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Uber in the Portuguese gig economy:
a laboratory for platform capitalism

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ABSTRACT
The paper frames the emergence of the Portuguese gig economy within the broader process of platformisation of work in Europe as set in motion by the neoliberal turn at a global scale. Against this background the case of Portugal in general and that of Lisbon in particular are analysed to show both their consistency with the general trends of the European Union's economic dynamics and their irreducible peculiarities. These latter particularities, and especially the so-called 'Uber Law', are discussed in connection with the hypothesis of a specifically Portuguese variety of the gig economy.

KEY WORDS
gig economy, Lisbon, platformisation, Portugal, TVDE, Uber Law, wage-earning society

Introduction

The rise of neoliberalism in the 1970s deeply affected the global economy, and in particular the core of capitalist 'advanced' societies, especially through a remodulation of productive processes and accumulation strategies which eventually brought about the great financial crisis that erupted in 2007 but is still deeply felt in many countries (Andreotti, Benassi & Kazepov, 2018; Crouch, 2011; Harvey, 2005). By the term 'neoliberalism' we mean the 'political, economic, and social arrangements within society that emphasise market relations, re-tasking the role of the state, and individual responsibility' (Springer, Birch & MacLeavy, 2016:2). The main features of such a comprehensive neoliberal turn have been characterised as: the transition from a Fordist-Taylorist organisational model to a post-Fordist phase, whereby the production process is disarticulated, deverticalised and finally recomposed on a global scale; the increased importance of information and knowledge in capital valorisation processes; and technological advancements in the IT, telecommunications and digital sectors (Leonardi & Secchi, 2016). Several terms have been coined to describe the resulting social and economic kernel of neoliberalism that this represents, including the 'information' or 'post-industrial' society, and the 'new' or 'digital' economy. Our preference is to use the recently formulated term 'platform capitalism' and, within this, the 'gig economy' (Rosenblat, 2018; Scholz, 2017; Woodcock & Graham, 2020).

We believe that two key elements should be taken into careful account in order to grasp the novelty embodied by the ongoing process of platformisation of work: the widespread disarticulation of the wage-centred society (Chicchi, 2020) – whose main outcome is the emergence of a new logic of exploitation – and the subsequent spread of atypical forms of labour (Huws, 2019). We explore these elements within the European context in the first part of this article. Against this background, we assess in detail the Portuguese case – and especially that of the capital city, Lisbon – in the second and third parts of this article.

Twenty years ago, Portugal could still be considered a semi-peripheral country within the world economy. Nowadays, however, the socio-economic transition it has undergone in the last two decades has led to a significant repositioning within the global hierarchy. Especially in the last five to seven years, tourism has emerged as a fundamental vector of economic development for Portugal in general, and Lisbon in particular, illustrating a distinctive national trajectory in the transition to post-Fordism. In this context, platform capitalism has found fertile ground to take root and rapidly spread. Unlike some other areas in the global North, where the gig economy has settled in a relatively gradual way starting from 2012, in Portugal its development has overlapped strongly with already existing informal practices and it has flourished by taking advantage of existing regulatory gaps. Two platforms in particular have prospered: Uber and Airbnb. Whereas the latter has directly tapped into the tourism-led growth wave, initially portraying itself as a marketplace for connecting those who have a space to rent and those who look for it, the growth of the former has been largely independent of tourism, although some correlations can be drawn.

The proliferation of both of these platforms has attracted the attention of political authorities at different levels, from the municipal to the national. A wide range of scholarly works has investigated the impact of Airbnb on the real estate market and the urban geography of Lisbon (Cocola-Gant & Gago, 2019; Gainsforth, 2019; Lestegás et al., 2019; Mendes, 2017; Seixas & Guterres Brito, 2018). However, the case of Uber is less explored, which is why we focus on it in this article. In particular, we look at Uber's role as the main player in the development of a dense ecosystem of digital urban transport platforms using light vehicles. Even more specifically, we examine the so-called 'Uber Law' (*lei da Uber*) and its concrete effects.

The Portuguese case is particularly important in relation to Uber's overall urban political and economic strategy. Indeed, Lisbon was recently chosen by Uber as its European Centre of Technology and Excellence, for testing new services and enhancing dialogue with policy makers. It thus represents a veritable laboratory of platform capitalism at the continental level. On the one hand, the case of Portugal (and Lisbon in particular) confirms some of the general tendencies relating to the way in which IT firms using online models tend to form oligopolies (or near-monopolies). This was evidenced in Portugal in 2019 by a decrease in the number of ride-hailing digital platforms with the exit of Cabify from the Portuguese market and a merger between Kapten and Free Now. On the other hand, we have identified some peculiarities which we see, paraphrasing Esping-Andersen (1990), as a particular 'variety' among several 'varieties of gig economy', which led to the key hypothesis of the present article: digital platforms, and more specifically Uber, territorialise themselves in Portugal by establishing fruitful spaces of connection with policy makers both at the local and at the national level. The empirical research was carried out under the PLUS Project (Platform Labour in Urban Spaces), led by the University of Bologna and funded under the Horizon 2020 Programme.[1]

