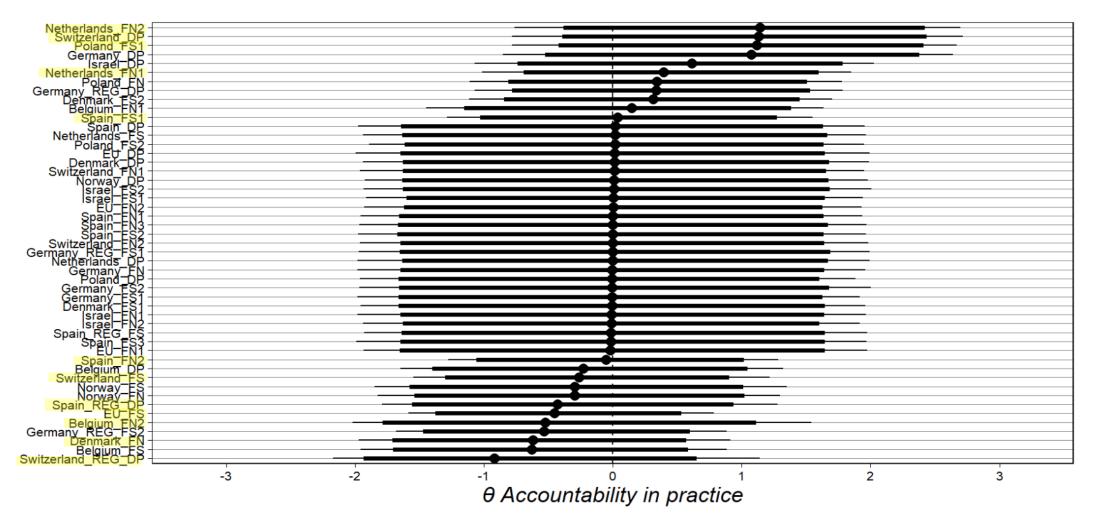
Agencies Ranked According to their Formal Inclusiveness

Scores of Formal Inclusivenss (ξ) as Computed by the Model. The Dot Represents the Median Point Estimate and the Line the 95 Percent Credible Interval.



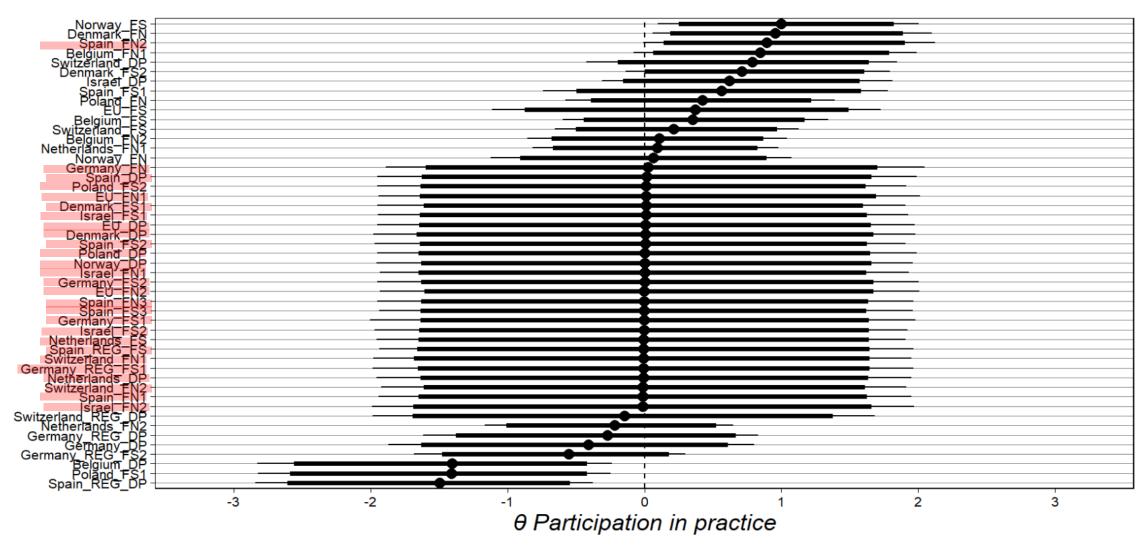
Accountability in practice Discrimination Weight Assigned to Each Item in the Model (α). Revised model

