

Guide

Date
28 February 2022

Subject
Guide for the condition and wellbeing of PhD candidates with a scholarship from an external scholarship provider

1. Introduction

PhD candidates with a scholarship from a foreign scholarship provider (referred to in this document as ‘foreign PhD candidates’) are one of the five types of PhD candidates at the University of Amsterdam (UvA). Foreign PhD candidates are a vulnerable group because of their background and legal situation, as well as language barriers, cultural differences and a weak social safety net. The wellbeing and situation of this target group must therefore be given extra attention. This guide is an attempt to collectively improve the situation and wellbeing of foreign PhD candidates working at the UvA. This guide describes resolutions in the areas in which foreign PhD candidates experience the greatest challenges in their daily lives. These resolutions apply from 1 March 2022 as ‘desirable practices’ at the UvA; the resolution concerning a financial allowance for foreign PhD candidates (see Section 2.1.1) applies to all foreign PhD candidates who start a doctoral programme on or after 1 March 2022.

2. Desirable practices

2.1 Financial situation

2.1.1 Foreign PhD candidates with a small scholarship and no additional funds will receive a financial allowance or will not be accepted

Although there is no legal duty of care with regard to foreign PhD candidates, faculties are supposed to satisfy themselves that foreign PhD candidates have sufficient financial resources to cover their living expenses. The minimum amount required to cover living expenses in Amsterdam is around €1,500 per month (reference year: 2022).

If a foreign PhD candidate does not have enough money (i.e. they have less than €1,500), the faculty can:

- a) Meet the needs of the foreign PhD candidate itself; or
- b) Not admit the foreign PhD candidate to the doctoral programme.

Meeting the needs of a foreign PhD candidate (under (a)) means that the faculty will pay a monthly amount (a top-up) to the foreign PhD candidate to supplement the small scholarship paid by the external scholarship provider up to a total amount of at least €1,500, so that the foreign

PhD candidate can at least cover their living expenses. According to the Tax and Customs Administration, this monthly top-up may not be higher than two-fifths (in 2021: ~€680) of the statutory minimum wage in the Netherlands. Faculties can recoup the top-up by imposing a 'tuition fee' on the external scholarship provider.

If a top-up is to be provided, it is important to note the following:

- Faculties must sign a written agreement with foreign PhD candidates stating that no employment relationship exists or can be construed. The agreement must also set out the rights and obligations of the faculty and the PhD candidate in relation to the top-up. The UvA's central administrative office has created a model agreement that faculties can use (see the Annex).
- Faculties must report the top-up to the Tax and Customs Administration as an 'IB47 payment' (Income from other activities).
- Foreign PhD candidates are required to report the top-up to the Tax and Customs Administration each year in their income tax return (as 'income from other activities'), on their own initiative. In the agreement mentioned above, foreign PhD candidates should be referred to external parties (e.g. the Tax Helpline, *Stichting Belastingwinkel Amsterdam* (the Amsterdam Tax Assistance Centre) or a tax adviser (at their own expense)) for help and information about tax returns. The UvA cannot provide PhD candidates with any support or advice on tax matters.

2.1.2 Faculties are responsible for ensuring they budget enough money for research-related costs

Faculties and research institutes are responsible for including sufficient money in the budget to cover research-related costs (e.g. software, hardware, attending conferences, training courses, study programmes and data collection costs) incurred by the foreign PhD candidates they have admitted.

2.2 Participation in decision-making

It is important that the interests of foreign PhD candidates are adequately protected, and that these PhD candidates are properly represented in existing internal advisory bodies as well as any bodies set up specifically for this group. According to the UvA's Regulations for PhD candidate participation in decision-making foreign PhD candidates are counted as PhD candidates, but their interests are much more aligned with those of PhD candidates who are employed by the UvA (and are thus counted as staff). However, foreign PhD candidates cannot formally participate in works councils like employed PhD candidates, because there is a risk that they could be regarded as employees, which could give rise to claims under labour law. The interests of foreign PhD candidates will therefore be indirectly protected by a works council or the Central Works Council (COR) via the Central PhD Council (CPC). This will work as follows:

- Foreign PhD candidates express their concerns to the works council or COR through the CPC.
- At least one CPC member is in close contact with the works council or COR and has a specific mandate to focus on foreign PhD candidates (as a special group). The COR and CPC work on a proposal to improve contact and involvement.
- The Executive Board expects the CPC to proactively consult and communicate with foreign PhD candidates with regard to their interests.

