

### 3.6 Correction or addition of priority claim

See ISPE Guidelines 6.11, ISPE Guidelines 6.16 and Rule 26bis.1  
ISPE Guidelines 8.10.

### 3.7 Re-establishment of rights in respect of the priority period

The applicant may file a request for restoration of the priority right up to two months after expiry of the priority year from the claimed priority.

Rule 26bis.3  
PCT Newsletter  
07-08/2017, 15

In the international phase, restoration can be granted under both the "due care" and "unintentional" criteria. The EPO as receiving Office and as designated Office in the regional phase will decide on the basis of the "due care" criterion (which is the same criterion as used for EP applications with respect to re-establishment of rights under Art. 122 EPC). If the EPO was not the receiving Office, the request may have been decided upon under the "unintentional" criterion.

If the priority right was restored by the receiving Office under the "due care" criterion, no new request need be filed with the EPO as designated/elected Office, since the EPO will, in principle, recognise the decision of the receiving Office. If, however, the EPO has reasonable doubt that the requirements for grant were not met, it will notify the applicant accordingly. In this communication the reasons for such doubt will be indicated and a time limit will be set within which the applicant may submit comments.

If the priority right was restored by the receiving Office under the "unintentional" criterion, a new request needs to be filed with the EPO as designated/elected Office, since the EPO is not bound by the decision of any receiving Office under the "unintentional" criterion.

A priority claim may not be considered invalid on the basis that the international application has an international filing date which is later than the date on which the priority period expired, provided that the international filing date is within two months of that date. The examiner may make a remark in the WO-ISA indicating the number of days by which the 12-month priority period has been exceeded.

Rule 26bis.2(c)(iii)

For filling out the WO-ISA where the filing date exceeds the earliest priority date by over twelve months and a further two months, see GL/PCT-EPO B-XI.4.1.