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Litigants' Strategies in Elected Courts: Evidence from French Labor Courts

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Abstract

In this paper, we focus on how litigants adapt their strategies to the composition of the elected courts they face. We investigate the case of French labor courts which are composed of equal elected members from both employees' unions and employers' federations. Using data from the French Justice Ministry between 1998 and 2012, we investigate whether union membership of these lay judges influences judicial outcomes (settlement, decisions in court, intervention of a professional judge when no majority is found among the lay judges ("départage")). Our methodology relies on probit and ordered probit estimations, with controls for endogeneity. We also run a double sample selection model to control for case selection. We find that courts with elected judges from the most confrontational unions lead to more settlement and more départage (caused by a selection effect). However, we detect no impact on the decision (rejection or acceptance of the claim), nor on the volume of litigation.

JEL codes: K31, K41
Keywords: Labor courts, unions, settlement, judicial bias.

1   Introduction

Are unions appropriate labor law enforcers? Do litigants adapt their strategies to the judges they face? In this paper, we study labor law enforcement by judges elected from lists proposed by unions. We wonder whether the judge's affiliation to an union impacts the litigants' strategies.

It is now well established that firing costs play a significant role in the decision to hire or fire workers. Part of these costs are made up of litigation costs appearing when dismissal is challenged at court. To avoid long delays and high litigation costs, many countries try to foster negotiation between parties. As an illustration, before litigating, mediation attempt is now required in Australia and in the U.K., and conciliation is mandatory in France. When parties fail to reach an agreement, they end up at court to get a decision. Whether this decision should be made by professional judges or lay judges at this stage is an open question. Proponents of lay judges emphasize their legitimacy grounded on the proximity with the litigants' situations and their experience of the working conditions. On the contrary, professional judges appear as more able to interpret labor law and to develop less empathy for one party or another. In practice, the situation is contrasted. While some countries rely only on professional judges in labor courts (as in Spain or Italy), some others have chosen mixed systems where professional judges and lay judges stand together to make a decision (as in Belgium or Germany). On this regard, the French experience is quite particular and interesting as judges are elected in each local court on lists proposed by workers' and employers' unions, on a parity basis. All claims are litigated by a panel of four lay judges, and a professional judge steps in only when they fail at reaching an agreement. We use French data to analyze labor law enforcement by elected judges. Our interest is to understand whether the litigants' decision to settle the case or to go to trial is affected by the union to which the judges are affiliated. While employer unions generally propose a common list, each worker union proposes its own list. The great ideological diversity among employee unions is a useful source of variation to identify the impacts of unions' affiliations. To reach our goal, we use data on all cases hold by employees in labor courts in France from 1998 to 2012 (1,339,496 observations). These data contain information

at the case level. We match these observations to data on councilors' elections that took place in 1997, 2002 and 2008. We are then able to distinguish between "non-reformist" courts –where elected employees come from unions known to be the most confrontational at the national level– and reformist ones –where elected employees are considered as more prone to find agreements with employers' federations. Our empirical results show that parties settle more frequently when they face non-reformist courts. Claims with evidence in favor of the plaintiff are more likely to be abandoned, suggesting that the parties settle out of court. On the contrary, claims with little evidence for the plaintiff are rather conciliated at the mandatory settlement attempt. As for claims decided by the elected judges in non-reformist courts, they are more likely to need the intervention of a professional judge who steps in (*départage*), meaning that the four elected employers and employees fail more frequently to reach an agreement on the case. Our investigation suggests however that this is mainly caused by a selection effect rather than a higher propensity of judges of non-reformist courts to disagree. National oppositions between non-reformist workers' unions and employers then seem to persist at the court level. There is however no evidence that the final decision (rejection or acceptance) is different in non-reformist and reformist courts. Similarly, we find that the volume of litigation is not impacted by the composition of the courts. Our paper contributes to the debate on labor law enforcement by showing that litigants adapt their strategies to the judges they face: when they anticipate longer procedures because of *départage*, they have more incentives to settle their case.

Section 2 relates our paper to the previous economic literature. Section 3 describes the institutional framework of French labor courts. Section 4 presents our data. Preliminary analyzes are proposed in section 5. Complementary investigations are led in section 6, and interpreted in section 7. Discussion and concluding remarks follow in section 8.

2   Literature review

Our paper is related to different fields of the economic literature. Many works have explored the effects of employment protection legislation (EPL) on labor markets (Lazear (1990); Portugal and Blanchard (2001); Addison and Teixeira (2003); Clark and Postel-Vinay (2009)). In this paper, we do not focus on employment protection or changes in legislation but on labor law enforcement itself. Some papers have investigated this question by exploring how judgments can be influenced by macro-economic conditions. Using detailed data from an Italian bank and aggregate macro data, Ichino et al. (2003) show that local labor market conditions influence labor courts' decisions: similar misconducts may be considered as a legitimate ground for firing in a tight labor market and as an illegitimate one otherwise. On the opposite, Marinescu (2005) works on French data, and shows that a higher unemployment rate is associated with a lower probability to win at court for employees. Marinescu (2011) investigates whether judges deciding on unfair dismissal cases are sensitive to economic conditions. Using the 1992 survey of Employment Tribunal Applications in Great Britain and controlling for case selection, she finds that both unemployment and bankruptcy rates significantly decrease the probability of judges deciding in favor of dismissed employees. These contributions explore how macroeconomic variables influence litigation outcomes. In our paper, we rather investigate how the judges' affiliation influences litigation outcomes.

Our work is also related to Fraisse et al. (2014). The authors analyze how judicial outcomes impact employment flows in France (job creations and destructions). Their paper uses an instrumental approach, and exploits variations in the supply of lawyers. Their results show that a larger lawyer density encourages workers to file more cases, probably because of lower litigation costs. This, in turn, leads to lower probabilities to win at court (as lower quality claims are brought to courts),

and to more limited job fluctuations, mainly due to fewer job destructions. Our paper differs from this approach as we focus on the determinants of litigation outcomes, not on their consequences on the labor market.

More broadly, there is also a growing literature on judicial selection systems and court decisions (Gregory and Gordon (2004, 2007); Tabarrok and Helland (1999); Lim (2013); Snyder et al. (2015); Snyder and Lim (2015)). While dealing with elected judges, our paper departs from this literature by focusing on the strategies of the litigants who face judges elected through the same system but from different lists.

Our investigation also relies on two works exploring how judges' identity influences judicial decisions: Berger and Neugart (2011) have shown that (nomination) biases in case of labor law can influence trials' outcomes, and, therefore, parties' strategies.[1] In a older study, Spiller and Gely (1992) found that, in case of labor-relationships, a substitution of one Republican Justice by one Democrat Justice in the American Supreme Court increased the likelihood of pro-union decisions by 5 percentage points. Last, and more technically, our paper relies on methods used to determine judges' ideal points at the American Supreme Court found in Bafumi et al. (2005), Martin and Quinn (2002) and Martin et al. (2005).

3   The institutional setting

3.1   Organization of labor courts in France

French labor courts ("*Conseils de Prud'hommes*") deal with individual disputes affecting labor relations in the private sector (*e.g.* validity of employment contracts, nullification of a dismissal, compensations to be paid, level of severance payments).[2] There exist today 210 courts spread all over the territory. Each court is divided into five sections by activity (agriculture, commerce, industry, executives and diverse activities). Unlike other French jurisdictions, labor court judges (also called "councilors") are elected representatives of employees and employers. There is an absolute equality between the numbers of councilors representing employees and those representing employers. Geographical considerations entirely determine the court to which an employee has to bring his claim.[3] Figure 5 in the appendix D gives a graphical representation of this legal process.

Dispute resolution in French labor courts is composed of several stages. Once a claim is opened, it has to go first through the conciliation board (*bureau de conciliation*). This first stage is mandatory, and is supervised by both one councilor representing employers and one councilor representing employees. This first stage aims at forcing parties to listen to each other's viewpoint, and, if possible, to reach an agreement to avoid litigation. If parties fail to settle at this stage, the plaintiff may either drop the case or go to the "*bureau de jugement*" (ruling panel), comprising at least two councilors representing employers and two councilors representing employees (Blatman (2006)). When these four councilors agree on a decision, the claim ends (for the first instance at least). However, councilors may fail to reach an agreement, either on the decision, the amount of damages or on the litigation cost allocation (Lacabarats (2014)). In such a case, a professional judge intervenes

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[1]Judges are nominated by politically oriented representatives. Berger and Neugart (2011) show that changes in the identity of these representatives are associated with changes in the settlement rates, in the number of cases addressed to labor courts, in the number of appealed cases, and in the higher court settlement rate.

[2]These courts are first level tribunals. They only deal with individual disputes. Disputes affecting collective labor relationships are dealt with by ordinary civil courts (*Tribunal de grande instance*), only composed of professional judges.

[3]In other words, each court is competent for a given geographical area. If a labor conflict arises, the plaintiff cannot choose his court but has to go to the court on which his workplace depends. There are few exceptions to this general rule: for instance, workers doing work at home choose the court of the geographical area of their house.

to preside the panel and decides on the claim. It follows that the presence of a professional judge is not mandatory, and the vast majority of cases is decided without her intervention. It only occurs at the very last stage of the procedure in case both the conciliation and the *bureau de jugement* failed.[4] These features make French labor courts quite singular compared to other countries where professional judges or magistrates generally sit alongside lay judges or assessors from workers' and employers' organizations.[5]

3.2   The role of unions in labor courts

The French system of labor dispute resolution has given an important role to both unions and employers' federations in at least two respects. First, plaintiffs and defendants have the possibility to choose to be represented by a union delegate rather than by a lawyer during the conciliation or the trial phases. Note that, since judicial representation is not mandatory, parties can also decide to defend their interests by themselves. Second, unions play a dominant role in the election process, as they propose lists of candidates. These elections concern 14,512 councilors and occur every five years.[6] These general partisan elections, where all private sector workers can vote, are often considered by the unions as a test of their representativeness among the labor place.

Councilors can therefore be elected either in the employer or in the worker pool. First, regarding the former, the employers' federations (CGPME, MEDEF, FNSEA, UNAPL, UPA) generally propose a common list that gets the majority of the votes. The picture for workers' unions is substantially more complex.[7] The State recognizes five unions (for employees) as representative at a national level, and each of them presents its own list during elections. These are CGT, FO, CFDT CFTC, and CFE-CGC.[8] These unions are usually divided into two categories: the so-called *reformist* unions and, by opposition, the *non-reformist* unions, known to have tougher positions in debates.[9] French unions are usually characterized by their level of representativeness. Concerning the *reformist* unions, the CFDT, the CFE-CGC and the CFTC weight respectively 30%, 11% and 11% at the last 2008 elections. As for non-reformist unions, CGT and FO represent respectively 31% and 18%. These average relative weights hide however some strong discrepancies of representa-

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[4]Appeals are brought before the *Cour d'Appel* (*Chambre sociale*), composed only of professional judges, and appeals against *cours d'appel*'s decisions are lodged in the *Cour de cassation* (*Chambre sociale*).

[5]Source: The International Labour Organization, `http://www.ilo.org`

[6]Councilors are elected by universal suffrage by all employers and employees registered on the electoral roll (union membership is not required to vote). They are elected through proportional representation at the highest average, without splitting or preferential voting. Elections are organized by section and by college. The last election was held on December 2008, 3rd. The mandate of the councilors was exceptionally extended to December 2017, 31st, so as to think to a new nomination system. Elections for labor courts suffered from high levels of abstention: Only $25, 48\%$ of workers participate to the last election in 2008.

[7]The unionization rate remains one of the lowest among industrialized countries (about 5% of the private workers' population in 2006). `http://www.insee.fr/fr/ffc/docs_ffc/donsoc06yt.pdf` (Last access: January 2016). However, and paradoxically, French unions have increased their presence in French companies, such that 44% of private workers had at least one union representative in their company in 2005. `http://travail-emploi.gouv.fr/IMG/pdf/2008.04-16.1.pdf` (Last access: January 2016).

[8]CGT is *Confédération générale du travail*/ General Confederation of Labor, CFDT is *Confédération Française démocratique du Travail* / French Democratic Confederation of Labor, FO is *Force Ouvrière* / Worker's Power, CFTC is *Confédération Française des Travailleurs Chrétiens* / French Christian Workers' Confederation, and CFE-CGC is *Confédération Française de l'Encadrement-Confédération générale des cadres* / French Confederation of Professional and Managerial Staff – General Confederation of Professional and Managerial Staff. Other unions are SUD (*Union Syndicale Solidaire* / Trade Union Solidarity) and UNSA (*Union nationale de Syndicats Autonomes*/ National Union of Autonomous Trade Unions), as well as some other independent unions.

[9]Reformist unions seek to reform within the framework of capitalism. They aim at the maintenance of competitive production-based industrial relations. They are opposed to non-reformist unions, considered as more revolutionary (Mouriaux (2013)).

tion between and within labor courts. For instance, while the CFE-CGC dominates the *executives* section of labor courts, it receives a limited support in other sections. The relative weights of each union have slightly changed over time. Tables in Appendix B show the national results of the three election waves (1997, 2002, 2008). These tables show a great increase over time in the number of seats devoted to CGT, a decrease of those devoted to FO and CFDT, and a limited increase of those allocated to CFE-CGC and CFTC.