2.3 Language proficiency

For the quality of their research and their social and mental wellbeing, it is important and desirable for PhD candidates with a foreign scholarship and other PhD candidates from foreign countries to be sufficiently proficient in academic English and/or Dutch. This means:

- Foreign PhD candidates will be informed of the fact that English and Dutch are the official languages of the UvA. This is separate from the fact that, due to the subject area of their research, some PhD candidates may need to be proficient in a language other than English or Dutch.
- For new PhD candidates with a foreign scholarship and other PhD candidates from foreign countries an additional admission requirement will be applied, namely a minimum score in an international English test (e.g. TOEFL, IELTS, CAE).
- If necessary, an additional remedial pathway (e.g. language courses) and the development of English language skills will be included in the Training and Supervision Plan (OBP/TSP).
- Foreign PhD candidates will be actively encouraged to communicate with one another in English and/or Dutch. This will apply to a lesser degree to PhD candidates who, due to the subject area of their research, may need to be proficient in a language other than English or Dutch.

2.4 Culture: soft landing and inclusion

An inclusive culture within the UvA and supervision to assist with integration into Dutch academic culture are desirable for the wellbeing of PhD candidates with a foreign scholarship and other PhD candidates from foreign countries. Faculties can contribute in the following ways:

- Ensure that the inclusion of PhD candidates, including those with scholarships from foreign providers, is part of the faculty diversity plan.
- Proactively inform foreign PhD candidates about Dutch culture in general and research culture in particular, and about social life in Amsterdam, through International Offices, Student Services and/or ongoing initiatives to ensure a soft landing by international staff and PhD candidates.
- Give foreign PhD candidates an introduction to behavioural norms, rules and the ins and outs of research labs, the department and/or the research institute concerned.
- Foreign PhD candidates will be actively encouraged to communicate with one another in English and/or Dutch. This will apply to a lesser degree to PhD candidates who, due to the subject area of their research, may need to be proficient in a language other than English or Dutch.

2.5 Providing adequate information about labour law and practical matters

It would be desirable for foreign PhD candidates to be actively informed, before the start of the doctoral programme and preferably in the introductory meeting, about their rights and obligations and how these differ from those of other types of PhD candidates. The central guide to PhDs on the UvA website could be used for this purpose, as it also contains information about coping with, resolving and reporting cultural and social problems: uva.nl/en/research/phd.

Finally, foreign PhD candidates could be actively supported by helping them to open a bank account, apply for a visa and/or obtain insurance, find a school for their children and/or find work for their partner, if they have brought their children or partner with them. This support can be provided through the International Offices, Student Services, CPC and/or the faculty web pages.

3. Considerations related to the above desirable practices

The desirable practices set out in this guide are a response to the needs and challenges of foreign PhD candidates, as revealed by the 2020 UvA PhD survey and the 2021 PNN PhD survey. Some of the challenges and needs also emerged from surveys conducted by faculties (2019) and from discussions in the Doctorate Board and in rectors' meetings held by Universities of the Netherlands (UNL) (previously VSNU) (2019–2021).

- In drafting this guide, wherever possible we tried to take into account the wishes of the deans, existing practices in the faculties and the UvA, and what is feasible from a tax and legal standpoint. We conducted an internal consultation process involving Legal Affairs, HR, the Tax Team, CPC, the Doctorate Board and the COR.
- It was agreed with the local tax inspector that a faculty top-up can be paid without the foreign PhD candidate being regarded as an employee of the university, which could result in labour law claims.
- To determine the cost of living in Amsterdam and thus the minimum amount of an external scholarship we used the calculations by the National Institute for Budget Information (NIBUD), although we tailored them to the situation in Amsterdam and the somewhat higher standard of living of the average PhD candidate compared to a student.
- For the English test, we looked at what faculties are currently doing and what is common for new foreign Bachelor's and Master's students.
- In the context of participation in decision-making, we avoided the risk that foreign PhD candidates could be regarded as employees and therefore entitled to make claims under labour law.