Methodology

Our perspective frames platform capitalism not so much as a matter of data production and management but, rather, as a prism through which labour transformations can be critically assessed. Thus, our analysis draws on multiple sources. These include: theoretical investigation to define the general lines of development of contemporary capitalism within which our case study is situated; statistical data provided by EU and Portuguese agencies to frame continental as well as national dynamics; semi-structured interviews with Uber drivers to grasp workers' experiences and points of view; content analysis of journalistic texts to incorporate reactions and beliefs of public opinion; and netnographic assessment of online contents. Netnography is defined as 'participant-observational research based in online fieldwork' (Kozinets, 2010:60). By substituting the cleavage 'real life vs. virtual life' with the cleavage 'offline life vs. online life', netnography is able to shed light on complex digital practices. Thus, it is particularly suitable for investigating platform labour as simultaneously composed by offline as well as online dimensions. Uber drivers' Facebook pages, in fact, unmistakably show that 'online social experiences have real consequences for social image, social identity' (Kozinets, 2015:17) and, we would add, social conflict.

Platformisation after the wage-earning society: the European context

It is our conviction that the rise of neoliberalism occurred in close connection with the crisis of the wage as the institutional pillar of social mediation (Chicchi, 2020). The three decades following the Second World War saw the emergence of the so-called 'wage-earning society', an unprecedented institutional assemblage marked by the 'status of wage-labour as a source of social identity and communal integration' (Castel, 2003:303). In this new context, which French historians refer to as the 'glorious thirty

1 Grant agreement no 822638. For more information, see: https://project-plus.eu/the-project/.

years' (*les trente glorieuses*) (Fourastié, 1979) and others label the 'golden age of capitalism' (Marglin & Schor, 1989), two main tendencies are at play. According to David Coates (2000), such elements produce opposite outcomes. The first is a negative one: the widening of income inequalities between First World economies and Second and Third World ones; and the second a positive one: the narrowing of income inequalities within the core of the world system. Coates can thus argue that, besides an evident destructive side of capital, there is a progressive one: both in terms of living standards and of social participation, the experience of core indigenous workers was significantly improved with regard to the proletarian condition of capitalism's first generations. Such a framework, however, is no longer operational because the negative outcome persists while the positive one is vanishing. With specific regard to the European context, the main trend since the 1980s has been a worsening of social inequalities and increasingly polarised distribution of income, as well as a profound casualisation of work (Crouch, 2019). The process of proletarianisation of the middle class is unmistakable and further demonstrated by historic lows in social mobility. The protective mechanisms of the Fordist era – based on solid contractual regimes and vertical production processes – have been redefined in a neoliberal sense: from welfare to workfare; from full employment to employability (Leonardi & Chertkovskaya, 2017).

The consequences include: the dissemination of uncertainties; the atomisation of social relations; and the rise of human capital as the centrepiece of self-entrepreneurship. The gig economy has found fertile ground for growth in these conditions, which facilitated the emergence and consolidation of a new, comprehensive model of labour organisation (Huws, 2014). From this perspective, the process of 'platformisation' assumes a paradigmatic character and extends far beyond the reach of actual digital platforms. In Huws' words, it

> *does not just affect the skills and working conditions of the workers directly managed by online platforms; it also has major ramifications for workers in other sectors affected by these developments, including employees in the hospitality, tourism, retail, and transport industries, as well as the users of all these services. These developments are concentrated in cities, where there is a critical mass not only of consumers (both local residents and tourists) for these services but also of potential workers (often young and from marginalised groups, excluded from the formal labour market and available to take on precarious work). (Huws, 2020:10)*

It is important to note, following Benedetto Vecchi, that platformisation as the end-result of the crisis of the wage-earning society should not be considered to mean a full elimination of waged labour. Rather, it indicates the progressive eradication of social protection. A seeming paradox is what emerges: 'the more atypical forms of regulation of work spread across the globe – including the rise of self-entrepreneurship – the more the regime of waged labour extended its dominance' (2017:68). There can be little doubt that the collapse of the wage-earning society, originating in the second half of the 1970s, has entailed an intensified rate of exploitation as it reduced the power of organised labour. Simultaneously, however, neoliberal political rationality has also introduced new and qualitatively unprecedented forms of exploitation. A good way to grasp the key features of such novel exploitative practices is to frame them in close connection with the concept of 'extraction' (broadly conceived) as proposed by Sandro Mezzadra and Brett Neilson (2018). This concept refers to the contemporary relationship between financial markets and social cooperation. Unlike the system of industrial capitalism, in the context of which, once entered into the factory, the worker was confronted with an organisation of labour dictated by the management, in an era of fully deployed financialisation, capital is *indifferent* to the configuration of social relations. More straightforwardly, capital limits itself to the moment of value-extraction, regardless of how such value has been created. Extraction, thus, 'names the forms and practices of valorisation and exploitation that materialise when the operations of capital encounter patterns of human cooperation and sociality external to them' (Mezzadra & Neilson, 2018:44). From this perspective, the apparent autonomy of social practices shows its dark side: instead of entailing a reappropriation of the end product, a certain degree of freedom in organising one's work proves functional to new forms of expropriation.