4 Data

4.1 Stylized facts

We consider a dataset built by the French Ministry of Justice which includes information about all cases dealt by French labor courts between 1998 and 2012. The comprehensive dataset comprises about 2.4 millions cases that were addressed to French labor courts during this time period. Most of the cases resulted from dismissed workers who challenged their former employer's decision.[10]

In order to properly answer our research questions, we restrict our data in four ways. First, we focus only on cases in which the employee sued his (former) employer, *i.e.* we get rid of cases where the plaintiff was an employer. Second, because of the limited quality of the database, we exclude observations (i) for which we are not able to determine how the case was terminated, (ii) cases that were joint[11], or (iii) for which essential characteristics are not reported. Third, because of data availability of the control variables, our sample restricts to courts located in metropolitan France. Fourth, to limit the unobserved heterogeneity of our data, we do not take into account cases that did not go through the standard legal process.[12]

Our final sample consists in 1,339,496 cases that were opened in 1998 or after, and that were terminated before the end of 2012. Figure 1 shows that the number of new cases opened each year in our dataset lies between 105,000 to 128,000. Note that only cases between 1998 and 2008 are displayed, because most cases that were opened after 2008 were not terminated in 2012. The number of new claims reached a peak in 1998 and 2002.[13] The slow decrease until 2007 can be explained by good economic conditions over the period, leading to few dismissals (De Maillard Taillefer and Timbart (2009)). The number of cases filed is indeed connected to economic conditions: about one in four dismissed workers challenges his dismissal in labor courts (Fraisse et al. (2014)).

For each observation, we match three geographical variables: the logarithm of the regional level of GDP per habitant, the departmental level of unemployment[14], and the composition of the court which heard the case (we define "the composition of the court" as the union membership of the

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[10]According to the French Ministry of Justice, 8 out of 10 cases in labor courts come from dismissed workers challenging their dismissal. Other cases are about unpaid wages or unpaid compensations (De Maillard Taillefer and Timbart (2009)). More recently, Serverin and Valentin (2009) show that 91 % of claims are about employees challenging personal dismissals.

[11]Several cases can be grouped (*jonction*) into a single case in very special circumstances. Joint cases must be nearly identical regarding both facts and legal considerations (same employer, same claims of the plaintiffs, simultaneity of suits, etc...)

[12]For some specific legal areas, there is no mandatory *conciliation* phase. This includes: reclassification of a temporary contract of employment, disagreement on the employer's refusal of days off, dismissal of an elected employee, suits about physical or mental injuries and suits in case of violation of individual rights.

[13]According to the Justice Ministry, the 2002 peak may be caused by the regulations on working time in France that were passed in 2000 (De Maillard Taillefer and Timbart (2009)).

[14] *Département* is an administrative subdivision of the French territory. Metropolitan France is made up of 95 *Départements*. We then collect the unemployment rate in the *Département* of each court. *Région* is another (and larger) administrative subdivision. Metropolitan France is currently made up of 22 regions. GDP is only available at this regional level.
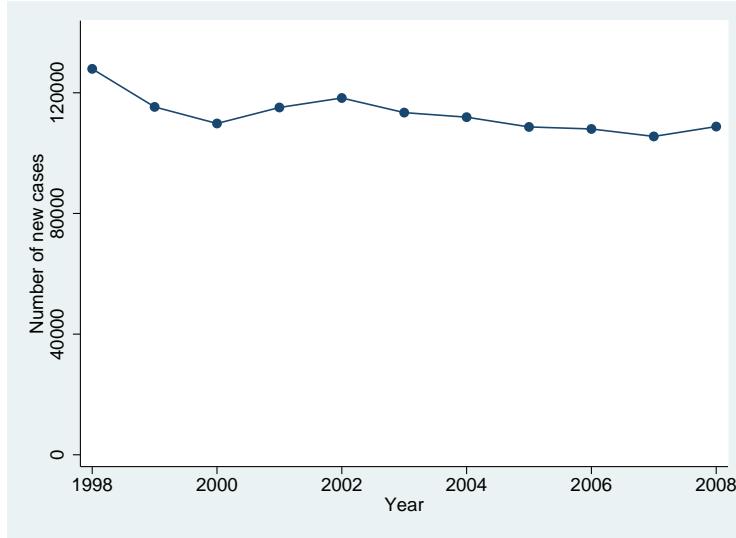
Figure 1: Evolution of the number of new cases opened per year between 1998 and 2008

councilors in this court). All variables were collected on the INSEE (French National Institute for Statistics) website, except the composition of the courts (Ministry of Labor).[15]

As recalled in subsection 3.1 (and in Figure 5 in the appendix D), judicial claims may have different outcomes: they can be either conciliated, or dropped, or decided by councilors with or without the intervention of a professional judge. In the remaining of the article, we shall refer to *conciliation* as the mandatory (official) settlement stage. Nevertheless, settlement can also occur in the shadow of the court: some claims which appeared to have been dropped in our data can have been settled out-of-court. As the investigation shall demonstrate, this is indeed the case.

Table 1 displays the number and the proportion of case outcomes for the whole dataset. Several remarks can be made in the light of these descriptive statistics. First, the proportion of cases settled during the *conciliation* phase is limited but not negligible (13.47%). This suggests that in-court settlement is a well established phenomenon in the French labor courts. Second, a great proportion of cases is not decided by councilors nor by professional judges. Indeed, almost 24.75% of the cases disappear between the end of the *conciliation* period and the councilors' decision. These cases represent either plaintiffs who decide to abandon their claims, or plaintiffs who reach an out-of-court agreement with the defendants. Third, only a minority of cases is dealt by *professional judges* rather than by councilors (9.28% vs 52.5%). However, considering that not all cases reach the councilors' decision (38.22% are either conciliated or abandoned), the proportion of *départage* (i.e. cases where a professional judge steps in) represents 15.02% of the litigated cases.

Figure 2 displays the evolution of the structure of case outcomes over the past years. Several comments can be made in the light of this graph. First, one can note that plaintiffs have always been more likely to win than to loose (for both councilors' decisions and judges' decisions). Second, the proportion of cases which are settled in court (conciliation) is relatively stable over time (between 9% and 13%). Third, and most surprisingly, this graph shows a very strong substitutability

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[15]Note that, for each claim, these variables are collected both at the conciliation (in-court settlement) period and when the claim goes to trial (with the councilors).

Case outcome	Number of cases	Proportion of cases
Conciliation	180,436	13,47 %
Drop	331562	24,75 %
Acceptation of employee's claims by the councilors	514,447	38.41 %
Rejection of employee's claims by the councilors	188,762	14.09 %
Acceptation of employee's claims by the professional judge	86,888	6.49 %
Rejection of employee's claims by the professional judge	37,401	2.79 %

Table 1: Cases by outcome.

between cases which are won by plaintiffs after the councilors' decision and dropped cases. This finding suggests that cases that are dropped before reaching the *bureau de jugement* are cases that would have been won by the plaintiff. A possible interpretation is that a relatively important share of the dropped cases is due to out-of-court settlement, and not to a unilateral abandon by the plaintiff.

Last, table 9 in Appendix A displays some statistics about the characteristics of the claims at each possible stage. They indicate that women represent about two fifth of the plaintiffs. Regarding legal representation, one can observe that plaintiffs tend to be more represented than defendants (26.38% vs. 20.9 % of cases). Finally, one can also note that plaintiffs are more likely to be defended by a lawyer (19.2% of cases) than by an unionist (7.18% of cases).

4.2   Courts' potential bias

Between 1998 and 2012, two elections occurred to replace labor court councilors (in 2002 and 2008). We dispose of election data at the section level of each court for 1997, 2002 and 2008 elections. Summary statistics for each election are presented in the appendix B (tables 12, 13, 14).

To evaluate the potential ideological heterogeneity among unions, and therefore to estimate courts' potential confrontational preferences, we rely on three strategies. These strategies assume that councilors of the same union share the union's confrontational preferences. Given the institutional context, this assumption is very likely to hold: the unions play indeed a major role in the election process since they propose the lists of candidates allowed to compete. Therefore, they usually choose candidates who share their beliefs, and elected councilors need to follow their instructions to get reelected.

The first and most natural strategy to test for the presence of confrontational preferences consists in creating two groups of unions, and to investigate whether the proportion of councilors of one of
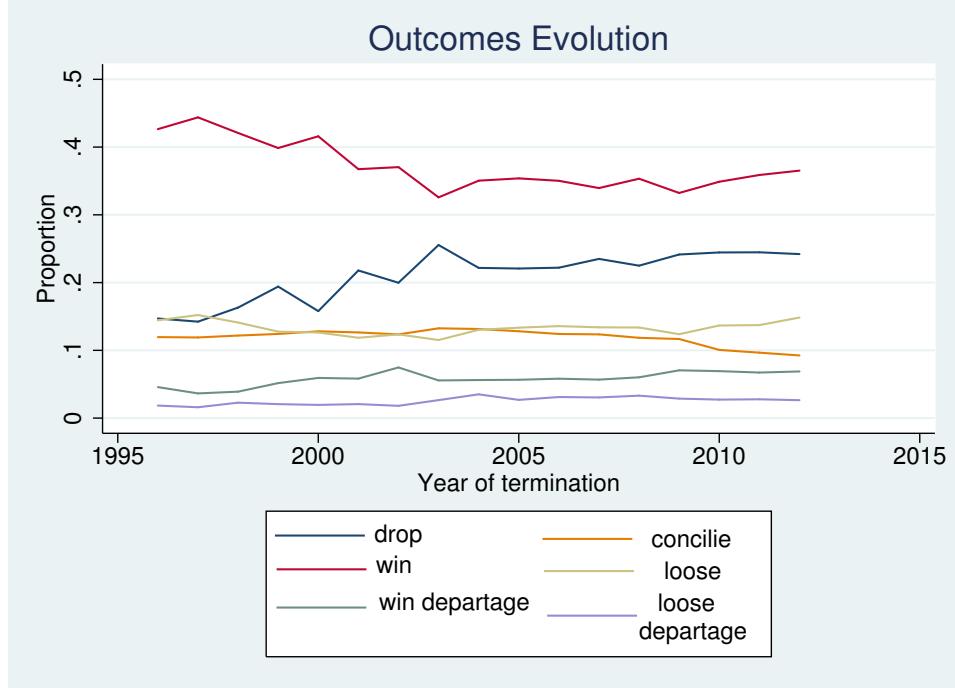
Figure 2: Evolution of cases outcomes over time.

the two groups influences cases' outcomes. To implement this solution, we take on the classical distinction of French unions described in subsection 3.2., which usually categorizes them as either *reformist* or *non-reformist*. According to this view, reformist unions are more prompt to discuss with firm owners, and to negotiate with them at both the local and the national levels (Mouriaux (2013)). On the contrary, this view holds that non-reformist unions are more likely to refuse to negotiate with firm owners, and are more prompt to organize strikes. We consider that this reformist vs. non-reformist dichotomy is similar to confrontational preferences. Following this approach, we compute the proportion of *non-reformist* unions at each court. To do so, we figure out the percentage of seats obtained by both the CGT and FO (known to be non-reformist unions) together for each court.[16] The resulting variable *propNR* for a section s of a court j at period t is defined by:

$$\text{propNR}_{s,j,t} = \frac{\text{seats}_{CGT,s,j,t} + \text{seats}_{FO,s,j,t}}{\sum_i \text{seats}_{i,s,j,t}} \tag{1}$$

This first solution to capture the councilors' confrontational preferences makes the implicit assumption that both groups of unions are homogeneous, that is to say that councilors of the same category (*i.e.* reformist vs. non-reformist) have the same *level* of confrontationalism. This assumption is however very restricting, and can be doubtful since unions need to differentiate when competing for elections.

To release this assumption, we propose an alternative approach to capture unions' heterogeneity. This second approach aims at taking into account the *distance* between unions in terms of confronta-

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[16]Note that we focus on the five biggest national unions: CFDT, CFTC, FO, CFE-CGC, CGT. The limitation to these unions, which represent more than 95% of all councilors, is motivated by the fact that only these unions are recognized at the national level, *i.e.* able to sign national agreements with firm owners representatives.

tional preferences. The objective consists in better estimating unions' contribution to the courts' overall confrontationalism. To do so, we rely on a Bayesian estimation method which uses past inter-professional national agreements that unions had the possibility to ratify. Inter-professional national agreements (*Accords Nationaux Interprofessionnels*, ANI) are country-wide agreements between worker unions and firm owners' representative organizations.[17] Unions have the possibility to accept or to reject each agreement. The enforcement of the agreements depends on the weighted sum of unions which ratified them. We focus on agreements that could have been signed between 1996 and 2012.

The Bayesian techniques we propose to use are commonly referred as *ideal points* estimation techniques. We rely on a well developed literature in political science that evaluates judges' or politicians' bliss points. These techniques have mainly been used to determine judges' ideal points at the American Supreme Court (Bafumi et al. (2005), Martin and Quinn (2002), Martin et al. (2005)). Following Bafumi et al. (2005) (p.171), we define "an individual's "ideal point" as a point referring to his or her preferences or capacities within a spatial framework (...) characterized by a single dimension. Within a[n American] political context, this dimension is often conceived of as an ideological continuum, a line whose left end is understood to reflect an extremely liberal position and whose right end corresponds to extreme conservatism. In this one-dimensional spatial model, a person's ideological preference can be depicted by a point on this line". We propose therefore to locate unions on a single dimension. Here, the left end represents lower degrees of confrontationalism, while the right end depicts more confrontationalist preferences. Appendix C gives a full description of the methodology supporting Bayesian methods at stake.