Agencies Ranked According to their Accountability in Practice



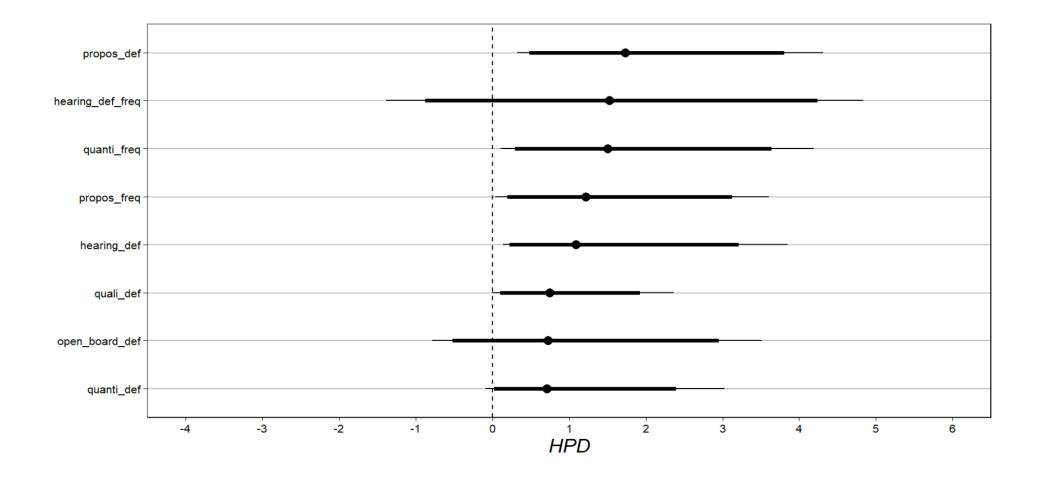
Scores of Accountability in Practice (ξ) as Computed by the Model. The Dot Represents the Median Point Estimate and the Line the 95 Percent Credible Interval.

Agencies Ranked According to their Participation in Practice

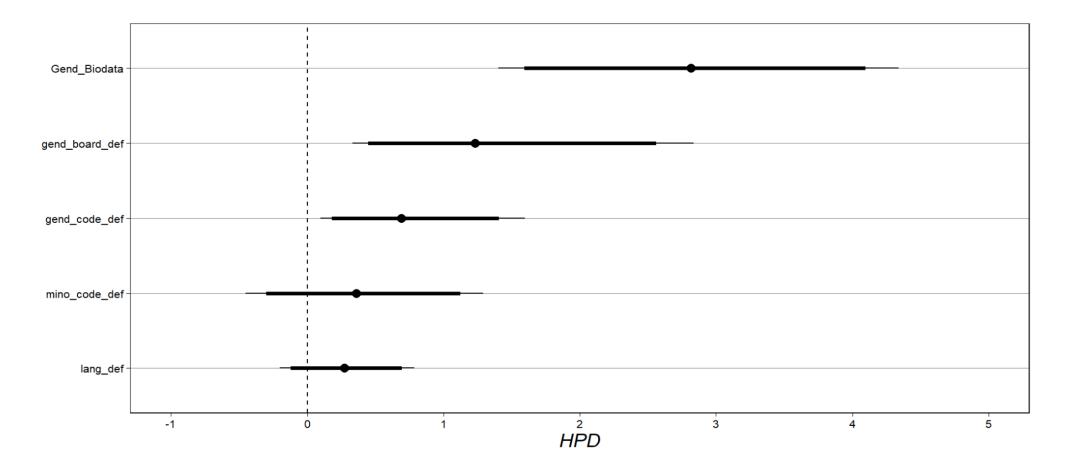


Scores of Participation in Practice (ξ) as Computed by the Model. The Dot Represents the Median Point Estimate and the Line the 95 Percent Credible Interval.

