Foreign Employers and Remote Work in Quebec: The Court of Appeal Clarifies the Territorial Scope of the *Act Respecting Labour Standards*

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Authors

Zeïneb Mellouli

Partner, Lawyer

Jessica Parent

Partner, Lawyer

Is a foreign employer subject to the *Act Respecting Labour Standards* (the "ARLS") merely because one of its employees performs work from home in Quebec? In a much-anticipated decision released on November 5, 2026, in *Marchetta* c. *Petros 724 inc*.[1], the Quebec Court of Appeal answered that question in the negative and dismissed the appeal of an employee who sought to have the ARLS applied to her employment relationship with her U.S. employer.

Lavery wishes at the outset to underscore the significant contribution made to the debate by the Canadian Association of Counsel to Employers / *Association canadienne des avocats d'employeurs* ("**CACE**"). In a context where the employer did not participate in the appeal, CACE obtained leave to intervene as *amicus curiae* ("friend of the court") in order to assist the Court on the interpretation of section 2 of the ARLS and on the issues relating to its territorial scope.

This decision is of particular importance to foreign employers that employ individuals working remotely from Quebec or domiciled there, a situation that has become increasingly common with the rise of remote work and the dematerialization of tasks made possible by technological tools. It also highlights the private international law issues raised by determining the laws applicable in such contexts.

The practical impact of these issues is all the more significant given that the ARLS provides employees with recourses and remedies that differ from those generally available in most North

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American jurisdictions. In particular, the ARLS allows employees with at least two years of uninterrupted service to seek a reinstatement order from the Administrative Labour Tribunal (the "**ALT**") in the context of contesting a dismissal without good and sufficient cause.

Background: The Territorial Scope Provided for in the ARLS

To properly frame the issue, it is important to recall that section 2 of the ARLS establishes a specific territorial connecting-factor regime that differs from those found in other provincial statutes governing labour and employment standards in Canada.

Section 2 of the ARLS establishes both connecting factors relating to the employee and a distinct connecting factor relating to the employer. As regards the employee, the provision applies more specifically to an employee who performs work both in Quebec and outside Quebec, as well as to an employee who, while domiciled or resident in Quebec, performs work outside Quebec. In both situations, however, the ARLS further requires that the work be performed for "*an employer whose residence, domicile, undertaking, head office or office is in Québec*." That specific wording was central to the analysis in Marchetta.

***Marchetta* in Brief**

In this case, the employee, who held the position of financial consultant, performed most of her work remotely from her home in Quebec, using her own computer and personal telephone. She worked for a U.S. employer that had no head office, residence, domicile, office or other official presence in Quebec, and in respect of which no activity in Quebec had been established.

The employee's services were provided exclusively for the benefit of U.S. clients, and she only occasionally travelled to the United States to meet with some of them. The evidence also did not support a finding that the employee's home served as a place of business for the employer.

The employee was advised in December 2018 that her employment was being terminated following the company's sale of a substantial portion of its Canadian assets. She then filed a complaint with the *Commission des normes, de l'équité, de la santé et de la sécurité du travail* (the "**CNESST**") alleging dismissal without good and sufficient cause and contesting the termination of her employment. The complaint was subsequently referred to the ALT.

In an initial decision, the ALT upheld the complaint and ordered the employee's reinstatement, despite the jurisdictional arguments raised by the employer. Following an application for administrative review, however, the ALT revised that first decision and dismissed the complaint, among other grounds because the ARLS did not apply territorially and the termination of employment resulted from a genuine layoff. The Superior Court subsequently upheld that second decision in judicial review proceedings.

Seized of the matter, the Court of Appeal in turn confirmed that the Superior Court had committed no reviewable error in concluding that the mere fact that the employee performed her work from her home was not sufficient, in and of itself, to establish that the employer maintained an office or carried on an enterprise in Quebec within the meaning of the ARLS.

The Court of Appeal confirmed that, to reach such a conclusion, there must be at least some evidence showing that the employer intended to use the employee's residence or home to conduct its business. More specifically, such evidence must reveal a certain degree of organization of the place where the employee works, making it possible to conclude that it constituted a foothold for the employer in Quebec for some of its activities, whether concrete or in development.

The Court nevertheless acknowledged that a different finding could be warranted in other circumstances, even in the absence of an establishment in Quebec, including in cases where the evidence shows that the employer carries on activities in Quebec or uses the employee's home to

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conduct its business. For example, the case law reviewed referred to situations where:

> the employee acted as a salesperson or representative in Quebec from a home office used as the employer's business address, with certain related costs borne by the employer;[2]
> the employer paid for the installation of business telephone lines, Internet or fax services at the employee's home, provided the equipment necessary to perform the work, and stored documentation or promotional materials there for its clients, some of whom were located in Quebec;[3]
> although working largely from home, the employee nevertheless carried out concrete market development, representation or public relations activities in Quebec for the employer's benefit.[4]

Key Considerations for Foreign Employers

The decision confirms that, while the physical location where the work is performed remains relevant to the analysis, the specific connecting factors set out in the ARLS must still be met before a foreign employer is subject to it. In that regard, there is no automatic rule: remote work from Quebec alone is not sufficient. The analysis will depend closely on the evidence and on the concrete organization of the employment relationship.

In our view, it is also worth emphasizing that the analysis may evolve over the course of the employment relationship. The absence of activities in Quebec at the time of hiring does not preclude a sufficient territorial connection from arising later if the employer's activities or how the work is organized change. Foreign employers should, therefore, pay close attention to the evolution of their activities and how work is organized throughout the employment relationship.

It should also be noted that this decision is specific to the ARLS's scope and to the circumstances in which it may be found inapplicable. This does not, however, mean that other Quebec laws that may govern the employment relationship, including the *Civil Code of Québec*, are therefore inapplicable. Accordingly, each situation requires a case-by-case analysis based both on the applicable legislative framework and on the characteristics of the employment relationship, including the duties and responsibilities performed, the clients served, and the arrangements for expense reimbursement and the provision of equipment. Particular attention should also be paid to the drafting of employment agreements and policies applicable to employees hired in Quebec to work remotely.

Finally, the Marchetta decision forms part of a trilogy of judgments released the same day by the Quebec Court of Appeal concerning remote work and the notion of establishment. These decisions raise important issues for employers in Quebec. Our Labour and Employment Law team is currently reviewing this trilogy, and a more detailed bulletin on its key takeaways and practical implications will follow in the coming days.

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1. 2026 QCCA 1461.
2. *Ladouceur* et *Almico Plastics Canada inc*., D.T.E. 90T-490 (T.A.).
3. *Commission des normes du travail* c. *Micros System Inc.*, 2009 QCCS 6083.
4. *Boisvert* et *Marnier-Lapostolle Chile Spa*, 2018 QCTAT 4718.

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