Applied to our topic, this estimation computes an average ideal point for each union for the whole time period. Results of this estimation are displayed in figure 3.

Figure 3: Results of the Bayesian estimation of unions' ideal points.

These results are in line with the classical distinction between reformist and non reformist unions presented above. This new estimation gives however more precise results since it takes into account the distance between each union.
It shows a strong heterogeneity among *non-reformist* unions, which reflects the limits of the first -and most intuitive- approach. It also shows that the two main non-reformist unions (FO and CGT) have yet different intensities of opposition to reforms. Taking into account these results, we are now able to compute ideological scores for each court. We call this variable *confront* since it represents confrontational preferences.

$$\text{confront}_{s,j,t} = \sum_i \beta_i \frac{v_{i,s,j,t}}{\sum_k v_{k,s,j,t}} \tag{2}$$

where $v_{i,s,j,t}$ is the share of seats of union i in section s of court j at time t, and β_i represents

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[17]http://uimm.fr/textes-conventionnels/accords-nationaux-interprofessionnels (Last visit: January, 2016).
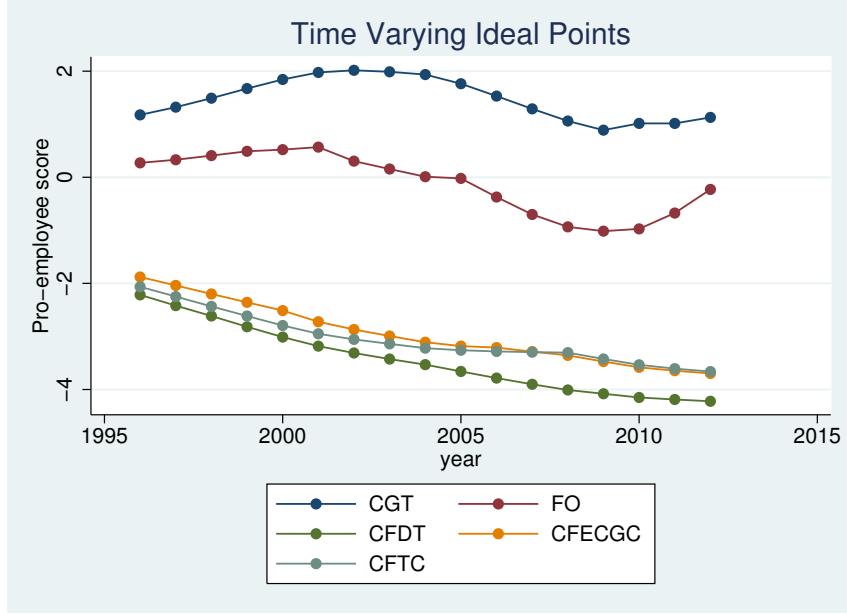
Figure 4: Results of the Bayesian estimation of *time varying* unions' ideal points.

union i's score on the confrontational axis.[18]

This second solution indirectly assumes however that unions display time-invariant confrontational preferences. Although the time period considered is relatively limited, *i.e.* 14 years, it is very likely that unions have changed their preferences over time. Several factors may have contributed to this change of ideology (change of government's majority, differentiation at elections, the financial crisis, etc...).

To relax this assumption, we propose a third estimation that generates time-varying unions' preferences. This third estimation yields results presented in figure 4. The results give a similar picture to the second estimation in so far as it distinguishes three groups of unions: the CFTC, the CFE-CGC, and the CFDT, which can be labeled as 'reformist' (less confrontational), the CGT, which depicts the most confrontational union, and the FO which stands in-between. The time variations that some unions have experienced since 1996, especially FO, suggest that this third estimation better captures the ideological gap between unions.

Using this last set of results, we compute a third indicator for courts' level of confrontational behavior. We call this last indicator *tv_confront*, where *tv* stands for *time varying*.

$$\text{tv\_confront}_{s,j,t} = \sum_i \beta_{i,t} \frac{s_{i,s,j,t}}{\sum_k s_{k,s,j,t}} \qquad (3)$$

Table 2 displays the correlation coefficients between the probability that councilors accept the employee's claims and our three proxies for courts' ideology. We can observe that all correlation coefficients are negative, and all of them are statistically significant. Surprisingly, these naive results suggest that employees are less likely to win when confrontational unions are stronger. The following

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[18]We divide by the total share of seats of the five unions to insure normalization since some independent unions obtain few seats in some courts.

sections propose an econometric investigation to better understand the link between the composition of the court and judicial outcomes.

Correlation	Acceptation
Share of seats hold by CGT and FO	-0.0225***
	(0.000)
confront	-0.0251***
	(0.000)
tv_confront	-0.0075***
	(0.000)

Table 2: Correlation coefficients between the probability that a plaintiff's claims is accepted (vs. rejected) and variables that account for the degree of pro-employee bias. (P-values in parentheses)

5 Preliminary analysis

Probit and Ordered Probit estimations We first conduct a simple analysis to understand how political ideology of the councilors correlates with judicial outcome. We represent the four possible judicial outcomes with the following variables: *Conciliation* (1 if parties settle at court, 0 if parties fail at settling at court), *Drop* (1 if the case is dropped, 0 if the case goes to full hearing, missing if parties settled at the conciliation stage), *Decision2* (0 if the councilors reject the employee's claim, 1 if the councilors accept the claim, missing if the councilors can't reach an agreement or if the parties settled at the conciliation stage or if the case was dropped), *Departage* (0 if the councilors decide on the case, 1 if the councilors can't reach an agreement on the case, missing if the case did not reach full hearing), and *Judgment* (0 if the professional judge decides to reject the employee's claim, 1 if the professional judge decides to accept the claim, missing if the councilors succeed in reaching an agreement or if the parties decided to settle). According to the perception of *départage* (*i.e.* when a professional judge needs to step in), *Decision2* can be recoded into a ternary variable *Decision3* (0 if the councilors decide to reject the plaintiff's claim, 2 if the councilors decide to accept it, and 1 if the councilors fail at reaching a decision).[19]

To understand how court's composition is correlated with cases' outcomes, we run a series of probit and ordered probit estimations. The general specification of the latent variables writes:

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\begin{aligned}
y_i^* = \quad & \beta_0 + \beta_1 comp_{jst(i)} + \beta_2 unemployment_{jt(i)} + \beta_3 lngdp_{jt(i)} + \beta_4 woman_i \\
& + \beta_5 plaint\_lawyer_i + \beta_6 plaint\_union_i + \beta_7 def\_lawyer_i \\
& + \beta_8 def\_unionWorker_i + \beta_9 def\_unionEmployer_i + \mu_{sj(i)} + \alpha_{t(i)} + \epsilon_i
\end{aligned}
\tag{4}
$$

The dependent variable y_i^* represents the latent variable determining either *Conciliation*, *Drop*, *Decision3*, *Decision2*, *Départage*, or *Judgement*. For instance, considering *Conciliation*, it describes

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[19]The main difference between *Decision2* and *Decision3* lies in the way one considers *départage*. If one believes that *départage* mainly results from a tie between pro-employee and pro-employer votes, *Decision3* is the most suitable coding. On the other hand, if one assumes that *départage* results from legal consideration which are orthogonal to the employee vs. employer debate or is caused by the need of legal clarification, then *Decision2* is a more accurate model.

the likelihood that a claim i is successfully conciliated. The most important variable is $comp_{jst(i)}$ that measures the level of non-reformism of the section s of court j at this year t.[20] This variable takes in turn the values of variables *propNR*, *confront* and *tv_confront* as defined above.

The remaining variables are control variables (defined in table 8 in Appendix A). First, we take into account variations of macroeconomic factors, since they have been shown to influence judicial decision-making (Ichino et al. (2003), Marinescu (2011)). To do so, we include the unemployment rate (at the department's level) and the GDP level (log of the GDP per capita at the regional level) in year t. Second, we also take into account variables that account for case-specific characteristics: the plaintiff's gender, the plaintiff's legal representation (by a lawyer or by an unionist), and the defendant's legal representation (by a lawyer, by a worker unionist, or by an employer unionist). Third, we propose a series of fixed effects to account for unobserved heterogeneity. To do so, we include year fixed effects to control for macroeconomic factors which would affect the whole country in the same way (α_t), and court $\times$ section fixed effects (μ_{js}) to control the unobserved fixed heterogeneity that would be associated to each section in each court. Fourth, we include a variable $duration_{js,t-1}$ that represents the average age (number of days) of cases terminated by a decision (either from the councilors or from the professional judges) the previous year in the same court (and same section). This variable is included for *Conciliation* and *Drop*, because we assume that, when settling or dropping a case, litigants anticipate their outside option, *i.e.* litigation, and its associated costs, such as the expected duration.

Finally, let us note that the values of the independent variables that are not determined by the case itself, *i.e.* the composition of the court and macroeconomic variables, are set at the date of the audience for conciliation for the estimation of *Conciliation* and to the date of the decision for the remaining variables.

Table 10 in the appendix summarizes the results of these estimations, which we refer to as the BASELINE model. These results lead to four main observations. First, the degree of non-reformism of the court is positively associated with conciliation: more cases are conciliated in courts that are dominated by non-reformist unions. Second, more cases are dropped in such courts. The coefficients associated to the court's composition is positive and statistically significant for all probit estimations of *Abandon*. Third, we observe no relation between the court's composition and the probability for an employee to win a case: this result holds for both cases actually decided by the councilors (*Decision2*) and for cases decided by a professional judge (*Judgement*). Fourth, we observe a significant positive relationship between the level of non-reformism and the probability of *départage*: cases are more likely to go to *départage* in non-reformist courts. The two last results explain the lack of (or the very weak) significance level associated to the court's composition in *Decision3*.

Result 1 In non-reformist courts, controlling for court's section and time fixed-effects, workers (i) are more likely to settle at the conciliation step, (ii) more likely to drop their cases, and (iii) more likely to have their cases decided by a professional judge.

6   Further Investigations

In the following section, we go deeper in the analysis to better understand how the composition of the courts influences the litigants' behavior and strategies. To reach this goal, we first explore endogeneity concerns in order to figure out whether the above results capture a causal effect. Second,

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[20]Note that the case i uniquely defines a court j, a section s and a year t. The i in parentheses indicates this.

we wonder whether the volume of the demand for litigation depends on the composition of the courts. Third, we run triprobit estimations to identify the hidden characteristics of the conciliated and abandoned cases.

6.1 Endogeneity issues

The above findings have shown that the courts' composition is correlated with cases' outcomes. One possible explanation to these results is that our estimations do not correctly capture the causal impact of the courts' composition. Indeed, since councilors are elected by workers, it is likely that a common factor, that we refer to as the *population's preferences*, affects both the councilors' election and the litigants' strategies. Changes in the population's preferences may be correlated with changes in strategies such that coefficients associated with the composition of the courts capture both the causal impact of judges and the latent phenomenon that determines this composition.

More technically, if population's preferences do affect both choices (strategies at court determining the final outcome of a claim and elections of councilors), the above results would suffer from an omitted variable bias. We propose to deal with this source of endogeneity by approximating preferences by results to national presidential elections. This strategy consists in solving the problem of endogeneity by including a proxy for the "omitted" variable. We hope to capture the level of confrontational preferences of the population by controlling for their votes at the national presidential elections. Subsequent estimations would then measure the correlation of non-reformist councilors and cases' outcomes for groups of workers with similar preferences.[21]

Because we are not able to use votes as a direct proxy for the population's preferences[22], local results to national presidential elections appear as an interesting proxy for the preferences for confrontation of the population.

The non-reformist unions are known to be politically more left-oriented than the reformist unions. We use therefore the share of votes of the first round of the presidential elections devoted to left parties to approximate the overall preferences of the population. Because presidential elections do not occur every year, we make a linear intrapolation to obtain the shares of votes for years between election dates.[23] We denote this variable $shareLeft_{jt}$. It is defined at the court's level for each year. In our dataset, it is significantly positively correlated with the share of votes of non-reformist unions for both the date of the conciliation attempt and the decision (p-values<0.001).

Table 11 presents the results of the estimations of the baseline model including variable $shareLeft_{jt}$, *i.e.* the ENDOG model. First, regarding the newly included variable, it is significantly correlated with outcomes (Conciliation, Drop, Decision, Départage, Judgement). In more leftist areas, work-

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[21] Another empirical strategy would have been to rely on instrumental variable estimations. We are however not able to use such methods here because every variable that affect the litigants' preferences potentially affect their votes at the labor court elections.

[22] The most natural candidate for the omitted variable would be the proportion of votes devoted to non-reformist unions. Let us recall that seats are assigned through a proportional election at the highest average, so that there can be a slight difference between the percentage of votes and the percentage of seats each union gets. In our dataset, the correlation between the proportion of seats and the share of votes devoted to non-reformist unions is equal to 91.7% for the conciliation stage and to 91.4% for the judgment stage. The percentage of votes would capture the preferences while the proportion of seats would capture the real impact of councilors. However, the inclusion of the percentage of votes to the councilors' elections is impossible because the election process is too proportional, and therefore generates too much collinearity.

[23] The coding procedure is as follows. First, we took election data at the city level for all French municipalities. Second, we summed up all votes devoted to left-wing parties for cities belonging to the same court. Third, we computed the share of votes received by left-wing parties over the total number of valid votes. Finally, we computed weighted averages to make linear intrapolations for years with missing values.

ers are more likely to conciliate, less likely to abandon, more likely to have their case decided by a professional judges and more likely to win the case. Regarding the probability to win, we detect a positive effect both for the decision of the councilors and the decision of the professional judge.