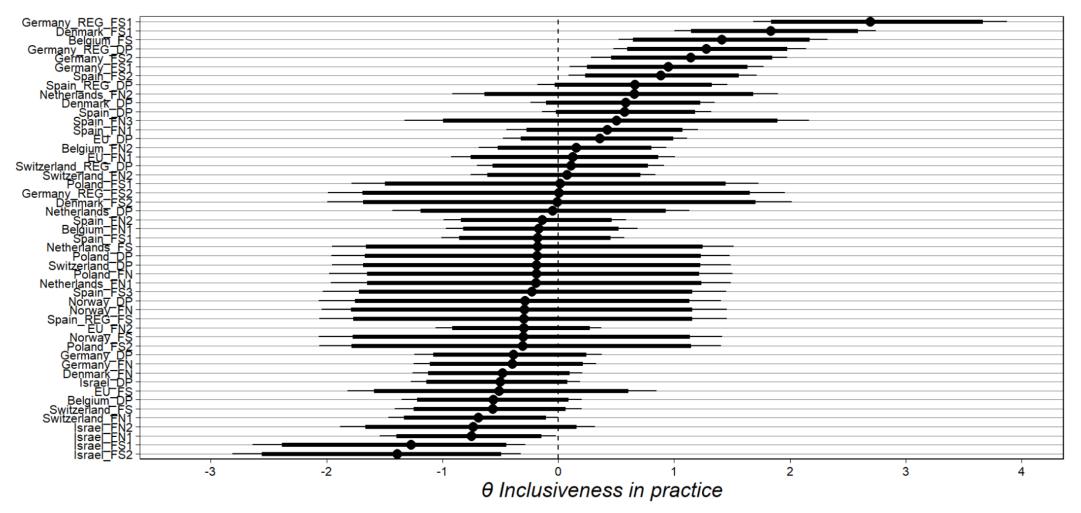
Participation in practice Discrimination Weight Assigned to Each Item in the Model (α).



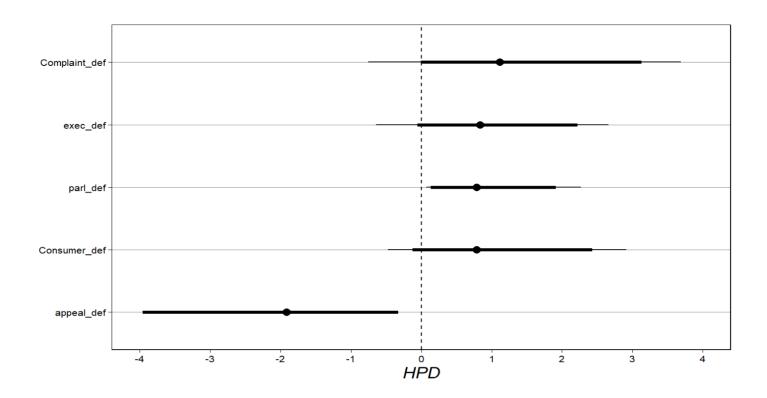
Inclusiveness in practice Discrimination Weight Assigned to Each Item in the Model (α).



Agencies Ranked According to their Inclusiveness in Practice



Scores of Inclusiveness in Practice(ξ) as Computed by the Model. The Dot Represents the Median Point Estimate and the Line the 95 Percent Credible Interval.



