



Case in Brief: ***Société des casinos du Québec inc. v. Association des cadres de la Société des casinos du Québec***

Judgment of April 19, 2024 | On appeal from the Court of Appeal for Quebec  
Neutral citation: 2024 SCC 13

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***The Supreme Court rules that the exclusion of a casino managers' association from Quebec's Labour Code is constitutional.***

These appeals dealt with the question of whether the exclusion of casino managers from Quebec's labour relations regime infringed the managers' guarantee of freedom of association under the *Canadian Charter of Rights and Freedoms* (the *Canadian Charter*) and Quebec's *Charter of human rights and freedoms* (the *Quebec Charter*). In the labour context, the right to freedom of association guarantees the right of employees to meaningfully associate in the pursuit of collective workplace goals.

The Association des cadres de la Société des casinos du Québec (the Association) represents certain first-level managers working at four casinos run by the Société des casinos du Québec inc. (the Société). The Association applied to Quebec's Administrative Labour Tribunal (known as the Commission des relations du travail at the time) to be recognized as a certified association representing first-level managers in the gaming sector at the Casino de Montréal in order to benefit from the protections of the Quebec *Labour Code*. The *Labour Code* regulates labour relations between employees and employers in the province. Section 1(1)(1) of the *Labour Code* defines an "employee" broadly, but it expressly excludes managers from its regime, including from the ability to obtain association certification. The Association asked the Tribunal to declare that the exclusion unjustifiably infringed its members' freedom of association guaranteed under Section 2(d) of the *Canadian Charter* and Section 3 of the *Quebec Charter*.

The Association was successful before the Tribunal. It concluded that the exclusion of managers from the definition of "employee" in the *Labour Code* unjustifiably infringed their freedom of association. The Société asked the Superior Court to review the Tribunal's decision. The Superior Court ruled that the Association did not establish an infringement of its members' right to freedom of association. The Association then appealed that decision to the Quebec Court of Appeal, which overturned the Superior Court and restored the initial decision by the Tribunal. In short, the lower courts disagreed as to which legal test applied to the Association's claim under Section 2(d).

The Société and the Attorney General of Quebec appealed to the Supreme Court of Canada. The Supreme Court has allowed the appeals.

**Section 1(1)(1) of the *Labour Code* does not infringe the casino managers' freedom of association.**

Writing for the majority, Justice Jamal ruled that the only framework applicable to determining whether legislation or government action infringed Section 2(d) of the *Charter* was the two-step framework established in *Dunmore v. Ontario (Attorney General)*, a prior and unrelated decision from this Court. According to this framework, a court must first consider whether the activities in which a group of workers seek to engage fall within the range of activities protected under the freedom of association guarantee. The court must then determine whether the legislation or government action, in purpose or effect, substantially interferes with those activities.

Under the first step of the framework, Justice Jamal determined that the Association's claim did involve activities protected under Section 2(d) of the *Charter*, including the right to form an association with sufficient independence from the employer, to make collective representations to the employer, and to have those representations considered in good faith. However, at the second step of the framework, Justice Jamal said the purpose of the legislative exclusion was not to interfere with managers' rights to associate. Rather, the legislature's purposes in excluding managers from the definition of "employee" under the *Labour Code* were to distinguish between management and operations in organizational hierarchies; to avoid placing managers in a situation of conflict of interest; and to give employers confidence that managers would represent their interests, while protecting the distinctive common interests of employees.

For these reasons, Justice Jamal held that the Association had not shown that the legislative exclusion of first-level managers from Quebec's *Labour Code* infringed its members' freedom of association under Section 2(d) of the Canadian *Charter* or Section 3 of the Quebec *Charter*.

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**Breakdown of the decision:** *Majority:* Justice [Jamal](#) allowed the appeals (Justices [Karakatsanis](#), [Kasirer](#) and [O'Bonsawin](#) agreed) | *Concurring:* Justice [Côté](#) agreed the *Dunmore* decision applied, but interpreted it differently (Chief Justice [Wagner](#) agreed) | *Concurring:* Justice [Rowe](#) agreed with Justice Côté's interpretation but wrote separately.

**More information:** [Decision](#) | [Case information](#) | [Webcast of hearing](#)

**Lower court rulings:** [Decision](#) (Superior Court of Québec) (in French only) | [Appeal](#) (Court of Appeal for Québec)

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