

Information for employees living in Germany who work for the University of Twente in the Netherlands (cross-border commuters)

You have concluded an employment contract with the University of Twente. The University of Twente is a public-law employer.

Dutch labour law has been agreed and you are therefore subject to the regulations of the Dutch Collective Agreement for Dutch Universities (CAO NU).

In the following, we would like to explain the basic tax and social security regulations that apply to you as a resident of Germany when you work for the University of Twente.

Social security

The basic rule for social insurance is that it is assigned to one state. Contributions are only payable in one state for the total salary. Benefits are accordingly only granted by this one state.

The decisive factor for the allocation of the applicable social security law is basically the question in which state you physically carry out your activity. If you carry out your activity exclusively in one state, its social security law is applicable.

If you are active in several states, there are various allocation criteria according to EU Regulation 883/2004 which must be applied:

One employer

If you work for the University of Twente in the Netherlands and in Germany, social security is assigned to Germany if you perform 25% or more of your total work in Germany. If it is less than 25% in Germany, the social security legislation falls to the country of the employer - the Netherlands.

Two employers

If you have another employer in Germany and you carry out 25% or more of your activity in Germany for both employers together, the social insurance is assigned to Germany. If it is less than 25% in Germany, the social insurance falls to the Netherlands.

Public servant employment in Germany

If, in addition to your employment with the University of Twente, you work as a public servant or in a position similar to that in Germany, your social insurance is primarily assigned to Germany, regardless of where and to what extent you physically work.

Self-employment in Germany

If you are self-employed in addition to your employment at the University of Twente, this is irrelevant for the allocation of social insurance. The allocation of social security will then be based solely on the activity for the University of Twente.

In principle, the allocation of social security must be proven by each employee with an A1 certificate. This would not be necessary only, if work is performed exclusively in one state. The application must be submitted when starting work; the issued certificate immediately after receipt. The certificate (until it is issued: application) must also be always carried along so that proof of the applicable social security law can be provided in the event of checks.

The certificate must be applied for at the DVKA in the country of residence in Germany. We have decided that we, the University of Twente, will apply for the A1 certificate for you. The application forms and instructions can be found at:

https://www.dvka.de/de/arbeitgeber_arbeitnehmer/antraege_finden/antraege_finden.html

Please note:

The employer may rely on the correctness of the assignment of the A1 certificate and is obliged to follow it. Accordingly, contributions must be paid in accordance with the law of the country specified herein and the basic social security rules of that country apply.

In the event of incorrect information provided by the employee in the application for the A1 certificate, which leads to an incorrect allocation of social security law, the employee shall bear the full consequences.

We would like to point out that an incorrect allocation of social security will result in you not being insured and no claims can be made. At most, contribution refunds can be applied for, but these are limited in extent retroactively.

Social insurance in Germany

If you are covered by social insurance in Germany according to the above regulations, the following applies:

The University of Twente will calculate the German social security contributions for you and pay both employer and employee contributions on your behalf.

Health and long-term care insurance

All contributions are paid in Germany. You are only entitled to benefits in Germany.

Pension insurance

You acquire entitlements to a German statutory pension for the years in which you are employed in Germany subject to social insurance contributions.

In accordance with the collective agreement, both you and your employer pay contributions into the ABP company pension fund. Each year you will receive an overview of the pension accrued as well as forecasts to help you plan your own pension coverage.

Unemployment insurance

If you become unemployed, you are entitled to unemployment benefits in Germany based on your total salary at the University of Twente.

Accident insurance

You are insured under the statutory accident insurance scheme. If you fall ill while working or have an accident on the way to or from work, please inform us as well as the doctor or hospital treating you immediately.

Continued payment of wages

The continued payment of wages is regulated in the employment contract according to the "Ziekte- en arbeidsongeschiktheidsregeling Nederlandse Universiteiten (ZANU)" and is granted for 2 years by the employer. In this respect, we refer to the special employment contract regulations or the regulations in the ZANU.

Sickness

Please refer to the regulations in the ZANU.

As soon as you visit the doctor and he/she certifies that you are unable to work ("yellow certificate"), please send us the certificate immediately.

Reduction in earning capacity / disability

If you are partially or fully unable to work after the end of the period of continued payment of wages, you will receive a pension for partial or full reduction in earning capacity from the German pension insurance.

Social insurance in the Netherlands

If you are covered by social insurance in the Netherlands under the above rules, the following applies:

Health insurance

As an employee, you are obliged to choose a Dutch Zorgverzekering and take out health insurance there when you start working. If applicable, family members can be co-insured via the CAK, provided they do not have their own health insurance in Germany.

