BAU Journal - Health and Wellbeing

Volume 1 Issue 3 *Urban Health & Wellbeing Building Collaborative Intelligence for Better Lives in Cities*
ISSN: 2617-1635

Article 25

October 2018

THE IMPACT OF NEW TECHNOLOGY ON THE TRANSPORTATIONSERVICES: "UBER PLATFORM

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Abstract

In recent years, the advent of new technologies has impacting an increasing number of economic sectors including transportation. New organizational tools have emerged to facilitate the matching between service providers and consumers. In fact, Uber platform provided an innovative way, the application, to mediate the interaction between both drivers and riders. Platform operators usually provide information about the service user, facilitate online payment, and resolve disputes. The use of these platforms has been booting the rise of Uber and the ascent of this online empowered “sharing economy” has changed that numerous people live. The subsequent “shared economy” offers different options- frequently with reduce costs- compared to existing established taxi companies. These online platforms are on the way to eliminating the traditional way of transport. Consumers and other advocates praise Uber for their ability to provide new economic efficiency compared to traditional ridesharing options. Despite the effectiveness of these services, these platforms have a tendency to oppose existing administrative structures that guarantee wellbeing, quality, and supply. Operating in a grey area, Uber has been subjected to many litigation processes orchestrated by traditional taxi drivers who felt the urge to protect their existence. This paper aims to discuss the recent increase in the judicialization of the conflict between Uber and their partner-drivers. We will try to identify the nature of the activity and the relationship between the parties involved in the collaborative contract. We will also focus on the importance of implementing appropriate regulations in compliance with the characteristics of the “new economic model” and its impact on different fields such as labor law.

Keywords

transportation- new technology-platforms- law- court decision (verdict

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ABSTRACT: *In recent years, the advent of new technologies has impacting an increasing number of economic sectors including transportation. New organizational tools have emerged to facilitate the matching between service providers and consumers. In fact, Uber platform provided an innovative way, the application, to mediate the interaction between both drivers and riders. Platform operators usually provide information about the service user, facilitate online payment, and resolve disputes. The use of these platforms has been booting the rise of Uber and the ascent of this online empowered "sharing economy" has changed that numerous people live. The subsequent "shared economy" offers different options- frequently with reduce costs- compared to existing established taxi companies. These online platforms are on the way to eliminating the traditional way of transport. Consumers and other advocates praise Uber for their ability to provide new economic efficiency compared to traditional ridesharing options. Despite the effectiveness of these services, these platforms have a tendency to oppose existing administrative structures that guarantee wellbeing, quality, and supply. Operating in a grey area, Uber has been subjected to many litigation processes orchestrated by traditional taxi drivers who felt the urge to protect their existence. This paper aims to discuss the recent increase in the judicialization of the conflict between Uber and their partner-drivers. We will try to identify the nature of the activity and the relationship between the parties involved in the collaborative contract. We will also focus on the importance of implementing appropriate regulations in compliance with the characteristics of the "new economic model" and its impact on different fields such as labor law.*

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1. INTRODUCTION

From Silicon Valley to the world market, we are witnessing the rise of a new model of capitalist organizations using the internet as the sole carrier of their economic activities. These entities, most of which appeared in the midst of the 2007 financial crisis, or sometimes a few years earlier, have adopted a new technological tool, the "application" or "app", as their main multifunctional interface. The app integrates the functioning modalities of these organizations, and ensures automated process management, using algorithms as the main technological tool. In addition, it represents the company's main interface with both workers and those looking to buy services and/or products (clients). In this context, the application is becoming a true production structure, in the same way as workshops, factories and offices. Meanwhile, it is also the retail outlet where clients can purchase services and/or products with a minimum of transaction cost. As a result, by using algorithms to match supply and demand, companies like Uber, Deliveroo, Amazon, Airbnb, Facebook and Twitter, are, in fact, disrupting sectors such as transportation, logistics, hospitality and media. They are "atomizing the workforce" (Graham et al., 2016), detaching it from both administrative and professional affiliations (Lehdonvirta V., 2016) and dehumanizing labor by reducing its request to a simple "click" on the screen (Irani L., 2013). Indeed, these organizations are paving the way towards an individualization of outsourcing (De Stephano, 2015) where self-employed workers and micro-entrepreneurs are replacing small and micro-enterprises. Moreover, labor is being dismantled into micro-tasks subcontracted to scattered workers, recalling the pre-industrial putting-out system (Risak and Warter, 2015, Cherry M., 2015) and launching workers in a race to the bottom (Hill 2014, Graham et.al., 2016).