One last note on platformisation: the new logic of extraction does not substitute for exploitation within the wage form, but rather supplements it. Platform labour is a good example of such duality. In Antonio Casilli's (2019) taxonomy, for example, the crucial distinction is that between 'labour on demand' (e.g., Uber) and 'work in social networks' (e.g., Facebook) – although a grey area is identified in so-called 'crowdwork' (e.g., Amazon Mechanical Turk or Google Translate), also named 'micro-work' (Tubaro, Le Ludec & Casilli, 2020). What distinguishes these two areas of exploitation is their relationship with the wage-form. Whereas uberised labour is a disguised instance of waged labour – whose increased productivity mainly rests on the externalisation of social protection costs onto workers – work on social media produces value beyond the wage-form and, thus, represents an unprecedented logic of exploitation (Chicchi, Leonardi & Lucarelli, 2018)

It is against this complex background that we can now narrow down the scope of our analysis to platform work on demand. At a European level, people who decide to work through a digital platform – either digitally or on location – can be divided into three categories: first, those who already have a full-time job, and therefore see the platform economy as a hobby, or as a way to get new contacts and make new experiences; second, those who have a part-time job, for whom platform money represents a way to diversify their income sources; and third, those who are unemployed, for whom the gig economy represents all their income – with substantial work commitments covering a wide time span. With reference to the last two categories, the relationship between the gig economy and the persistence of the working poor is significant. The concept of 'poor work' is further broken down by Coval and Catuli (2016) into low-wage workers (those who earn less than two-thirds of the median wage) and in-work poverty (those who, albeit employed for most of the year, have household incomes below the threshold of 60% of the median disposable income of all households).

Some data can be illustrative here. In 2017, the EU-28 rate of in-work poverty among employed people over 18 years of age was 9.4%, or about 20.5 million workers, with significant differences amongst the various national contexts considered. In general, the group of countries with the highest percentages was composed by Luxembourg, Spain, Greece, Italy and Portugal. By contrast, Germany and the United Kingdom were close to the European average (both at 9%), while France had a rate of 7.4% (Ahrendt et al., 2017; Peña-Casas et al., 2019). Data on the spread of the gig economy also seem to be relevant, if considered in relation to the rate of in-work poverty. In general, the role of online platforms in the economic life of Europeans has increased in recent years, with more weight being given to selling properties and renting rooms and houses than to selling one's own work. Platform work accounts for less than 10% of all income for the majority of platform workers, with only a minority reporting that it accounts for the entirety of their earnings. For example, in Italy, up until 2016, the share of the population that carried out platform work at least occasionally was 26%; 5% was the share of those who earned at least half of their income from these 'jobs'. But the country that stands out most is the United Kingdom. Here, in fact, between 2016 and 2019, the percentage of those who received income from platform work (understood in a broad sense, thus including the online economy) doubled from 4.9% to 9.6% (Huws et al., 2019; Huws et al., 2017). According to the European Commission's Joint Research Centre (JRC), Portugal also shows a major increase in platform work. For example, the share of Portuguese adult population that has provided labour services via platforms is 10.6%, third behind UK (12%) and Spain (11.6%). Regarding frequency, in 2017 (or since they started working in online platforms) 67.2% of the Portuguese sample surveyed had provided a service via platforms monthly or more, of whom 56.1% had provided at least ten hours per week. The share of workers that gained at least 25% of their monthly income through platforms was 39.6%, while workers for whom platform work provided at least 50% of their income was 15.4% (Pesole et al., 2018:15–18). Furthermore, Portugal ranks third among countries in which a high percentage of services are acquired digitally (11%) and is the highest in its use of on-location services, such as Uber or Glovo (Pesole et al., 2018: 35).

