

Delegating the digital transformation of justice: the particular case of French and Belgian commercial courts

Pelssers Lisa, Université de Liège, Belgium, lisa.pelssers@uliege.be

Setting the scene : commercial courts

Competencies :

- judge disputes between individuals and traders or between traders and commercial companies
- hear actions directly related to insolvency proceedings, such as bankruptcy and judicial reorganization

Actors: clercks, non professional (consular) judges, the registry, chambers of 3 judges

	Belgium	France
Chamber composition	2 consular judges + 1 professional judge	3 consular judges
Clercks	Public servants	Liberal professionals delegated with the public authority of the State.

↓
managed by the court and
the Ministry of Justice

→ they operate as a liberal
business, which gives them
a certain amount of
autonomy and greater
room for maneuver

The need to reform the justice system

For many years, the Belgian and French justice systems have undergone numerous **modernization** and rationalization reforms.

Procedural reforms

seeks to rethink the rules and principles that govern judicial procedures

Rationalization reforms

from a managerial perspective: in order to meet the expectations of citizens, judicial activity should be imbued with a managerial logic, that is, focused on results and cost control

The **digital transformation of justice** systems is at the intersection of these two movements. It often involves offering the various actors in the trial new modes of communication (procedural aspect) which, given the savings they imply, contribute to ensuring the efficiency of justice, that is, its effectiveness at lower cost (more managerial aspect).

When modernization rhymes with rationalization

Reforms

→ relying on the mobilization of judicial, political, and administrative actors with partially convergent public and individual categorical interests

→ These actors now play a role in many areas of public action, including justice

→ reform entrepreneurs from legal professions

→ establishment of **interest groups** among the liberal professions of law as representative elements

Moral entrepreneurs among legal professions

Legal professions play a particularly active role in political discussions regarding the digital transformation of the judicial system.

European recommendations & Modernization reforms

→ Need to digitize quickly

But public budget shortages

→ Involve legal professions



The need for legal professions to evolve by being actors in the digital revolution, under penalty of marginalization or even disappearance (Suskind, 2008)

become real digital reform entrepreneurs

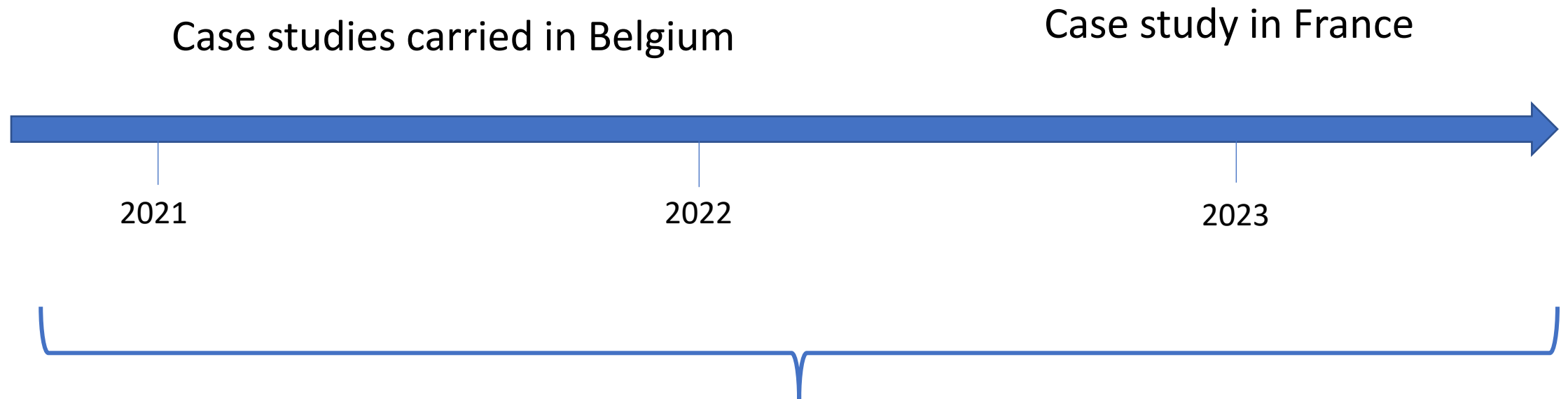
Belgium : Bar Associations (lawyers)

the Belgian and French states delegated a portion of the development, maintenance, and digitalization strategy of justice to these interest groups

France : Commercial Court clerks

While the tools have been in place for several years now, it is interesting to consider how the political choice to involve certain legal professional groups has influenced the development, maintenance, and level of integration of these tools. Furthermore, how do they managed to balance their categorical interests with public interests within the technical and strategic choices made?

Methodology



- 18 on-site observations
- 45 semi-structured interviews → thematic content analysis
- web and documentary searches
- grey and scientific literature reviews

Public tools and categorical interests

Their categorical interests are evident both in the choice of tools they develop and in the way they develop them:

1

Focus on procedures in which they are directly involved and where digitization would facilitate their work the most

2

Developed by primarily addressing their professional practices
→ What works well for them with too little attention given to the court professionals themselves

3

Technical and strategic choices that delegate responsibility to the litigant himself

Who's responsible for justice ?

→ The **litigant** have to **create** their file into the system and **registry office collaborator** performs a **verification**

“In fact, it considerably empowers the users since the registry office has a verification task, but the user has a data entry task. It means that, you, as a user, become responsible for those who provide the information. And eventually, no one else is responsible except the end user. The litigant becomes responsible for their own justice. If it has not been rendered properly, it is because they did not do it correctly.” (Advisor in financial structuring and restructuring, March 2023)

Mixed feelings

The infiltration of categorical groups' specific interests into the tool development process creates a contrast in terms of **integration** and **satisfaction** among different **user groups**.

1. court clerks in France and lawyers in Belgium are delighted with the tools available to them,
2. Judges and litigants in both countries, as well as lawyers in France and the registry office in Belgium, have a more mixed opinion and encounter more difficulties navigating the platforms.

Even if their professional activity works towards the public interest of making justice faster and more accessible, some of their categorical interests contradict this same objective by becoming apparent in the tools developed and the uses they enable.

Positive feelings and further collaborations

1

court clerks in France and lawyers in Belgium have facilitated access to and dissemination of information in commercial courts.

2

the French and Belgian states also seem to see the future of the digital transformation of justice in these collaborations, as they have both decided to delegate other missions to the Bar Associations and the Commercial Court clerks.

"I always defend the model that we represent because I believe it is a model that works. And moreover, the best example is that the state entrusts us with additional tasks, which I consider as a recognition of the quality work we do." (French Commercial Court Clerk, February 2023)

Conclusion