As result, the sale of goods and services have been greatly impacted by the rise of modern technologies: new forms of work have emerged, allowing consumers to request services- and pay for them- via cellphone applications (apps) who keep a percentage of the exchange, and workers to provide a variety of tasks such as driving, delivery or household repairs. A recent survey, conducted by Time Magazine, revealed that in USA over 13 million people are currently working in the "gig", on-demand or sharing economy (Steinmetz, 2016). Although contested, such a figure indicates that the new forms of labour introduced by the apps and websites involved- including Instacart , Handy, Amazon Mechanical Turk and Uber- are challenging our conception of work (Mishel L., 2015). Moreover, digital platforms are progressively replacing traditional economic intermediaries by introducing new business methods (Weng, S. Goo, Zailani.S & Iranmanesh. M, 2017) .

In many areas, technological advancement has brought conceptual adjustments and raised complex legal issues that have yet to be addressed. The introduction of digital platforms has led to a reconsideration of traditional business method patents along with the emergence of a network economy (Castells M., 2011). The field of transport is at the heart of the process .

This article will be discussing the "Uber" business model, the modern answer to the provision of transport services. In 2008, Travis Kalanick and Garrett Camp (namely co-founders of Red Swoosh and Stumble Upon) came up with idea of creating a timeshare limo service that could be ordered via an app. In May 2010, after buying the domain name UberCab.com and testing the service in New York with only three cars, the two partners officially launched it in San Francisco. The app soon gained great popularity due to its simplicity of use. The first round of investment managed to attract around $1.25 million in the company in October 2010. Around that time, UberCab became Uber, after the San Francisco Municipal Transportation agency issued a cease-and-desist order due to the use of the word "cab" in the app's name .

In the following, we will be providing an overview of the Uber business model and its impact on the work relations (2). Secondly, this communication will be discussing the legal stake of three judicial systems in the European Union (France), Egypt and Lebanon. A discussion on how to classify "Transport service via apps" and adopt appropriate legal measures has emerged (3). Given that Uber operates as an electronic intermediary between drivers and passengers, and provides the latter with a transportation service. Therefore, it provides a composite service which has raised crucial questions: should it be considered as a digital intermediate or as a traditional provider of transportation services provider? In other words, does it provide, as a primary activity, immediate information for passengers or a service in the field of transport?

2. UBER BUSINESS MODEL, OVERVIEW

2.1 Uber, the making of the world's transportation giant

T The 2007 financial crisis was followed by a phenomenal rise in the application/platform-based employment. This has been extensively investigated by Steven Hill (2014) in his latest book entitled "Raw Deal": how the Uber economy and Runaway Capitalism Are Screwing American Workers". Hill argues that the so-called "sharing economy" has been nothing more than a continuous degradation of working conditions, stagnation of wages, proliferation of precarious jobs through disguised and bogus self-employment . Accordingly, he concluded that the new app-based startups (Uber, Airbnb, Deliveroo, TaskRabbit and others) are intensifying the transformations of the labor market and pushing workers towards a more destructive race to the bottom, where the winners are those accepting the heaviest losses in terms of payments, job security and social protection. Hill's assumptions were echoed by the results of a recent study (katz L et Kruger A, 2015), which warned that the net growth of Us jobs (nine million workers), between 2005 and 2015, was created through alternative arrangements or non-standard jobs, lacking stable income and long-term security .

Under these circumstances, unemployed people and working poor were pushed to agree to subordinate themselves to these emerging organizations and their respective apps. The latter emerged as a totally new and fully automatized form of digital structures that take over the role and functions of traditional management. These human-crafted machines accentuated the atomization of the workforce (Graham et al., 2016) and detached it from both administrative and professional affiliations (Lehdonvirta V., 2016). They widened labor dehumanization by reducing workers' agency to a simple "click" on the screen (Irani L., 2013). Moreover, they instrumentally dismantled work into micro-tasks outsourced to scattered workers in a way that recalls the pre-industrial putting-out system (Risak and Warter, 2015, Cherry M., 2016) and promotes a new international division of digital work (Graham et al., 2016) .