Despite the rhetoric of shared and collaborative management of available and underused resources, the gig economy proliferates at the intersection of employment precariousness and uncertainty about the prospects for survival, a downward spiral triggered by the lack of labour protections and social security on digital platforms (Hamorim & Moda, 2020; Prassl, 2018). Recently, many social actors have come to grasp the contradictions inherent in this mechanism, particularly with regard to labour issues. While digital platforms like to portray themselves as mere intermediaries providing digital infrastructure, other social actors – such as trade unions, social movements and policy makers – have recently unmasked the persistence of a *de facto* wage relation in forms of employment which are supposed to be 'beyond' waged labour (and currently are, *de jure*) (Aloisi, 2016; De Stefano, 2016; De Stefano & Aloisi, 2018). An increasing number of European initiatives have been able in recent years to give voice to platform workers, making visible the many contradictions in the field. We refer, in particular and amongst others, to experiences such as the Bologna Riders Union in Italy (Marrone & Peterlongo, 2020) – which fostered the so-called Bologna Charter[2] – or the GMB trade union in England,[3] as well as the regulation imposed by the government of Catalonia[4] and the ruling no. 26 of the Court of Appeal of Turin (Novella, 2019).[5]

The European Commission (EC) has shown interest in understanding the phenomenon, which it terms the 'collaborative economy', both from the perspective of working conditions and of taxation (which, in turn, affects competition, consumer protection and social security). In Communication 356, the EC established guidelines for market players and public authorities designed to ensure a harmonious development of the collaborative economy. The Communication also stressed that the collaborative economy blurs the boundaries between employment and self-employment and between consumers and service providers – regardless of whether the collaborative practice is professional or not – which may lead to the creation of intermediate zones within the existing regulatory framework and, consequently, to deeper uncertainty. The mechanisms of the collaborative economy are based on the assumption that market forces are the most effective and efficient way for managing transactions and possible disputes. This is why, in a logic of transnational functioning, companies prefer private autonomy over state regulation and collective jurisdiction (EC, 2016). With regard to the definition of an employment relationship, the Communication makes a clear statement:

> Whether an employment relationship exists or not has to be established on the basis of a case-by-case assessment, considering the facts characterising the relationship between the platform and the underlying service provider, and the performance of the related tasks, looking cumulatively in particular at the following three essential criteria: the existence of a subordination link; the nature of work; and the presence of a remuneration. (EC, 2016:12)

As for the first criterion, the Communication reiterates that, in order for subordination to exist, the underlying service provider (the person performing the work) must not be free to choose which services to provide and how to perform them. If the digital platform limits its action to transferring money from the user who has benefited from the service to the service provider, then there is not necessarily a determination of remuneration by the platform – according to the Communication. With reference to the second criterion, the service provider must perform an activity with an actual economic value – thereby excluding all small-scale and marginal services. Finally, the third criterion is applied to distinguish the figure of the worker from that of the volunteer, whose condition is compatible with the absence of remuneration or the presence of mere reimbursement.[6]

2 http://www.marcolombardo.eu/wp-content/uploads/2018/05/CartaDiritti3105_web.pdf. Last accessed Aug. 2020.

3 https://www.theguardian.com/technology/2018/dec/19/uber-loses-appeal-over-driver-employment-rights. Last accessed Aug. 2020.

4 https://www.theguardian.com/world/2019/jan/31/uber-cabify-suspended-operations-barcelona. Last accessed Aug. 2020.

5 http://www.rivistalabor.it/la-corte-appello-torino-ritorna-sul-caso-foodora-riders-etero-organizzati-si-applica-parte-della-disciplina-della-subordinazione/. Last accessed Aug. 2020.

6 For more details see De Stefano & Aloisi, 2018.

In general, the position that emerges from the Communication with respect to the gig economy is a supportive one. Moreover, it attributes important responsibilities to the Member States who are encouraged to clarify their national conditions in a similar way, in a broader context in which the European Union's policies support innovation and growth of opportunities arising from the modernisation of the economy.

Uber in Lisbon

The background provided by the analysis of platformisation in the European context allows us to focus on what we perceive as an emerging variety of Portuguese gig economy marked by the following features: first, a viable dialogue between digital platforms and policy makers (national and local) – with a central role played by the municipal level; second, a national regulatory scheme that does not impose specific constraints on digital platforms; and third, the crystallisation of atypical working relationships (such as false self-employment) along the chain of command *digital platform > TVDE*[7] *partner company >TVDE driver*. In this framework, Lisbon represents a laboratory of Uber's strategy to impose itself as a dominant actor in the digital platform ecosystem, particularly since it was chosen by Uber as the site for its European Centre of Technology and Excellence. This Centre – which also includes UberEats – aims to support Uber's operations in Europe, in countries such as Spain, France and Portugal, and is intended to be the 'the main source of knowledge for users and drivers in all of Europe'. It is interesting to highlight that Lisbon was chosen because of the growing number of qualified professionals there, as well as to reinforce Uber's 'bet' on Portugal.[8] Currently, the Centre of Excellence has 212 employees and generates 4.42 million dollars in sales.[9] Furthermore, Portugal was the first European country to pass a law – Lei 45/2018 (the 'Uber law') – exclusively aimed at framing ride-hailing operations by digital platforms.