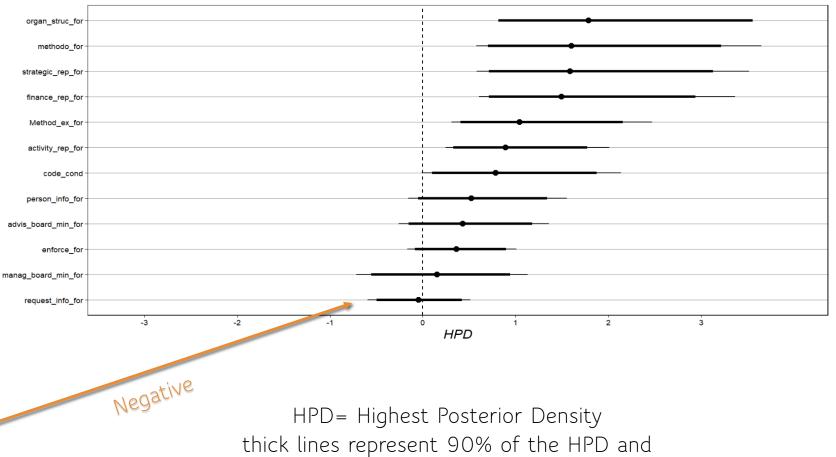
Accountability in practice Discrimination Weight Assigned to Each Item in the Model (α). Full model

Appeal_def: Does the regulatory body have a board of appeal operative ? No -O, Yes - 1.

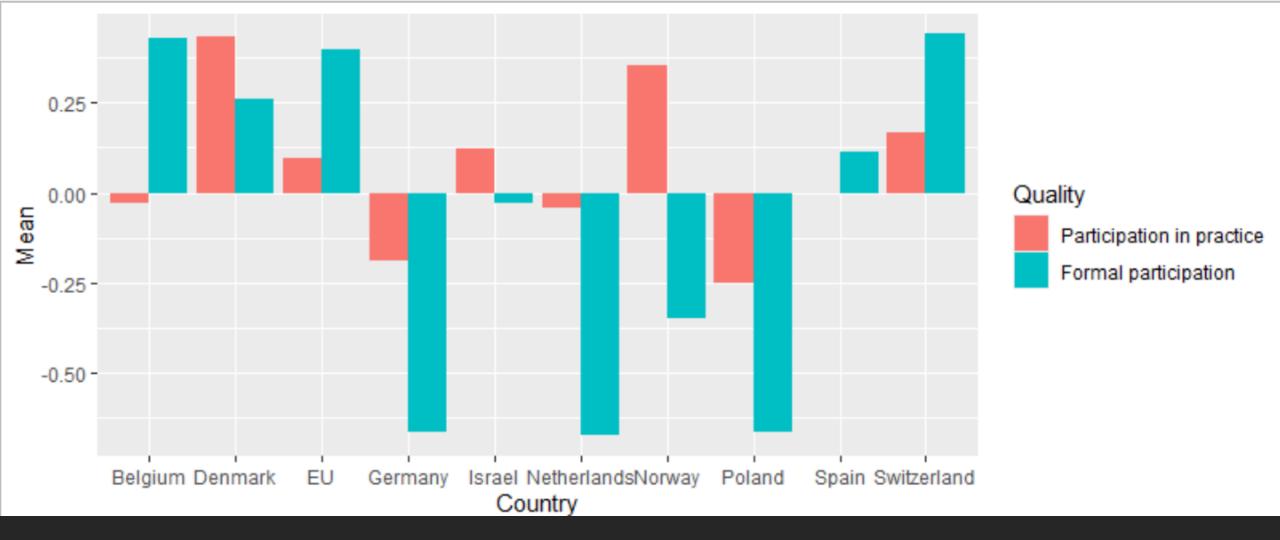
Formal Transparency Discrimination Weight Assigned to Each Item in the Model (α). Full model

Request_info_for: There is a legal obligation that the agency has a system (an officer, or a technical system to) for the public to request information on the organization