4. Annex

Model agreement for a supplementary scholarship ('top-up')

Faculty top-up for a PhD candidate with a scholarship from a foreign scholarship provider, expressly excluding any employment relationship

Agreement between < name of the scholarship PhD candidate >, a PhD candidate working in the Netherlands who holds a scholarship from a foreign scholarship provider ('the scholarship PhD candidate'), and the Faculty of < name of the faculty > of the University of Amsterdam, regarding the payment by the faculty of a monthly financial allowance ('the top-up'), and the exclusion of any actual or construed employment relationship.

..... < name of the scholarship PhD candidate >, Faculty of < name of the faculty > ('the Faculty') of the University of Amsterdam, validly represented by Professor < name of the dean >, Dean of the Faculty, collectively referred to as 'the parties'.

Intentions

Whereas:

1. The scholarship PhD candidate has been admitted to the doctoral programme in accordance with the Doctorate Regulations of the University of Amsterdam (UvA);
2. The scholarship that the scholarship PhD candidate receives each month from his/her foreign scholarship provider ('the external scholarship') is inadequate, being less than €1,500 per month (reference year: 2022), and the scholarship PhD candidate cannot or does not wish to draw on any other resources;
3. The scholarship PhD candidate will stay in the Netherlands for a period of at least three years and, in principle, not longer than four years, to complete doctoral research at the Faculty;
4. It is the intention of the parties that no payroll taxes or social security contributions will be paid by the UvA to the Tax and Customs Administration in relation to the top-up allocated to the scholarship PhD candidate. By contrast, the scholarship PhD candidate will have complete freedom with regard to the content, planning, method and rate of work relating to the doctoral research. Assessment by the UvA will not go beyond the requirements set out in the Doctorate Regulations of the UvA;
5. The scholarship PhD candidate is free to choose the subject and design of the doctoral research, within the limits of what is scientifically sound. The final research proposal will be drafted and finalised in consultation with the supervisor;
6. Unless otherwise agreed, the intellectual property rights in the work produced by the scholarship PhD candidate belong to him/her, as provided for in the applicable Dutch or international laws and regulations. The Faculty is entitled to keep a copy of the work in the University Library and to use it for the purposes of academic education and research;
7. The Faculty will not impose any fixed working hours and/or workspace or attendance requirements on the scholarship PhD candidate;
8. The scholarship PhD candidate will perform the doctoral research independently. The supervisor is not a manager, and has no power to give orders to the scholarship PhD candidate with regard to the content of the research.

Substantive agreements between the parties

The parties have agreed as follows:

9. The Faculty is entering into a services agreement with the scholarship PhD candidate, commencing on < start date >, for the duration of the doctoral research, which in principle is four years, in return for payment of a top-up in the amount of € (in words: euros) per month, to be provided as a budget to fund the completion of doctoral research at the UvA. The top-up will be transferred into the bank account of the scholarship PhD candidate, specifically < IBAN of the scholarship PhD candidate's bank account >, account name: < initials, surname, town/city and country of the account holder >;
10. The top-up is not earmarked, but is intended to cover necessary costs directly related to the doctoral research. A condition of the top-up, in addition to any agreements made with the foreign scholarship provider, is that the research must show sufficient potential and progress. Prior to this agreement, both parties have established in writing what progress must be made and potential shown and when, as well as how this will be assessed. The top-up will be paid monthly in advance. The top-up will be paid by the UvA as a gross amount, with no withholding of payroll tax, social security contributions or other amounts;
11. The parties expressly do not intend to enter into an employment agreement within the meaning of Book 7, Article 610 ff of the Dutch Civil Code. Where applicable, the parties choose to exclude any construed employment relationship of homeworkers or workers of equivalent status as defined in Articles 2b and 2c of the Dutch Wage Tax Implementation Decree 1965;
12. The scholarship PhD candidate makes no claim with respect to any salary, accrual of pension, thirteenth-month salary, regular increases, tax-friendly provisions or holiday pay. Like self-employed sole traders, for example, the scholarship PhD candidate makes no claim with respect to other facilities that are directly or indirectly related to an employment relationship with the UvA. The scholarship PhD candidate is not covered by the Collective Labour Agreement Dutch Universities (CAO NU);