In the case of Uber, originally launched in 2009 as an electronic intermedium allowing clients to order licensed luxurious black cabs in San Francisco (L. Rayle and O. Flores, 2016) , the application represents a multifunctional electronic structure. It acts as the center of command and control of the overall production, the main tools used for managing active drivers and the company main catalogue of available

services. Hence, the algorithms embedded in the Uber application have acquired a twofold function: on the one hand, the fully oversee the labor process (by channeling workers' access into the market, controlling their working modalities, rationalizing their ability, disciplining, their performances allocating remunerations conditions and managing geographical location); on the other hand, they represent the organization's most valued "immaterial fixed capital" (Gorz A., 2010) which increases its value at almost zero cot. Under these circumstances, drivers were classified as "partners", and in some cases Uber even claimed it was a network of thousands of "small businesses" (London employment tribunal, 2016, para 90). Accordingly, drivers' employability is conditions by their willingness to take part in an unbalanced partnership agreement that obliges them to give Uber free access to their labor force and personal assets (e.g. cellphones, car, internet connection, car insurance) with no guarantee of revenues. Indeed, partners share gains and losses but can never be able to guarantee an income. Following this model, Uber managed to penetrate the world market of local transportation. In less than decade, the application managed to operate in more than 500 cities across 170 countries. An estimated 3 million drivers are actively working via the application (Uber.com). This being said, a better understanding of the Uber phenomenon should take into consideration the third party-the passenger-as they are actively engaged in the operational arrangements embedded within the Uber model. Through the app, the user's smart phone becomes a black box enabling them to order trips at a relatively low price, with minimal transaction cost. It also allows them to choose destinations, pay and evaluate the drivers' performances with a simple click. Throughout this process, passengers are privileged on various levels :

i- They enjoy a better access to market information. The application's interface displays the number of drivers in their surroundings and allows them to change the pick-up place and time, free of charge. It is only recently that Uber started charging clients a wait time fee .

ii- They control the five-star quality rating system, almost without the validity of their evaluation being called into question. Moreover, drivers are advised to improve the quality of their services (e.g. offering water bottles, phone charging, music engaged in welcoming discussions) on a regular basis to ensure passengers' satisfaction and maintain their digital reputation .

After presenting an overview of the Uber's business model and its impact on labour relations. We will focus on the legal impact of the integration of new technology in the land transportation field.

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3. LEGAL IMPACT: NATURE OF UBER'S ACTIVITY

3.1 Title

The legality of Uber's activity has been at the center of several conflicts in European countries, and the European Court of Justice recently ruled on the question in response to a request from a Barcelona commercial court in the case C-434/15, Asociacion Professional Elite Taxi v. Uber systems Spain SL, on the 20th of December 2017 (Delpech. X, 2017; Berlin D., 2018). In the abovementioned case, professional taxi drivers' association Elite taxi, based in Barcelona, brought an action before Barcelona Commercial Court n°3 against Uber. Elite taxi (the claimant) was accusing Uber (the defendant) of engaging in misleading conduct and unfair competition by linking nonprofessionals driving their own vehicles with passengers, without complying with the requirements of the profession of public transport of passengers. The defendant argued that its activities were protected by the EU principle of freedom to provide electronic services as granted by Article 56 of the TFEU and directives 2006/123 (Bolkestein directive) and 2000/31 (e-commerce directive) (Moiroux. J., 2017). The court had to determine whether the popular

[1] The five stars grading scale is like a performance appraisal for the drivers. The latter should keep an average score above 4.5 over 5, otherwise they will be notified to improve the quality of their services to avoid deactivation.

platform was providing services in the field of transport, or primarily connecting independent drivers with consumers. In other words, does Uber render "information society services" falling within the scope of the e-commerce directive?

Prior to the final decision of the European Court, Advocate General Szpunar issued and Opinion on 11 May 2017. According to him, the main issue was whether Uber provides services at a distance, by electronic means, which would not be the case if the services provided by the application were found to be incidental to the supply of a transportation service. In his opinion, the Advocate General made a useful distinction between intermediation platforms for purchasing flights or making hotel bookings (in which the supply made by electronic means is economically independent of the service provided), and providers exercising decisive influence over the conditions under which the service is provided.

