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Sustainable Solutions for Social and Work Inclusion in Chronic Illness and Transplantation: Rethinking Labour Law in Health-Affected Societies

Valeria Fili *

Presentation of Research Results

European labour law stands at a critical juncture. The demographic ageing of the workforce, the growing prevalence of chronic illness, the long-term outcomes of organ transplantation, and the intensification of psychosocial risks are not marginal developments; rather, they constitute structural transformations that destabilise the traditional grammar of labour regulation. The archetype of the continuously available, fully fit worker—long embedded in both doctrinal constructions and organisational practice—no longer reflects the lived reality of contemporary labour markets.

This shift exposes a deeper normative tension. Labour law has historically oscillated between two paradigms: the protection of the “standard” employee through general rules of subordination, and the exceptional protection of “vulnerable” categories through targeted safeguards. Yet the

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expansion of long-term health conditions and fluctuating capacities blurs the boundary between normality and exception. Chronic illness, transplantation, and mental health conditions are no longer peripheral phenomena requiring episodic accommodation; they are constitutive features of ageing and heterogeneous societies. The question, therefore, is not simply how to protect specific groups, but whether the conceptual architecture of labour law remains adequate to govern work in contexts where capacity is dynamic, relational, and unevenly distributed.

It is within this broader reflection that the research initiative “*SUNRISE – Sustainable Solutions for Social and Work Inclusion in Chronic Illness and Transplantation*” has developed. Rather than treating chronic illness as a residual issue of incapacity or welfare compensation, the project interrogates the structural conditions under which participation in professional life can be sustained over time. Its central premise is that sustainability in employment cannot be reduced to income support during periods of absence, nor to formal anti-discrimination guarantees. Instead, it requires a reconfiguration of the relationship between health, organisational design, and continuity of employment.

The project proceeds from a normative premise that departs from traditional welfare logics. Employment sustainability cannot be reduced to income replacement during incapacity, nor to isolated anti-discrimination guarantees. Rather, it requires an integrated regulatory framework capable of preserving continuity of employment, ensuring adaptive organisational responses, and reconciling individual health trajectories with collective production structures. SUNRISE therefore investigates the interaction between disability law, health and safety regulation, collective bargaining, and return-to-work policies, drawing on a structured database of case law, contractual practices, and legislative developments at both national and EU levels. The aim is not merely descriptive: it is to assess whether existing legal instruments can be systematised into a coherent architecture of inclusion, and to identify where reform is necessary.

The papers collected in this Special Issue engage critically with this reconfiguration. They do not merely catalogue protective instruments; they interrogate their normative foundations and systemic implications. Across different perspectives, they confront a shared dilemma: whether contemporary labour law should continue to rely on incremental adaptations of existing categories, or whether a deeper paradigmatic shift is required.

In parallel with the SUNRISE initiative, the research conducted by Inmaculada Sandra Fumero Dios on psychosocial risks and mental health—while developed outside the formal consortium—runs alongside

and significantly enriches this analytical endeavour. By foregrounding the structural determinants of mental vulnerability at work, her contribution strengthens the emerging scholarly network dedicated to rethinking inclusion beyond narrowly defined disability categories.

Introduction to the Papers

The first paper, by Claudia Carchio and Fulvio Cucchisi, addresses the definitional core of the debate by examining the bio-psycho-social model of disability as applied to chronic illness and transplantation. Their analysis reveals the instability generated by a fragmented regulatory framework in which protection has often been extended through judicial creativity rather than legislative coherence. By engaging with recent Italian reforms, particularly Legislative Decree No. 62/2024, the authors illuminate the promise—and the limits—of redefining disability in relational and socially embedded terms. The article thus raises a fundamental question: can a unified concept of disability serve as a stable gateway to inclusion, or does it risk expanding to the point of conceptual indeterminacy?

Francesco Alifano shifts the focus from definitional clarity to organisational practice. Through an analysis of collective bargaining and working-time regulation, he demonstrates how flexibility mechanisms—leave-sharing schemes, part-time conversion, and agile working—have emerged as pragmatic responses to ageing and health-related vulnerability. Yet his analysis also exposes the limits of contractual incrementalism. Without reconsidering the centrality of working time as the primary metric of performance, these measures remain embedded within a paradigm that presupposes temporal standardisation. The paper therefore invites a more radical inquiry: whether the sustainability of work requires decentring the “hour of work” in favour of capability- and outcome-oriented models of organisation.

In a doctrinally rigorous analysis, Giorgio Impellizzieri clarifies the contours of reasonable accommodation under EU law, focusing on the recent *Pauni* judgment of the Court of Justice. His analysis critically examines the temptation—present in some strands of national jurisprudence—to stretch the concept of accommodation so as to encompass prolonged absence from work. By reasserting the participation-oriented and process-based character of the duty of accommodation, the paper delineates what accommodation is—and what it is not. This clarification, however, also reveals a deeper tension: the line between enabling presence and managing absence is increasingly fragile in