It is up to the scholarship PhD candidate to find out whether he or she is insured with the Dutch Social Insurance Bank (SVB) for health insurance and social security. The UvA has nothing to do with any insurance obligation or the rejection of such an obligation on the part of the scholarship PhD candidate. The scholarship PhD candidate is aware of this and accepts that the UvA has no responsibility and/or liability whatsoever for establishing whether any insurance obligation exists in respect of health insurance and/or other Dutch forms of social security;
13. The scholarship PhD candidate will perform his/her academic activities within < organisational unit >;
14. The amount of the top-up depends on the amount of the external scholarship, and is equal to €1,500 minus the amount of the monthly external scholarship. The amount of the top-up is related to the amount of the external scholarship; any additional resources the scholarship PhD candidate may have could also be taken into account in the calculation of the top-up. If the external scholarship changes, that may affect the top-up. The top-up will never be more than two-fifths of the statutory minimum wage in the Netherlands;
15. The Faculty will report the top-up to the Tax and Customs Administration each month using an IB-47 form, as 'income from other activities'. The scholarship PhD candidate is required to report the top-up to the Tax and Customs Administration every year in a tax return, and must take steps to become informed on how to do so. For questions and/or advice relating to tax and tax returns, the scholarship PhD candidate can seek assistance from the Tax Helpline (0800-0543) or Stichting Belastingwinkel Amsterdam (the Amsterdam Tax Assistance Centre). The

scholarship PhD candidate may also consult a tax adviser at his/her own expense. The UvA cannot provide any support, assistance or advice on tax matters;

16. Any obstacles to conducting the doctoral research must be reported to the Faculty immediately. If the obstacle has arisen due to a situation qualifying as force majeure, or in the event of pregnancy, the parties must talk to each other to find a solution. If the parties do not succeed in finding a solution, and if the parties choose not to follow the Disputes Procedure (see p. 33 of the 2020 edition of the UvA's Doctorate Regulations), each party is entitled to terminate this agreement with immediate effect by means of a registered letter. If the agreement is terminated, the final top-up will be paid for the month in which the agreement ends;
17. By signing this agreement, the scholarship PhD candidate declares that he or she is familiar with the Disputes Procedure (see p. 33 of the 2020 edition of the UvA's Doctorate Regulations);
18. If the supervisor comes to the conclusion that there is a legitimate expectation that the scholarship PhD candidate will not successfully complete the doctoral research on time, if the foreign scholarship provider terminates the scholarship PhD candidate's scholarship, or in the event of a failure attributable to one of the parties, the other party is entitled to terminate this agreement with immediate effect by means of a registered letter, without becoming liable to pay compensation to the other party. Termination on one of these grounds will not result in the terminating party becoming liable to pay compensation to the other party;
19. The rights and responsibilities arising from this agreement are personal rights for both parties, and are not transferable by either party;
20. The parties nominate Dutch law for the application and interpretation of this agreement, and for the designation of the competent court in the event of a dispute about the interpretation of the agreement;
21. The parties will submit any disputes concerning this agreement to the competent court in the Netherlands. The competent court in the Netherlands will make a decision regarding the dispute. The decision of the Dutch court is binding on the parties;
22. This agreement will take effect on < date >. The agreement is entered into for the duration of the doctoral research, which in principle is four years, and will therefore end no later than < date >.

Amsterdam, < date >

..... < town/city >, < date >

on behalf of

The Faculty < name of the faculty >

..... < name of the scholarship PhD candidate >

Prof. < name of the dean >

Dean of the Faculty < name of the faculty >

PhD candidate with a scholarship from a foreign scholarship provider, in the Faculty < name of the faculty >