In order to determine into which category Uber falls, the Advocate General referred to jurisprudential and academic analysis of gig economy platforms (Cohen. E. J., 2017), such as the London Employment tribunal's decision in Farrar v. Uber and recent academic literature on the subject (Jamil R., 2017). He concluded that the service provided by Uber shall be classified as a traditional "service in the field of transport". This position stands in stark contrast to the arguments developed by Uber before the courts around the world, explaining that the platform merely matches supply-of urban transportation- to demand. AG Szpunar commented on this allegation and stated that "this is an unduly narrow view of its role. Uber actually does much more than match supply to demand". Furthermore, he highlighted the sophisticated indirect control mechanisms of the platform saying: "without exerting any formal constraints over drivers, Uber is able to tailor its supply to the fluctuations in demand". It may be a composite activity, the digital aspect of which plays a crucial role. However, the service provider goes much further by regulating its characteristics, fixing prices, imposing the terms and conditions of the application, requiring drivers to have an insured vehicle and to be in possession of driving license, and goes as far as evicting poorly-rated drivers. Based on the latter fact, AG Szpunar refuted the statement that "drivers are, in principle, free to ask for a lower fare than that indicated by the application".

In fact, Uber drivers' do not carry out their activities independently from the platform: without it, the activity would be rendered meaningless. Uber is an actual organizer and operator of urban transportation in the cities where it carries out its activities, and the act of connecting passengers with drivers through electronic means is not independent from the transport service. The use of digital technologies can't hide the underlying reality that connecting passengers with drivers by electronic means doesn't constitute the main component of Uber's activity. Although Uber argued that its concept is innovative and belongs to the field of e-commerce, it remains an innovation in the field of urban transportation, given that it organizes and manages on demand the urban transportation. Hence, it provides "services in the field of transport" that do not fall within the scope of the principle of freedom to provide information society services in the internal European market, as defined by the Bolkestein directive. Uber's activities must therefore comply with license requirements under Member States' law- in this particular case, under the regulations of the city of Barcelona. AG Szpunar further outlined several characteristics of Uber's activity to support his opinion. Firstly, Uber sets prior requirements for drivers to gain access to its activities. Secondly, the company financially rewards drivers who carry out a large number of rides, indicates when and where they can expect to meet a high demand and/or to benefit from profitable rates, which enables Uber to adjust its supply to fluctuations in demand without any formal constraints over the drivers. Thirdly, however, Uber exercises effective-albeit indirect-control over the quality of the drivers' work, which can lead to the eviction of poorly-rated ones. Fourth and finally, Uber sets the prices of the service provided. Therefore, the transport service being the main component of Uber's activity, on which the linking between drivers and riders by electronic means is not economically independent, the platform must be regarded as providing services "in the field of transport". Such a solution will allow Member States to regulate Uber's activities, including requiring licenses similar to those imposed on taxi companies. Thus, insofar as the service provided by electronic means is identical to the one operated in the physical world, the same rules could apply (Marraud. G. 2017). Consequently, the European judges considered on their latest decision rendered on 20 December 2017 that Uber is a service in the field of transport provided by digital platform. Hence, Uber's activity will be subjected to local regulations in

each European Member State under the qualification adopted by the European Court of Justice. For example, French laws Thévenoud and Grandguillaume organizing the activities of taxis and transport vehicles with driver, were enacted simultaneously on 1 October and 29 December 2014 .

The following reasoning should therefore apply: as the intermediation service in question must " be regarded as forming an integral part of an overall service whose main component is a transport service", and since "non-public urban transport services (…) have not given rise to the adoption (…) of common rules", " it is for the Member States to regulate the conditions under which intermediation services such as those at issue in the main proceedings are to be provided in conformity with the general rules of the FEU treaty". This argumentation leads to the- no less important- question of the platform's liability for the quality of the services provided. In this respect, Uber's terms and conditions are clear: "the services constitute a technology platform that enables users of Uber's mobile applications or websites (…) Uber does not endorse such third party services and content, and in no event shall Uber be responsible or liable for any products or services of such third party providers". In any case, as long as the service provided is considered to be "an integral part of an overall service whose main component is a transport service" the intermediation platform can legitimately be held accountable for its proper execution, its responsibility being shared with the driver, e.g. in case of theft, physical injury following a fight, rape transportation accident or even transport delay.