Uber began to operate in Portugal in July 2015, and since then has become very popular. The core of this expansion was Lisbon, both because it is the country's main centre of political, economic and social activities and because it represents the largest catchment area: the metropolitan area has about three million inhabitants (the municipality of Lisbon about half a million). The urban centre has attracted the attention of many competing digital platforms in the mobility sector. In fact, in just four and a half years, Uber, Bolt, Cabify and Kapten have all added complexity to Lisbon's socio-material ecosystem. The scale of this growth was considerable: according to data from the Mobility and Transport Institute (Instituto de Mobilidade e Transporte, IMT),

7 The acronym TVDE means: remunerated and individual transportation on non-characterised vehicle via digital platform service (*transporte individual e remunerado de passageiros em veículos descaracterizados a partir de plataforma eletrónica*). The chain of command *digital platform – TVDE partner-company – TVDE driver* will be described in detail in the next section.

8 https://econews.pt/2017/10/23/uber-operations-center-is-coming-to-lisbon/; https://uberportugal.pt/portugal/. Last accessed Aug. 2020.

9 https://www.dnb.com/business-directory/company-profiles.uber_portugal_center_of_excellence_unipessoal_lda.1fba6ac9edc4b537cd56e87dff8b8cbe.html. Last accessed Aug. 2020.

the number of certified drivers grew from 349 in January 2019 to over 21,000 in December of the same year, with a number of TVDE companies equal to about 6,600 units. It is noteworthy that, starting in early 2019, the Portuguese ride-hailing ecosystem has undergone a significant process of reshaping: for example, Cabify ceased operating and Kapten was integrated into Free Now (formerly My-Taxy), a taxi service app. This restructuring is consistent with the general tendency toward oligopolies or near-monopolies in the world of digital platforms, in which a few firms dominate the market (Crouch, 2019).

A comparison with the traditional taxi sector gives a clearer idea of the trend: from the late 2018 onwards, about 25,834 drivers were operating in Portugal, while the number of companies was about 10,000 units. It is difficult to discern from this data the exact number of drivers operating for each platform, since IMT only provides aggregated data. However, it is possible to make assumptions on the basis of the evidence that emerged from our qualitative interviews in the field. As we will discuss below, this abrupt growth required a legislative action, whose outcome was the so-called 'Uber Law'. A major element introduced by this law is a third actor between the drivers and Uber: the TVDE partner company, which might employ one or more drivers. This specificity is mirrored and reflected upon in the interviews we conducted. In fact, the majority of our interviewees were TVDE partner company entrepreneurs,[10] and not simply drivers. Therefore, such interviewees have a distinctive economic background and a particular view of the platform economy. However, it is interesting to note that even 'mere' drivers often shared the self-entrepreneurial rhetoric. Ro – a 45-year-old female driver TVDE, with Brazilian origins – told us: 'It is because I like driving. And because it gives me the possibility to choose when I want to work. For example, I like working in the night, so, for me, it is good.' Furthermore, she described her working day as follows:

> *My working hours are from 7 p.m. to 7 a.m., but with some breaks: I stop, I eat something, I stop, I hang out one hour with my friends. I work my hours, I bring a book, I take a break and then I start again. This is how I work . . . I work eight hours and four hours off, but I do these breaks according to my own needs.*

Previously, she had been a permanent worker in an outsourced cleaning company. She described that job as a 'very straightforward job' but decided to change because 'I was getting fat, "locked up", I used to work from 6h30 a.m. to 8h00 p.m., because I used to do three shifts. So, I quit from one day to the next. And I went to attend the TVDE course.'

Our semi-structured interviews revealed that drivers were often connected simultaneously to all digital platforms so that they could alternate between them to optimise waiting times. Moreover, if everyone is registered on Uber, this is not

10 The Uber Law establishes a tripartite scheme in the Portuguese digital ride-hailing landscape: partnercompany (*operador de TVDE*), TVDE drivers and online platforms (*operador de plataforma TVDE*). In this complex ecosystem, it is possible (in our case study, most likely) for a TVDE partner company's entrepreneur to be also a TVDE driver and to employ people and/or work with independent contractors. For more details, see the next section.

necessarily the case with the other apps. This deduction can be made on the basis of what the drivers/entrepreneurs said both in the interviews and in the posts on a Facebook group of TVDE drivers in Portugal. Uber pays on time every Monday of the week and responds quickly to requests and complaints from drivers, while this is not necessarily the case with Bolt and Kapten. Moreover, Uber is the most popular and well-known platform, especially amongst tourists. Comparing Uber with the other apps, Ab – a 55-year-old male entrepreneur and TVDE driver – told us:

> *Uber retains a higher fee, but also has much more work. Bolt is getting better, but it has a lot less work. Kapten, on the other hand, has much less work and also offers lower margins, as they require longer rides and make me go on many trips without people. With Uber you don't make a 10 km trip and then make a service of only 2km.*

Ru – a 40-year-old male entrepreneur and TVDE driver with a car fleet of 12 vehicles – highlighted that Uber '.is the most lucrative [app] and the service is different . . . The back office is much better and faster than the others . . . [Uber] also has a bigger structure. It is the platform I prefer to work with.'