By means of a S1 certificate provided by the Zorgverzekering, it is possible to register at the same time with a German health insurance company, which will provide benefits for you within the scope of the basic insurance at the expense of the Dutch insurance company.

You pay the health insurance contribution (in effect a capitation fee) yourself. Your employer pays an income-related contribution as part of the employer's contributions.

Long-term care insurance

In the Netherlands, contributions are collected as part of the "loonheffing" and paid to the tax office. In Germany, this entitles you to the corresponding benefits of the basic insurance, provided you make use of the S1 certificate.

Pension insurance

You pay contributions to the Dutch statutory pension scheme via the "loonheffing". This constitutes a basic pension and grants you a statutory pension at retirement in relation to the years you have been employed in the Netherlands.

In accordance with the collective agreement, both you and your employer pay contributions into the ABP occupational pension fund. Every year you will receive an overview of the pension you have built up, as well as forecasts to help you plan your own pension cover.

Unemployment insurance

Your employer pays contributions to the unemployment insurance fund.

If you become unemployed, you are entitled to unemployment benefit in Germany based on your total salary at the University of Twente.

Accident insurance

There is no statutory accident insurance in the Netherlands comparable to the German Berufsgenossenschaft.

Continued payment of wages

The continued payment of wages is regulated in the employment contract according to the collective agreement and is granted for 2 years by the employer. In this respect, we refer to the specific provisions of the employment contract or the provisions in the CAO NU collective agreement.

Sickness

Please refer to the "Ziekte- en arbeidsongeschiktheidsregeling Nederlandse Universiteiten (ZANU) 2022".

Your employer has the option of involving his Arbodienst to discuss your personal situation and to accompany you during reintegration.

Reduction in earning capacity / disability

If you are partially or fully incapacitated after the end of the salary continuation period, you will receive a pension for partial or full reduction in earning capacity through the UWV.

You can find more up-to-date information in the brochures of the Dutch SVB:

<https://www.svb.nl/de/bbz-bdz/broschueren/Grenzpendler-Deutschland>

Taxes

Your tax situation is mainly determined by the double taxation agreement between the Netherlands and Germany.

Since you work for a public-law employer, the principle applies that you are liable for tax in the country of your employer. The Netherlands follows this principle exclusively.

However, the double taxation agreement also stipulates that you are liable for tax in your country of residence, Germany, if you work in Germany. In addition, it is necessary either to have German citizenship or not to have become resident in Germany exclusively for the purpose of performing work. Germany follows this special rule, which means that both countries may claim taxation on your salary or parts thereof.

Since it is currently not foreseeable how the contracting states will resolve this conflict of interpretation, but ultimately it must be ensured that no double taxation takes place, it is recommended that a working day calendar be kept in which the country of employment is recorded for each working day.

Intra-year treatment - income taxes

Since the University of Twente, as your employer, has to comply with national legislation as a matter of priority, generally 100% Dutch wage taxes will be withheld on your salary.

As a foreign employer without a German branch/establishment, the University of Twente is not able to withhold wage taxes in Germany, even if 100% of the activity is carried out in Germany.

Tax return obligations

In principle, there is no tax declaration obligation in the Netherlands.

If you work almost exclusively in the Netherlands, you should check whether at least 90% of your total income is subject to Dutch taxation. If this is the case, you have the possibility of claiming tax benefits in the Netherlands (e.g. mortgage deduction for your own home) by filing a voluntary Dutch income tax return as a "kwalificerend buitenlands belastingplichtige". To do this, you need an income declaration from your German tax office to prove the amount of your income outside the Netherlands. The form for the "inkomensverklaring" is also available in German on the website of the Dutch Belastingdienst.

In Germany, you are obliged to file an income tax return. If you also work for the University of Twente in Germany, your salary will most likely also be taxed in Germany due to the above-mentioned different interpretations of the double taxation agreement. Since this is not the purpose of the bilateral agreements, we recommend that you seek the advice of a German tax advisor specialising in this area and request for a mutual agreement procedure between the two countries. This will avoid double taxation in any case.

According to the German interpretation of the relevant double taxation agreement, only the salary allocated to Germany is subject to German taxation; the Dutch salary is only taken into account when determining the applicable tax rate (so-called Progressionsvorbehalt).

The above explanations have been prepared carefully and to the best of our knowledge. However, the legal regulations are subject to constant changes, so that only the status at the time of preparation in May 2022 can be reflected here.