The estimated coefficients associated with the court's composition are similar to those of our previous estimations. In other words, we still observe a positive relationship between the proportion of confrontational unions and the conciliation, the probability to abandon and *départage*. Quite interestingly, the composition of a court has no significant effect on the decision made by councilors at the *bureau de jugement*, nor on the decision made by the professional judge in case of *départage*.

Result 2 Controlling for the political preferences of the population, court's section and year fixed-effects, a higher proportion of non-reformist judges is associated with (i) more conciliation, (ii) more abandon, and (iii) more *départage*. There is however no significant impact of non-reformist courts on the decision made on the claims (with or without the intervention of a professional judge).

6.2 Volume of litigation

In order to understand the causal impact of courts' composition, we now investigate whether the volume of litigation changes across courts. More precisely, we propose to explore whether the number of claims that reach labor courts is correlated with the composition of the courts. We propose to discriminate between three situations: (i) more non-reformist courts might attract more cases (*case inflation*), (ii) fewer cases (*case deflation*), or (iii) might not change the amount of opened claims (*case stagnation*).

To distinguish between these scenarios, we proceed in two steps. First, we collapse the data to obtain a panel dataset that contains the number of cases opened at each section of each labor court per year. We use these data to measure the extent to which the demand for litigation is correlated with the composition of the court (subsection 6.2.1). However, because such an investigation might also suffer from the same omitted variable bias as the above baseline models[24], we also explore the impact of the changes of the courts' composition on a limited time-span where we believe preferences are constant (subsection 6.2.2).

6.2.1 Correlation between demand for litigation and non-reformism

To start with, we collapse the dataset presented above to obtain for each section s of each labor court j the number of new cases at year t (yc_{sjt}, where yc stands for *yearly cases*). In a similar way, we also compute the number of new cases per councilor (pc_yc_{sjt} where pc stands for *per councilor*). We will use these two variables in turn.

We now estimate by OLS the relationship between the proportion of non-reformist councilors and the volume of the demand for litigation. Our regressions include time and spatial (at the court's section level) fixed effects and some control variables (GDP, unemployment). First, we run the estimation from 1998 to 2012 for the variable yc_{sjt}, but we exclude some courts after 2008.[25] Second,

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[24]Changes in the demand for litigation might indeed result from changes in the workers' preferences, which may also determine the number of non-reformist councilors.

[25]In 2008, the judiciary map was reformed (Decree n^0 2008-514 of May 29th, 2008): some labor courts were removed, while others took over their competency. The courts that have expanded their geographical competency have received a great amount of new claims after this reform depending on the size of the removed courts (Espinosa et al. (2015)). We therefore exclude data after 2008 for the courts that expanded their competency.

	Number of claims		Number of claims per councilor	
	Pooled OLS	Within	Pooled OLS	Within
propNR	20.863	20.863	9.188	9.188*
	(1.24)	(1.29)	(1.6)	(1.67)
confront	4.279	4.279*	1.178	1.178
	(1.63)	(1.70)	(1.29)	(1.34)
tv_ confront	5.632*	5.632*	1.621	1.621
	(1.71)	(1.78)	(1.44)	(1.50)

Table 3: OLS estimates of the level of non-reformism on the volume of the demand for litigation by type of section. Robust z-statistics in parentheses.

we run the estimation for pc_yc_{sjt} for all years and all labor courts.[26] The estimated coefficients associated to the proportion of non-reformist councilors are displayed in table 3.

Table 3 does not yield decisive evidence with regard to the correlation between the composition of the court and the volume of litigation. Although all specifications give a positive coefficient, few of them yield a coefficient statistically different from 0 at 10% and none of them at 5%. There is then no convincing evidence of the impact of labor courts' composition on the demand for litigation. Let us now deepen our analysis to deal with potential endogeneity issues.

6.2.2 Stable preferences, non-reformism and the demand for litigation

Our main challenge here is to capture the causal impact of the proportion of non-reformist judges on the demand for litigation, while controlling for the *preferences* that could affect both the composition of the court and the volume of litigation. To reach this goal, we consider changes in the demand for litigation within a one-year span (6 months before and 6 months after the elections). We assume that, within this period, preferences are relatively stable.

First, we consider the change of councilors in 2003, namely when the councilors who were elected on December, 11th 2002 took office and replaced those elected in 1996. We compute the amount of cases opened at each section s of court j from June to November 2002 ($cases_{s,j,2002}$) and those from January to June 2003 ($cases_{s,j,2003}$). We apply a similar strategy for the 2008 election: We compute the sum of all cases opened between June and November 2008 ($cases_{s,j,2008}$) and those opened between January 2009 and June 2009 ($cases_{s,j,2009}$).

We then compute the growth rate of cases before/after election. We compute the change in the proportion of seats devoted to non-reformist unions ($\Delta propNR$, $\Delta confront$, $\Delta tv\_ confront$), the change of unemployment, and the growth rate of log of the GDP per inhabitant.

Table 4 displays the correlation coefficients between the growth rates of the number of claims and the changes in the proportion of non-reformist councilors. Correlation coefficients are computed

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[26]All councilors from the removed courts were reaffected in the courts that took over removed courts' geographical competency. The number of councilors has not been affected by the reform. Let us precise that the reform did not modify the composition of receiving courts. The transfer of cases and councilors' positions occur at the same time as the councilors elected in 2008 took their duties.

	January 2003			January 2009		
	$\Delta propNR$	$\Delta confront$	$\Delta tv\_confront$	$\Delta propNR$	$\Delta confront$	$\Delta tv\_confront$
Agriculture	0.088	0.125	0.119	0.025	0.022	0.019
	(0.29)	(0.135)	(0.154)	(0.815)	(0.835)	(0.86)
Commerce	-0.062	-0.097	-0.076	-0.045	-0.056	- 0.048
	(0.32)	(0.117)	(0.222)	(0.587)	(0.498)	(0.564)
Diverse Act.	0.007	0.022	0.024	-0.154*	-0.2**	- 0.17*
	(0.936)	(0.785)	(0.769)	(0.091)	(0.027)	(0.06)
Executives	0.132**	0.12*	0.126**	0.004	0.104	0.066
	(0.037)	(0.057)	(0.046)	(0.966)	(0.208)	(0.424)
Industry	-0.001	-0.03	-0.019	0.047	-0.02	0.007
	(0.986)	(0.626)	(0.758)	(0.571)	(0.812)	(0.934)

Table 4: Correlation between the growth rate of the number of new claims and changes in the composition of the courts per type of section. (P-values in parentheses)

	January 2003			January 2009		
	$\Delta propNR$	$\Delta confront$	$\Delta tv\_confront$	$\Delta propNR$	$\Delta confront$	$\Delta tv\_confront$
Agriculture	1.406	0.341	0.386	0.057	0.05	0.056
	(0.352)	(0.266)	(0.271)	(0.967)	(0.801)	(0.845)
Commerce	-0.381	-0.1*	-0.096	-0.85	-0.206	- 0.221
	(0.201)	(0.057)	(0.124)	(0.171)	(0.343)	(0.355)
Diverse Act.	0.041	0.018	0.024	-0.527**	-0.117***	- 0.126**
	(0.907)	(0.708)	(0.717)	(0.03)	(0.008)	(0.02)
Executives	0.746	0.118	0.148	-0.082	0.105	0.078
	(0.119)	(0.146)	(0.137)	(0.842)	(0.164)	(0.322)
Industry	-0.04	-0.046	-0.035	0.312	-0.03	0.01
	(0.949)	(0.705)	(0.794)	(0.448)	(0.822)	(0.941)

Table 5: OLS estimates of the changes in the composition of the courts on the volume of the demand for litigation per type of section. Robust standard errors. (P-values in parentheses)

per section.[27] In order to control for possible changes in the employment market, we also control for unemployment and GDP changes. OLS coefficients of this first-difference estimation are displayed in table 5.

Tables 4 and 5 show a common pattern: on overall, we do not detect any significant increase nor decrease in the volume of the demand for litigation following an increase in the court's non-reformism level. Table 4 detects a positive increase for the executives' section, but this increase holds for 2003 only and is not significant when controlling for the situation of the employment market. Both tables detect a decrease in the demand for litigation for the section of diverse activity. Controlling for the employment market increases the significance of the correlation. This result does however not hold for the 2003 replacement.

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[27]Note that, because of the 2008 reform described in a previous footnote, the analysis of the 2009 replacement limits to courts that have not been affected by the reform.

On the whole, this evidence tends to support the *case stagnation* hypothesis mentioned above: the size of the demand for litigation is independent on the level of non-reformism of a court.

Result 3. The volume of litigation is independent of the composition of a court.

6.3 Judicial outcomes and quality of claims

After having investigated the volume of litigation, we now focus on the link between the quality of the claims and the judicial outcomes. Here, we define "quality" by the characteristics of a claim increasing the probability of the plaintiff's victory, such as the number of testimonies, legal rules or clear pieces of evidence in favor of the plaintiff. Thus, good quality cases must be understood as those that are more likely to be won by employees *ceteris paribus*, because the available information on the claim and the rules regulating this type of claim are favorable to the plaintiff. Because our data lack information about such evidence, determinants of the quality of the claims are unobservable variables. We even believe that the quality of claims is the main part of the unobservables determining the winning probability of a plaintiff. The effects of these unobservables are hidden in the error terms of our previous estimations. There is then a need to control for their impact, as the quality of a claim may also determine the strategies of the litigants in courts: the decisions to conciliate or to abandon a claim could be influenced by its quality. This would influence the composition of the claims reaching the *bureau de jugement*, i.e. the claims on which the councilors have to make a decision. To address this issue, we propose a double sample selection model. As illustrated in figure 5, there are two selection stages before the *bureau de jugement*: the decision to conciliate, and the decision to abandon the claim. We thus estimate a triprobit model, in which the first step is conciliation, the second step is abandon, and the third step is the decision of the councilors (*Decision2*).[28] The objective is to estimate the correlation coefficients between the error terms of these three steps to figure out whether the unobservables (*i.e.* the quality of the claims) impact these decisions. This allows us to understand whether conciliated or abandoned claims are of good or bad quality. With such a control of case selection, we will observe whether the composition of the court still impacts the probability to accept the employee's claims.

Let us note ρ_{cd} the correlation between the error terms of the conciliation step and the decision of the councilors. A positive and significant coefficient would indicate that the unobservables that lead to more conciliation also lead to a higher winning probability (by a decision of the councilors). In other words, a positive coefficient would depict a *good quality* case, i.e. a case that would have been favorable to employees if it had reached the *bureau de jugement*. Similarly, we note ρ_{ad} (resp. ρ_{ca}) the correlation between the error terms of the abandon step and the decision of the councilors (resp. the conciliation step).

Table 6 displays the results of the triprobit for the variables of interest $propNR$ and the coefficient ρ_{cd} and ρ_{ad}.[29] First, we find a negative correlation coefficient between the error terms of the conciliation phase and the councilors' decisions ($\rho_{cd}=-0.284^{***}<0$). This implies that claims that are conciliated are claims with a low winning probability for the plaintiff at the *bureau de jugement*, *i.e.* claims of poor quality. Second, we observe a positive coefficient of correlation between the error

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[28]The estimation method of the triprobit is detailed in the online appendix.

[29]Note that the triprobit estimation was made with *propNR*. Full estimates are available in the online appendix. The estimation was made on Stata and took 3 weeks. The maximum likelihood program was performed using Stata's MNVP package (Cappellari and Jenkins (2003, 2006)). The maximization program is explained in details in the online appendix.

Step	Conciliation	Abandon	Decision2
propNR	0.03492*	0.34565***	-0.000103
	(1.72)	(19.00)	(-0.00)
ρ_{ca}		-0.685***	
		(-39.14)	
ρ_{cd}		-0.284***	
		(-7.69)	
ρ_{ad}		0.168***	
		(3.65)	
Observations		905,125	
Log-Likelihood		-1,123,310.9	

Table 6: Results of the triprobit estimation. (Z-statistics in parentheses.)

terms of the abandon and the councilors' decision ($\rho_{ad} = 0.168$***). Abandoned claims would have won at *the bureau de jugement*: they can then be considered as good-quality claims. This result suggests that the abandon is very close to an out-of-court settlement phase, where high-quality cases are settled outside the courtroom. There would be indeed little interest for a plaintiff to abandon a claim with a high winning probability, except if the employer makes a proposal leading to an out of court agreement. Then, parties do not show up at the court hearing, leading to *abandon* outcomes.

It is interesting to put these two results in parallel: settlement occurs both in-court and out-of-court, but concern different types of cases (respectively low- and high-quality cases). This interpretation is confirmed by the negative and statistically significant correlation coefficient between conciliation and abandon ρ_{ca} ($\rho_{ca} = -0.685$***): this negative coefficient shows that conciliated and abandoned claims have opposite characteristics.

Third, this estimation shows that, controlling for these two selection steps, the coefficient associated with *propNR* regarding *Decision2* is still not statistically different from zero. There is no clear evidence that the composition of the court impacts the decision made at the *bureau de jugement*. However, *propNR* is significantly correlated with *Abandon*, and to a lesser extent, with *Conciliation*. Then, controlling for case selection, non-reformist courts still induce more conciliation and abandon.

