

## Tilburg University

### The Netherlands

Cremers, Jan

*Published in:*

Report on the social security rights of short-term third-country national migrant workers

*Publication date:*

2023

*Document Version*

Publisher's PDF, also known as Version of record

[Link to publication in Tilburg University Research Portal](#)

*Citation for published version (APA):*

Cremers, J. (2023). The Netherlands: Report on the social security rights of short-term third-country national migrant workers. In Z. Rasnaca, & V. Bogoeski (Eds.), *Report on the social security rights of short-term third-country national migrant workers* (04 ed., Vol. 2023, pp. 107-111). ETUI.

#### General rights

Copyright and moral rights for the publications made accessible in the public portal are retained by the authors and/or other copyright owners and it is a condition of accessing publications that users recognise and abide by the legal requirements associated with these rights.

- Users may download and print one copy of any publication from the public portal for the purpose of private study or research.
- You may not further distribute the material or use it for any profit-making activity or commercial gain
- You may freely distribute the URL identifying the publication in the public portal

#### Take down policy

If you believe that this document breaches copyright please contact us providing details, and we will remove access to the work immediately and investigate your claim.

## 18. The Netherlands

Jan Cremers

As a general rule, all persons (EU citizens and third-country nationals) working in the Netherlands are treated in the same way as regards social security as resident Dutch nationals, provided they are staying in the country legally. There are some restrictions for those recently arrived (less than five years). Posted workers are excluded from the social security system as they remain under the social security of the posting country.

The social security system is composed of employee insurance schemes and national insurance schemes. The employee insurance provisions apply regardless of nationality, with no separate eligibility conditions, differences in level of benefits, or any differentiated duration of benefits for residing third-country workers. Besides, sickness and disability benefits do not require any prior periods of contribution and can be exported to third countries, based on bilateral agreements allowing exportability.

### Box 1 Sector-specific variations of social security rules

In sectors with generally binding collective agreements, the payment of second pillar pension contributions can be mandatory, also for posted workers. There are no other special rules for specific sectors.

Table 1.18 Relationship between form of migration and entitlement to a particular social security service

Third-country-national categories	Social security categories					
	Health insurance	Pension contributions	Unemployment insurance	Basic security (social assistance)	Insurance against accidents at work	Child benefits
Work in paid employment ('sponsored')*	Yes	Yes	Yes	Yes	Yes	Yes
Posted workers	No	No	No	No	No (however, the general OHS regime applies)	No
Intra-corporate transfers	Yes (no, if posted)	Yes (no, if posted)	Yes (no, if posted)	Yes (no, if posted)	Yes/no, if posted (but the general OHS regime applies)	Yes (no, if posted)
Seasonal workers	Not applied	–	–	–	–	–
Temporary agency workers	Yes (no, if posted)	Yes (no, if posted)	Yes (no, if posted)	Yes (no, if posted)	Yes/no, if posted (but the general OHS regime applies)	Yes (no, if posted)
High-level professionals	Yes	Yes	Yes	Yes	Yes	Yes
Self-employed	No, if posted (otherwise as nationals)	No	No	No, if posted	No	No, if posted (otherwise as nationals)

Note: \* This category is added (see original manuscript).

Source: Author's analysis, 2022.

### Box 2 **Changes during Covid-19**

The Netherlands did not introduce special provisions in the area of social security. Third-country nationals working in companies were taken into account in the calculations of the government scheme for preserving employment (NOW). This scheme was introduced to avoid layoffs. However, the impression is, because migrant labour mainly works temporarily, that many migrants became unemployed.

---

## Description of the Dutch system

### 1. Overview of social security rights of short-term third-country-national migrant workers

All persons (EU citizens and third-country nationals) legally staying in the country and working in the Netherlands are treated in the same way as regards social security as resident Dutch nationals. There are some restrictions for those recently arrived (less than five years). Posted workers are excluded from the social security system as they remain under the social security of the posting country.

The social security system is composed of (a) employee insurance schemes and (b) national insurance schemes. The employee insurance provisions are meant for sickness pay, long-term disability and unemployment benefits. These provisions apply regardless of nationality, with no separate eligibility conditions, differences in level of benefits, or any differentiated duration of benefits for residing third-country workers. Besides, sickness and disability benefits do not require any prior periods of contribution and can be exported to third countries, based on bilateral agreements allowing exportability.