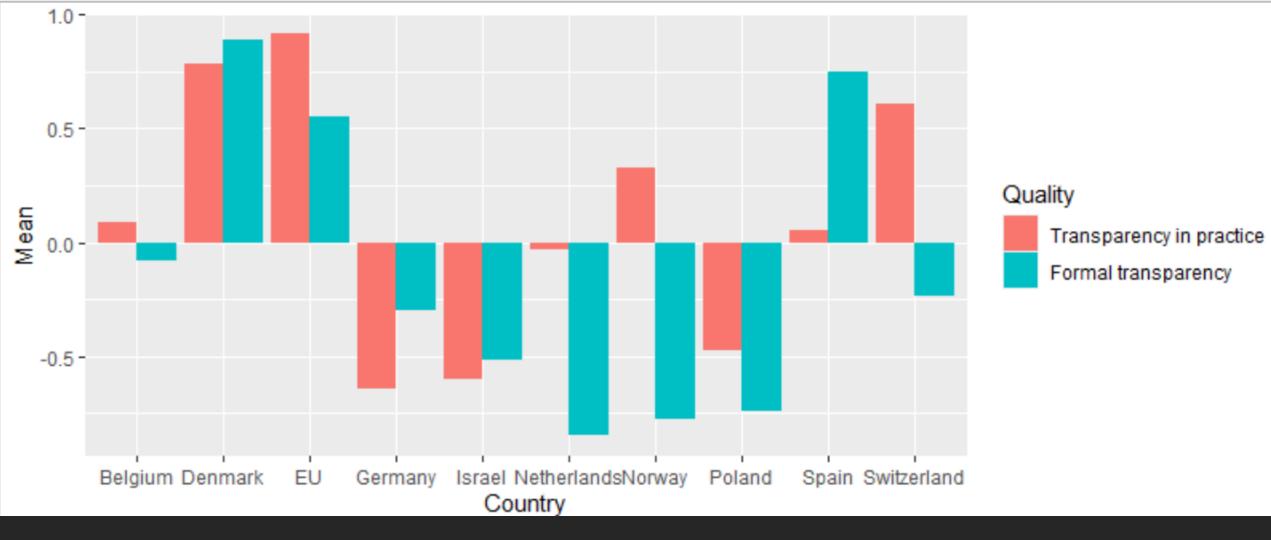
(Binary: No -0, Yes - 1)



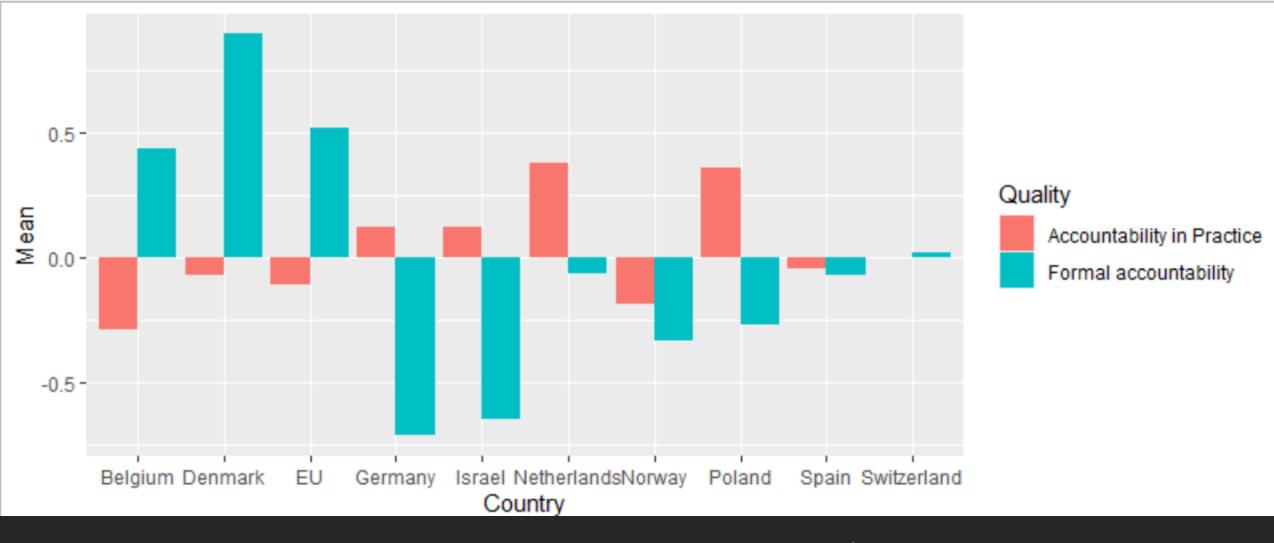
ick lines represent 90% of the HPD and thin lines represent 95% of the HPD