Result 4 (i) Conciliated cases would have been more likely to be decided against the plaintiff; (ii) abandoned cases would have been more likely to be decided in favor of the employee; and (iii) controlling for the two selection steps that take place after the opening of a claim, the composition of a court does not significantly impact the decision made by the councilors.

6.4 *Départage* and case selection

Our last investigation aims at controlling whether the effect of the court's composition on the probability to go to *départage* (shown in tables 10 and 11) comes from a higher propensity of judges in non-reformist courts to disagree or from a selection effect. Because of the first two steps (conciliation and abandon), claims that reach *bureau de jugement* in non-reformist courts could indeed

Step	Conciliation	Abandon	Départage
propNR	.0195935	.3340876***	.0272864
	(1.06)	(19.08)	(1.49)
ρ_{ca}		-.691***	
		(-59.74)	
$\rho_{c,dep}$		0.927***	
		(226.09)	
$\rho_{a,dep}$		-0.641***	
		(-42.93)	
Observations		1,006,717	
Log-Likelihood		-1,128,591	

Table 7: Results of the triprobit estimation (*départage*). (Z-statistics in parentheses.)

be different, not only regarding their probability to be accepted or rejected (as shown in subsection 6.3), but also as regards to the probability to be decided (whatever the decision) in *bureau de jugement* (instead of going to *départage*). We consider that medium-quality claims are claims that are more likely to go to *départage*: they have mixed evidence so that a common decision by the four judges in *bureau de jugement* is more difficult to be made. As a consequence, a selection effect could also explain the impact of the court's composition on the probability to go to *départage*: more medium-quality claims could reach *bureau de jugement* in non-reformist courts. This would explain the significant impact of courts' non-reformism on *départage*. To clarify the impacts of the two selection steps (conciliation and abandon) on the claims reaching *bureau de jugement*, we propose another triprobit model in which the third step is the probability to go to *départage*. Our objective is to estimate the correlation coefficients between the error terms of these three steps to figure out whether the unobservables impact these decisions and could explain our previous result on *Départage*. With such a control of case selection, we will observe to what extent the higher probability to go to *départage* in non-reformist courts is caused by the composition of the court or by court selection.

Let us note $\rho_{c,dep}$ the correlation coefficient between the error terms of the conciliation step and the probability to go to *départage*. Similarly, we note $\rho_{a,dep}$ (resp. ρ_{ca}) the correlation coefficient between the error terms of the abandon step and the decision of *départage* (resp. the conciliation step). Table 7 displays the results of the triprobit for the variables of interest *propNR* and the coefficient $\rho_{c,dep}$ and $\rho_{a,dep}$.[30]

The correlation coefficient $\rho_{c,dep}$ is positive and significant ($\rho_{c,dep} = 0.927^{***}$). This indicates that the unobservables that lead to more conciliation also lead to a higher probability to go to *départage*. In other words, cases that are conciliated are "medium-quality cases" that would have raised debates between the judges in the *bureau de jugement* and would have gone to *départage*, had they not been conciliated before.

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[30]As for the previous triprobit estimation, we only report here the results with the variable *propNR*. Full estimates are available in the online appendix.

The coefficient $\rho_{a,dep}$ is negative and significant ($\rho_{a,dep} = -0.641^{***}$). This suggests that abandoned cases would not have gone to *départage*. This result is in line with our previous subsection: abandoned claims are rather high-quality claims; the labor judges would have reached a common decision to accept the plaintiff's request at the *bureau de jugement*. To avoid litigation procedures for these quite predictable cases, parties seem to prefer an out-of-court settlement. Note that the estimate of ρ_{ac} in table 7 is very close to the estimate reported in table 6, confirming that conciliated and abandoned claims have opposite characteristics.

Last, the estimation shows that, controlling for these two selection steps, the coefficient associated with $propNR$ regarding *départage* is also no longer statistically different from zero. Then, controlling for case selection, non-reformist courts do not induce more *départage*. This suggests that the positive and significant coefficient (of the impact of non-reformist courts on *départage*) found in previous regressions without controlling for case selection (tables 10 and 11) was mainly driven by a selection effect. In non-reformist courts, judges don't have special characteristics that would lead them to be more confrontational and resort more frequently to *départage*. However, they deal with claims that are more difficult to interpret (medium-quality cases) so that claims are more likely to go to *départage* in non-reformist courts. The selection effect occurs as follows: in non-reformist courts, the disputants are more likely to abandon high-quality claims and to conciliate low-quality claims (as shown in subsection 6.3). Both types of claims would not have gone to *départage*. Medium-quality claims (more likely to go to *départage*) are rather conciliated. However, there are more high-quality and low-quality claims that are ended before reaching the *bureau de jugement* than medium-quality claims. As a consequence, the proportion of medium-quality claims reaching this stage is higher than the other types of claims (i.e. low or high quality claims). As a consequence, and compared to other courts, cases that reach *bureau de jugement* in non-reformist courts are on average more likely to go to *départage*. This explains why we found a positive impact of the court's composition on the probability of *départage* in our previous estimations. This impact comes from a selection effect and not a higher propensity of non-reformist judges to disagree on the claims they hear.

Result 5 (i) Conciliated cases would have been more likely to go to *départage*; (ii) abandoned cases would have been less likely to go to *départage*; and (iii) controlling for the two selection steps that take place after the opening of a claim, the composition of a court does not significantly impact the probability to go to *départage*.

7 Interpretation of the results

The previous sections showed several results: non-reformist courts are associated with (i) more conciliation, (ii) more abandon, (iii) more *départage*; (iv) they do not significantly increase or decrease the worker's probability to win (with or without the intervention of a professional judge) and (v) have no impact on the volume of litigation. We also showed that (vi) conciliated cases are low-quality or medium-quality claims (i.e. likely to be lost by the plaintiff at the *bureau de jugement* or to go to *départage*) while (vii) abandoned claims are high-quality claims (i.e. likely to be directly won by the plaintiff at the *bureau de jugement*). Last, controlling for these two selection steps, we find that (viii) non-reformist courts are not associated with more favorable decisions for the employees, (ix) nor with more *départage*. This last effect mainly comes from a selection effect.

Let us now comment these results. First, non-reformist courts are not associated with more decisions in favor of the plaintiff (the employee). While non-reformist unions are known to be

tougher in debates with the employers at the national level, one could expect that the decisions made in non-reformist courts are on average more in favor of the plaintiff. We do not find such evidence. This seems however quite logical given the institutional context described in section 3. Remember that the decision at *bureau de jugement* is made by a panel of four councilors, two from the employers' college and two from the employees' college. Even if non-reformist councilors claim to be more active in defending the employees' interests, they cannot make the decision on their own. If they would decide in favor of the employee whatever the quality of the claim, the outcome would yield at best more *départage* but not a higher likelihood of the plaintiff's victory, since the councilors from the employers' college need also to be convinced.

Our results also show that the decision about claims made by the professional judge is not impacted by the composition of the court. This suggests that the average quality of the claims reaching *départage* is independent of the composition of the court. If non-reformist councilors always decide in favor of the employee at the *bureau de jugement* (i.e. even for low-quality claims), this would mean that more low-quality claims would go to *départage* in non-reformist courts. The professional judge would face more low-quality claims and we should observe a negative and significant coefficient associated with *propNR* (or with *confront* and *tv_confront*) on the decision he/she makes. Indeed, his/her decision should correct the inappropriate judgment of the non-reformist councilors regarding low-quality claims at the previous stage. We do not observe such a result in tables 10 and 11. The coefficient is never significantly different from zero, suggesting that there is no change in the average quality of claims reaching *départage* in non-reformist courts. Whatever the ideological differences between reformist and non-reformist unions, confrontational councilors do not succeed in increasing the probability of employees to win at the *bureau de jugement* nor in *départage*.

Our results also show that non-reformist courts are associated with more conciliation and abandon. Since claims are more likely to end with *départage* in non-reformist courts (without controlling for case selection), this means that the average duration of a claim in non-reformist courts is likely to be longer.[31] Anticipating these long delays, both the plaintiff and the defendant have an interest to settle rather than to litigate. This then explains why both conciliation and abandon are more frequently observed in non-reformist courts: these two judicial outcomes correspond to settlement, as described in subsection 6.3.

In parallel, the results of our triprobit estimations show that low-quality and medium-quality claims are rather conciliated, while high-quality claims are rather abandoned. There are then fewer low-quality claims in non-reformist courts, but also fewer high-quality claims. The impact on medium-quality claims is weaker, so that cases that remain are claims with mixed evidence, that can be either won or lost by the plaintiff. This explains (i) why non-reformist courts are associated with a higher frequency of *départage* (this is caused by a selection effect: cases that reach *bureau de jugement* are mainly medium-quality claims), but (ii) non-reformist courts are not associated with more (or fewer) decisions in favor of the plaintiff (employee): because they are mixed-evidence cases, they can be either won or lost by the plaintiff.[32]

Last, let us now focus on pre-court selection effects: Do non-reformist courts attract different claims than reformist ones? First, regarding the volume of litigation, there is no evidence that the demand for litigation would be higher or lower in non-reformist courts (see subsection 6.2). A related question is whether the quality of this demand is different. Our results cannot provide a full answer to this point. It may be that the quality of claims is constant across kinds of courts. This would be consistent with the absence of correlation between the courts' decisions and their

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[31]The average duration of a claim is about 12 months without *départage* and litigants have to wait again 15 months in some courts to get the decision resulting from the *départage* (Lacabarats (2014)).

[32]On this regard, our results are in line with Priest and Klein (1984)'s argument whereby the percentage of litigated cases won by the plaintiffs is around 50% whatever the legal standard, because of selection effects.

composition. However, since we also observe more conciliation in non-reformists courts, it may be that these courts attract on average more low-quality claims (assuming that high-quality claims would be settled before opening a claim). In this situation, the increase in conciliation would be sufficiently large in non-reformist court to offset both the decrease in quality and the increase in abandon and to maintain the ratio of low-quality vs. high-quality cases that reach the *bureau de jugement* constant across kinds of courts.[33]

8   Conclusion

This paper studies labor law enforcement by elected judges representing workers' and employers' unions. We focus on the heterogeneity of the judges elected by the employees to explore how the composition of the courts influences the strategies of the litigants and the decisions about the claims. Our results show that decisions made in non-reformist courts are not statistically different from decisions made in the other courts. There is however a higher frequency of *départage* caused by a selection effect. Claims favorable to the plaintiffs are more frequently abandoned in non-reformist courts while unfavorable claims are rather conciliated. Cases that reach *bureau de jugement* are then mixed-evidence claims that are more likely to go to *départage*. We also found that the volume of the demand for litigation is independent from the court's composition.

Our findings have some implications for labor law enforcement. While judges are elected on unions' lists, we find no impact on the decision made in courts. We believe that the procedural rules governing the labor courts explain this result: judges elected by the workers do not make the decision on their own, but with the representatives of the employers, on a parity basis. This result illustrates how organizational and institutional features may prevent ideologically based decisions, when justice is made by politically oriented people.[34] Our results also show that the composition of a court is not neutral on the strategies of the litigants. However, welfare implications are difficult to assess. One could think that more settlement is welfare-enhancing both for the parties and the society. But, without any information on the contents of agreements, such a conclusion can be discussed.

Future research could go in several directions. First, while non-reformist and reformist courts do not differ in their probability to accept or reject a claim, one could imagine that the amount of compensation a plaintiff gets varies in both types of courts. More detailed data could allow to test whether the composition of the court has some impact on the amount of compensation a party is entitled to. Second, the motivation of the claims could also be investigated. In this dataset, we only know that 80% of claims are about individual dismissals, but we cannot distinguish between the different types of claims brought to court. Should this be possible, we could wonder whether non-reformist courts attract claims with different motivations than the other courts. A third investigation could be to explore what happens before the opening of a claim. We could think that the composition of the courts impacts the number of conflicts *per se* and the informal agreements that may occur between the disputants before the decision to go to court. This would probably

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[33]This would be the only way to account for the absence of significant impact of the court's composition on *Decision*2.

[34]This result contributes to the debates about the perceived politicization of the judiciary system. This forced the European Court for Human Rights (ECHR) to intervene. In a series of decisions, the ECHR ruled that the presence of lay judges does not violate Article 6 of the European Convention on Human Rights, and thus does not fail to meet the impartiality requirement. It considered that in the absence of lay assessors' interests contrary to those of the applicant, the Labor Court did not fail to meet the requirement of impartiality (Van Hiel (2010)). However, the debate is far from over. In December 2013, the Group of States against Corruption (GRECO) from the Council of Europe recommended to France to reform of "the labor and commercial courts, which are composed of lay judges who are subject to few effective safeguards".

require data at the firm level, allowing to follow the conflicts from their very beginning. Fourth, a study could also be elaborated on the appeal process. A recent report for the Ministry of Justice (Lacabarats (2014)) mentions that 60% of decisions are appealed. However, the determinants of appeals are not really identified, so that research on this topic could be useful to better understand labor law enforcement. Last, complementary analyses could be done to understand whether the composition of the courts have consequences on economic outcomes, such as job flows on the labor market or firms' creations or exits. This would allow us to have a broader picture of the consequences of labor law enforcement by unions' representatives.