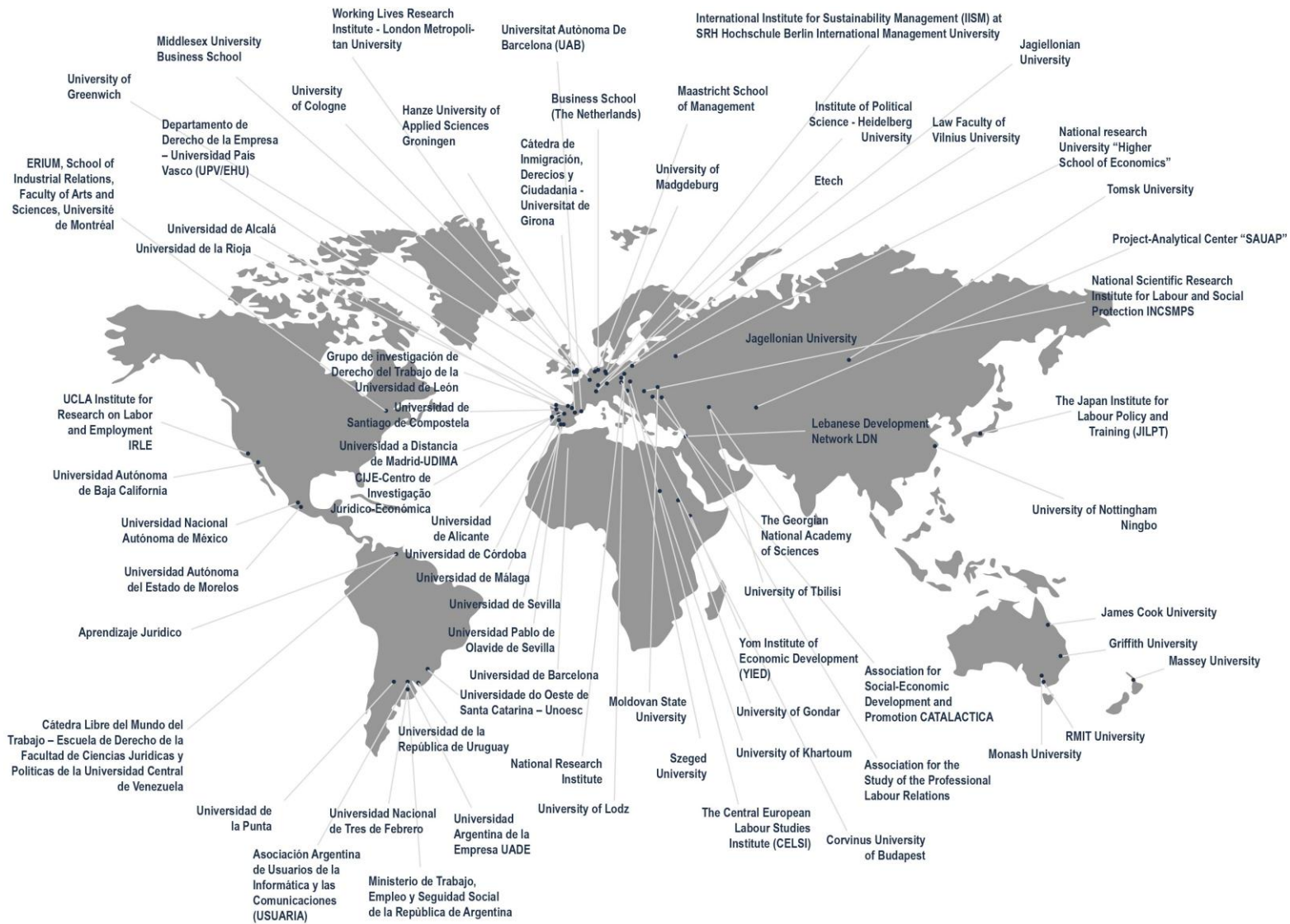
health-affected labour markets. The jurisprudential boundary may be clear in principle, but its practical application continues to test the balance between inclusion and organisational sustainability.

Finally, Inmaculada Sandra Fumero Dios expands the analytical horizon to the domain of mental health and psychosocial risk. Her paper underscores that vulnerability is not merely a function of individual impairment, but is often the product of structural inequalities, organisational strain, and social stigma. By situating mental health within occupational safety and health regulation, the article challenges the persistent tendency to privatise psychological suffering and to treat it as external to the employment relationship. In doing so, it broadens the conceptual field within which inclusion must be theorised, integrating gender, age, migration status, and socio-economic disadvantage into the legal analysis.

Taken together, these papers do not offer a single doctrinal solution; rather, they illuminate a shared horizon of transformation. They suggest that the future of labour law lies neither in the indefinite expansion of exceptional protections nor in the rigid defence of managerial prerogatives, but in the reconstruction of a regulatory architecture capable of accommodating variability as a structural condition of work. In ageing societies marked by chronic conditions and mounting mental health pressures, inclusion ceases to be an adjunct principle and becomes a criterion of systemic legitimacy.

The challenge ahead is therefore both conceptual and institutional. It requires rethinking how disability is defined, how accommodation is delimited, how working time is measured, and how psychosocial risks are governed. More fundamentally, it calls for a labour law that recognises human fragility not as a deviation from the norm, but as an enduring feature of social life. From this perspective, sustainable employment is not the preservation of an abstract standard of productivity, but the construction of conditions under which diverse working lives can unfold with dignity, continuity, and fairness.

ADAPT International Network



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