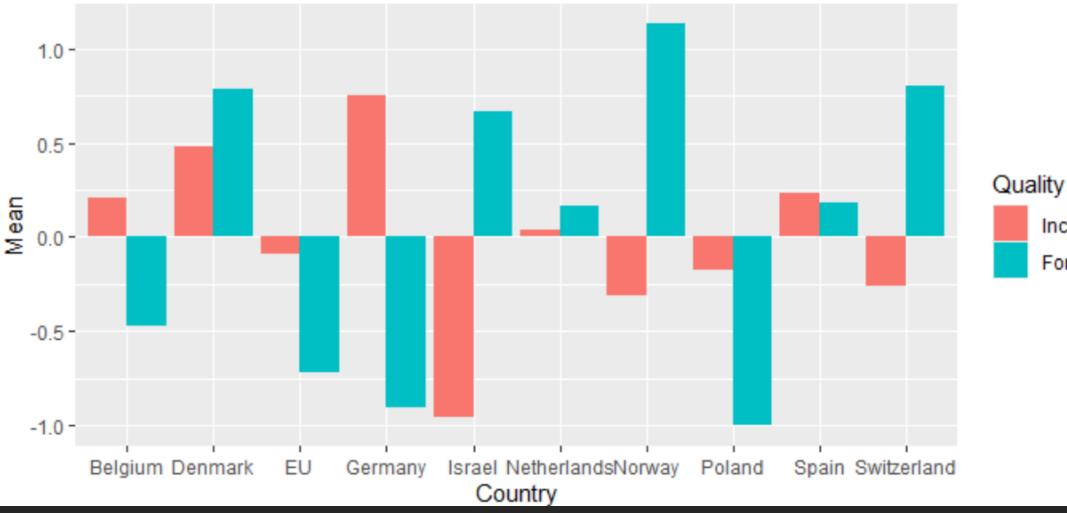
Comparing formal and de-facto participation means, by country