Because of this, and despite frequent complaints about the fees – considered to be excessively high – TVDE drivers and entrepreneurs rely on Uber. Such reliance, shared by most users, makes this platform the dominant player in the Lisbon ecosystem – all the more so because the Portuguese capital was chosen as Uber's European Centre of Technology and Excellence for testing innovations which may be subsequently exported to other national contexts. The city offers a wide range of solutions for urban micro-mobility: in addition to UberX and UberBlack, we find UberPool, UberGeen, UberXL and Jump. This diversification of offers can be interpreted as an attempt by Uber to win the competition and establish itself as a central player in urban public mobility choices in Portugal. With reference to this, Giovanna D'Esposito, Uber's General Manager for Southwest Europe (which includes Croatia, Spain, Italy and Portugal), recently stated that the future of mobility will be multi-modal, with public transport playing an increasingly important role:[11] for this reason, Uber's strategy is to combine in its app a variety of different transport models, so as to facilitate people's choices.

Our semi-structured interviews, conducted mainly with TVDE entrepreneurs-drivers, revealed a generally positive assessment, particularly with regard to the first years in which Uber and the other platforms were established. The elements that were most emphasised were a certain freedom in organising the working day and the possibility to earn more than the average wage, particularly when compared with previous jobs. For example, Ab pointed out that:

> *I think that if a person wants to be a bit independent, doesn't want to work in the morning and prefers to work in the evening, platform work is better . . . Now, if you like to be independent, if you want money to live – obviously with a company*

11 https://observador.pt/especiais/uber-quer-transportes-publicos-na-app-portuguesa-portugal-e-um-dos-nossos-modelos-de-ouro/. Last accessed Aug. 2020.

> *that works with platforms you don't get rich – this job allows you to live more or less with dignity; working 12 hours, going everywhere.*

However, negative assessments also emerged, in particular concerning the decrease in profitability due to the increase in the number of drivers and the arbitrariness of digital platforms in the imposition of travel tariffs. In the words of Ad – a 48-year-old male entrepreneur and TVDE driver:

> *The TVDE law [Lei da Uber] has brought more security in various aspects, but in business terms things have gotten rather worse because it has not set limits on cars and, since the law, prices have started to be tabulated . . . From 10,500 competitors across the country, prices have doubled. So, what was previously earned now has to be divided among more drivers. It stopped being profitable – for drivers and business alike.*

The Uber Law

The abrupt appearance and rapid growth of digital urban transport platforms eventually triggered some protests by traditional taxi companies – culminating in a two-week strike in September 2018. The ensuing uproar caused Parliament to intervene for regulatory purposes. The result was the promulgation of Lei No. 45/2018 (the so-called 'Lei da Uber' or 'Uber Law'), which defines the legal framework within which Uber and other ride-hail apps are allowed to operate. The law formalises the 'remunerated and individual transportation on non-characterised vehicles via a digital platform service' (*transporte individual e remunerado de passageiros em veículos descaracterizados a partir de plataforma eletrónica*, or TVDE), establishing a power relation amongst partner companies (*operador de TVDE*), TVDE drivers and digital platforms (*operador de plataforma TVDE*).

The law came into force in November 2018. It imposes an obligation on anybody who wants a license to provide the service to set up a partner company, which can be composed by one or more persons: in the first case, the roles of entrepreneur and driver overlap; in the second case, the entrepreneur may decide to hire one or more employees, or offer them a service contract. This latter case is the typical condition of self-employed microentrepreneurs who offer their services to an enterprise and who do not even own the work tool, i.e. the car. In such cases it is the entrepreneur who rents out his or her fleet of cars to drivers, withholding a variable percentage from their gross remuneration. In the case of a driver hired as an employee, the relationship is a subordinate one, but the worker must still rely on Uber to be able to download the appropriate application.

It is important to point out that the Uber Law simply offers a legal infrastructure for regulating the sector – thus establishing the limits within which it can operate – while as far as work matters are concerned it relies on the rules already laid down in the Labour Code.[12] Amongst the most important constraints that the law sets, we find, for

12 For more details on Labour Law issues see Amado & Moreira, 2019.

example, that of the maximum limit of ten hours, within 24 hours, during which drivers can remain connected to the application.

This issue of the duration of working hours is important, since it touches on one of the key elements of decent working conditions. However, there are aspects of the law that can be criticised. For example, although the boundary is formally set, the sanction mechanisms that are actually applied consist of a mere pecuniary fine. Further limitations of the effectiveness of the law emerged from our fieldwork. First, there are a number of drivers who work up to 12 hours, thus circumventing what is established by law. Second, the hourly limit concerns only the connection to the application: however, there are cases (not few) in which the driver or the entrepreneur handles two jobs at the same time – therefore, adding up the total number of hours of both jobs, the limit of ten hours can thus be breached quite easily. Third, the relationship between the parties is not always reciprocal; for example, the authority line runs as follows: digital platform manager > partner company > driver. In this typical case, the digital platform retains its own intermediation fee (25% in the case of Uber, 15% in the case of Cabify and Bolt, 18.5% in the case of Kapten); from the net figure that remains, the partner company retains an additional percentage that varies from 40% to 60%, depending on the agreement made with the driver. Thus, at the end of the process the driver is left with a share of the profit that varies between 15% and 35%.

