



Explanatory Note

Extension of time limits due to “COVID-19”

(coronavirus outbreak): time limits affected, nature of extension and communications to users

1. BACKGROUND

A Decision of the President of [24 March 2020 as amended on 6 April 2020](#), was taken with the aim of extending time limits expiring between 17 March 2020 and 3 May 2020 inclusive in the context of the coronavirus outbreak.

On 27 April 2020 the President took a new Decision (the Decision) on the extension of time limits in proceedings before the CPVO which enters into force on 4 May 2020 regarding the payment of fees for technical examinations and of annual fees, pursuant to Article 8 and 9 of Commission Regulation (EC) 1238/95 (the [Fees Regulation](#)).

The following Explanatory Note has been issued to provide further guidance on the time limits affected by the aforementioned extension, the nature of the extension and the measures to adapt communications sent to users.

2. TIME LIMITS AFFECTED BY THE EXTENSION

Article 71 (2) of the [Proceedings Regulation](#), empowers the President of the Office to determine the duration of a period of interruption or dislocation in communications with the Office.

The following statutory time limits are covered by the extension:

2.1. Payment of fees relating to technical examinations, namely ‘examination fees’ (Article 8 Fees regulation).

The Office will continue to send debit notes for technical examinations. Applicants are encouraged to pay the fee in due time. However, for all outstanding debit notes for examination fees with a due date for payment until 21 September 2020 inclusive, that have not been settled in due time, the Office will send a reminder with a three months deadline to pay the fee. The Office will not cancel the arrangements for a technical examination, or stop any ongoing technical examination or launch a procedure for the refusal of applications before the three-month deadline has expired.

2.2. Payment of the annual fee (Article 9 Fees Regulation).

The Office will continue to send debit notes for annual fees. Titleholders are encouraged to pay the fee in due time. However, in case of non-payment of debit notes with a due date for payment until 21 September 2020 inclusive, the Office will send reminders for payment of annual fees with an extended time limit of three months from the date on which the Office has served a new request for payment. Until the end of the said three months period the Office will not launch the related procedure for cancellation of titles due to unpaid annual fees.

3. THE SUBMISSION OF PLANT MATERIAL

3.1. Plant material submissions

Plant material submissions for the commencement of DUS testing work at examination offices that are due before 21 September 2020 may be delayed upon request for one year. If technically feasible however, a delay can be granted for a short period of time which would allow the DUS test to be conducted in the current growing period.

Any such request will have to be provided in writing before the end of the regular plant submission period communicated in the plant submission request sent by the CPVO or published on the CPVO website. In the event that a short delay for plant material submission has already been accepted by the CPVO for an imminent start of a DUS test, a postponement of the examination to the following growing period may be requested until the end of the accepted short delay.

The CPVO will respond to such requests, either by confirming a short delay and defining a new plant submission deadline in the current growing period, or postpone the plant submission to the next growing period.

3.2. Payment of the examination fee following a postponement of plant material

The examination fee for an application with an agreed postponement to the following growing period will only be due at the time the actual testing work starts.

4. TIME LIMITS NOT AFFECTED BY THE EXTENSION

The Decision is limited to examination fees and annual fees. For any other time, limit indicated in the applicable legislation and/or set by the CPVO, the time limit in question must be adhered to.

For the submission of plant material, the Office will apply the approach explained above under Section 3.1 of these Explanatory Note.

5. NATURE OF THE EXTENSION

The Decision of the President of the Office has the effect that the time limit to pay outstanding debit notes for examination fees and annual fees with a due date for payment until 21 September 2020 inclusive is three months, instead of the usual one month, of the date on which the Office serves a new request for payment.

This effect is automatic and derives directly from the Decision of the President. Accordingly, affected parties who have not paid an outstanding debit note with a due date for payment until 21 September 2020 inclusive, will be granted a time limit of three months from the date of the new communication of the Office. Parties are, therefore, not required to file a request to the Office for the extension of the time limit to take effect.

Parties to ongoing proceedings are therefore advised not to lodge unnecessary requests for extension.

6. COMMUNICATIONS SENT TO USERS

The immediate effect of the extension also implies that users whose time limits are concerned will receive a letter of reminder in which the time limit of three months from the date of service of said communication is indicated.

Martin Ekvad

President of the Community Plant Variety Office
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