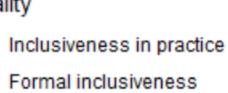


Comparing formal and de-facto transparency means, by country

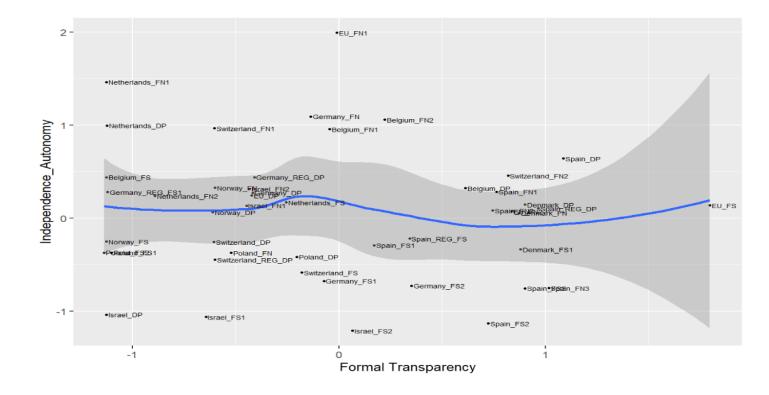


Comparing formal and de-facto accountability means, by country

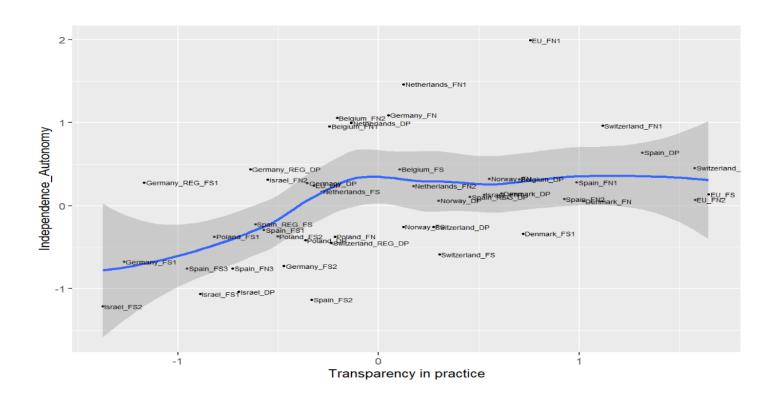




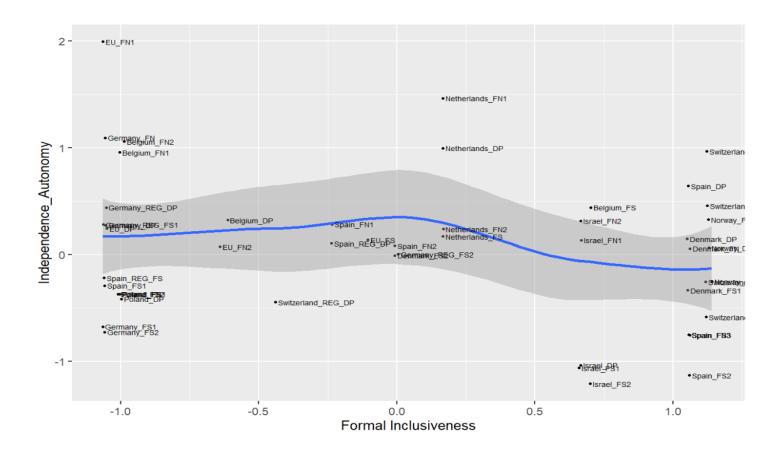
Comparing formal and de-facto inclusiveness means, by country



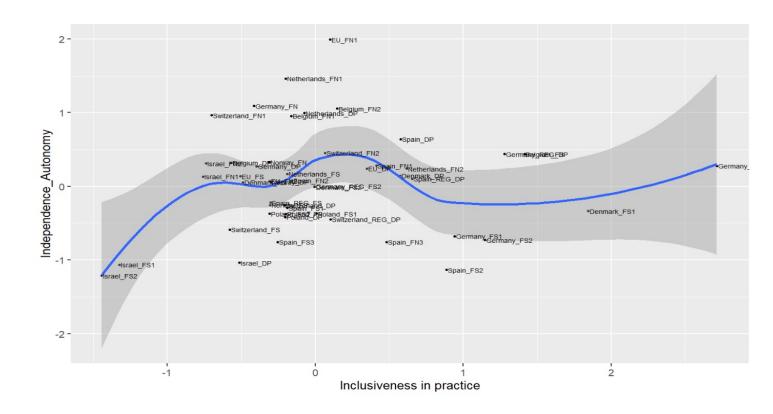
Are PI and MA correlated with Formal Transparency?



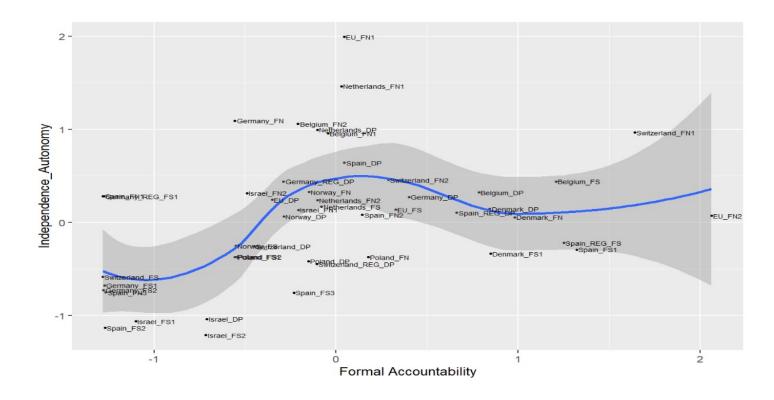
Are PI and MA correlated with Transparency in practice?



