

Editors' Foreword

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The papers which make up this special double issue of the *International Journal* have been drawn from contributions to the annual Marco Biagi Memorial Conference which took place in Modena in March 2025. Out of more than fifty contributions to that event seven have been selected for inclusion in this special issue. The co-editors are grateful to the Executive Committee of the Marco Biagi Foundation for their organization of that event and for their permission to draw on the fruits of their 2025 event.

The introductory contribution by the co-editors is not intended to provide any sort of 'overview' in respect of those individual contributions. Each of those pieces addresses an important area of interest in the context of AI, privacy, and digital platform working, and the individual presentations stand on their own merits without need for further comment. Rather, the co-editors of this special issue have endeavoured to paint the regulatory backdrop against which the discussion has been taking place, and to tease out a few strands which might be worthy of consideration, along with some of the trends/tendencies indicated by the various authors. This has not confined itself solely to the accompanying set of seven contributions, but reflects a broader spectrum of issues raised by the contributors to the 2025 Marco Biagi Conference.

A number of interesting observations may be drawn from a reading of those contributions in so far as the approach to study of international and comparative labour law is concerned:

- (1) First, a remarkable geographical concentration on recent developments in the area of the European Union is evident – along with some (generally more limited) reference to developments in North America and in Common Law jurisdictions. The great majority of the research material drawn upon by the various authors has been produced in the English language.
- (2) Second, focus has tended to be upon analysis of normative regulatory mechanisms and the 'rules' to which these have given rise. Here, there

tends to be a concentration on regulatory instruments such as 'Directives' at the level of the European Union; 'Legislation' (statutes and accompanying complementary texts) at the national level; 'Collective Agreements' in systems where such instruments carry normative effect; and varieties of 'Soft Law' such as 'codes of practice' accompanying or amplifying primary legislative instruments.

- (3) Third, there is a clear tendency to utilize the traditional 'toolkit' familiar to scholars of labour law over many years when seeking to examine 'new challenges' posed by the growth and development of AI and associated phenomena as these impact upon the world of work. Debate is provoked over whether disparate impacts consequent on outcomes achieved by way of algorithms might be evaluated in the same way as has historically been the case for actions considered 'discriminatory' – whether confined to some limited spectrum of 'protected characteristics' or more generally. Thus, questions are raised as to whether decisions deriving from a machine, an algorithm, or a 'black box' can (or should) be evaluated on the same basis as decisions made by some human entity in the guise of 'the employer'. Questions are posed as to whether the regulation of workplaces in which AI and new technologies have been unleashed should be addressed by way of demands for the disclosure of wide-ranging information 'transparency', or through the facilitation of 'consultation and participation' channels (and, if so, by whom and with whom).
- (4) It is also noteworthy how often those looking to propose responses to the challenges posed by digitalization in the world of work resort to the putative creation of new 'rights' – often couched in the language of 'fundamental rights' or 'human rights'. Quite often, such proposed 'rights' are set out in general terms, with little discussion of their justifiability and almost no concern for the pragmatic issue of whether (and, if so, how) existing dispute-resolution arrangements might be able to identify, police and eventually sanction apparent breaches of such newly-established 'rights'. Such problems appear particularly starkly in the context of the regulatory arrangements of the European Union, where an instrument such as 'the Directive' in the context of social policy, which historically emerged as a relatively short normative provision accompanied by a brief 'preamble' setting out the policy justification for the instrument, has now become a somewhat larger set of normative provisions accompanied by a 'preamble' which runs to hundreds of propositions, setting out a potpourri of historical propositions, policy aspirations, regulatory ambitions and political

compromises, whose regulatory legitimacy becomes highly controversial when set against the 'core' text of the normative articles drafted in the body of the instrument.

- (5) It should also be pointed out that the presentations to the 2025 Marco Biagi Conference were originally penned and delivered well before the EU's introduction of the so-called 'omnibus' package, setting out a new approach to key regulatory arrangements for the bloc. The implications of those proposed measures are only now beginning to be teased out and debated, and this comment refrains from any thoroughgoing evaluation of what consequences may flow from future regulatory activity in the light of these proposals.

Finally, amongst the many colleagues to whom we owe a vote of thanks, we are particularly grateful to Professor Luigi Romano, of the University of Naples 'Parthenope', who provided invaluable assistance in compiling an agreed 'terminological use' list which the authors were asked to respect.

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