

Please read carefully this information **on requests for remedies for cancellation for unpaid annual fees** before initiating an appeal

- **Filing a *Restitutio in integrum* request before the CPVO** under Article 80 of [Regulation 2100/94](#)

When a right before the CPVO is lost by a titleholder, a *Restitutio in integrum* request can be filed before the CPVO, which allows in exceptional cases a titleholder who has taken all due care to ask the CPVO to restore its rights. Such a request is strictly framed in Article 80 of Regulation 2100/94 which allows the CPVO to provide a new time limit to titleholders.

The Restitutio conditions are as follows:

1. File a restitutio request in writing
2. Within 2 months after the cause of non-compliance ceases to operate (e.g.: when the titleholder recovered from sickness, in case of non-compliance further to serious illness).
3. The act omitted (e.g.: the payment in case of cancellation for non-payment of the annual fee) shall be completed in the abovementioned time limit.
4. And within 1 year from the expiry of the time limit that was not respected.
5. Indicate the right that was lost as consequence of not respecting the time limit (e.g.: the PVR).
6. Indicate the grounds of the application and providing supporting documents (e.g.: documents demonstrating the 'due care').

The applicant for a *restitutio in integrum* shall allege and demonstrate the so-called 'due care', that is the fact the applicant has put the best effort to respect the time limit. Excusable errors or unforeseeable events which cannot be predicted from experience, such as serious illnesses, courier/delivery system errors and *force majeure* causes, are generally accepted as demonstrating the due care required.

A decision of the CPVO not to grant *restitutio in integrum* is not appealable.

- **Filing an appeal against the cancellation decision before the CPVO Board of Appeal** under Article 67 of [Regulation 2100/94](#) and Article 45 of [Regulation 874/2009](#).

Appeal conditions are as follows.

1. A notice of appeal may be lodged **within 2 months** from service of the contested decision.

It must contain:

- the name and address of the appellant,
 - and, if any, of the procedural representative (with the necessary credentials),
 - a reference to the appealed decision and its date,
 - a statement on the reason of the amendment or cancellation of the decision that is sought.
2. A debit note of **€500** will need settling and will be sent to the appellant immediately after the acknowledgement of receipt of the notice of appeal.

3. A statement setting out the Grounds of Appeal with the arguments and supporting evidence must be submitted **within 4 months** from the service date of the contested decision.

When in possession of the three above elements, the CPVO will perform an interlocutory revision, namely it will see if it ought to reverse its cancellation decision based on new elements contained in the grounds of appeal. An interlocutory revision can lead to a rectification or a non-rectification of the contested decision.

In case of rectification of the contested decision, the Community Plant Variety rights are reinstated as if the cancellation had not taken place.

In case of a non-rectification of the contested decision, the case is remitted to the Board of Appeal provided that a second debit note of **€1000** is settled. The Board of Appeal will examine the appeal and take a decision.