The Egyptian legislator decided, rather than discussing the nature of Uber's activity, to put an end to all the related discussions. Nevertheless, the newly enacted law entered into force under the following title: "Land passenger transport through information technologies". By doing so, he adopted the same qualification as the European Court: Uber's activities are all about providing transportation services through electronic means.

3.2 Position of the European Court

The legality of Uber's activity has been at the center of several conflicts in European countries, and the European Court of Justice recently ruled on the question in response to a request from a Barcelona commercial court in the case C-434/15, *Asociacion Professional Elite Taxi v. Uber systems Spain SL*, on the 20th of December 2017 (Delpech. X, 2017; Berlin D., 2018). In the abovementioned case, professional taxi drivers' association Elite taxi, based in Barcelona, brought an action before Barcelona Commercial Court n°3 against Uber. Elite taxi (the claimant) was accusing Uber (the defendant) of engaging in misleading conduct and unfair competition by linking nonprofessionals driving their own vehicles with passengers, without complying with the requirements of the profession of public transport of passengers. The defendant argued that its activities were protected by the EU principle of freedom to provide electronic services as granted by Article 56 of the TFEU and directives 2006/123 (Bolkestein directive) and 2000/31 (e-commerce directive) (Moiroux. J., 2017). The court had to determine whether the popular platform was providing services in the field of transport, or primarily connecting independent drivers with consumers. In other words, does Uber render "information society services" falling within the scope of the e-commerce directive?

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The Egyptian legislator decided, rather than discussing the nature of Uber's activity, to put an end to all the related discussions. Nevertheless, the newly enacted law entered into force under the following

[2] www.legifrance.fr ; Uber-pop was declared illegal by the ECJ in its decision rendered on the 4th of July 2017 in the Aff. C-320/16. In France, the Law Thévenoud which was enacted on the 1st of October 2014, attempted to ban the activity of Uber pop by introducing into the transport code art. L.3124-13 repealed since. The law imposed a conviction of imprisonment and a 300.000 euros fine, for the act of organizing a system of linking customers with people who engage "in the carriage of passengers" for the vehicles of less than ten seats without being an official road transport company.

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3.3 Position of the Egyptian legal system

Car- hailing companies Uber and Careem quickly grew in popularity in Egypt, as many passengers were dissatisfied with the quality service offered by traditional taxi drivers, who sometimes refuse to turn on their meters. The American company Uber is established in many countries. As for UAE-based Careem, it operates in the Middle-East and Asia.

Egypt represents a large and fast-growing market, in particular Greater Cairo, with a population estimated at over 18 million inhabitants. On March 2018, however, Cairo's administrative Court banned Careem and Uber from operating in the country after taxi drivers protested the unfair competition of car-hailing applications operating without taxi licenses. In this case, the court had agreed to order the suspension of the two companies' licenses-a decision subject to appeal. The lawyer representing taxi drivers alleged that the Government would have to implement the ruling even if Careem and Uber appealed. He added that "*they have to stop operations and block their mobile applications on the internet".* The two companies' lawyers, on the other hand, did not immediately comment on the ruling. On 7 April 2018, the Administrative court's ruling was suspended by the Cairo Court of Urgent matter, which initiated a long debate among scholars about a conflict of jurisdiction between the latter and the court of merits. Some considered that the Court of urgent matters' decision was legal and fell within the scope of its jurisdiction, making it possible for both companies to continue their activity until the higher court renders its decision. Others argued that the Court of urgent matters had no jurisdiction over the case, making the decision nonexistent[3].