An – a male TVDE driver and founder of an informal TVDE union – identified some of the most important novelties introduced by the Uber Law:

> *Basically, to summarise, the most important part of the Lei 45-2018 is the following: to work, drivers must have a working relationship, an employment contract with a digital platform's partner company, or a service provision contract. This is how it works, according to the new law.*

Concerning contractual conditions, An went on to highlight that

> *What we can say is that there is not much difference between having a working relationship or a service provision contract. Yes, there are some differences regarding the responsibility, such as insurance, VAT payments . . . Thus, there are some differences, but they are not that relevant.*

An interesting issue immediately emerges here, namely the condition of multiple exploitation to which the driver who does not own a company is subject. In fact, the TVDE entrepreneur has much higher profit margins: in the case of a single-member company, the expenses he has to subtract from the gross profit include the Uber fee (or that of other platforms) and the costs of car maintenance and insurance (in some cases the latter are shared with each individual driver). But that's not the end of it. If there are one or more drivers who work for the company, for each of these the entrepreneur can extract additional income in the form of the retained percentage.

Moreover, there are many cases in which the owner of the company commits to covering specific time slots, thus taking away the choice from the driver. This last element is of extreme interest as it brings down one of the pillars of the rhetoric of the gig economy, namely the freedom to organise one's own work. We could say, therefore, that the existing relationship takes the form of a 'soft corporation', in which there are instances of dependency disguised as service contracts, with an additional burden or instability of working conditions due to reduced profit margins for drivers who do not own a company. This condition can be seen from the number of hours in which they have to be connected to the application: our interviews consistently show that the number of hours needed to earn a decent wage ranges from 10 to 12 hours.

Jo – a male typical entrepreneur-employer, who started to work with Uber in 2016 – explained to us the differences between employees and self-employed:

> *Most drivers work as independent contractors [recibo verde], with service provision contracts. That is, their work is target-oriented [trabalham por objectivos], 40% or 50% of what they do: if you make 1000 euro per week, what you get is 40% or 50% of the amount. Almost every company works in this way because they do not want to have employees. I have employees because my company also does other kinds of work. That is, my drivers do not work only with Uber, but do other kind of things. They work for Uber during off-peak hours, for example.*

Like other entrepreneurs, Jo. diversified his business embracing the TVDE sector. His words are especially relevant in that they highlight a particular form of work flexibility: in fact, the employees can do different jobs, depending on the workloads. The dizzying increase in the numbers of drivers and businesses can be a useful lens for investigating the mechanism of value extraction by digital platforms, in our case of Uber and other urban transport apps. The underlying logic, in fact, is that of shrinking proprietary assets – which consist of the platform software and data analysis software (Srnicek, 2016). In this way, transaction costs and labour costs are reduced, making profit margins higher. In addition, since the fee that the platforms retain from each ride remains unchanged, the more drivers the larger the profit. From the point of view of drivers, on the contrary, the saturation of the market implies a reduction in the number of rides per capita and, therefore, the need to increase working hours in order to maintain decent profit margins. This is where the condition of multiple exploitation to which non-business drivers are subjected is evident: living labour is performed in the form of service provision, through an extremely precarious contractual condition and without a clearly identifiable counterpart in case of disputes.

One factor that has become a source of discontent for drivers – who protested against Uber – concerns the service fee. In fact, they believe that 25% is an excessively high figure, given the reduction in profit margins caused by seasonality, increased costs (e.g., fuel), increased competition (not so much amongst platforms, as it is possible to be connected with all, but rather amongst drivers) and the cut applied by Uber at the end of 2019 to the basic tariff. A preliminary analysis of the posts published in the Facebook group of Uber drivers – which has 11,467 members – provided abundant evidence of this dissatisfaction. For example, Bm stated:

> *We should meet with Uber and try to negotiate something like this: increase the prices, lower the fee to 15%, minimum fare per km and, in return, we would be forced to be logged only with Uber, that is, the vehicle just might be registered in the Uber app . . . There should be a union or someone that represents us in this negotiation.*

In this regard, in January 2020 a self-organised three-day 'strike' was called. It involved logging out from Uber in order to assert the right to do so. The Motoristas Mayor TVDE Portugal – an informal trade union in support of TVDE drivers – wrote in the Facebook group of Uber drivers:

> *We are not against the protest and we must show our dissatisfaction with Uber, Bolt and Kapten (and the future Bora platform) over the price reduction. But the most important thing is to propose the allocation of a minimum tariff that clarifies article 15 of the 45/2018 Lei [Uber Law].*

This action built on discontent that was already there: unconventional forms of 'protest' had been practised for some time – for example the so-called *viagem por for a*,[13] by which drivers and companies TVDE offer the service, while being disconnected from the application. In this way, the brokerage fee is bypassed, thus achieving a greater gain. This practice probably derives from pre-existing informal practices, communicated via networks of informality, characterised by tacit agreements and word of mouth communication among customers, drivers and businessmen.