Acknowledgments

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Appendix A: Probit and Ordered Probit estimations

Variable Name	Description
Conciliation	Dummy variable equal to 1 if the case is conciliated, 0 otherwise.
Abandon	Dummy variable equal to 1 if the case is dropped, 0 if the case goes to full hearing, missing if the case was settled at the conciliation stage.
Decision2	Dummy variable equal to 1 if the councilors litigate the case in favor of the plaintiff, 0 if litigated in his/her disfavor, missing if the case did not reach full hearing or if the councilors can't reach a decision.
Departage	Dummy variable equal to 1 a professional judge steps in, 0 if the councilors decide the case on their own, missing if the case did not reach full hearing.
Judgement	Dummy variable equal to 1 if the professional judge litigates the case in favor of the plaintiff, 0 if litigated in his/her disfavor, missing if the case did not reach full hearing.
Decision3	Variable equal to 2 if the councilors litigate the case in favor of the plaintiff, 0 if litigated in his/her disfavor, 1 if the councilors can't reach a decision, missing if the case did not reach full hearing.
propNR	Proportion of seats allocated to the CGT and FO at the court's section level.
confront	Level of confrontationalism of the employees' representative at the court's section level.
tv_contront	Level of time-varying confrontationalism of the employees' representative at the court's section level.
shareLeft	Share of votes of the first round of the presidential elections devoted to left-wing parties.
avDurraffLY	Average duration of cases terminated the previous year in the same section of the same court (in days).
unemployment	Unemployment rate at the department's level.
lngdp	Logarithm of the GDP per capita at the regional level.
woman	Dummy variable equal to 1 if the plaintiff is a female, and 0 if a male.
def_lawyer	Dummy variable equal to 1 if the defendant is represented by a lawyer, 0 otherwise.
def_unionWorker	Dummy variable equal to 1 if the defendant is represented by a worker unionist, 0 otherwise.
def_unionEmployer	Dummy variable equal to 1 if the defendant is represented by a employer unionist, 0 otherwise.
plaint_lawyer	Dummy variable equal to 1 if the plaintiff is represented by a lawyer, 0 otherwise.
plaint_union	Dummy variable equal to 1 if the plaintiff is represented by a worker unionist, 0 otherwise.

Table 8: Description of the variables.

Variable	Conciliation	Abandon	Decision2	Départage	Judgement
Conciliation	.135				
	(.3417)				
Abandon		.278			
		(.448)			
Decision2			.7315		
			(.4432)		
Departage				.162	
				(.3685)	
Judgement					.6988
					(.4588)
propNR	.5205	.5203	.5192	.5189	.5128
	(.2167)	(.2133)	(.2161)	(.2141)	(.207)
confront	.7878	0.8177	0.7990	0.8096	0.8391
	(1.0708)	(1.061)	(1.068)	(1.061)	(1.034)
tv_confront	-1.0634	-1.1246	-1.1187	-1.123	-1.173
	(1.0151)	(1.008)	(1.014)	(1.007)	(.9855)
shareLeft	.4289	.4285	.4279	.4288	.4331
	(.0636)	(.0648)	(.0643)	(.0642)	(.0636)
avDurraffLY	396.183	412.0879	403.1429	410.3286	442.7418
	(127.9133)	(134.6883)	(130.755)	(134.7873)	(148.263)
unemployment	8.2339	8.1177	8.1434	8.1262	8.057
	(2.0714)	(1.8837)	(1.869)	(1.87)	(1.885)
lngdp	10.2258	10.2571	10.2387	10.2506	10.3084
	(.2867)	(.2946)	(.2893)	(.2918)	(.2984)
woman	.3842	.3788	.376	.3811	.405
	(.4864)	(.4851)	(.4844)	(.4857)	(.4909)
def_lawyer	.2074	.2139	.2391	.2279	.1743
	(.4055)	(.41)	(.4265)	(.4195)	(.3793)
def_unionWorker	.0004	.0004	.0005	.0004	.0003
	(.0206)	(.0203)	(.0214)	(.0206)	(.0172)
def_unionEmployer	.0017	.0014	.0016	.0015	.0011
	(.0415)	(.0373)	(.0405)	(.0392)	(.0324)
plaint_lawyer	.1917	.1946	.2097	.2043	.1799
	(.3937)	(.3959)	(.4071)	(.4032)	(.3841)
plaint_unionWorker	.0718	.0677	.0758	.0718	.0541
	(.2582)	(.2512)	(.2647)	(.2581)	(.2262)

Table 9: Descriptive statistics per regression sample. Means. Standard deviations in parentheses.

Model	Variable Technique	Conciliation Probit	Abandon Probit	Decision3 Ordered Pr.	Decision2 Probit	Départage Probit	Judgement Probit
(1)	propNR	0.0379**	0.371***	-0.0360**	-0.0254	0.0710***	-0.00835
		(2.172)	(23.59)	(-2.078)	(-1.234)	(3.188)	(-0.153)
(2)	confront	0.00342	0.0618***	0.00228	0.00529	0.00660	-0.00166
		(1.053)	(21.01)	(0.707)	(1.386)	(1.585)	(-0.162)
(3)	tv_confront	0.00802**	0.0810***	-0.00445	-0.000375	0.0166***	-0.00218
		(2.055)	(23.15)	(-1.153)	(-0.0821)	(3.331)	(-0.179)
	(court × Section) FE	Yes	Yes	Yes	Yes	Yes	Yes
	Year FE	Yes	Yes	Yes	Yes	Yes	Yes
	N	1,344,121	1,161,476	839,270	703,812	840,458	125,617

Table 10: Results of probit and ordered probit estimation of the set of dependent variables. **BASELINE** model. Z-statistics in parentheses. Robust standard errors.

Model	Variable Technique	Conciliation Probit	Abandon Probit	Decision3 Ordered Pr.	Decision2 Probit	Départage Probit	Judgement Probit
(1)	propNR	0.0502***	0.364***	-0.0358**	-0.0216	0.0898***	0.0102
		(2.861)	(23.00)	(-2.056)	(-1.042)	(4.020)	(0.186)
	shareLeft	1.150***	-0.452***	0.0176	0.274*	1.599***	1.806***
		(8.018)	(-3.826)	(0.140)	(1.820)	(9.951)	(4.567)
(2)	confront	0.00565*	0.0604***	0.00242	0.00611	0.0104**	0.00239
		(1.731)	(20.39)	(0.745)	(1.592)	(2.492)	(0.233)
	shareLeft	1.136***	-0.478***	0.0518	0.315**	1.582***	1.808***
		(7.918)	(-4.041)	(0.411)	(2.091)	(9.836)	(4.570)
(3)	tv_confront	0.0112***	0.0795***	-0.00437	0.000695	0.0221***	0.00331
		(2.867)	(22.50)	(-1.125)	(0.151)	(4.407)	(0.269)
	shareLeft	1.156***	-0.408***	0.0257	0.293*	1.623***	1.811***
		(8.048)	(-3.441)	(0.203)	(1.941)	(10.07)	(4.571)
	(court × Section) FE	Yes	Yes	Yes	Yes	Yes	Yes
	Year FE	Yes	Yes	Yes	Yes	Yes	Yes
	N	1,343,494	1,160,938	838,895	703,455	840,020	125,613

Table 11: Results of probit and ordered probit estimation of the set of dependent variables. ENDOG Model. Z-statistics in parentheses. Robust standard errors.

Appendix B. Elections in labor courts

Summary statistics for each election between 1998 and 2012 are presented in the appendix (tables 12, 13, 14).

Union	Share of seats			
	Mean	St. Dev.	Min	Max
CGT	0.346	0.190	0	0.833
CFDT	0.322	0.157	0	1
FO	0.220	0.133	0	0.75
CGC	0.065	0.137	0	0.75
CFTC	0.031	0.076	0	0.5
UNSA	0.005	0.039	0	0.5
CSL	0.003	0.018	0	0.25
GDIX	0.001	0.0123	0	0.25
DIV	0.007	0.045	0	0.6

Table 12: Summary Statistics of the share of seats obtained by each union at the 1997 elections.

Union	Share of seats			
	Mean	St. Dev.	Min	Max
CGT	0.350	0.188	0	0.8
CFDT	0.319	0.151	0	1
FO	0.183	0.131	0	0.667
CFE-CGC	0.071	0.149	0	0.75
CFTC	0.049	0.093	0	0.5
UNSA	0.016	0.058	0	0.5
GSEA	0.000	0.002	0	0.07
GDIX	0.003	0.028	0	0.5
DIV	0.007	0.052	0	0.75

Table 13: Summary Statistics of the share of seats obtained by each union at the 2002 elections.

Union	Share of seats			
	Mean	St. Dev.	Min	Max
CGT	0.397	0.189	0	1
CFDT	0.269	0.143	0	1
FO	0.160	0.113	0	0.667
CFE-CGC	0.089	0.172	0	0.75
CFTC	0.036	0.0814	0	1
UNSA	0.026	0.067	0	0.5
Solidaires	0.004	0.020	0	0.2
DIV	0.019	0.105	0	1

Table 14: Summary Statistics of the share of seats obtained by each union at the 2008 elections.

Appendix C. Bayesian Estimation of Ideal Points

The Bayesian estimation of ideal points is usually referred as the *one dimensional item response theory*. Such models originally aimed at measuring students' performance to a test, and to locate them on a unique dimension. The objective consisted in estimating three sets of parameters: (i) an ability parameter for each student, (ii) a difficulty parameter for each question of the test, and (iii) a discrimination parameter for each question. Bayesian methods were developed to discriminate students according to their ability, by taking into account questions' difficulty level, and by estimating their 'relevance' to correctly discriminate students.[35]

These models have then be used in the political science literature, especially in the case of Supreme Court voting, where researchers were willing to locate Justices on a liberal-conservative dimension. Our approach follows this literature: we aim at locating unions on a *confrontationalism* axis by investigating their ability to successfully negotiate with firms owners.

More formally, our goal consists in estimating unions' positions (β_i) on a *confrontationalism* axis. To do so, we also need to estimate ANI-specific parameters, i.e. their location on the *confrontationalism* axis (α_j) and their discrimination parameter (γ_j), i.e. their capacity to discriminate unions on the *confrontationalism* dimension. The model is defined by a logistic utility model, where the latent utility depends both on unions and ANI parameters:

$$u_{i,j} = -\alpha_j + \gamma_j \beta_i + \epsilon_{i,j} \tag{5}$$

where $u_{i,j}$ is the utility of union i to ratify ANI j, and $\epsilon_{i,j}$ is a random component.

Ideal points are assumed to be normally distributed with mean μ_β and variance σ_β^2, and the ANI-specific parameters are assumed to be jointly distributed : $(\alpha_j, \gamma_j) \sim N_2(M, T^{-1})$. In order to avoid additive and multiplicative aliasing, as well as reflection invariance, we set parameters' priors to default values of the *MCMCpackage* in R ($\mu_\beta = 0$, $\sigma_\beta = 1$, $M = 0$, and $T = 0.25$). Moreover, identification requires an additional constraint on the ideal points. Since our goal is to create a confrontational scale, we assume that the CGT, which is usually seen as the least likely to negotiate with firm owners, is more confrontational than the CFDT, which is seen as the most reformist union. In other words, we constraint the model such that the CGT will get a positive score on the confrontational dimension, while the CFDT will get a negative score on the confrontational dimension. Of course, such a constraint does not claim that the CFDT is not confrontational at all, it only assumes that the CGT is more confrontational than the CFDT.

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[35]Researchers anticipated the possibility that some questions could be correctly answered by low-skilled students and wrongly answered by high-skilled students

A   Appendix D: The legal process in French labor courts
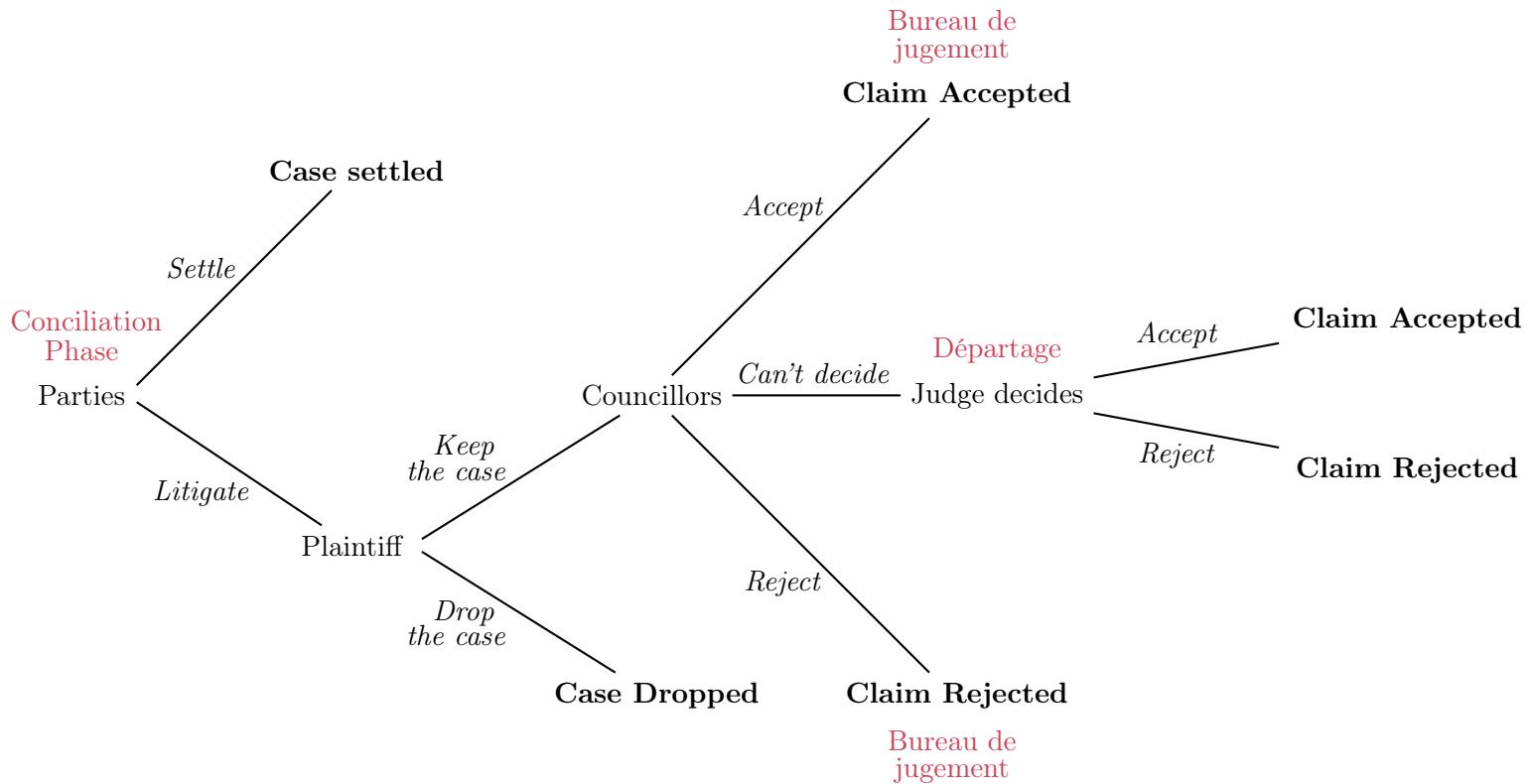
Figure 5: Sequence of the legal process (strategies in italics, final observed outcome in bold).

