

# BRUSSELS COURT OF APPEAL RULES IN FAVOUR OF ALAIN HUBERT AND INTERNATIONAL POLAR FOUNDATION



The conflict over the management of the Princess Elisabeth Antarctica research station in East Antarctica between the International Polar Foundation and the Belgian State has attracted much attention in the national press over the past few months, and has even received some attention in the international press.

The Foundation has been vigorously defending its interests in the Belgian courts in this affair, which dates back to 2010, when the Princess Elisabeth Antarctica was ceded to the Belgian State.

The situation came to a head in 2015, when a falling out with the new Belgian Secretary of State led to legal action in the Belgian law courts. The Foundation initially experienced a setback on October 21st 2015, when the Brussels Court of First Instance refused to rule on the legality of the eviction of the International Polar Foundation and its president Alain Hubert as operators of the Princess Elisabeth Antarctica, instead preventing the Foundation from going to the station in Antarctica.

In a ruling handed down on the 17th of December 2015, effectively overturning the decision of the lower courts, the Court of Appeal of Brussels maintained that it was illegal for the Belgian State to end its partnership with the International Polar Foundation with regard to the management of the Antarctic research station.

The Court of Appeal of Brussels also stated that the eviction of the International Polar Foundation from the Princess Elisabeth Antarctica in October was not legally justified, and that it was a violation of the initial accords between the State and the Foundation dating from 2007, and culminating in 2010 with the Protocol of Partnership by which the International Polar Foundation donated the research station to the Belgian State.

## Background

The International Polar Foundation and its private partners designed and built the Princess Elisabeth Antarctica. Located in the Dronning Maud Land region of East Antarctica. It is the first polar research station designed to run entirely on renewable energy sources (wind and solar power). Since the 2008-09 Antarctic season, the station has provided a unique research platform for scientists interested in conducting research in the Dronning Maud Land. Due to its environmentally friendly and energy-efficient design, the station also reduces the cost and the environmental impact of conducting research in Antarctica.

Construction of the Princess Elisabeth Antarctica was completed in February 2009, and a year later in March 2010 the International Polar Foundation donated the station to the Belgian State, under certain conditions. Among these was the express condition that a public-private partnership (Belgian Polar Secretariat) be set up to manage the Princess Elisabeth Antarctica, and that the International Polar Foundation be appointed as operator for the station, and the logistics furnished in support of research activity.

Unfortunately, since the donation of the PEA Station to the Belgian State, there has been a simmering conflict between the International Polar Foundation and the Belgian public administration over the management of operations. This has resulted in the current legal imbroglio, which has had a negative impact not only on the Foundation and its activities, but more generally on research activities at the Station.

Several scientific expeditions planned in the vicinity of the PEA for the 2015-16 season were regrettably cancelled awaiting the outcome of litigation. As the International Polar Foundation was intimately involved in the planning of these expeditions and assuring the logistics and security of field operations, the research groups preferred to wait until the next season.

## Breakthrough

The December 17th ruling from the Court of Appeal of Brussels also invites the Belgian State and the International Polar Foundation to negotiate a new partnership agreement for managing the Princess Elisabeth Antarctica within the framework of the initial agreements of 2007.

Talks between the parties began on January 8th 2016.

The Court of Appeal also recognizes that the equipment at the Princess Elisabeth Antarctica, which the Polar Foundation purchased and acquired after March 30th 2010, does not de facto belong to the Belgian Federal State. The Court requires the IPF and the Belgian State to participate in establishing an inventory of all materials and equipment currently at the station in Antarctica.

Finally, the ruling authorizes the International Polar Foundation, as co-owner of Princess Elisabeth Antarctica, to go to the station for the purpose of carrying out its usual activities, including some of the research activities which have been postponed as from the 23rd of February, unless there is an agreement with the State which allows the IPF to go sooner.

The International Polar Foundation is confident that re-establishing working relations with the Belgian State will be of benefit to both parties.