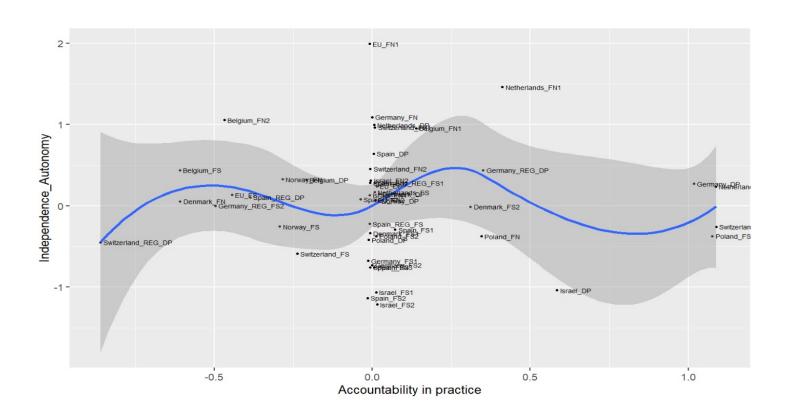
Are PI and MA correlated with Formal Inclusiveness?



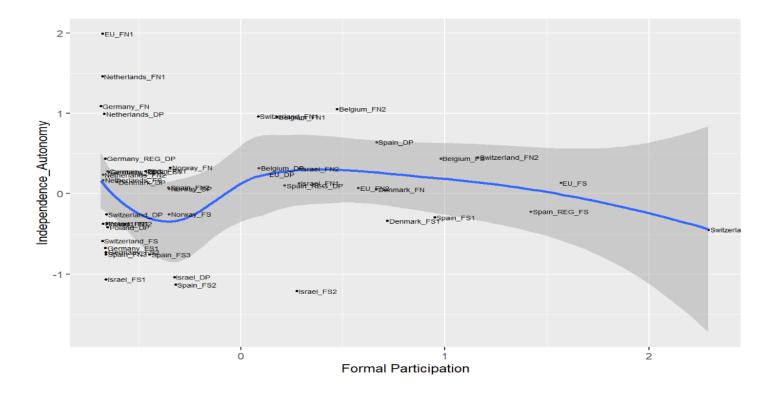
Are PI and MA correlated with Inclusiveness in practice?



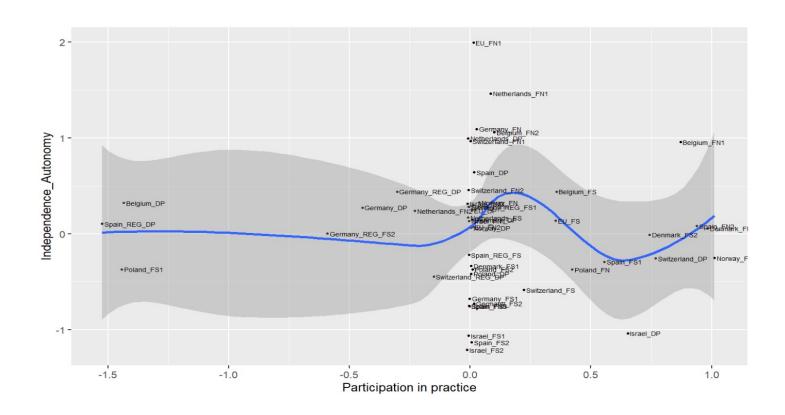
Are PI and MA correlated with Formal Accountability?



Are PI and MA correlated with Accountability in practice?



Are PI and MA correlated with Formal Participation?



Are PI and MA correlated with Participation in practice?