Online Appendix

Appendix A: BASELINE and ENDOG Tables

We display the full set of estimates of the main regressions of the paper. Tables 8, A2 and A3 summarize the estimations of the BASELINE model, where the court's composition is proxied by *propNR*, *confront* and *tv_confront* respectively. Tables A4, A5 and A6 show the estimates for the ENDOG model for *propNR*, *confront* and *tv_confront* respectively.

Variable Technique	Conciliation Probit	Abandon Probit	Decision3 Ordered Pr.	Decision2 Probit	Départage Probit	Judgement Probit
propNR	0.0379**	0.371***	-0.0360**	-0.0254	0.0710***	-0.00835
	(2.172)	(23.59)	(-2.078)	(-1.234)	(3.188)	(-0.153)
avDuraffLY	5.84e-05***	-0.000309***				
	(2.932)	(-18.17)				
unemployment	0.00114	-0.00675***	-0.00607***	-0.00373***	0.0141***	0.0188***
	(1.430)	(-7.425)	(-6.650)	(-3.375)	(11.93)	(6.879)
lngdppc	0.693***	-0.239***	-0.364***	-0.409***	0.358***	-1.310***
	(10.91)	(-4.407)	(-6.328)	(-5.855)	(4.825)	(-7.571)
gender	0.0634***	-0.0295***	0.0412***	0.0644***	0.0448***	0.0470***
	(21.44)	(-10.92)	(14.42)	(18.31)	(12.21)	(5.729)
def_lawyer	-0.256***	-0.154***	0.0722***	0.0622***	-0.115***	-0.152***
	(-51.38)	(-34.76)	(15.52)	(11.66)	(-19.88)	(-9.356)
def_workerUnion	-0.0257	-0.195***	-0.0239	-0.0397	-0.0624	-0.652***
	(-0.390)	(-3.156)	(-0.338)	(-0.511)	(-0.650)	(-3.088)
def_employerUnion	0.431***	-0.254***	-0.170***	-0.228***	-0.233***	-0.113
	(15.05)	(-6.902)	(-4.732)	(-5.828)	(-4.586)	(-0.879)
plaint_lawyer	0.108***	-0.142***	0.0133*	0.0343***	0.0839***	0.0958***
	(18.09)	(-23.21)	(1.783)	(4.229)	(10.00)	(3.108)
plaint_union	0.279***	-0.191***	-0.0440***	-0.0235**	0.116***	-0.0858**
	(38.46)	(-25.04)	(-4.939)	(-2.399)	(10.73)	(-2.482)
(court × Section) FE	Yes	Yes	Yes	Yes	Yes	Yes
Year FE	Yes	Yes	Yes	Yes	Yes	Yes
Observations	1,344,121	1,161,476	839,27	703,812	840,458	125,617
LL	-503525	-667209	-765516	-397024	-338838	-71266
Pseudo-R2	0.0535	0.0282	0.0190	0.0302	0.0898	0.0727

Table A1: Results of probit and ordered probit estimation of the set of dependent variables. Court's composition: **propNR**. **BASELINE** Model. Robust z-statistics in parentheses.

Variable Technique	Conciliation Probit	Abandon Probit	Decision3 Ordered Pr.	Decision2 Probit	Départage Probit	Judgement Probit
confront	0.00342	0.0618***	0.00228	0.00529	0.00660	-0.00166
	(1.053)	(21.01)	(0.707)	(1.386)	(1.585)	(-0.162)
avDuraffLY	5.80e-05***	-0.000308***				
	(2.911)	(-18.11)				
unemployment	0.00113	-0.00692***	-0.00608***	-0.00377***	0.0141***	0.0188***
	(1.424)	(-7.622)	(-6.662)	(-3.404)	(11.94)	(6.878)
lngdppc	0.684***	-0.274***	-0.343***	-0.386***	0.340***	-1.310***
	(10.79)	(-5.065)	(-5.971)	(-5.538)	(4.589)	(-7.568)
gender	0.0635***	-0.0295***	0.0412***	0.0644***	0.0448***	0.0470***
	(21.44)	(-10.92)	(14.43)	(18.31)	(12.20)	(5.730)
def_lawyer	-0.257***	-0.154***	0.0720***	0.0621***	-0.115***	-0.152***
	(-51.40)	(-34.74)	(15.48)	(11.64)	(-19.85)	(-9.353)
def_workerUnion	-0.0254	-0.198***	-0.0251	-0.0409	-0.0619	-0.652***
	(-0.386)	(-3.202)	(-0.355)	(-0.526)	(-0.645)	(-3.087)
def_employerUnion	0.431***	-0.254***	-0.170***	-0.228***	-0.233***	-0.113
	(15.04)	(-6.915)	(-4.721)	(-5.818)	(-4.593)	(-0.879)
plaint_lawyer	0.108***	-0.143***	0.0133*	0.0343***	0.0839***	0.0958***
	(18.08)	(-23.44)	(1.782)	(4.224)	(9.999)	(3.108)
plaint_union	0.279***	-0.192***	-0.0439***	-0.0234**	0.116***	-0.0857**
	(38.44)	(-25.27)	(-4.931)	(-2.392)	(10.72)	(-2.480)
(court × Section) FE	Yes	Yes	Yes	Yes	Yes	Yes
Year FE	Yes	Yes	Yes	Yes	Yes	Yes
Observations	1,344,121	1,161,476	839,270	703,812	840,458	125,617
LL	-503527	-667265	-765518	-397023	-338842	-71266
Pseudo-R2	0.0535	0.0281	0.0190	0.0302	0.0898	0.0727

Table A2: Results of probit and ordered probit estimation of the set of dependent variables. Court's composition: **confront**. **BASELINE** Model. Robust z-statistics in parentheses.

Variable Technique	Conciliation Probit	Abandon Probit	Decision3 Ordered Pr.	Decision2 Probit	Départage Probit	Judgement Probit
tv_confront	0.00802**	0.0810***	-0.00445	-0.000375	0.0166***	-0.00218
	(2.055)	(23.15)	(-1.153)	(-0.0821)	(3.331)	(-0.179)
avDuraffLY	5.81e-05***	-0.000310***				
	(2.916)	(-18.19)				
unemployment	0.00113	-0.00681***	-0.00608***	-0.00375***	0.0141***	0.0188***
	(1.427)	(-7.498)	(-6.656)	(-3.389)	(11.93)	(6.878)
lngdppc	0.691***	-0.247***	-0.357***	-0.398***	0.360***	-1.311***
	(10.89)	(-4.562)	(-6.203)	(-5.708)	(4.854)	(-7.562)
gender	0.0635***	-0.0295***	0.0412***	0.0644***	0.0448***	0.0470***
	(21.44)	(-10.92)	(14.43)	(18.31)	(12.21)	(5.730)
def_lawyer	-0.257***	-0.154***	0.0721***	0.0621***	-0.115***	-0.152***
	(-51.39)	(-34.76)	(15.51)	(11.65)	(-19.88)	(-9.356)
def_workerUnion	-0.0260	-0.197***	-0.0242	-0.0402	-0.0630	-0.652***
	(-0.394)	(-3.188)	(-0.342)	(-0.517)	(-0.657)	(-3.087)
def_employerUnion	0.431***	-0.255***	-0.170***	-0.228***	-0.233***	-0.113
	(15.04)	(-6.929)	(-4.728)	(-5.824)	(-4.586)	(-0.879)
plaint_lawyer	0.108***	-0.142***	0.0133*	0.0343***	0.0839***	0.0958***
	(18.09)	(-23.28)	(1.785)	(4.229)	(9.994)	(3.108)
plaint_union	0.279***	-0.192***	-0.0439***	-0.0235**	0.116***	-0.0857**
	(38.45)	(-25.18)	(-4.931)	(-2.394)	(10.72)	(-2.481)
(court × Section) FE	Yes	Yes	Yes	Yes	Yes	Yes
Year FE	Yes	Yes	Yes	Yes	Yes	Yes
Observations	1,344,121	1,161,476	839,270	703,812	840,458	125,617
LL	-503525	-667218	-765517	-397024	-338838	-71266
Pseudo-R2	0.0535	0.0282	0.0190	0.0302	0.0898	0.0727

Table A3: Results of probit and ordered probit estimation of the set of dependent variables. Court's composition: **tv_confront**. **BASELINE** Model. Robust z-statistics in parentheses.

Variable Technique	Conciliation Probit	Abandon Probit	Decision3 Ordered Pr.	Decision2 Probit	Départage Probit	Judgement Probit
propNR	0.0502***	0.364***	-0.0358**	-0.0216	0.0898***	0.0102
	(2.861)	(23.00)	(-2.056)	(-1.042)	(4.020)	(0.186)
shareLeft	1.150***	-0.452***	0.0176	0.274*	1.599***	1.806***
	(8.018)	(-3.826)	(0.140)	(1.820)	(9.951)	(4.567)
avDuraffLY	4.04e-05**	-0.000299***				
	(2.015)	(-17.36)				
unemployment	0.00110	-0.00673***	-0.00605***	-0.00367***	0.0141***	0.0186***
	(1.378)	(-7.402)	(-6.627)	(-3.320)	(11.95)	(6.820)
lngdppc	0.542***	-0.157***	-0.368***	-0.463***	0.00679	-1.721***
	(8.182)	(-2.687)	(-5.796)	(-6.121)	(0.0824)	(-8.768)
gender	0.0635***	-0.0296***	0.0413***	0.0646***	0.0449***	0.0470***
	(21.46)	(-10.94)	(14.45)	(18.35)	(12.22)	(5.727)
def_lawyer	-0.256***	-0.155***	0.0717***	0.0618***	-0.113***	-0.150***
	(-51.36)	(-34.79)	(15.40)	(11.58)	(-19.54)	(-9.231)
def_workerUnion	-0.0287	-0.194***	-0.0243	-0.0404	-0.0620	-0.648***
	(-0.435)	(-3.140)	(-0.344)	(-0.520)	(-0.646)	(-3.073)
def_employerUnion	0.432***	-0.255***	-0.171***	-0.228***	-0.229***	-0.109
	(15.07)	(-6.927)	(-4.740)	(-5.826)	(-4.520)	(-0.847)
plaint_lawyer	0.108***	-0.142***	0.0135*	0.0346***	0.0839***	0.0963***
	(18.00)	(-23.22)	(1.815)	(4.263)	(9.999)	(3.124)
plaint_union	0.278***	-0.191***	-0.0438***	-0.0234**	0.116***	-0.0857**
	(38.32)	(-25.05)	(-4.917)	(-2.387)	(10.71)	(-2.478)
(court × Section) FE	Yes	Yes	Yes	Yes	Yes	Yes
Year FE	Yes	Yes	Yes	Yes	Yes	Yes
Observations	1,343,494	1,160,938	838,895	703,455	840,020	125,613
LL	-503238	-666878	-765264	-396841	-338718	-71253
Pseudo-R2	0.0536	0.0282	0.0189	0.0302	0.0898	0.0728

Table A4: Results of probit and ordered probit estimation of the set of dependent variables. Court's composition: **propNR**. **ENGOD** Model. Robust z-statistics in parentheses.