Following a series of court decisions concerning Uber and its Emirati counterpart Careem, the Egyptian parliament passed a bill-submitted by the government –regulating ride-sharing companies 'activities[4]. Law n°87/2018 was published in the Egyptian Official Journal n°23 on 11 June 2018. The Egyptian Legal system, unlike the Lebanese one, now organizes Uber and Careem with special provisions. The main objective of this law is to submit the activities of "land transport service of passengers through information technologies" to appropriate licenses, permits, professional cards and distinctive identification. The terms, conditions, rules and procedures will be organized by a decree issued by the Prime minister after the approval of the council's members. Moreover, the law determined the fees and taxes to be paid by the companies providing such services. This law focuses on measures ensuring a certain level of safety, security, and trust and establishes equal treatment of companies offering passenger transportation services, whether or not these are provided through information technologies. In addition, the concerned companies have six months to regularize their situation in order to comply with the provisions of the new law on transportation services via information technology. In case of lack of specific provisions, the ordinary law regulating land transportation of passengers in private vehicles should apply.

The newly enacted law regulating land transportation of passengers via apps consists of five sections: the first one defines the main concepts used in the text, namely "service", "land transportation", "vehicles", "licensee" (companies), "operating permit" (drivers), "special cards" for the drivers, "distinctive identification", "licensee fees", "transport through information technology", "competent ministry and minister". The second section is dedicated to the requirements for obtaining licenses, permits, professional cards and distinctive identification, as well as to the additional fees and taxes. In fact, ride-sharing companies must pay up to 30 million Egyptian pounds to obtain a five-year license, and 1,000 Egyptian pounds for the professional card. Further details on their issuance will be determined by the Prime minister upon approval of the council and based on the proposal of the competent minister, who is as a rule, the minister of interior. Only licensed companies and registered drivers holding a valid permit are now allowed to provide transportation services through an app. The third section of the law is intended to address the licensee' obligations, and focuses in fact on the obligation to provide national security agencies or any competent governmental authority with data and information about the service, its affiliates, equipment capability, systems and programs according to their needs, which shall enable them to exercise their powers in accordance with the law upon request. Licensed companies should provide this information in respect of confidentiality and keep it directly and easily accessible for one hundred and eighty continuous days.

[3] It is important to note that the Egyptian Judge of urgent matter often interfered with court of merits jurisdiction, which led to many disputes about their respective areas of jurisdiction.

[4] The law regulates "land passenger transport through Information technologies".

Concerns were raised regarding the third section (e.g. Articles 9 and 10) of the law, requiring the two companies to share users' private information with state agencies. Among the opponents to these articles, Egyptian politician and activist Mr. Diaa al-Din Dawoud told Agence France Presse: "*we expressed our reservations on articles 9 and 10, and asked that the text include obtaining the prosecution's permission before getting any of the customer's date".* He added that "*Egypt's minister of parliamentary affairs reassured lawmakers that the bill will be implemented according to the criminal code, which includes regulations on obtaining private information, and the constitution".* In addition, the law does not require the drivers to provide any proof of training for the license to be delivered. However, within three months from the issuance of license, the company shall make sure its drivers have the required skills.

Regarding taxes and social insurance, service providers, whether licensed companies or natural persons, are obliged to pay all taxes, fees and social insurance legally prescribed. Licensed companies cannot operate with any licensed vehicle driver until submission of the certificate of payment of social insurance contributions. The last section of the law determines the sanction for failure to comply with its provisions. It states that in addition to the crimes and sanctions listed in the penal code, a fine shall be imposed on anyone who has made available or performed the service without obtaining the required license, operating permit or professional card issued by the competent authority. The companies (juristic persons) and drivers (natural persons) shall be fined in the event of an infringement of the provisions of the new law, whether related to its content or to the procedure. Notwithstanding the critics directed at the newly enacted law, the Egyptian legislator, unlike the Lebanese one, has set up a legal framework for Uber's activity.

3.4 Position of the Lebanese legal system

The Lebanese legislator has neither intervened to legalize or set up a special legal framework for the activities Uber provides through its app, nor amended resolution N° 786/1 issued on 10 June 2009 regulating the public transportation of passengers to include "land transportation via apps". Therefore, Uber was not, in fact, subject to the same requirements as traditional taxi drivers (whether natural or juristic persons) regarding the acquisition of licenses to transport passengers (for individuals, institutions or companies) from the Ministry of Public works and transport. According to the resolution, the delivery of such license to a natural or juristic person shall be preceded by the submission to the competent authority of an application with supporting documents-such as identity car showing that the applicant has been a Lebanese citizen for 10 years or more and criminal record (not older than three months). As another example, in companies that provide such services, the majority of shares of unlimited partnerships and limited liability companies shall be owned by Lebanese, as well as the simple majority of shares of joint stock companies. In addition, insurance has been made compulsory to guarantee the safety of vehicles, drivers and passengers, and training should be provided by the Ministry of Public works and Transport, in cooperation with the Ministry of Interior and Municipalities, to taxi drivers.