Third-country nationals cannot invoke periods fulfilled in their home country to qualify for unemployment benefits and nationals residing in third countries cannot claim Dutch unemployment benefits. Third-country nationals on holiday still receive unemployment benefits (abroad). However, if a person remains abroad for a longer period, the unemployment benefit is no longer paid and after six months, all remaining rights are lost if they return and the calculation of unemployment rights starts from zero. The national insurance provisions cover first pillar pensions, survivors and child benefits and general health care. The old age, survivors and child benefit national insurance schemes generally cover all residents, including third-country citizens legally residing in the Netherlands. Both schemes are financed mainly from contributions from insured persons and, in case of insurance schemes for employed persons, from employers. For the old age and survivor's insurance schemes contributions, calculated as a percentage of the annual wage or income, have to be paid. General health care insures all residents, including foreign citizens legally residing in the Netherlands, regardless of income.

### 2. Differences in social security rights of different categories of short-term TCN migrant workers

#### (i) Third-country-national seasonal workers

The official policy is that the country does not rely on seasonal workers from third countries and thus does not need specific policies in the area of social security. The

country attracts EU citizens for such short-term work.<sup>1</sup> Any seasonal worker will be treated in the same way as other third-country nationals.

**(ii) Third-country-national posted workers**

A foreign service provider must notify the Social Insurance Office (SVB) in advance about where, when and with which employees work is performed in the Netherlands. The notification concerns proof of registration in the national social security system, an A1 statement or other proof of documents on the payment of social security contributions in the country of issue, the name of a contact person established in the Netherlands, and the name of the person responsible for paying wages. The coordination of social security for third-country nationals is the same as for EU citizens; in other words, social security is the responsibility of the country where the A1-form was issued.

**(iii) Third-country-national temporary agency workers**

For temporary agency workers posted to a Dutch user undertaking the same regime applies as mentioned under point b (for posted third-country nationals).

### 3. Conditions for obtaining different social security rights

Old-age (in fact, the first-pillar pension scheme), survivors and child benefit national insurance schemes generally cover all residents, including third-country citizens legally residing in the Netherlands. After payment of contributions for at least one year, the exportability of first-pillar pension benefits is ensured, although there may be restrictions as regards the exportable rate, while only years of residence and insurance count in the calculation (2 per cent accumulated rights per year). This applies also to nationals who have lived abroad (a reduction of 2 per cent per year living abroad).

As a fallback, there is a social assistance system for people legally residing in the Netherlands who do not have sufficient means or are in danger of falling into that situation to provide for their necessary living costs. Such people must first claim any other insurance benefits or special social provisions available before they are entitled to the benefit. EU and non-EU foreigners residing in the Netherlands for less than three months and persons residing abroad cannot claim public assistance.

---

1. 'In contrast to countries such as France and Italy, this scheme is not currently being used in the Netherlands, because a priority working population – either in the Netherlands or in the EU – is considered to be present', p. 90. <https://www.clingendael.org/publication/gedeeld-belang-bij-circulaire-migratie>

#### 4. Portability of benefits between host country and country of origin

Until 2000, the system in the Netherlands allowed the export of most benefits, also for third-country workers, except for public assistance (social protection) and unemployment benefits. The Benefit Restrictions (Foreign Residence) Act that came into effect on 1 January 2000 limits the right to export benefits for third-country nationals to countries with which bilateral agreements have been made that enable benefit export. The government reached agreements with most of the countries with large numbers of claimants. The conditions formulated include issues such as identity, death, civil status, family situation, work, income, address, training, detention and health position of the claimant and their family members. In the past decade, further changes have restricted the level of benefits payable to people residing outside the EU. For instance, for people who have left the Netherlands, levels of family benefits and parts of disability insurance have been adjusted to the costs of living in the third country of residence.

#### 5. Social security rights of short-term third-country-national migrant workers during the Covid-19 pandemic

A wage threshold applies for certain categories of highly skilled third-country nationals or for paid employment. This continued during the Covid-19 period. It was announced, however, that the IND will handle the situation flexibly and not revoke residence permits if people temporarily receive lower wages or become unemployed. No other information is available on special provisions.

#### 6. Overview of enforcement and monitoring

Compliance control in the area of social security is handled by the Social Insurance Office (SVB). Third-country nationals are handled in the same way as all other residents. Until some years ago, the SVB acted mainly as an administration. Until 1 March 2020, posted workers were registered at the SVB only if they had an A1 declaration. In recent years, the institution has developed its compliance and enforcement activities (for instance, acting against letterbox firms).