

CNV campaign for hired ESA personnel

There are many people working at ESA who are simply passionate about space. Their commitment is huge.

There are people working in ESA's employment, called Staff, and there are people working through third parties. The latter can be divided into two groups: those who work under a services contract, which is like contracting, and those who work under an assignment contract, called MAS at ESA.

Various employees have contacted CNV Vakmensen with questions about their remuneration and treatment. These are mostly people working via MAS constructions. They work under ESA's direction and supervision and have been seconded to ESA by secondment companies, they are the so-called loan employees.

The survey you have completed showed that many of you do a job that exists already within ESA and is also done by Staff. 85% responded that the ESA manager was their superior. 82% said that their job existed within ESA already, 3% said it did not, and 15% did not know.

To the question whether your remuneration was equal to that of Staff, 62% responded it was not, and 38% did not know. No one responded that the remuneration was equal. About the annual salary raise, 3% responded that they got the same raise as Staff. 92% felt contractors and Staff were not treated equally. This is an interim result. If you have not yet done so, please fill out the survey here: https://q.crowdtech.com/W77_bcmyBU6BnSv90xCNHQ

Complaint Social Affairs and Employment Inspectorate

Several employees had filed a complaint with the Inspectorate about their remuneration. Further to this complaint the Inspectorate performed an investigation under the Waadi Act. This has led to three reports, in which the Inspectorate draws some very clear conclusions. This is a matter of assignment, which means that the recipient company remuneration applies, and it also means that the loan employees are entitled to the same remuneration as awarded by ESA to Staff. This is regulated by the Dutch Waadi Act.

Conclusie ter beschikking stellen van arbeidskrachten in het kader van payrollling

Uit het onderzoek is gebleken dat [REDACTED] op basis van een overeenkomst van opdracht, die niet tot stand is gekomen in het kader van het samenbrengen van vraag en aanbod op de arbeidsmarkt, de arbeidskracht ter beschikking heeft gesteld, om onder toezicht en leiding van opdrachtgever ESA, anders dan krachtens een met deze gesloten arbeidsovereenkomst, arbeid te verrichten, waarbij [REDACTED] alleen met toestemming van opdrachtgever ESA bevoegd is de arbeidskracht aan een ander ter beschikking te stellen.

Ik, rapporteur, heb op basis van feiten en omstandigheden vastgesteld dat:

- de arbeidskracht door payrollwerkgever [REDACTED] in het kader van payrollling ter beschikking is gesteld aan en arbeid heeft verricht voor opdrachtgever ESA, en
- werkte onder leiding en toezicht van een leidinggevende werkzaam in de onderneming van opdrachtgever ESA.

- Source report by Inspectorate (Dutch)

Wording of the Act (in translation): 'Workers who have been provided via payrolling, are, with the exception of the provisions on the adequate pension plan as referred to in paragraph four to six inclusive, entitled to at least the same employment conditions as those applicable to employees working in the same or equivalent positions in the service of the company to which the workers have been provided.'

*source: Waadi Act

You might think: 'well, why do we not claim equal payment?' That is because we first have to take some hurdles. Two of those hurdles are: First, your employers argue that your work at ESA is unique, there are no identical or comparable positions at ESA, which would mean that you cannot apply the equal work equal pay principle. The Act reads as follows:

Wording of the Act (in translation): 'If the company to which workers have been seconded, does not employ employees in the same or equivalent positions, the former are entitled to at least the same conditions of employment as referred to in the first paragraph that apply to employees working in the same or equivalent positions in the branch of industry in which that company operates.'

*source: Waadi Act

ESA and the recipient companies take the position that there are no identical or equivalent positions, and that the industry should be taken as the standard.

This could be verified or contested based on the job descriptions, employee handbooks and job valuation systems. The Inspectorate has requested that information but ESA has refused to provide the same, invoking its status as an institution of public international law. In our opinion ESA should put its cards on the table, see page 192 of the first reports:

Methodology

The AGENCY has provided full access to its staff employee handbook (Staff Rules and Regulations), their internal grading and remuneration system, and related ancillary policy documentation. The AGENCY has also provided clarification and explanation of the fiscal elements related to the handbook and policy within its fiscal system.

* Source: report by Inspectorate.

It is clear from the above quote that apparently the information was indeed shared. The primes, however, deny that they have that information or simply state that they comply with the law.

With the above information, you can determine what someone holding a certain position should earn. We are now busy getting hold of that information one way or another.

7% Pay Rise

ESA recently informed the Staff that their salaries would be raised by 7% because of inflation. We will inform the primes and demand that this raise should be granted to anyone to whom Articles 8 or 8a

of the Waadi Act apply. For any of our members who would be interested we can file a claim on their behalf.

MAS to Services

We hear a lot of stories and rumours that people are being transferred from MAS to Services or that this will be done at some point in 2023. If their work really concerns Services, there is little you can do. But if it concerns some form of MAS in disguise, and a construction has been designed solely to circumvent MAS and the associated provisions on remuneration, we will take action. This is a factual discussion and depends on the actual situation in the workplace. If you still continue to work under ESA's direction and supervision, this could be a MAS construction.

We also heard that the transition from MAS to Services is not a pleasant experience for the people involved. It is stressful and seems to be more about making money than about treating your workforce respectfully. We will collect examples in the Black Book we will compose.

Pension

We have spoken to several people who had questions about their pension. Some of them are working under a payroll contract, in which case you are entitled to a pension plan in accordance with the adequate pension scheme. If you have been seconded to the company (also called secondment or placement), your employer might be required to make a pension contribution.

Do you accrue little or no pension? Did you start accruing pension only recently, over the past two or three years? If so, it might be smart to check this, or at least check your pension accrual.

If you have DigiD, check your pension overview at [Welkom op Mijnpensioenoverzicht.nl](https://welkomopmijnpensioenoverzicht.nl) with UPO pensioen /Uniform Pension Overviews (Uniform Pensioenoverzicht) and check your employment history at UWV [Bekijken arbeidsverleden en loongegevens](#) | [UWV](#) | [Particulieren](#)

What have we done so far?

- organised meetings and talked to many of you about the issues you face;
- talked to the Inspectorate, sncu, stipo pension fund;
- wrote to various primes, asking for the information we need to check remunerations. So far to no avail;
- repeatedly contacted ESA asking for the information required to check your remuneration. ESA has refused, invoking its status as an institution under public international law.
- contacted delegates, asking for their help;
- contacted csac asking to meet;
- contacted primes, requesting them to award you (MAS) also the 7% pay rise granted by ESA to Staff;
- started a petition to sign the letter to DG Aschbacher;
- set up an action committee. Please send us an e-mail to the general email address if you would like to join us.

What will we do?

- consult with the action committee on a regular basis
- files claims with the different primes on behalf of the members who wish to join
- talk to stakeholders
- approach ESA to get information and to mediate.
- compose a black book about the treatment of loan employees in the transition from MAS to services and present this black book to ESA.

Questions?

If you have any questions please send an e-mail to our special email address:

cnvesaction@cnvvakmensen.nl. Please attach all the documents you would like to share with us.

If you want to join the claim, send an e-mail to the above address with your membership number.

If you are not a member, you can join by becoming a member. (you will receive a membership number automatically if you join CNV)

If you would like to join a group action against a prime, for instance demanding a 7% pay rise, and do not mind being mentioned by name, please use the same email address.

Click [here](#) to join the WhatsApp group.