Uber has been operating in Lebanon without complying with any of the abovementioned requirements, or many more included in the resolution and other special regulations. Uber merely operates as a private limited liability Company, registered on the Lebanese commercial register as "Uber Lebanon SARL" under the n°1018606. This company is located in Beirut, Azarieh Building Bloc A5, on the fifth floor. However, this office was visited in order to take information about Uber activity, and found empty, without office furniture or staff, meaning these premises were merely used to accomplish the procedures required to establish the company.

For this reason, the taxi owners association, represented by its president Charles Abou Harb, claimed Uber's activity was illegal, especially after British Diplomat Rebecca Dykes was killed by a Lebanese Uber driver in Beirut. Uber was heavily criticized for not complying with the laws and regulations relating to land transport of passengers in the country, and for the absence of licenses and supervision by the competent authority``, leading to a lack of transparency, credibility and security.

Lebanese courts did not react appropriately to taxi owners' allegations. The judge of urgent matters rejected their claim twice, for different reasons. On the one hand, they considered that there was no valid reason, in this particular case, to derogate from the adversarial principle. On the other hand, they refused to take jurisdiction over the case, and considered that the court of merits was competent to rule over it[5]. Mount Lebanon Public Prosecutor had upheld the claim of the owners of taxi companies, represented by their attorney, Boulos Hanna, against Uber Company. The claim was nonetheless dismissed by the penal

[5] Judge of Urgent matters, Beirut (Zalfa El Hassan), claim association of taxi drivers v. Uber company, n°1226/2014, decision rendered in 11/4/2016 (lack of jurisdiction); Judge of Urgent matters Beirut, decision rendered in 3/12/2014, (Jad Maalouf)

judge. Two similar cases are still under consideration by Lebanese courts- Case N°50811/2016 before the Public Prosecutor's office in Baada and the case N°1440/2018 before the Single Judge in Kesrouane. Therefore, Lebanese law and jurisprudence remain silent and have yet to provide Uber's activity with a legal framework, which illustrates the complexity of the issue.

Uber Company continues to operate without the required licenses, making its activity illegal in Lebanon and leading to a certain insecurity for passengers. The Lebanese lawmakers are therefore invited to adopt an appropriate legal framework for the transport service provided by apps, or to adapt the existing rules to the land transportation of passengers after the integration of new technologies.

4. CONCLUSIONS

All governments should be aware of these issues and regulate Uber's activities in order to mitigate the risks they imply, either by setting up new rules adapted to those activities or by adapting existing rules that Uber should comply with. As explained in this paper, the app facilitates Uber main activity, which is to provide transportation service. Ultimately, the company's object is to offer such services to passengers. The use of "apps" might raise numerous legal questions, including the status of Uber drivers: should they be considered as self-employed or as employees? Anyhow, this does not alter the fact that is all about land transportation .

The answers to these questions are still being debated; on 28 October 2016, a London employment tribunal considered Uber drivers as workers entitled to national minimum wage, knowing that this verdict would be heavily criticized, particularly on the fact that judges are given the power to rule over such a crucial social phenomenon (Jamil R., 2017). In addition, Uber was recently asking the (British) victims of an accident which occurred in Cannes on 18 August 2018, involving an Uber driver, to file a case against the driver's insurance in order to seek compensation for the harm suffered. Thus, Uber maintained its view that in the absence of subordination- the main criteria in making a distinction between employee and contractor/partner- the company could not be found liable in cases of accidents involving its drivers. These controversial positions arise from the absence of provisions defining and regulating the relationship between the company and the drivers, constitute a major drawback of the laws governing Uber's activity.

ACKNOWLEDGEMENT

I would like to express my special thanks and gratitude to my friend Rabih Jamil who helped me to finalize my paper, in particular the section related to the new features of labour market.

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