Variable Technique	Conciliation Probit	Abandon Probit	Decision3 Ordered Pr.	Decision2 Probit	Départage Probit	Judgement Probit
confront	0.00565*	0.0604***	0.00242	0.00611	0.0104**	0.00239
	(1.731)	(20.39)	(0.745)	(1.592)	(2.492)	(0.233)
shareLeft	1.136***	-0.478***	0.0518	0.315**	1.582***	1.808***
	(7.918)	(-4.041)	(0.411)	(2.091)	(9.836)	(4.570)
avDuraffLY	4.01e-05**	-0.000298***				
	(2.000)	(-17.27)				
unemployment	0.00109	-0.00690***	-0.00606***	-0.00370***	0.0141***	0.0186***
	(1.372)	(-7.596)	(-6.638)	(-3.347)	(11.97)	(6.821)
lngdppc	0.535***	-0.187***	-0.354***	-0.448***	-0.00684	-1.720***
	(8.078)	(-3.211)	(-5.582)	(-5.932)	(-0.0830)	(-8.765)
gender	0.0635***	-0.0296***	0.0413***	0.0646***	0.0448***	0.0470***
	(21.46)	(-10.94)	(14.46)	(18.35)	(12.22)	(5.725)
def_lawyer	-0.257***	-0.154***	0.0715***	0.0617***	-0.113***	-0.150***
	(-51.38)	(-34.78)	(15.37)	(11.57)	(-19.51)	(-9.232)
def_workerUnion	-0.0286	-0.197***	-0.0255	-0.0417	-0.0616	-0.648***
	(-0.434)	(-3.182)	(-0.361)	(-0.536)	(-0.642)	(-3.074)
def_employerUnion	0.432***	-0.255***	-0.170***	-0.228***	-0.229***	-0.109
	(15.06)	(-6.941)	(-4.728)	(-5.814)	(-4.526)	(-0.846)
plaint_lawyer	0.108***	-0.143***	0.0135*	0.0346***	0.0839***	0.0963***
	(17.99)	(-23.44)	(1.814)	(4.258)	(9.993)	(3.123)
plaint_union	0.278***	-0.193***	-0.0437***	-0.0233**	0.116***	-0.0857**
	(38.30)	(-25.27)	(-4.909)	(-2.382)	(10.70)	(-2.479)
(court × Section) FE	Yes	Yes	Yes	Yes	Yes	Yes
Year FE	Yes	Yes	Yes	Yes	Yes	Yes
Observations	1,343,494	1,160,938	838,895	703,455	840,020	125,613
LL	-503241	-666933	-765266	-396840	-338723	-71253
Pseudo-R2	0.0536	0.0281	0.0189	0.0302	0.0898	0.0728

Table A5: Results of probit and ordered probit estimation of the set of dependent variables. Court's composition: **confront**. **ENGOD** Model. Robust z-statistics in parentheses.

Variable Technique	Conciliation Probit	Abandon Probit	Decision3 Ordered Pr.	Decision2 Probit	Départage Probit	Judgement Probit
tv_confront	0.00565*	0.0604***	0.00242	0.00611	0.0104**	0.00239
	(1.731)	(20.39)	(0.745)	(1.592)	(2.492)	(0.233)
shareLeft	1.136***	-0.478***	0.0518	0.315**	1.582***	1.808***
	(7.918)	(-4.041)	(0.411)	(2.091)	(9.836)	(4.570)
avDuraffLY	4.01e-05**	-0.000298***				
	(2.000)	(-17.27)				
unemployment	0.00109	-0.00690***	-0.00606***	-0.00370***	0.0141***	0.0186***
	(1.372)	(-7.596)	(-6.638)	(-3.347)	(11.97)	(6.821)
lngdppc	0.535***	-0.187***	-0.354***	-0.448***	-0.00684	-1.720***
	(8.078)	(-3.211)	(-5.582)	(-5.932)	(-0.0830)	(-8.765)
gender	0.0635***	-0.0296***	0.0413***	0.0646***	0.0448***	0.0470***
	(21.46)	(-10.94)	(14.46)	(18.35)	(12.22)	(5.725)
def_lawyer	-0.257***	-0.154***	0.0715***	0.0617***	-0.113***	-0.150***
	(-51.38)	(-34.78)	(15.37)	(11.57)	(-19.51)	(-9.232)
def_workerUnion	-0.0286	-0.197***	-0.0255	-0.0417	-0.0616	-0.648***
	(-0.434)	(-3.182)	(-0.361)	(-0.536)	(-0.642)	(-3.074)
def_employerUnion	0.432***	-0.255***	-0.170***	-0.228***	-0.229***	-0.109
	(15.06)	(-6.941)	(-4.728)	(-5.814)	(-4.526)	(-0.846)
plaint_lawyer	0.108***	-0.143***	0.0135*	0.0346***	0.0839***	0.0963***
	(17.99)	(-23.44)	(1.814)	(4.258)	(9.993)	(3.123)
plaint_union	0.278***	-0.193***	-0.0437***	-0.0233**	0.116***	-0.0857**
	(38.30)	(-25.27)	(-4.909)	(-2.382)	(10.70)	(-2.479)
(court × Section) FE	Yes	Yes	Yes	Yes	Yes	Yes
Year FE	Yes	Yes	Yes	Yes	Yes	Yes
Observations	1,343,494	1,160,938	838,895	703,455	840,020	125,613
LL	-503241	-666933	-765266	-396840	-338723	-71253
Pseudo-R2	0.0536	0.0281	0.0189	0.0302	0.0898	0.0728

Table A6: Results of probit and ordered probit estimation of the set of dependent variables. Court's composition: **tv_confront**. **ENGOD** Model. Robust z-statistics in parentheses.

Appendix B: Triprobit

The latent utilities of *Conciliation*, *Abandon* and *Decision2* are defined as follows:

$$
\begin{aligned}
y_{ci}^* &= X_{ci}\beta_c + u_{ci} \\
y_{ai}^* &= X_{ai}\beta_a + u_{ai} \\
y_{di}^* &= X_{di}\beta_d + u_{di}
\end{aligned}
\tag{6}
$$

The outcome of the Abandon decision is not observed if the case is conciliated. The decision of the councilors is not available if the case is conciliated or dropped. The system of observed outcomes is:

$$
y_{ci} = \begin{cases} 0 & \text{if } y_{ci}^* \leq 0 \\ 1 & \text{if } y_{ci}^* > 0 \end{cases}
$$

$$
y_{ai} = \begin{cases} . & \text{if } y_{ci}^* \leq 0 \\ 0 & \text{if } y_{ai}^* \leq 0 \text{ and } y_{ci}^* > 0 \\ 1 & \text{if } y_{ai}^* > 0 \text{ and } y_{ci}^* > 0 \end{cases}
\tag{7}
$$

$$
y_{di} = \begin{cases} . & \text{if } y_{ai}^* \leq 0 \text{ or } y_{ci}^* \leq 0 \\ 0 & \text{if } y_{di}^* \leq 0 \text{ and } y_{ai}^* > 0 \text{ and } y_{ci}^* > 0 \\ 1 & \text{if } y_{di}^* > 0 \text{ and } y_{ai}^* > 0 \text{ and } y_{ci}^* > 0 \end{cases}
$$

Assuming that the error terms are normally distributed, we compute the contributions to the likelihood. We note ρ_{ca}, ρ_{cd} and ρ_{ad} the correlations between u_c and u_a, u_c and u_d, u_a and u_d. We note $V = \begin{bmatrix} 1 & & \\ \rho_{ca} & 1 & \\ -\rho_{cd} & -\rho_{ad} & 1 \end{bmatrix}$ and $V' = \begin{bmatrix} 1 & & \\ \rho_{ca} & 1 & \\ \rho_{cd} & \rho_{ad} & 1 \end{bmatrix}$.

The contribution for a conciliated case is:

$$
\Phi_1(X_{ci}\beta_c)
\tag{8}
$$

The contribution for an abandoned case is:

$$
\Phi_2(-X_{ci}\beta_c, X_{ai}\beta_a; -\rho_{ac})
\tag{9}
$$

The contribution for a case decided by the councilors in favor of the employee:

$$
\Phi_3(-X_{ci}\beta_c, -X_{ai}\beta_a, X_{di}\beta_d; V)
\tag{10}
$$

The contribution for a case decided by the councilors against the employee:

$$
\Phi_3(-X_{ci}\beta_c, -X_{ai}\beta_a, -X_{di}\beta_d; V')
\tag{11}
$$

The associated Stata maximization program is:

```
program triprob
version 11.0
args lnf x1 x2 x3 r12 r13 r23
    tempname p1 p01 p000 p001 positif negatif V2 V3 rf12 rf22 rf13 rf23 rf33
    gen `positif'=1
    gen `negatif'=-1

    //Generate cholesky matrices
    sum `r12', meanonly
    scalar `rf12'=r(mean)
    scalar `rf22'=sqrt(1-`rf12'^2)
    sum `r13', meanonly
    scalar `rf13'=r(mean)
    sum `r23', meanonly
    scalar `rf23'=r(mean)
    scalar `rf33'=sqrt(1-`rf13'^2-`rf23'^2)

    mat `V2'=(1,0 \ `rf12',`rf22')
    mat `V3'=(1,0,0 \ `rf12',`rf22',0\ `rf13',`rf23',`rf33')

    //Likelihood contribution
    quietly{
     gen `p1'=normal(`x1') if $ML_y1==1
     egen `p01'=mvnp(`x1' `x2') if $ML_y2==1, chol(`V2') dr($dr) prefix(z) /*
         */signs(`negatif' `positif')  adoonly
     egen `p000'=mvnp(`x1' `x2' `x3') if $ML_y3==0, chol(`V3') dr($dr) prefix(z) /*
         */signs(`negatif' `negatif' `negatif')  adoonly
     egen `p001'=mvnp(`x1' `x2' `x3') if $ML_y3==1, chol(`V3') dr($dr) prefix(z) /*
         */signs(`negatif' `negatif' `positif')  adoonly

     replace `p1'=0.0001 if `p1'<=0
     replace `p01'=0.0001 if `p01'<=0
     replace `p000'=0.0001 if `p000'<=0
     replace `p001'=0.0001 if `p001'<=0
    }
    quietly replace `lnf' =  ln(`p1') if $ML_y1==1
    quietly replace `lnf' =  ln(`p01')  if $ML_y2==1
    quietly replace `lnf' =  ln(`p000')  if $ML_y3==0
    quietly replace `lnf' =  ln(`p001')  if $ML_y3==1

end
```

The maximization of the likelihood is computationally very demanding. In order to estimate the model, we randomly selected 75% of the cases and maximized the above program. Identification was insured by the fact that (i) values of the variables of the conciliation step are set at the date of the conciliation attempt, while they are set at the date of the first audition in front of the councilors for the abandon and the decision stages, and (ii) the abandon stage includes the average duration

9

of cases terminated the previous year while the decision does not. The convergence of the program took three weeks. The estimation was performed using $propNR$. The results of the estimation are displayed in table B1.

Table B1: Results of the triprobit estimation. (Z-statistics in parentheses.)

Step	Conciliation	Abandon	Decision2
propNR	.0349*	.3456***	-.0001
	(1.72)	(19.00)	(-0.00)
shareLeft	.2428	.3140***	.0162
	(1.46)	(2.68)	(0.11)
avDuraffLY	1.21e-05	-.00016***	
	(0.52)	(-8.31)	
unemployment	-.00188**	-.0081***	-.00256*
	(-2.07)	(-7.89)	(-1.91)
lngdppc	.5288***	-.4783***	-.4392***
	(6.95)	(-11.17)	(-7.82)
gender	.0701***	-.0364***	.0539***
	(19.88)	(-11.61)	(12.08)
def_lawyer	-.2737***	-.1226***	.0871***
	(-50.15)	(-24.15)	(12.02)
def_workerUnion	-.0765	-.1175	-.0561
	(-1.00)	(-1.55)	(-0.66)
def_employerUnion	.4008***	-.4122***	-.3000***
	(11.94)	(-10.06)	(-6.57)
plaint_lawyer	.0966***	-.1438***	.0106
	(15.79)	(-23.40)	(1.10)
plaint_union	.2637***	-.2167***	-.0731
	(33.71)	(-26.87)	(-5.77)
ρ_{ca}		-0.685***	
		(-39.14)	
ρ_{cd}		-0.284***	
		(-7.69)	
ρ_{ad}		0.16844***	
		(3.65)	
Observations		905,125	
Log-Likelihood		-1,123,310.9	

Table B2: Results of the triprobit estimation. (Z-statistics in parentheses.)

Step	Conciliation	Abandon	Departage
propNR	.0195935	.3340876***	.0272864
	(1.06)	(19.08)	(1.49)
shareLeft	.7437279***	.0735106	-.3106158***
	(4.84)	(0.65)	(-2.57)
avDuraffLY	.0000975***	-.0002355***	
	(4.97)	(-12.57)	
unemployment	.0011048	-.0061907***	-.0007928
	(1.46)	(-6.27)	(-0.84)
lngdppc	1.451437***	-.7259437***	1.893155***
	(21.61)	(-17.40)	(40.50)
gender	.0617016***	-.0367867***	.0625502***
	(18.17)	(-12.23)	(18.99)
def_lawyer	-.2460591***	-.1035736***	-.1849498***
	(-45.69)	(-21.49)	(-33.82)
def_workerUnion	.015444	-.2154981***	-.0287188
	(0.21)	(-2.80)	(-0.37)
def_employerUnion	.4442026***	-.3197375***	.1860031***
	(13.66)	(-8.09)	(4.83)
plaint_lawyer	.2035107***	-.1539529***	.1158967***
	(33.42)	(-25.64)	(15.12)
plaint_union	.3921453***	-.2334603***	.2403768***
	(50.72)	(-29.57)	(25.41)
ρ_{ca}		-.691***	
		(-59.74)	
$\rho_{c,dep}$		0.927***	
		(226.09)	
$\rho_{a,dep}$		-0.641***	
		(-42.93)	
Observations		1,006,717	
Log-Likelihood		-1,128,591	