Conclusions

The case of Portugal (and Lisbon, in particular) provides interesting insights into the general process of platformisation in two ways. First, it confirms the existence of comprehensive trends such as an intensifying rate of exploitation and the formation of oligopolies (or near-monopolies). Second, it provides a territorialised focus that is useful for grasping the specificities that platform capitalism engenders when it 'hits the ground', namely when it becomes embedded in a specific local situation. The Portuguese context can be interpreted as a specific laboratory for what we have defined here as 'varieties of gig economy'. This is a model that is constructed in a fruitful dialogue between digital platforms and political institutions. Although it is generally played out at the city level, legislation is produced at the national level and this legislation gives large margins of flexibility to digital platforms and encourages the proliferation of scarcely protected working relationships along the chain of command *digital platform* > *TVDE partner-company* > *TVDE driver*. The case of Uber, we found, is emblematic in this sense.

Another significant specificity of the Portuguese framework is the Lei 45/2018, or Uber Law. Although it can be interpreted as the direct result of traditional taxi drivers' discontent – which identified Uber and other platforms as vectors of unequal competition – it nonetheless has proved to be an insufficient tool in terms of protection for platform workers. It has so far been unable to stop the exponential growth of TVDE companies and drivers, and it has not been possible to establish a minimum tariff, which is at the moment unilaterally imposed by the apps. Moreover, the law has fostered an increase in competition and a decrease in drivers' per capita

13 https://observador.pt/especiais/os-motoristas-robin-dos-bosques-que-tiram-a-uber-para-ganhar-mais-qualquer-coisa/. Last access: 17 Aug. 2020.

earnings. For Uber and the other platforms, the regulatory framework did not put a stop to the increase in profit margins. Furthermore, the crystallisation of the chain of command along the axis digital platform > partner company > driver has led to the spread of what we have termed the 'soft corporation', marked by the entrenchment of atypical working conditions within the platform economy and of a multiple exploitation of drivers who do not own a company: first by the app, then by the entrepreneur TVDE. State regulation is a necessary condition for drivers' working conditions to improve but it is not a sufficient condition. This is the reason why the three-day strike at the beginning of 2020 – organised by both drivers and TVDE entrepreneurs and marked by the claim of the 'right to log out' (from Uber) – was an important political event: it may have opened a breach in the apparent solidity of the Portuguese scenario and, in the process, made it possible to critically consider unexplored potentials of the Uber Law, in order to find innovative tools and ways to foster platform workers' rights.

Another interesting issue raised by these developments is the possibility of further exploring the potential of the Uber Law from a governance-based perspective: envisaging ways to involve policy makers, entrepreneurs, unions, trade associations and riders in monitoring the law's application. It is our conviction that the Portuguese context can represent a valuable lens to investigate innovative ways for regulating the gig economy.

At the time of writing (summer 2020), a further element of crisis is intervening: the Covid-19 global pandemic. Although the situation is evolving rapidly and uncertainty is widely spread in Europe, the emergency will most likely accentuate the contradictions described above, making platform workers' vulnerability ever more evident. The collapse in demand caused by mobility restrictions will particularly affect drivers who do not own TVDE companies and whose earnings exclusively depend on the number of trips. Uber Portugal has already reacted to try to counter the decrease in profits by diversifying its services: Uber Eats, in addition to the delivery of meals, will also operate the delivery of shopping (especially grocery). In parallel, Uber Taxi will 'convert' the drivers into delivery men, creating the Uber Drop-Off service. Unlike the taxi services, the latter operation is a business-to-business service, aimed at supermarkets that want to deliver goods directly to households, rather than linking individual consumers to the services they require.[14]

Finally, in 2020 Portugal – as well as the rest of the world – experienced both bottom-up mobilisations and top-down restructuring as a result of the unexpected pandemic. Further research will have to start from here – from the tension between workers' protection and companies' revenues – to describe in more depth the socio-political dimensions of this country's particular variety of gig economy.

14 https://eco.sapo.pt/2020/03/27/uber-eats-vai-ter-mercearia-no-catalogo-motoristas-da-uber-farao-entregas-dos-hipermercados/?fbclid=IwAR1eC_LZpc7ODCSxzrsOOOduVFdiDbnlLhKVzNUfveTA8dyu7iKENEnE018, Last accessed Mar. 2020.

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